

Newsletter

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CCPIT Patent and Trademark Law Office has won the IP Firm of the Year Award by Asia IP for seven consecutive years

Asia IP announced the winners of the 2026 China IP Awards. With exceptional professional capabilities and outstanding market performance, CCPIT Patent and Trademark Law Office stood out again and won the IP Firm of the Year Award, marking the seventh consecutive year that our firm has received this honor. Meanwhile, we also won multiple awards, including Patent Prosecution Firm of the Year, Trademark Prosecution Firm of the Year, Trademark Litigation Firm of the Year, Licensing & Franchising Firm of the Year, Pharma, Biotech &



Life Sciences Firm of the Year and IP Portfolio Management Firm of the Year.

Winning these awards is not only a high recognition of our past achievements but also an inspiration for us to continue deepening our efforts in the intellectual property field. With professional, efficient and pragmatic services, we will spare no efforts to help both domestic and international innovation entities enhance their intellectual property protection levels.



CCPIT Patent and Trademark Law Office ranked Tier 1 again in both the patent and copyright / trademark rankings (2026) by ALB

On May 20th, Asian Legal Business (ALB) released the 2026 China IP Rankings. Our firm ranked Tier 1 in both the Patent and Copyright/ Trademark areas due to our high-quality legal services and outstanding business performance.

Asian Legal Business (ALB) is a professional legal magazine under Thomson Reuters. Its intellectual property ranking is mainly based on the overall strength of the law firm, including workload, complexity and scale of cases, as well as indicators such as customers, teams, year-on-year development and growth momentum.

CCPIT Patent and Trademark Law Office stands out with its exquisite professional qualities and outstanding service capabilities. This not only confirms the profound accumulation of our firm in the field of intellectual property but also demonstrates our strong strength in leading the development of intellectual property in China.

PATENT 专利

TIER 1 一类

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TIER 1 一类

CCPIT Patent and Trademark Law Office
中国贸促会专利商标事务所

CCPIT Patent and Trademark Law Office was honored China Business Law Awards 2026 in intellectual property (patents) in China



In 2026 China Business Law Awards, CCPIT Patent and Trademark Law Office has been honored the winner of the Intellectual Property (Patents) in China.

Organized meticulously by the editorial team of China Business Law Journal, the selection draws on the publication's years of in-depth coverage of the legal market. The evaluation is conducted based on three core criteria: firms' official submissions, testimonials from clients, and valid industry nominations. Judges also conduct thorough

reviews of each firm's performance over the past year, including landmark transactions, representative cases and other remarkable achievements, to select the ultimate winners.

Distinguished by the consummate professionalism and outstanding service capabilities, CCPIT Patent and Trademark Law Office stood out among peers and claimed the above award.

In 2027, CCPIT Patent & Trademark Law Office will mark the 70th anniversary of its intellectual property

services. This prestigious award is a recognition of our long-standing philosophy of "Enriching Your Ideas". We will carry forward our fine traditions, uphold the philosophy of integrity, innovation and pioneering spirit. Committed to delivering legal services with higher professionalism, refinement and international vision, we will fully safeguard the intellectual property rights of domestic and overseas enterprises. We will continue to forge new glories in the IP sector, and support enterprises to compete steadily and pursue innovative growth across the global marketplace.

CCPIT Patent and Trademark Law Office was recommended as Gold Tier firm in both patent prosecution and patent litigation again by IAM Patent 1000 (2026)



**CCPIT Patent and Trademark
Law Office**

Recommended Firm 2026

On 29 May, Intellectual Asset Management (IAM) released the ranking of the 2026 edition of World's Leading Patent Professionals in IAM Patent 1000. CCPIT Patent and Trademark Law Office was once again recommended as Gold Tier firm in both patent prosecution and patent litigation in China. This dual Gold Tier recognition across the two practice areas serves as further proof of the firm's top-tier professionalism and superior client services.

According to IAM, "Few institutions carry the historical weight and market influence of CCPIT Patent and Trademark Law Office, the oldest and one of the largest full-service intellectual property firms in China." Seven practitioners including President Chuanhong Long and Vice President Jianzhong Kang have been featured in the recommended individual list.



CCPIT Patent and Trademark Law Office was ranked tier 1 in both the areas of patent prosecution and trademark prosecution (2026) by MIP

On June 4, Managing Intellectual Property (MIP) released its 2026 ranking of leading IP law firms around the world. CCPIT Patent and Trademark Law Office, once again, ranks Tier 1 in both patent prosecution and trademark prosecution, bringing the firm to this position for the 27th consecutive year. The firm was also in the rank of leading IP law firms in the areas of patent contentious and trademark contentious.



According to MIP, "CCPIT Patent and Trademark Law Office, one of the largest IP law firms in China, is the first port of call when it comes to IP prosecution work; it prevails in both trademark and patent prosecution ranking tables. It has a large team of patent attorneys for different technical fields as well as experienced lawyers to deal with IP disputes." Four individuals including Mr. Ji Liu and Ms. Yazhuo Qian have been featured in the recommended practitioners list.

