

# W&B IP Newsletter



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## IP News

## 2016 China White Paper on the Statistics of Intellectual Property Protection

## Intellectual property (hereinafter referred to as “IP”) examination and registration statistics:

| IP                          | Accepted Items                                   | Quantity<br>( 10,000s of cases) | Rate of Increase (%) |
|-----------------------------|--|---------------------------------|----------------------|
| Patents                     | Invention Patents                                | 133.9                           | 21.5                 |
|                             | Utility Models                                   | 147.6                           | 30.9                 |
|                             | Design Patents                                   | 65.0                            | 14.3                 |
|                             | International Applications                       | 4.5                             | 47.3                 |
|                             | International Applications in the Domestic Phase | 8.2                             | -2.3                 |
| Trademarks                  | Examination and Registration                     | 311.1                           | 33                   |
| Copyright Reg-<br>istration | Registration of Works                            | 159.96                          | 18.65                |
|                             | Registration of Computer Software Copyrights     | 41                              | 39.48                |

## IP Judicial Protection Statistics:

| Court         | Case  | Quantity | Rate of Increase (%) |
|---------------|---|----------|----------------------|
| Local Courts  | <b>Civil IP Cases of First Instance</b>                                   | 136,534  | 24.82                |
|               | Patents   | 12,357   | 6.46                 |
|               | Trademarks  | 27,185   | 12.48                |
|               | Copyrights  | 86,989   | 30.44                |
|               | Technology Contracts  | 2,401    | 62.23                |
|               | Unfair Competition  | 2,286    | 4.81                 |
|               | Other Disputes  | 5,316    | 71.87                |
|               | Concluded Foreign IP Cases  | 1,667    | 25.62                |
|               | Concluded IP Cases Including Hong Kong, Ma-<br>cao and Taiwan             | 1,130    | 291.99               |
|               | <b>Civil IP Cases of Second Instance</b>                                  | 20,793   | 37.57                |
| Supreme Court | IP Civil Cases  | 369      | -3.15                |
| Local Courts  | <b>Administrative IP Cases of First Instance</b>                          | 7,186    | -26.96               |
|               | Patents   | 1,123    | -34.75               |
|               | Trademarks  | 5,990    | -19.89               |
|               | Copyrights  | 37       | 270                  |
|               | Others  | 36       | -94.45               |
|               | <b>Administrative IP Cases of Second Instance</b>                         | 3,233    | 44                   |
| Supreme Court | Administrative IP Cases   | 355      | -6.08                |
| Local Court   | <b>Criminal IP Cases of First Instance</b>                                | 8,352    | -23.9                |
|               | IP Infringement   | 3,799    | -22.67               |
|               | Infringement of IP products, sale of counterfeit<br>and substandard goods | 2,765    | -29.55               |
|               | Infringement by Illegal IP Businesses                                     | 1,567    | -18.51               |
|               | Other   | 221      | 3.27                 |
|               | <b>Concluded Criminal IP Cases of Second In-<br/>stance</b>               | 812      | 3.83                 |

**IP Statistics for Administrative Enforcement:**

|  |   |                                 |  |
|--|---|---------------------------------|--|
| Administrative Enforcement Cases   | IP  | Quantity                        | Rate of Increase (%)                             |
|  | Patent Disputes Involving E-commerce          | 13,123                          | 71.7   |
|  | Patent Disputes Involving Exhibitions         | 2,860                           | 4.3  |
|  | Patents                                       | Quantity                        | Rate of Increase (%)                             |
|  | Patent Disputes                               | 20,859                          | 42.8   |
|  | Patent Counterfeiting Disputes                | 28,057                          | 32.1   |
| Cases Filed with National Regulatory Authorities for Industry and Commerce, Market | Cases   | Quantity<br>( 10,000s of cases) | Amount in Controversy<br>( ten millions of Yuan) |
|  | Infringement and Counterfeiting               | 4.9                             | 5.6  |
|  | Infringement and Counterfeiting of Trademarks | > 2.8                           | > 3.5  |

(Via SIPO)

## 2016 Shanghai IP Court White Paper on Annual Trials

The 2016 White Paper shows that the Shanghai IP court accepted 1,877 related cases in 2016, including 904 cases of first instance and 973 cases of second instance, with an annual increase of 14.38%. The statistics also show that 1,877 related cases have been closed, up 79.27% from the previous year.

