

中国知財ニュース IP NEWS in CHINA

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情報元：[中国法総合オンラインサービス〈Westlaw China〉](#)

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Proposed Legislation

[1] LAO seeks public comments for the Copyright Law of the People's Republic of China (Revised Draft for Review)

[Legislative Affairs Office of the State Council]

...On June 6, Legislative Affairs Office of the State Council (LAO) issued a notice to seek public comments for the Copyright Law of the People's Republic of China (Revised Draft for Review). The deadline for comment submission is July 5, 2014. According to the Revised Draft for Review, the 6-chapter and 61-article Copyright Law is revised to consist of 8 chapters and 90 articles. The main revisions cover: (1) encourage creation, and integrate the rights system; (2) promote the utilization, and adjust the authorization mechanism and market trading rules; (3) reinforce protection, and improve the relief measures; and (4) scientifically standardize and improve the system and structure.

[2] Scheme on Establishing Intellectual Property Right Courts adopted

[State Intellectual Property Office]

...On June 6, the third Session of the Central Government Leadership Team for Deepening Reform was held, which deliberated and adopted multiples schemes including the Scheme on Establishing Intellectual Property Right Courts. Xi Jinping stressed that fine-tuning the classified management of judicial personnel, improving the judicial responsibility system and the judicial personnel occupation guarantee, promoting uniform management of human resource and property of local courts and procuratorates under provincial level, and establishing intellectual property courts are all fundamental

or systemic measures for pushing forward the judicial system reform.

During the "Two Session" period, Yang Wu, head of the All-China Patent Agents Association, commented at an interview that national intellectual property appeal courts or circuit courts may be established in China and intellectual property appeal courts may form expert committee; each province or municipality may establish an intellectual property intermediate court. Basic people's courts may only establish intellectual property divisions, except for regions with large quantity of intellectual property cases where intellectual property basic courts can be established. Tao Xinliang, head of the Intellectual Property School of Shanghai University, also suggested that intellectual property intermediate courts can be established as first-instance courts in major cities including Beijing, while an intellectual property high court may be established in Beijing to serve as the national second-instance court, which should be subordinated to the supreme intellectual property division. Those intellectual property courts may adopt the mode of circuit trial and then explore the mode of "distant video hearing".

[3] SAIC seeks public comments for the Provisions of Industrial and Commercial Administrative Organs on Prohibiting Acts of Eliminating or Restricting Competition by Abusing Intellectual Property (Draft for Comment)

[State Administration for Industry and Commerce]

...State Administration for Industry and Commerce (SAIC) issued an announcement on June 11 to seek public comments for the Provisions of Industrial and Commercial Administrative Organs on Prohibiting Acts of Eliminating or Restricting Competition by Abusing Intellectual Property (Draft for Comment) (hereinafter referred to as the "Draft for Comment"). The deadline for comment submission is July 10, 2014. According to the Draft for Comment, business operators are prohibited from concluding monopoly agreement during their exercise of intellectual property right, and business operators with a dominant market position are prohibited from eliminating or restricting competition by abusing their dominant position during their exercise of intellectual property right. It is made clear that law enforcement institutions should equally treat intellectual property right and other property right during their anti-monopoly law enforcement. Dominant market positions should be determined according to Articles 18 and 19 of the Anti-Monopoly Law. The Draft for Comment clarified four circumstances as to whether or not the exercise of intellectual property right constitutes relevant monopoly acts. The document also prescribed the legal liabilities for business operators eliminating or restricting competition by abusing intellectual property right.

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