Litigation – procedural issues for evidence: what evidence is needed to obtain high damages

An Analysis of Evidentiary Strategy in Recent High-Award Chinese Patent Infringement Cases

By Ji Liu, Shaohui Yuan

Introduction

China's patent damages landscape has undergone a fundamental transformation. A decade ago, patent holders who brought infringement suits in Chinese courts could generally expect only modest statutory awards, which were typically far below the true extent of their losses. That situation has now changed decisively. The Supreme People's Court IP Court (SPC IP Court) has issued a series of landmark rulings in which damages reached tens of millions, and in some cases hundreds of millions, of RMB: the WAPI case, (2022) SPC IP Civil Final No. 817 (abbreviated as "(2022) No. 817"), resulted in an award of RMB 143 million; the melamine case, (2020) No. 1559, and the electronic-grade copper oxide case, (2024) No. 1254, both resulted in awards of RMB 120 million. The emergence of nine-figure awards signals that courts are both willing and equipped to calibrate damages to

actual commercial harm, rather than defaulting to the statutory range.

One basic problem, however, still remains: China does not have a discovery procedure. A patentee generally cannot compel the defendant to produce financial records, sales data, production records, or internal communications. In the United States, by contrast, broad discovery in patent litigation allows the plaintiff to obtain much of the information needed to prove damages from the defendant's own documents. In China, the patentee often enters the proceedings with little or even no visibility into the defendant's sales, profits, or other key damages evidence. This information gap is serious, and it has long been a main reason why even strong claims resulted in awards that did not reflect commercial reality.

This article examines the evidentiary strategies and procedural tools that led

to high damages awards in 16 SPC IP Court decisions, with awards ranging from RMB 10 million to RMB 143 million.

I. The Evidence Framework

In the reviewed cases, successful patentees usually developed two lines of evidence at the same time. One line was used to prove infringement. The other, and often the more important one in practice, was used to prove the scale of damages: how many products were sold, how much profit was made, how long the infringement lasted, and through how many sales channels the products were distributed.

A. Proving Infringement

For product patents, the usual approach is a notarized purchase together with a technical comparison. For complicated cases, a technical comparison report issued by a judicial/technical appraisal body, is preferable, as seen in the glucoamylase case, (2022) No. 483,

and the intramedullary nail case, (2021) No. 148. For method patents involving large industrial systems, the melamine case showed that administrative regulatory compliance materials can sometimes serve in place of an on-site inspection. These materials included safety assessments, environmental impact reports, and engineering design documents submitted to government authorities. The court treated them as objective third-party evidence of how the defendant's system was actually implemented.

For standard-essential patents, MIIT network access permit data can serve two functions at once: it shows that the accused product exists on the market, and it also shows compliance with the relevant standard. This approach was used in the WAPI case.

Where there has already been a prior infringement judgment, proving a later round of infringement becomes much easier. In that situation, the patentee mainly needs to show that the defendant continued using the same technical solution after the earlier judgment.

B. Proving the Scale of Damages: Four Main Categories of Damages Evidence

The first category is external and objective data. This is often the strongest type of damages evidence because it does not depend on the defendant's cooperation. Tax records were especially important in several cases. In the bear bile eye drops case, (2023) No. 2874, a Tax Enforcement Feedback Notice recorded RMB 26.68 million in infringing sales from 2014 to 2019. In the rear-view mirror case, (2022) No. 2892, the court obtained invoice data directly from the tax bureau.

Customs export records played a similar role in the gold-finger circuit board case, (2020) No. 1791, where they showed export volumes without requiring access to the defendant's internal financial materials. These forms of evidence are particularly valuable because they come from government agencies and are therefore highly credible.

The second category is the defendant's own public disclosures. This type of evidence is difficult for the defendant to deny later in litigation. In the microwave device case, (2021) No. 379, the plaintiff relied on the defendant's annual report together with industry profit margins to estimate the likely profit range from the infringement. In the intramedullary nail case, the court referred to sales data in the defendant's prospectus and then used that as part of the basis for an adverse inference after the defendant obstructed evidence production. Materials that the defendant has voluntarily submitted to regulators are usually hard to disown later in court.

The third category is multi-channel sales evidence. This type of evidence helps show the scope of the infringement. A notarized purchase from only one online platform usually proves only a minimum level of sales, not the full extent of the conduct. In the breast pad case, (2023) No. 1124, the plaintiff carried out notarized purchases on Taobao, JD.com, and Pinduoduo, and also used procurement contracts to show broader distribution. In the toy case, (2020) No. 1282, the plaintiff went further by surveying 114 physical retail stores and combining those results with industry white paper data, thereby building a fuller record of both online and offline sales.

