

W&B IP Newsletter

November of 2020, Vol. 43

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Copyright

NPC Standing Committee to Amend Copyright Law for Implementation as of June 1, 2021

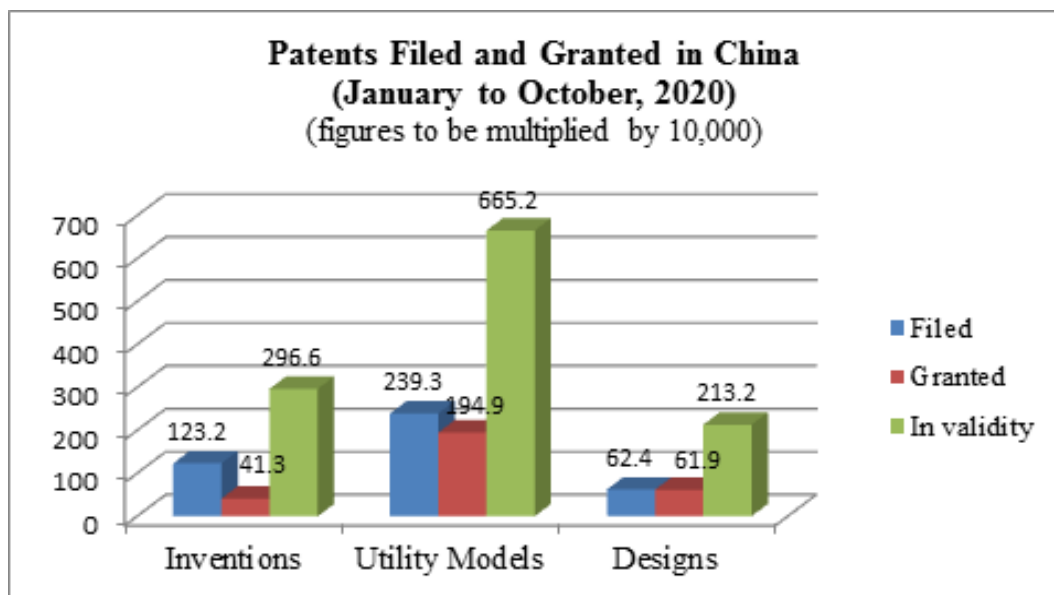
The *Decision on Amending the Copyright Law of the People's Republic of China* (the "*Decision*"), which was adopted at the 23rd Session of the Standing Committee of the 13th National People's Congress ("NPC") recently, will come into force as of June 1, 2021.

In accordance with the *Decision*, the amended *Copyright Law* has improved the provisions on the protection for cyberspace copyright, greatly raised the upper limit amount of statutory compensation for infringement and defined the principles of punitive compensation. Particularly, if the circumstance of intentional infringement is serious, punitive compensation in an amount between one time and five times the compensation amount may be claimed. If it is difficult to calculate the actual losses of the right holder, the illegal gains of the infringing party or the royalties, the court will rule to grant compensation in an amount between CNY500 and CNY5,000,000 as per actual circumstances of the infringement. As is clearly specified in the *Decision*, the amended *Copyright Law* adjusts the definition of "work", and amends "a cinematographic work or a work created by a process analogous to cinematography" under the prevailing law into "an audiovisual work". The amended *Copyright Law* also intensifies law enforcement means of regulatory departments and so on.

(Source: www.npc.gov.cn)

