

W&B Legal Newsletter

February 2022 / Vol.25

Spotlights

The Latest from Watson & Band

Watson & Band Again Listed in IP Litigation Area in 2022 Chambers Greater China Region Guide

Assisting with the Shanghai Financial Innovation Award Winning Project — W&B Safeguards the Health Insurance Trading Platform Project of Shanghai Insurance Exchange

Latest Legal Developments

SPC Issues Several Provisions on the Trial of Cases of Civil Damages for False Statement Infringement

Intellectual Property

CNIPA Introduces Provisions on IP Credit Management

CNIPA Continues to Strictly Regulate Patent Applications

Cyber Security and Data Protection

MIIT Seeks Comments Again on the Administrative Measures for Data Security in the Field of Industry and Information Technology

Banking and Finance

PBC Issues Administrative Measures for the Bond Lending Business in the Interbank Bond Market

INTRODUCTION

Watson & Band has flourished into a full-service law firm with more than 400 pro-fessionals 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 world's leading companies and financial institutions as they seek sophisticated legal service. Based on its commitment of quality service, Watson & Band has retained a team of professionals to provide diversified service to its clients, which has won it the honor of China's Best Law Firm and Top-tier IPR Team.

Watson & Band Law Offices

Established in 1995, Watson & Band is one of the oldest law firms in China that provide foreign-related legal services. Headquartered in Shanghai, Watson & Band maintains multiple branches or offices in Beijing, Hong Kong, Harbin, Lanzhou, Yantai, Guangzhou, Zhengzhou, Chengdu, Chicago and Tokyo.

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.

Watson & Band Intellectual Property Agent Ltd.

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

CONTACT US

Shanghai Office

Address: 26th Floor, The Center, No.989 Changle Road, Shanghai 200031 P.R.C.

Tel: (86-21) 5292-1111; (86-21) 6350-0777

Fax: (86-21)5292-1001; (86-21) 6272-6366

E-mail: mail@watsonband.com ;

mail-ip@watsonband.com

Beijing Office

Address: 5C, D Block, Fuhua Mansion, No. 8 North Chaoyangmen Street, Dongcheng Dis-strict, Beijing 100027 P.R.C.

Tel: (86-10) 6625-6025 Fax:(86-10) 6445-2797

E-mail: beijing@watsonband.com;

mail-ip@watsonband.com

Harbin Office

Address: Room A2, Madi-er Shopping Center No.37 West Badao Street, Daoli District, Harbin 150010 P.R.C.

Tel: (86-451) 8457-3032; (86-451) 8457-3032

E-mail: harbin@watsonband.com

Gansu Office

Room 1823, Real Estate Tower, No.1 Tongwei Road, Lanzhou, Gansu Province, 730000, P.R.C.

E-mail: gansu@watsonband.com

Yantai Office

B3-703, Donghe Science and Technology Park, South Tongshi Road, Zhifu District, Yantai, Shandong, 264000

E-mail: yantai@watsonband.com

Tel: 0535-2118687

Guangzhou Office

Room 3708, Fuli Yingtong Building 30 Huaxia Road, Tianhe District, Guangzhou

E-mail:xuefeng.xie@watson-band.com.cn

Tel: +020-85647039

Zhengzhou Office

12B, Building A, Kineer IFC, East Jinshui Road, Zhengdong New District, Zhengzhou

Tel: 0371-86569881

Suzhou Office

Room 507, Building 5, No.9 Xuesen Road, Science and Technology City, High-tech District, Suzhou

Tel: 0512-68431110

Chengdu Office

2203-2204, Tower 3, Chengdu Yintai Center, No.1199, Tianfu Avenue North, High-tech District, Chengdu

Tel: +86-13398190635



Catalogue

THE LATEST FROM WATSON & BAND

Watson & Band Again Listed in IP Litigation Area in 2022 Chambers Greater China Region Guide	4
The Legal 500 2022 Asia-Pacific Guide Published: Watson & Band Again Ranked in IP Contentious and IP Non-contentious Areas	4
Assisting with the Shanghai Financial Innovation Award Winning Project — W&B Safeguards the Health Insurance Trading Platform Project of Shanghai Insurance Exchange	5
Assisting in Financial Innovation – W&B Provides Full Legal Services for the Commodity Swaps Business of Shanghai Futures Exchange	5

LATEST LEGAL DEVELOPMENTS

SPC Issues Several Provisions on the Trial of Cases of Civil Damages for False Statement Infringement ...	6
---	---