The fourth category is historical contracts and comparable license agreements. In the bear bile case, a prior distribution agreement set out per-unit penalty amounts, which gave the court a concrete reference point for a very large damages claim. In the WAPI case, the patentee submitted a comparable third-party license agreement, allowing the court to calculate damages directly on a royalty basis under Article 71 of the Patent Law. In the electrical connector case, (2023) No. 646, the court relied in part on the damages figure in an earlier settlement when considering the punitive damages.

II. Evidence Obstruction: China's Practical Substitute for Discovery

If the lack of discovery is one of the main structural difficulties for patentees in China, the rule on evidence obstruction is the tool which the courts use to address that problem, at least in part. Article 27 of the SPC's Judicial Interpretation II on Patent Infringement Disputes allows a court to draw an adverse inference, or even to accept the patentee's damages claim, when the defendant refuses to produce financial records under its control after the court has ordered production. In practical terms, the rule shifts the consequences of missing information away from the patentee, who does not have access to the records, and onto the defendant, who has the records but chooses not to produce them.

A. Conditions for Applying the Rule

Four conditions generally must be met. First, the patentee must provide preliminary evidence showing the likely

scale of the infringement. Second, the relevant records must be mainly in the defendant's possession. Third, the court must issue a formal order requiring production. Fourth, the defendant must fail, without a good reason, to produce complete and reliable records.

In the reviewed cases, defendants used a range of tactics to avoid full disclosure. Some argued that internal reorganization made production impossible, as in the microwave device case. Some produced only partial records, as in the Azo dye case, (2022) No. 111. Some submitted audit reports prepared after the fact, without a method the court could verify, as in the toy case. Others claimed that their profit margins were low but offered no supporting accounting materials, as in the bear bile case. None of these arguments succeeded.

B. Effect of Obstruction and the Role of Preliminary Evidence

Once the court finds evidence obstruction, the information problem no longer works mainly against the patentee. Instead, it begins to work against the defendant. In the melamine case, the defendant refused to produce records, and the court accepted the patentee's RMB 120 million damages claim even though no internal records were available. In the microwave device case, the court relied on annual report data and industry profit margins and awarded RMB 40 million. In the bear bile case, the court expressly stated that when a party holds relevant records but fails to produce them, it should bear the resulting adverse consequences. The final award increased from RMB 4.53 million to RMB 10.03 million.



The strength of the court's adverse inference depends heavily on the quality of the patentee's preliminary evidence. Where the patentee had already provided objective and quantified external materials, such as a tax certificate, invoice records obtained through the court, or figures from a prospectus, the court was willing to draw a much stronger inference.

III. Choosing the Damages Basis and Understanding Punitive Damages

Article 71 of China's Patent Law sets out a clear order for calculating damages. Courts should first look to the patentee's actual losses or the infringer's profits. If neither can be reliably calculated, the court may use a reasonable multiple of a royalty. Statutory damages come last. The SPC IP Court's decisions show that courts are willing to support patentees who remain on these higher levels of the damages framework instead of falling back on statutory damages.

In the reviewed cases, the most common method was to calculate the infringer's profits. Proving the patentee's actual losses often requires difficult analysis of market substitution and lost sales. By contrast, the infringer's

profits can often be estimated more directly by combining sales volume with unit profit margin. That approach is especially workable when the patentee can rely on external data and industry profit margins, and when the defendant refuses to produce its own records. The royalty-based method is also useful when comparable license agreements are available. By comparison, statutory damages remain a fallback option in SPC IP Court practice.

The 2020 amendment to the Patent Law also added punitive damages under Article 71. That provision allows the court to multiply the base damages by one to five times where the infringement is both intentional and serious. In 2025 alone, Chinese courts had applied punitive damages in 505 intellectual property cases, with total punitive awards reaching RMB 1.8 billion. The reviewed patent cases show, however, that punitive damages can increase award; they are not the necessary for obtaining a high award.

Three of the reviewed cases applied a two-times multiplier: the long-chain diacid case, (2023) No. 3178; the rear-view mirror case; and the electrical connector case. In each of these cases, there had already been an earlier judgment finding

infringement, and the defendant continued the same conduct afterward. That made willfulness relatively easy to establish. At the same time, the three largest awards in the study, i.e., the melamine case (RMB 120 million), the WAPI case (RMB 143 million), and the copper oxide case (RMB 120 million), were all reached without any punitive multiplier. Those awards were built instead on strong external evidence and the defendant's obstruction of evidence production. The practical point for plaintiff is straightforward: even without a prior judgment, it is still possible to pursue a high damages claim if the evidentiary groundwork is prepared well.

IV. Evidence Strategies for Different Types of Cases

A. Large Industrial Systems

When a patent covers a process used in a large chemical plant or other industrial facility, the usual purchase-and-test method is not workable. The melamine case showed that materials filed with environmental and safety regulators can fill this gap. These materials, such as hazard assessment reports and engineering design documents, often record technical parameters that can be compared with the patent claims. They carry strong evidentiary weight because they were prepared to satisfy regulatory requirements rather than for use in litigation. Just as importantly, they can often be obtained from government authorities without the defendant's cooperation.