Among these accepted cases, 559 involved patents, 247 involved trademarks, 921 involved copyrights (including 249 involving computer software copyrights) and cases for specially licensed businesses, trade secrets, unfair competition, monopoly etc. Scientific innovation cases accepted for patents, computer software, trade secrets and contracts, occupying more than 90% of the first-instance cases. Most cases involved rights protection, interest distribution, and results attribution problems involving technology R&D, results transfers, and innovation industrialization, etc.

The court accepted a total of 1,011 patent cases in 2015~2016, closing 657; and it accepted 598 cases involving computer software copyrights, closing 512. More and more new categories and techniques became involved in technical cases. Computer software development contract disputes included many disputes related to the mobile-client, and half involved telephone application software including mobile games, medicine, education, cosmetics, tourism, etc.

In 2016, the court heard 152 cases involving free trade zones including cases involving patents, trademarks, trade secrets, information network transmission rights, contracts for specially licensed businesses, etc. The court also accepted a total of 30 applications for action and evidence protection before litigation, up 114.28% from the year before; closing a total of 186 cases involving estate, evidence and action protection in litigation, for an annual increase of 77%.

The Shanghai IP court utilized expert consultant 49 times; 50 cases were tried by expert juries; and 14 cases initiated technique identification procedures. Technical investigators heard 35 cases, appeared in court 43 times, issued 17 technical examinations and consulting opinions, participated more than 300 times in evidence protection work, site surveys, technique consulting, etc. They concluded cooperation agreements with 10 mediation organizations and industry associations. Upon the agreement of both parties, the court mediated 96 IP cases before litigation, successfully mediating 23 cases for a success rate of 24%; and it mediated 737 cases in litigation for a success rate of 39%.

(Via China Daily Website)

## AI Patents Exceed 7,000 Applications

China applied for more than 7,000 AI patents domestically and abroad in 2017, helping AI become one of the most attractive fields among the media and the general public. Iflytek, Alibaba, Baidu and other Chinese enterprises are prime researchers in the AI field. Nevertheless, patent disputes in this field keep increasing throughout the world.

China's AI patent applications are second only to the United States worldwide. Its advantages mainly center to the aspect of cell technology, such as voice and character recognition. There is a considerable gap with the United States and the other developed countries in cutting edge areas of research such as brain cognitive mechanisms, computational models, neuromorphic chip technology, quantum computing, etc.

In recent years, a series of patent disputes revealed that the international giants have noticed China's rise in the AI industry, and that they are trying to "contain" Chinese enterprises using their IP advantages. Along with the obsolescence of population bonus, intellectual capital has already become the wave of the future. Intellectualized infrastructures and massive data must give birth to an entirely new business model and boost socioeconomic development.

Current statistics show that those AI enterprises that accumulate the most essential technical patents will easily grow larger and stronger within a short time. Nowadays, most industry giants are proceeding with patent litigation in the AI field. As a typical innovation-intensive industry, IP undoubtedly operates as one of the important supports for the AI field.

(Via China Intellectual Property News)

## China's Patent Operation Policies Multiply the Assignment of Patents

In early 2017, the State Council released the 13th Five-Year Plan for National IP Protection and Operations, which proposed specific tasks for stimulating operational vitality. The policy further revitalizes the national patent trading market, and accelerates the assignment of patents. Judging by the recent five-year publication of patent rights or the assignment of patent application rights (see Figure 1), the number of domestic patent assignments is up to 154,980, double the amount in 2012 (70,971). Patent operation policies have begun to take effect.