Patent

CNIPA Publishes Statistical Data of Patents from January to October 2020

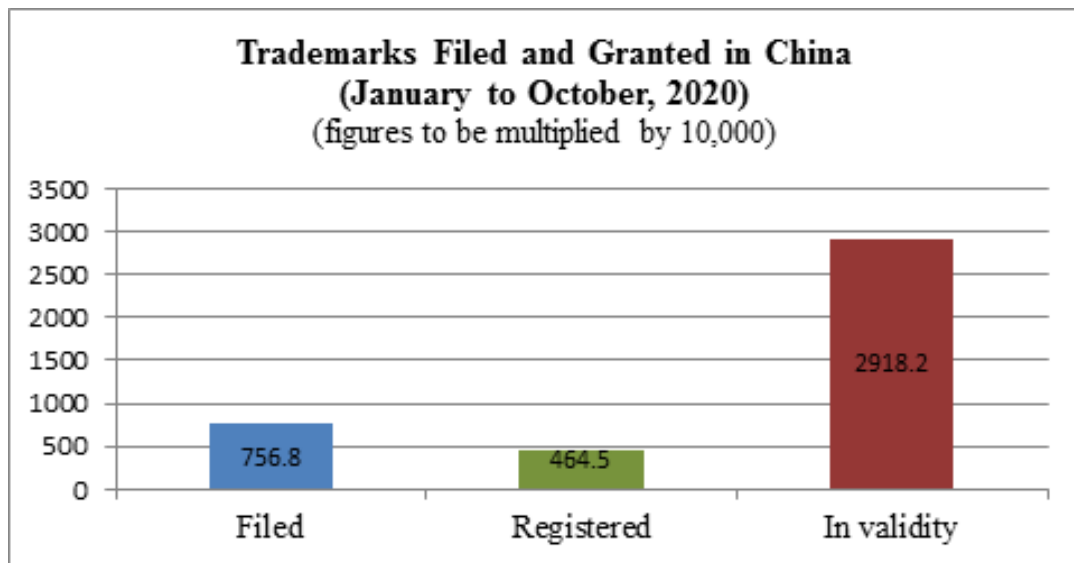


From January to October, CNIPA accepted a total of 55,000 PCT applications, of which 51,000 were domestic. CNIPA also accepted 44,700 requests for reexamination and concluded 41,400 reexamination cases. CNIPA also accepted 4,900 requests for invalidation and concluded 6,500 invalidation cases.

(Source: National Intellectual Property Administration)

Trademark

CNIPA Publishes Statistical Data of Trademarks from January to October 2020



From January to October, a total of 109,000 trademark opposition applications were filed and 116,000 trademark opposition reviews were completed.

CNIPA received 6,354 Madrid international applications filed by Chinese applicants. CNIPA also received 294,000 various types of applications for trademark review and adjudication and concluded 289,000 such cases.

(Source: National Intellectual Property Administration)

The First China Trademark and Brand Development Index (2020) Published

On the morning of November 6, 2020, at the 3rd “Trade and Trademark & Brand Forum” hosted during the 3rd China International Import Expo, guided by the IP Rights Application Promotion Office under the National Intellectual Property Administration, China Trademark Association published the first “*China Trademark and Brand Development Index (2020)*” (the “*CTBDI 2020*”).

Under China’s new development pattern known as “domestic and international dual circulation”, the *CTBDI 2020* aims to image the high-quality development of brand economy supported by trademarks in various provinces and regions across the nation. As revealed by the evaluation results, Zhejiang Provinces takes the first place at the score of 88.51, followed by capital Beijing and Guangdong Province at 88.06 and 87.95 respectively.

CTBDI is an indexation tool used to measure the overall development levels of trademarks and brands with production or service activities in various provinces or regions across the nation, as well as the overall building and achievements of industrial public trademarks and brands.

Trademark

Table 1 CTBDI 2020 – Scores and Rankings (only selecting the Top 10)

Province	CTBDI Score	Ranking	S1. T&B Scale Construction	Q2. T&B Quality Development	P3. T&B Potential Enhancement	P4. T&B Policy Support	E5. T&B Efficiency Realization
Zhejiang	88.51	1	92.10	91.00	84.44	85.03	84.99
Beijing	88.06	2	96.60	81.76	86.07	76.38	98.13
Guangdong	97.95	3	94.40	87.40	90.42	77.16	85.70
Shanghai	84.27	4	95.77	71.24	89.15	79.17	88.14
Jiangsu	83.86	5	80.14	87.40	83.52	89.39	78.73
Shandong	83.02	6	77.03	89.20	77.11	85.20	86.00
Fujian	77.37	7	81.80	76.55	71.98	75.69	77.98
Sichuan	76.26	8	70.42	84.33	74.23	81.60	68.43
Hubei	74.64	9	68.20	77.64	76.92	81.66	71.34
Anhui	73.49	10	70.40	73.74	72.84	78.76	73.93

(Source: IPRdaily)

CNIPA: Trademark Registration Period in China Greatly Shortened

It is learned from the 2020 Trademark Registration Facilitation Reform Session hosted in Chongqing on November 4 that presently the trademark registration period in China is between 8 and 9 months; with a comparison of the same figure between 13 and 14 months in 2016, facilitation for trademark registration in China has been constantly enhanced.

According to the spokesman of the CNIPA, China has been promoting its facilitation reform for trademark registration in recent years. Presently, the average review period of trademark registration in China has been shortened to 4 months and 10 days and it is expected to be further shortened to less than 4 months by the end of this year.

As revealed by statistical data, by the end of September this year, the accumulative number of valid trademark registrations in Chongqing and Sichuan Province has arrived 1.512 million.

(Source: Xinhua News Agency)

Intellectual Property

National Bureau of Statistics: China's Innovation Index Arriving at a New Record High

China's National Bureau of Statistics recently published the 2019 China Innovation Index calculation results. According to the calculation, said Innovation Index reaches 228.3 in 2019 (with the index in 2015 assigned as 100). The Innovation Index keeps on a rapid increase at the annual growth rate of 7.8%.