B. Manufacturing Equipment Patents

When the patent covers a production

tool rather than the final product, direct inspection of the accused tool is often not possible. The microwave oven mold case, (2022) No. 1584, addressed this problem through pre-litigation evidence preservation and reverse technical analysis. The experts started from the physical features of the final product and then identified the tooling features that would necessarily have produced those features. In this type of case, plaintiff should identify suitable technical experts early and obtain preliminary analysis before applying for evidence preservation.

C. Brand Owner Liability in OEM Arrangements

The breast pad case shows that a brand owner may be held jointly liable with the manufacturer in an OEM arrangement if the brand owner was involved in setting the product's technical specifications or design requirements. To prove this, the patentee should look for procurement contracts containing technical specifications, communications showing the brand owner's involvement in the design process, and evidence of sales across multiple channels. Adding the brand owner as a defendant can significantly improve both the amount of any judgment and the chances of enforcement, because brand owners often have more reachable assets than contracted manufacturers.

V. Practical Recommendations

A. Before Filing Suit

- Use administrative channels early. Before filing suit, consider whether government channels can help

generate damages evidence. A complaint to the tax authorities may lead to enforcement feedback identifying the defendant's infringing sales over multiple years. Customs inquiries may also help establish export volumes by product type, without relying on the defendant's own records.

- Collect the defendant's public disclosures in a systematic way. These may include annual reports, IPO prospectuses, regulatory filings, and marketing materials that describe sales performance. Listed companies often disclose figures publicly that can later be used against them in litigation.
- Carry out notarized purchases across multiple platforms and at different points in time. A single notarized purchase usually shows only a limited part of the infringement. By contrast, repeated notarized purchases across major e-commerce platforms, made at different times and preserving cumulative sales information, can provide a much stronger basis for proving the scale of infringement.
- Look for comparable license agreements or earlier commercial contracts. These materials can help show the economic value of the patented technology, even if they are not formal patent licenses. Any real commercial benchmark can make the damages claim less subjective and easier for the court to accept.

B. At Filing and During Litigation

- Request production of accounts from the outset. The request

should be included in the complaint and supported by the preliminary evidence already collected. Courts are much more likely to respond to a request tied to concrete external evidence than to a general assertion that the defendant controls the relevant information.

- Apply for evidence preservation without delay where there is a real risk of destruction. If there is a genuine risk that manufacturing records, inventory records, or server data may be lost or destroyed, plaintiff should seek pre-litigation evidence preservation as early as possible.
- Monitor compliance with production orders closely. Partial disclosure, unexplained delay, or submissions with unclear methodology should be identified promptly and placed on the record. A finding of evidence obstruction is not automatic. Plaintiff must show the court, with some precision, how the defendant has failed to comply.
- Respond to unsupported low-margin arguments with industry data and the defendant's own statements. SPC IP Court decisions consistently refuse to accept low-profit claims that are not backed by accounting evidence. Industry-average data and the defendant's public disclosures can be effective tools for challenging such defenses.

Conclusion

The SPC IP Court's decisions show that courts are prepared to award substantial damages when the patentee presents an evidence

record that is grounded in objective external materials, developed through available procedures, and tied to a credible commercial basis for calculation. The absence of discovery remains a real limitation, but it is not insurmountable. China's evidence obstruction rules mean that a defendant's failure to cooperate may support a substantial award, so long as the patentee has already provided

enough reliable external evidence to give the court a sound basis for quantification. For that reason, damages evidence should be treated as a central part of case strategy from the earliest stage of case assessment. A patentee that enters litigation with tax records, customs data, and the defendant's own public disclosures is already in a much stronger position to secure a meaningful award.

Reference Cases

- (2022) SPC IP Civil Final No. 817 —WAPI case — Damage of RMB 143 million
- (2020) SPC IP Civil Final No. 1559 —Melamine case — Damage of RMB 120 million
- (2024) SPC IP Civil Final No. 1254 —Electronic-grade copper oxide case — Damage of RMB 120 million
- (2021) SPC IP Civil Final No. 379 —Cavity microwave device case — Damage of RMB 40 million
- (2023) SPC IP Civil Final No. 3178 — Long-chain diacid case (punitive ×2) — Damage of RMB 30 million
- (2022) SPC IP Civil Final No. 483 — Glucoamylase case — Damage of RMB 23.05 million
- (2021) SPC IP Civil Final No. 148 — Intramedullary nail case — Damage of RMB 20.1 million
- (2021) SPC IP Civil Final No. 2480 — Cellulase case — Damage of RMB 20 million
- (2022) SPC IP Civil Final No. 111 — Azo dye case — Damage of RMB 19.5 million
- (2023) SPC IP Civil Final No. 1124 — Breast pad case — Damage of RMB 16.1 million
- (2020) SPC IP Civil Final No. 1282 — Toy figurine case — Damage of RMB 15.5 million
- (2022) SPC IP Civil Final No. 2892 — Rear-view mirror actuator case (punitive ×2) — Damage of RMB 12.2 million
- (2023) SPC IP Civil Final No. 646 — Electrical connector case (punitive ×2) — Damage of RMB 12.05 million
- (2020) SPC IP Civil Final No. 1791 — Gold-finger circuit board case — Damage of RMB 10.5 million
- (2022) SPC IP Civil Final No. 1584 — Microwave oven mold case — Damage of RMB 10.2 million
- (2023) SPC IP Civil Final No. 2874 — Bear bile eye drops case — Damage of RMB 10.03 million