Figure 1 Recent Five-Year Statistics for Domestic Patent Assignments

| Year of Publication | Total Assignments | Assignments to Mainland China Assignee | Domestic Percentage of Assignments | Assignment of Foreign Assignee | Foreign Percentage of Assignments |
|---------------------|-------------------|--|------------------------------------|--------------------------------|-----------------------------------|
| 2012                | 70,971            | 54,348                                 | 76.6%                              | 16,623                         | 23.4%                             |
| 2013                | 88,280            | 71,093                                 | 80.5%                              | 17,187                         | 19.5%                             |
| 2014                | 91,924            | 74,881                                 | 81.5%                              | 17,043                         | 18.5%                             |
| 2015                | 117,004           | 89,937                                 | 76.9%                              | 27,067                         | 23.1%                             |
| 2016                | 154,980           | 126,330                                | 81.5%                              | 28,650                         | 18.5%                             |

Domestic Assignors occupied the principal portion of recent five-year assignments of patents. During the increase period, 85.7% of patent assignments were from mainland China assignors (hereinafter referred to as “domestic assignments”), 14.3% from foreign assignors (hereinafter referred to as “foreign assignments”). The domestic percentage of assignments began increasing in 2012, falling only in 2015. Nevertheless, domestic patent assignments fueled by a sharp rise (36,393 cases in 2016), added up to an increase of 40.5%, while the foreign percentage of assignments dropped below 20%, occupying merely 18.5% of the total.

Figure 2 Recent Five-Year Statistics for Major Countries' Patent Assignments

| 2012                 |             | 2013                 |             | 2014                 |             | 2015                 |             | 2016                 |             |
|----------------------|-------------|----------------------|-------------|----------------------|-------------|----------------------|-------------|----------------------|-------------|
| Assignment Countries | Assignments |
| JP                   | 3,927       | JP                   | 4,435       | JP                   | 7,129       | US                   | 10,699      | JP                   | 8,674       |
| US                   | 3,075       | US                   | 3,859       | US                   | 4,463       | JP                   | 8,274       | US                   | 6,826       |
| KR                   | 3,062       | DE                   | 2,239       | DE                   | 968         | DE                   | 2,423       | FI                   | 3,357       |
| DE                   | 1,851       | KR                   | 2,063       | KR                   | 834         | FR                   | 592         | DE                   | 3,131       |
| FR                   | 1,373       | UK                   | 769         | UK                   | 491         | KR                   | 580         | KR                   | 1,223       |

From the perspective of foreign assignments (Figure 2), recent five-year patent assignments continued their upward trend, decreasing slightly only in 2014. Foreign patent assignments greatly increased to 10,583, for a rate of increase of 58.9%. Foreign enterprises are more sensitive than domestic enterprises in terms of patent operation policies. In contrast with the domestic boom in patent assignments through 2016, foreign assignments witnessed explosive growth in 2015. Foreign patent operation enterprises are often powerful and are obviously motivated by commercial goals when developing patent operations in the Chinese market.

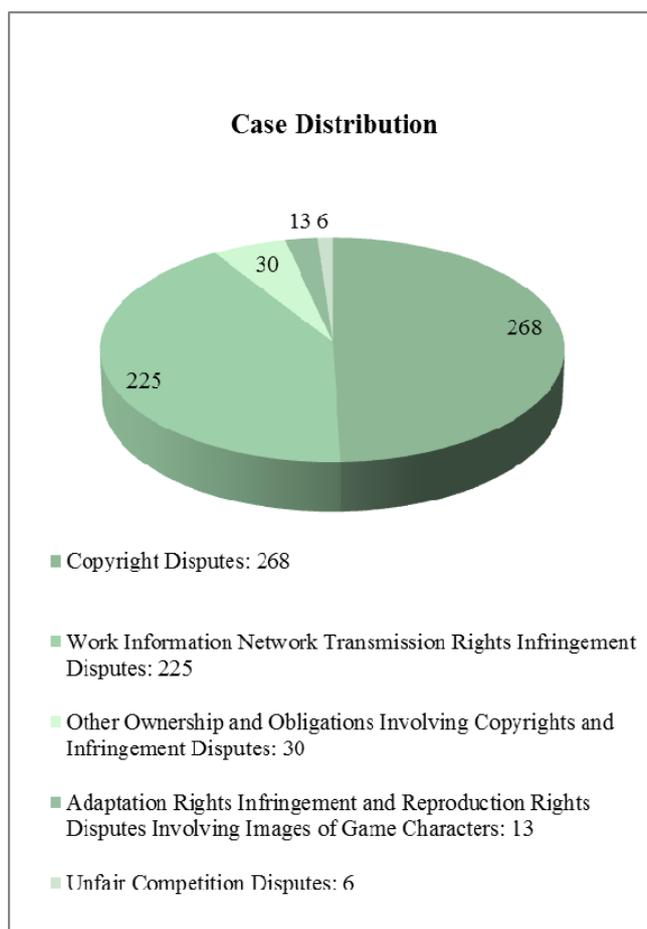
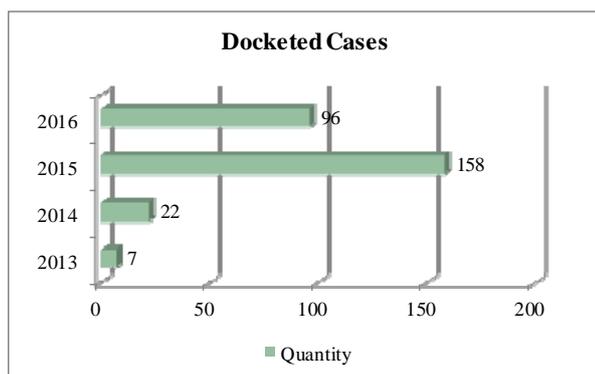
(Via China Intellectual Property News)