INTELLECTUAL PROPERTY

CNIPA Introduces Provisions on IP Credit Management	7
CNIPA Continues to Strictly Regulate Patent Applications	7
CNIPA Releases the Measures for Fast-track Examination of Trademark Registration Applications (for Trial Implementation)	8

CYBER SECURITY AND DATA PROTECTION

MIIT Seeks Comments Again on the Administrative Measures for Data Security in the Field of Industry and Information Technology	9
CAC Seeks Comments on Administrative Measures for Deep Synthesis of Internet Information Services ...	9
NISSTC Seeks Comments on the Information Security Technology - Guideline for Identification of Critical Data	10

BANKING AND FINANCE

PBC Issues Administrative Measures for the Bond Lending Business in the Interbank Bond Market	11
---	----

Disclaimer

- ◆ This Newsletter provides case brief only instead of formal legal opinion regarding any specific case.
- ◆ This Newsletter selects and summarizes official announcements, news and other public documents released by National Intellectual Property Administration of China (CNIPA), Trademark Office of CNIPA, National Copyright Administration of China and other official institutions.
- ◆ This Newsletter has cited the source of the aforementioned official announcements, news and other public documents.

Watson & Band Again Listed in IP Litigation Area in 2022 Chambers Greater China Region Guide

Recently the international authoritative legal rating institution Chambers and Partners published its 2022 Chambers Greater China Region Guide. Relying on our adhesion to high quality services and good reputation within the legal industry, Watson & Band is again ranked in the IP litigation area.

Chambers Greater China Region Guide derives from its market-leading Chambers Asia-Pacific Guide. It provides incomparable market analytic intelligence and observation insights for in-house, business and legal teams, individual users and other clients seeking legal services from outstanding law firms and practitioners.



The Legal 500 2022 Asia-Pacific Guide Published: Watson & Band Again Ranked in IP Contentious and IP Non-contentious Areas

Recently, The Legal 500 officially published its 2022 Asia-Pacific Guide. Watson & Band is again ranked in both the IP contentious and the IP non-contentious areas this year.



The Legal 500 provides the following commentary on Watson & Band:

“Watson & Band’s team, which includes both lawyers and agents, is equally strong in contentious and non-contentious work, and advises a number of well-known multinational companies from the tech and fashion sectors. The firm, which has an extensive office network covering most of China’s major cities, is experienced in both trademark and patent issues, assisting with licensing, filing and prosecution. Managing partner Jean Yang is one of the key team members, while Jianguo Huang focuses on patent litigation.

Other key lawyers include Joe Liu, Xiaobo He, Cathy Wu, Hua Xiao, Yingcong Xu, Liming Zhang and Guohua Tang”

— The Legal 500



Assisting with the Shanghai Financial Innovation Award Winning Project — W&B Safeguards the Health Insurance Trading Platform Project of Shanghai Insurance Exchange

Recently, the Shanghai Municipal People's Government issued the *Decision on Commending the Winners of the Shanghai Financial Innovation Award 2020* (Hu Fu (2021) No. 65), officially releasing the winner list of the Shanghai Financial Innovation Award 2020. The Shanghai Insurance Exchange won the first prize for its health insurance trading platform project.

W&B project team has been providing full range of legal services for the said project covering empowerment of healthcare and insurance Big Data, full life cycle data compliance, financial regulation, financial technology and other aspects. While providing prospective, innovative and comprehensive services, the project team of W&B focused on not only the feasibility and compliance analysis of the overall project plan, but the practical exploration and demonstration of the specific implementation plan, and eventually assisted the platform in establishing a full set of rules and regulations on design of structures, operation and governance and drafting a series of agreements between the platform and a multiple of entities. This project was led by the firm's partner Cathy Wu and jointly completed by lawyers Jialong Chen, Qi Zhu and Xin He.

Assisting in Financial Innovation – W&B Provides Full Legal Services for the Commodity Swaps Business of Shanghai Futures Exchange

On January 20, Shanghai Futures Exchange (“SHFE”) issued the *SHFE Administrative Measures on Commodity Swaps Business*, providing for matters related to the commodity swaps business, including the market participants, the service activities and the risk management issues. The Measures provide institutional guarantee for the smooth and steady operation of the commodity swaps business.

W&B's team provided full legal services for SHFE's said commodity swaps business project. As a latest development in derivatives trading, commodity swaps business lacks regulation under mature legislation in China. To demonstrate feasibility and compliance of the project, W&B's team, relying on the domestic and overseas experience, the trends in financial supervision and administration and the nature of commodity swaps, and combining the project design for the commodity swaps business, demonstrated said feasibility and compliance from various perspectives including business model, business procedure, market participants and risk control measures, and assisted SHFE in drafting the agreement group files applicable between SHFE and service participants. The project is led by W&B's partner Cathy Wu and jointly completed by her team members Jialong Chen, Qi Zhu and Xin He.