Intellectual Property

Dividing into more detailed sectors, growths were witnessed in China's innovation environment index, innovation input index, innovation output index and innovation effect index, with a comparison to the indices of 2018 (as shown in the table below).

	2018	2019	Growth Rate
Innovation Environment Index	226.2	249.9	10.5%
Innovation Input Index	193.3	199.1	3.0%
Innovation Output Index	264.1	295.3	11.8%
Innovation Effect Index	163.7	168.8	3.1%

In 2019, the number of domestic patents granted in China reached 2.474 million, at an annual growth rate of 6.0%. A total of 1.95 million scientific research papers were published, also at an annual growth rate of 6.0%.

Enterprise brand construction has been continuously promoted – by the end of 2019, large and medium-sized industrial enterprises own a total of 538,000 registered trademarks, at an annual growth rate of 14.0%.

In 2019, the total value of contracts concluded on China's technology market was 2.23984 trillion RMB, arriving at an annual growth rate of 26.6%, showing an expedited pace in getting through the channels for scientific and technological achievement conversion.

(Source: People's Daily)

CNIPA Publishes Statistical Data of Other IP Rights from January to October 2020

Geographical Indications and Layout Designs of Integrated Circuits

From January to October, CNIPA approved a total of 727 enterprises to use exclusive marks for products with geographical indications, and approved 615 registered geographical indication trademarks. By October 2020, an accumulative number of 2,385 products with geographical indications have been approved and a total of 9,224 enterprises have been approved to use said exclusive marks; also, an accumulative number of 5,933 geographical indication trademarks have been registered.

From January to October, 10,358 applications for registration of layout designs of integrated circuits were filed, and 8,743 registration certificates for said layout designs were issued.

(Source: National Intellectual Property Administration)

CNIPA Further Improves Certification Quality of Implementation of Standards for Enterprise Intellectual Property Management System

The General Office of the China National Intellectual Property Administration ("CNIPA") recently issued the *Circular on Further Improving the Certification Quality of the Implementation of Standards for Enterprise Intellectual Property Management System* (the "Circular").

Intellectual Property

The *Circular* touches upon contents of four aspects, including: (1) effectively raising the awareness of enterprises to independently carry out high-quality certification of the implementation of standards; (2) continuously optimizing the supply of high-standard certification service for the implementation of standards; (3) actively creating a policy environment for high-quality certification of the implementation of standards; and (4) striving to create a comprehensive service carrier for high-level certification of the implementation of standards.

The *Circular* also stipulates that passing the certification of implementation of standards for intellectual property rights will not be deemed as an important condition for applying for other intellectual property projects, by which the enterprises will, undesirably and in a disguised form, be mandatorily required to carry out the standards implementation certification. Meanwhile, it is prohibited to set policy thresholds by placing mandatory conditions such as early establishment of certification bodies and large market scale to form a monopoly and affect fair competition.

(Source: National Intellectual Property Administration)

Supreme People's Court: to Perfect the Mechanism of Punitive Compensation for Infringement of IP Rights and to Combat Encroachment upon Other's Rights and Benefits in Technological Achievement Conversion by Using Authority

Recently the Supreme People's Court issued the *Opinions on Supporting and Safeguarding Shenzhen in the Construction of a Pilot Demonstrative Area with Chinese Characteristics* (the "*Opinions*"). According to the *Opinions*, the following conduct should be forcefully combated: (1) using authority to encroach upon other's rights and benefits in technological achievement conversion; (2) technological conversion agencies and technology managers intentionally providing false information, experiment results or evaluation opinions to infringe upon other's legitimate rights and interests. The *Opinions* also provide for the improvement of the anti-unfair competition law system and the strengthened blow against unfair competition conduct such as infringement upon trade secrets. Moreover, the *Opinions* emphasize on continued implementation of the strictest protection system for IP rights and improvement of the punitive compensation system for infringement upon IP rights.

(Source: Supreme People's Court)

China Continues to Strengthen Protection for IP Rights in Agriculture Industry

It is learned from the 2020 Seminar on Protection for IP Rights and New Varieties of Plants in Agriculture Industry hosted in Shanghai that China has continued to strengthen the protection for IP rights in the agriculture industry. By the end of June this year, China has approved an accumulative number of 2385 products of geographical indications and 5682 registered geographical indication trademarks. The number of protected new varieties of plants has kept on rising.

As IP rights protection has gradually become a standard configuration in international trade, protection for IP rights, including new varieties of plants, within the agriculture industry will be of great significance in promoting international communications within the industry.

(Source: Xinhua News Agency)