## Copyright

### Animation Infringement Cases Nearly Octupled Within Two Years, Local Court Advises Assessing Higher Damages Awards

Cases involving animation IP infringement have witnessed explosive growth in recent years. Half of the annual output value of Beijing has been taken up by animation from Shijingshan District alone. Local courts carried out special research on first-instance civil IP disputes related to animation and online games that were accepted from 2013 to 2016.

The local courts in Shijingshan have totaled 283 civil IP cases involving animation games, enjoying a strong annual increase from 2013 to 2016. Docketed cases nearly octupled in 2015 and 2016 over 2013 and 2014.



Cases mainly involving games transferred from client-side network games to cellphone games. It seems evident that cases involving unauthorized animation images used in games increased greatly, and amounts in dispute also increased noticeably. The average amount in dispute in IP cases relating to animation games was approximately 20,000~30,000 Yuan in 2014 and earlier. Despite this, in 2016 the local court accepted several cases with amounts in dispute of over 5,000,000 yuan and even some close to 10,000,000 yuan. These cases usually involve unfair competition disputes over well-known games. The court advised awarding greater damages in these types of cases.

(Via The Mirror/Legal Evening News)

## Introduction

Watson & Band has flourished into a full-service law firm with more than 250 professionals around China. We provide the highest quality services for our clients and enjoy a nationwide reputation as one of the most prominent law firms in China. This excellence and breadth has made us the firm of choice for many of the world's leading companies and financial institutions as they seek sophisticated legal service. Based on its commitment to providing quality services, Watson & Band has retained a team of professionals. Its diverse provision of legal services has won it the honor of being named one of China's Best Law Firms.

## Watson & Band Intellectual Property Agent Ltd.

Headquartered in Shanghai, W&B Agent Ltd. Operates a branch office in Beijing. Our patent agency services cover various technical fields such as chemistry, biology, medicine, mechanics, electronics, communication, optics and physics, as well as designs patents, searches, patent validity analysis, infringement analysis, requests for invalidity declaration, litigation and patent consultation, etc. We have established a patent agency service department responsible for special clients. Agents from various technical divisions all have rich experience and are able to work with several languages.

## Watson & Band Law Offices

Established in 1995, Watson & Band Law Offices is one of the oldest partnership law offices in China. Headquartered in Shanghai, our firm maintains multiple branch offices in Beijing, Harbin, Wuxi and Hong Kong. Our cooperative firms spread over all major cities in China and abroad.

For over decades our team members have collaborated to stay on top of IP and corporate issues, helping clients improve operations, reduce costs, limit risks, enforce rights and achieve common business goals. For these reasons, the firm and its professionals are consistently recognized in client and peer-reviewed industry awards and rankings as being among the best.

These superb services derive from a spirit of dedication that has brought Watson & Band the honor of being listed among "China's Best Law Firms". In past years our firm has received numerous awards from third-party ranking agencies such as "Top 10 IP Law Firm", "Recommended Law Firm". "China's Most Dynamic Law Firm" and "Premier IP Law Firm". Watson & Band Law Offices has also been named a "Key Shanghai Enterprise in Special Services Trades (Legal Services)" by the Shanghai Municipal Commission of Commerce and the Shanghai Judicial Bureau.

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