Analysing key trends in China's patent-linkage system and their impact on pharmaceutical patent strategies

By Wei Tan, Juhua Luo

In recent years, China has witnessed rapid development and evolved into one of the world's largest and most dynamic pharmaceutical markets. To further bolster innovation in the life science sector, particularly in pharmaceutical research and development, China has rolled out a host of policy documents for public consultation and promulgated new laws and regulations that establish a full spectrum of key regulatory mechanisms. These include:

- Patent Term Adjustment (PTA), Patent Term Extension (PTE) and patent linkage systems, all taking effect on June 1, 2021, under the Patent Law;
- Policies governing centralized drug procurement, wherein the China National Intellectual Property Administration (CNIPA) and the National Healthcare Security Administration (NHSA) jointly issued the Guidelines on Strengthening Intellectual Property Protection in the Context of Centralized Drug Procurement on December 30, 2022;
- Data exclusivity, which shall come into

force on May 15, 2026, as stipulated in the Implementing Regulations of the Drug Administration Law of the People's Republic of China.

Among these mechanisms, the patent linkage system serves as a highly practical and effective tool for originator pharmaceutical companies. It relieves patent holders from the cumbersome and time-consuming burden of proving generic patent infringement. Where a valid CNIPA ruling or effective court judgment confirms that a generic product falls within the scope of a patent, the National Medical Products Administration (NMPA) will not grant approval for such generic products until the patent expires.

Context of China's Patent Linkage System

A drug patent linkage system provides a mechanism for the early resolution of pharmaceutical patent disputes by linking the drug approval process with patent dispute resolution, thereby aiming to partially resolve infringement disputes during the regulatory review stage. China

has established a patent linkage system that has proven successful, stemming from the historical challenges faced by originator drug companies under China's former patent and regulatory regime. These challenges arose from the following factors:

- **High R&D Costs and Short Patent Terms:** Developing new drugs takes 10-15 years and costs billions of dollars. The basic patent term of 20 years often fails to ensure reasonable returns for originators.
- **Exploitation of the Bolar Exception:** Under Article 75.5 of the Chinese Patent Law, generics can use patented technologies for regulatory approval purposes without infringing patents, leaving originators uncompensated.
- **Challenges in Patent Enforcement After Generic Drug Approval:** Patent litigation was relatively slow (taking 2 or more years) with inadequate damages awarded and rare interim injunctions. Originators faced challenges in stopping generics

from entering the market, resulting in lost late-stage profits.

As a result, the Chinese government has implemented domestic policies to promote innovation in the fields of drugs and medical devices. In 2017, the State Council issued the *Opinions on Deepening the Reform of the Drug Review and Approval System to Encourage Innovation of Drugs and Medical Devices*, which proposed exploring the establishment of a drug patent linkage system. In 2019, the State Council further issued the *Opinions on Strengthening Intellectual Property Protection*, which also emphasized the necessity of establishing such a system. In addition, in January 2020, China and the United States signed the Phase One Economic and Trade Agreement, wherein China committed to establishing a patent linkage mechanism, as well as Patent Term Adjustment (PTA) and Patent

Term Extension (PTE) systems.

A brief introduction of the patent linkage system in China

The marketing authorisation holders (MAH) of originator drugs can list their patents covering the originator drugs on a patent linkage platform. Generic applicants (abbreviated new drug application (ANDA) filers) must submit one of the following four types of certifications for each patent listed along with the ANDA and inform the MAH:

- **Type 1:** no patent information related to the reference-listed drug (brand-name drug) on the Registration Platform.
- **Type 2:** the patent has been terminated or declared invalid, or the generic drug applicant has obtained a patent licence from the patentee.