SPC Issues Several Provisions on the Trial of Cases of Civil Damages for False Statement Infringement

Recently, the Supreme People's Court ("SPC") issued *Several Provisions on the Trial of Cases of Civil Damages for False Statement Infringement in the Securities Market* (the "Provisions"), with effect on January 22, 2022.

The *Provisions* encompass 35 articles in eight parts, including general provisions, determination of false statement, materiality, and causality of transactions, among them. The *Provisions* cancel the administrative or criminal pre-procedure stipulated in the original judicial interpretation, to timely and comprehensively protect the right of action of the investors suffering losses, and also introduce a safe harbor system for predictive information, optimizing and improving how to determine the date of releasing and disclosing false information, materiality, and transaction causality in the false statement case. Under the *Provisions*, the information disclosure obligor shall bear civil liability in the securities trading market for the actual losses incurred by the plaintiff from false statement. The plaintiff's actual losses include the loss from the investment differential, the commissions and the stamp duty relating to the loss.



(Source: Supreme People's Court)

Intellectual Property

CNIPA Introduces Provisions on IP Credit Management

On January 28, the China National Intellectual Property Administration (“CNIPA”) issued the *Provisions on Intellectual Property Credit Management* (the “*Provisions*”), with effect on the date of issuance.

According to the *Provisions*, the CNIPA will lawfully identify seven acts as dishonest act, including “abnormal patent applications which are not for the purpose of protecting innovation”. Entities with dishonest acts will be subject to seven administrative measures, such as “facing stricter examination in the application for public finance-related project”. Meanwhile, the *Provisions* specify that if six months have passed since a market entity is identified to have committed a dishonest act and it has corrected the dishonest act, performed relevant obligations, and proactively eliminated relevant consequences, and no dishonest act is identified once again, it may apply for credit repair by submitting an application letter for credit repair and supporting materials to the authority identifying such dishonest act. The *Provisions* also note that market entities that have good credit for three consecutive years may enjoy incentives in five aspects as appropriate, including “enjoying simplified and fast-track procedures and other convenient services in administrative examination and approval, project application and other processes”.

(Source: China National Intellectual Property Administration)

CNIPA Continues to Strictly Regulate Patent Applications

On January 26, the China National Intellectual Property Administration (“CNIPA”) issued the *Circular on Continuing to Strictly Regulate Patent Applications* (the “*Circular*”).

Centering on continuously improving the working mechanism, and establishing a sound long-term mechanism, the *Circular* calls for severely cracking down on abnormal patent applications and regulating the order of patent application, with efforts to be made in eight aspects, namely, continuously improving the information communication mechanism, strengthening the precise management of patent application behavior, establishing sound mechanism for proactive verification and reporting, enhancing governance in categorization and grading, strengthening the regulation of major violations, strengthening inter-departmental collaborative governance, strengthening credit regulation in patent application, and tightening regulation of patent agencies’ behaviors. Among others, the *Circular* requires intellectual property administration in each locality to, in the process of reviewing project application, granting subsidies and awards, providing preliminary review services, conducting prioritized examination and in other key processes, pay attention to the entities and individuals within its respective jurisdiction who submit abnormal patent application, and to carry out category-based governance according to different situations.

(Source: China National Intellectual Property Administration)

Watson & Band, as one of China’s oldest intellectual property service providers with the qualifications as a foreign-related patent agency, maintains a leading position in the intellectual property industry due to its extensive experience. Watson & Band’s IP-related services cover agency and consulting services concerning trademarks, patents, copyrights and other new types of IP rights, enforcement and litigation services, and commercial IP-related legal services.

CNIPA Releases the Measures for Fast-track Examination of Trademark Registration Applications (for Trial Implementation)

On January 19, the China National Intellectual Property Administration (“CNIPA”) issued the *Measures for Fast-track Examination of Trademark Registration Applications (for Trial Implementation)* (the “Measures”), with effect on the date of issuance.

The *Measures* allow request for fast-track examination of trademark registration applications in four circumstances including “involving the names of national or provincial major projects, major projects, major scientific and technological infrastructure, major events, major exhibitions, and the trademark protection is urgent”. The *Measures* specify that an application for trademark registration for which fast-track examination is requested shall meet all of six conditions including “with the consent of all applicants”. The *Measures* also state that, upon acceptance of request for fast-track examination, the CNIPA, shall grant the fast-track examination if the requirements of the Measures are met, and make an examination decision in accordance with the law. Those trademark applications that do not comply with the provisions of these Measures will not be subject to fast-track examination and be examined according to the general procedures prescribed by law. If fast-track examination is granted, the examination shall be completed within 20 working days from the date of consent.