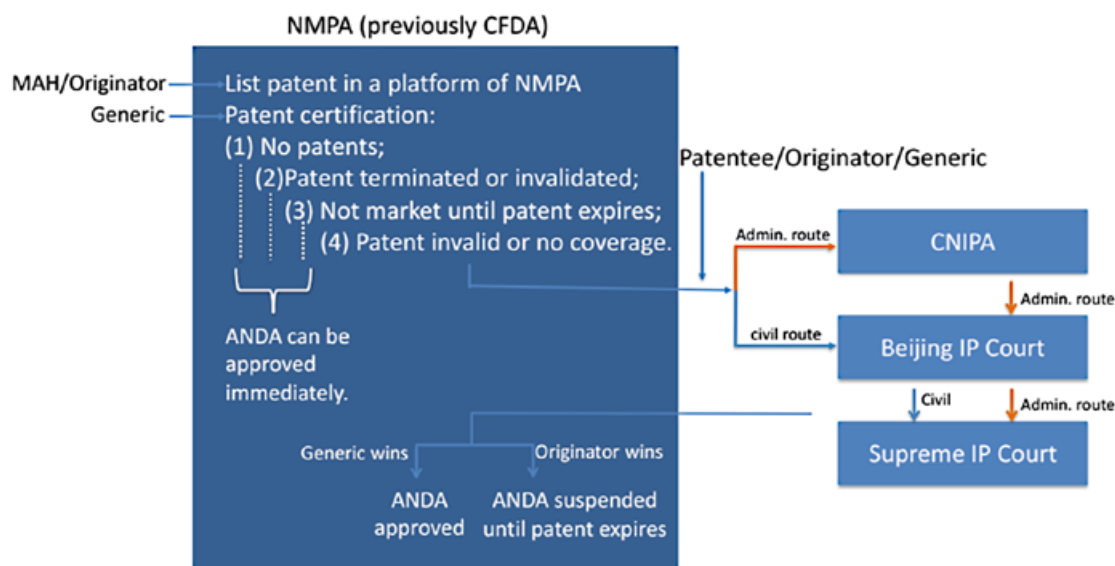
- **Type 3:** the generic drug applicant promises that the generic drug will not be marketed before the expiration of the listed patent.

- **Type 4:** the patent shall be declared invalid (Type 4.1), or the generic drug is not covered by the protection scope of the patent (Type 4.2).

Subsequently, the patentee or originator is able to initiate the administrative route or civil route according to the type 4 certification made by the generic, while the generic may take legal action with the court for confirmation that the drug applied for registration does not fall into the protection scope of the related patent right if the patentee or interested party fails to take legal action within the time limit. See the overview of China patent linkage system (Figure 1), as follows:

Figure 1

Overview of China Patent Linkage System



Summary of the related cases of the patent linkage

Statistics of patent listing: There are 2236 drugs (including different strengths) for which patents have been listed as shown below.

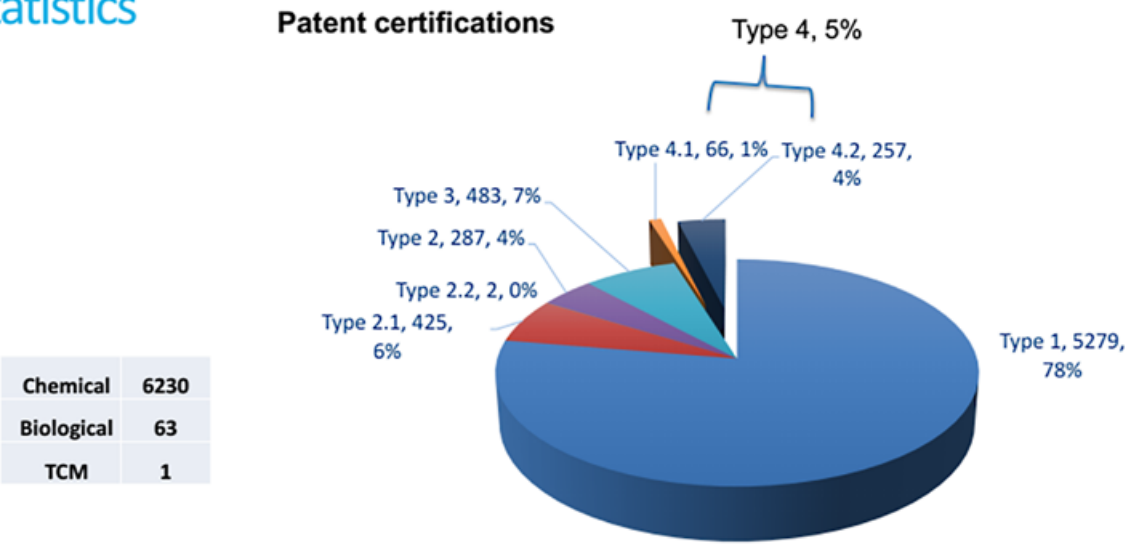
Drug type	Drugs with listed patents
Chemical drugs	1390
Biological products	401
Traditional Chinese medicine	445
Total	2236

(Data were obtained from Zhichanbao database on April 09, 2026)

Figure 2, below, shows statistics on patent certifications in chemical, biological or traditional Chinese medicine (TCM) until April 09, 2026:

Figure 2

Statistics



As shown in Figure 2, Type 1 declarations account for the majority at approximately 75%. Most generic pharmaceutical companies contend that their products do not fall within the scope of patent protection (around 5%), while only a small proportion opt to file invalidation requests against the patent listed (roughly 1%). This indicates that more generic drug applicants have

adjusted their product formulations to avoid patent infringement and completed Type 4.2 patent declarations on the CDE platform.

Statistics on cases with administrative adjudication

The result or decision of the administrative adjudication normally

concludes in the following manner:

- the generic drug falls or does not fall within the scope of the disputed patent;
- the patentee or MAH withdraws the request of administrative adjudication on their own initiative and therefore the examination of the case terminates; or

Figure 3

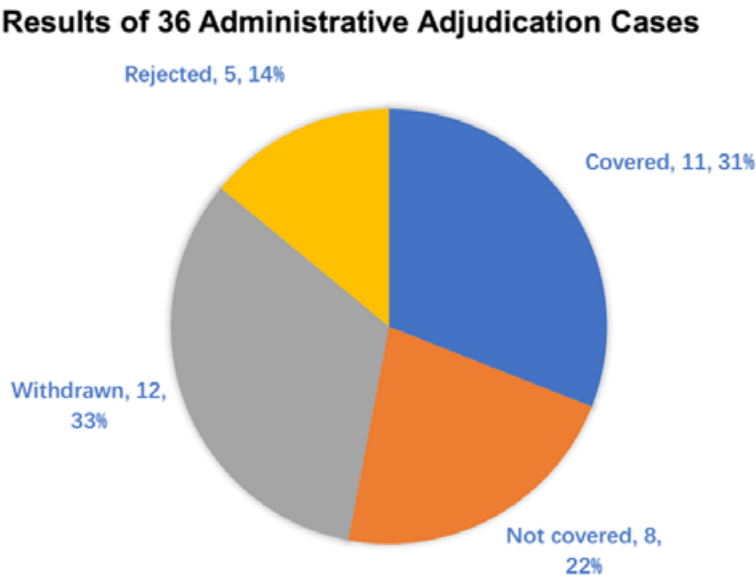
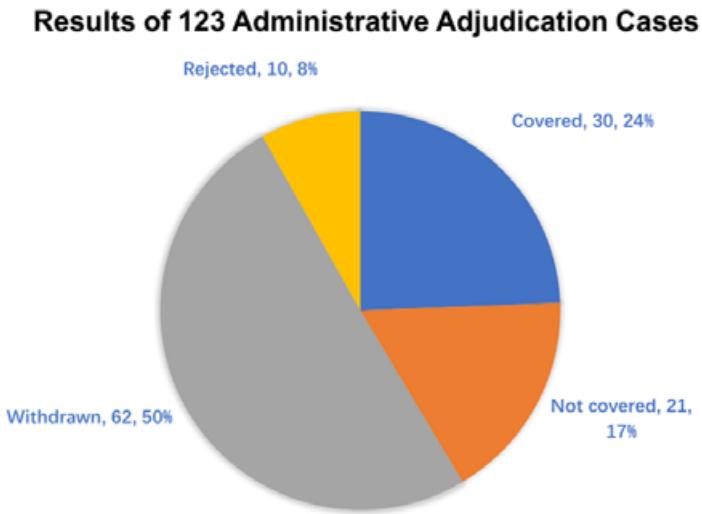


Figure 4



- the request for administrative adjudication is rejected by the CNIPA due to the disputed patent being fully invalidated or, rarely, the disputed patent not being eligible for listing on the platform (e.g., patents for crystal forms or a patent being invalidated).

The below results/decisions of the

administrative adjudication are the authors' own statistics based on CNIPA data up to May 2024 (Figure 3) and April 2026 (Figure 4).

As illustrated in the data above, Figure 3 records a higher proportion of cases involving patent-covered generic drugs than non-patent-covered ones (24%

versus 21%), which stands in direct contrast to the trend shown in Figure 4 (21% versus 24%). Notably, nearly 50% of cases in Figure 3 involved voluntary withdrawal of administrative adjudication requests by patentees and MAHs. This trend aligns closely with the 49% withdrawal rate in Figure 4, despite a notable overall increase in the

volume of withdrawn cases.

Based on publicly available case data released by CNIPA (covering the periods of 2021-2024 and 2021-2026), the ratio of generic drugs covered by the patents relative to those not covered has undergone a shift, declining from 1.4-fold in Figure 3 to 0.8-fold in Figure 4. By contrast, the proportion of cases voluntarily withdrawn by patent holders and marketing authorization holders (MAHs) remained unchanged. This trend is attributable to the fact that a growing number of generic drug applicants have modified their pharmaceutical formulations to circumvent patent protection, thereby reducing the overall volume of patent-covered generic drug cases.