(Source: Cyberspace Administration of China)

Cyber Security and Data Protection

MIIT Seeks Comments Again on the Administrative Measures for Data Security in the Field of Industry and Information Technology

Recently, the Ministry of Industry and Information Technology (“MIIT”) issued the *Administrative Measures for Data Security in the Field of Industry and Information Technology (for Trial Implementation) (Draft for Public Comment)* (the “*Draft for Comment*”) to solicit opinions from the public once again.

The *Draft for Comment* stipulates that data processors in the field of industry and information technology shall be responsible for the security of data processing activities and implement classification protection for various types of data. If data of different levels are processed at the same time and it is difficult to take separate protection measures, the highest level of protection is required to ensure that data remains in a state of effective protection and legitimate use. In addition, the *Draft for Comment* points out that, important data and core data collected and generated by data processors within the territory of the People’s Republic of China shall be stored in China if it is required to do so by laws and administrative regulations, and such data shall undergo a security assessment for data cross-border transfer in accordance with laws and regulations if it’s truly necessary to provide it outside China.

(Source: China State Administration of Foreign Exchange)

CAC Seeks Comments on Administrative Measures for Deep Synthesis of Internet Information Services

The Cyberspace Administration of China (“CAC”) recently drafted the *Administrative Measures for Deep Synthesis of Internet Information Services (Draft for Comment)* (the “*Draft for Comment*”) to solicit public opinions.

The *Draft for Comment* mainly touches upon five contents: (1) clarifying the formulation basis and purpose, the scope of application and the overall requirements; (2) specifying the main responsibilities to be assumed by deep synthesis service providers; (3) clarifying the management system for identification of deep synthesis information content; (4) setting out the relevant requirements for supervision and management; (5) stipulating the legal responsibility, the department responsible for interpretation and implementation date. Among others, the *Draft for Comment* requires deep synthesis service providers to establish a sound mechanism to refute rumors; if deep synthesis is used to produce, copy, distribute or spread any false information, they shall timely adopt relevant measures to refute rumors and report relevant information to cyberspace administration or other departments for record-filing.

(Source: Cyberspace Administration of China)

Cyber Security and Data Protection

NISSTC Seeks Comments on the Information Security Technology - Guideline for Identification of Critical Data

Recently, the secretariat of the National Information Security Standardization Technical Committee (“NISSTC”) issued the *Information Security Technology - Guideline for Identification of Critical Data (Draft for Comment)* (the “*Draft for Comment*”) for public comments by March 13, 2022.

The *Draft for Comment* sets out the basic principles of and considerations for identification of critical data as well as the format for describing critical data. This standard, which applies to data processors’ identification of critical data in their possession, not only provides support for the security protection of critical data, but also serves as a reference document for various regions and authorities to formulate specific catalogues of critical data for their own regions and authorities, related sectors and fields. The *Draft for Comment* defines critical data as any data that exists in electronic form and that may endanger national security and public interest once it is tampered with, destroyed, leaked, or illegally accessed or used. In identifying critical data, several factors such as “reflecting national strategic reserves and emergency mobilization capabilities, e.g., strategic material production capacity and reserves are critical data” can be considered. Data that meets one of the factors is critical data.

(Source: National Information Security Standardization Technical Committee)



PBC Issues Administrative Measures for the Bond Lending Business in the Interbank Bond Market

The People's Bank of China ("PBC") recently issued the *Administrative Measures for the Bond Lending Business in the Interbank Bond Market* (the "Measures") for implementation from July 1, 2022.

The *Measures* improve the bond lending rules from the perspectives of market players, performance assurance and master agreement, involving supporting market players to carry out the centralized bond lending business in a standardized way, and raising the efficiency and flexibility of bond lending transaction. Meanwhile, to strengthen risk prevention, the *Measures* set forth relevant requirements on large-value loan reporting and disclosure, risk monitoring, self-discipline management and other matters. Among others, the *Measures* stipulate that in the event of a default in bond lending, both the bond lender and the borrower shall take disposal measures in accordance with the relevant terms of the master agreement, or apply for arbitration, or file a lawsuit with the people's court, and shall send the final result to the trading platform and bond settlement service institution before 12:00 on the next working day upon receiving the effective arbitration award or litigation judgment.

(Source: People's Bank of China)