The CNIPA frequently rejects a request because (1) the patent had been declared invalid in whole during the invalidation proceedings; (2) the patent certification is not Type 4; or (3) the patent is not listable. As shown in a comparison of Figure 3 and Figure 4, the number of rejected cases remained nearly unchanged.

Patent linkage civil action

In addition to the judgment of the Supreme Court on the first patent linkage civil action (*Chugai Pharmaceutical v Wenzhou Haihe Pharmaceutical*, (2022) Zui Gao Fa Zhi Min Zhong No. 905), which was made on 5 August 2022, the Supreme People's Court (SPC) has handed down several key judgments concerning the procedural or substantial contents in patent linkage (e.g., (2023) Zui Gao Fa



Zhi Min Zhong No. 1234, (2023) Zui Gao Fa Zhi Min Zhong No. 1594, (2023) Zui Gao Fa Zhi Min Zhong No. 1595 and (2023) Zui Gao Fa Zhi Min Zhong No. 2469).

Summary of the substantial issues in patent linkage

Here are some conclusions that were drawn from patent linkage litigation cases (including both administrative and civil actions).

- Where a people's court hears an action filed by a right holder or an interested party to confirm whether a product falls within the scope of patent protection, it may first rule to dismiss the plaintiff's action if the patent at issue has been declared invalid by the China National Intellectual Property Administration (CNIPA), but the invalidation decision has not yet taken legal effect (See, (2023) Zui Gao Fa Zhi Min Zhong No. 2469).
- During the administrative adjudication proceedings under the Early Resolution Mechanisms for Drug Patent Disputes, the generic drug applicant bears the obligation to submit its technical solution. Even if the generic files a Type 4.1 certification and has filed a request for invalidation with the China National Intellectual Property Administration (CNIPA), such obligation shall not be exempted. If the generic drug applicant fails to submit the corresponding evidence within the time limit set by the collegial panel, it shall bear the legal consequence of insufficient proof (See, (2025) GUO ZHI YAO CAI No. 0041).
- When dividing a claim into technical features, the technical solution shall be decomposed into minimum technical units that can perform a certain function and produce a relatively independent technical effect on their own. Where different technical features each have such independence and value, they shall not be combined and classified as a single feature (See, (2025) GUO ZHI YAO CAI No. 0025).
- For a compound represented by a chemical structural formula that

contains chiral centers but does not explicitly indicate a specific stereoisomeric form, it shall be construed that the compound may be different stereoisomers or mixtures thereof, and shall not be construed solely as a racemate unless otherwise expressly defined in the specification (See, (2025) GUO ZHI YAO CAI No. 0010).

- Each claim constitutes an independent right. Claims that are valid at the time of filing a request for pharmaceutical patent administrative adjudication may naturally serve as the basis for such adjudication. Where a claim directed to a specific compound is invalidated, it does not automatically mean that the genus claim covering such specific compound must exclude the specific compound from its scope of protection. During administrative adjudication proceedings under the Early Resolution Mechanism for Pharmaceutical Patent Disputes, if

a claim defines an active ingredient compound only by the inherent properties of each component in the pharmaceutical composition without its existing form, and the active ingredient of the generic drug is a solvate and/or hydrate of the patented active ingredient compound — where formation or preparation of such solvate/hydrate inevitably requires use of the patented active compound itself, or where the solvate/hydrate converts back to the compound molecule during administration — such solvate and/or hydrate shall be deemed the same technical feature as the patented active ingredient compound (See, (2024) GUO ZHI YAO CAI No. 0067).

- Where the generic drug's technical solution lacks one or more technical features recited in a patent claim, compared with all features recited therein, it shall be found not to fall within the scope of patent protection. The "literal infringement" is the

fundamental principle for determining whether a generic drug's technical solution falls within the scope of patent protection. When the generic's technical solution lacks one or more technical features of the patent claim, it shall not be deemed to infringe, regardless of whether such omission results in an inferior technical effect. The scope of protection of a claim is chosen by the patentee and confirmed by the patent examination authority, bearing public notice and foreseeability. Treating a so called "inferior invention" that omits a recited technical feature as falling within the scope of protection would not only undermine the public notice function of claims but also excessively strengthen the patent monopoly and upset the balance between patent exclusivity and freedom to imitate technology (See, (2024) GUO ZHI YAO CAI No. 0018).

- The indications section in a pharmaceutical package insert



clearly defines the drug's use for the prevention, treatment, diagnosis, alleviation, or adjuvant therapy of a disease (condition) or symptom. During administrative adjudication proceedings under the Early Resolution Mechanism for Pharmaceutical Patent Disputes involving pharmaceutical use patents, the generic's technical solution shall, in principle, be determined comprehensively based on the indications explicitly claimed in the applicant's package insert, supplemented by other indication related content in the filing materials (e.g., patient populations in the dosage and administration section). Such determination supports the infringement analysis relative to the

patented pharmaceutical use (See, (2024) GUO ZHI YAO CAI No. 0008).

The implications for pharmaceutical patent strategies in China

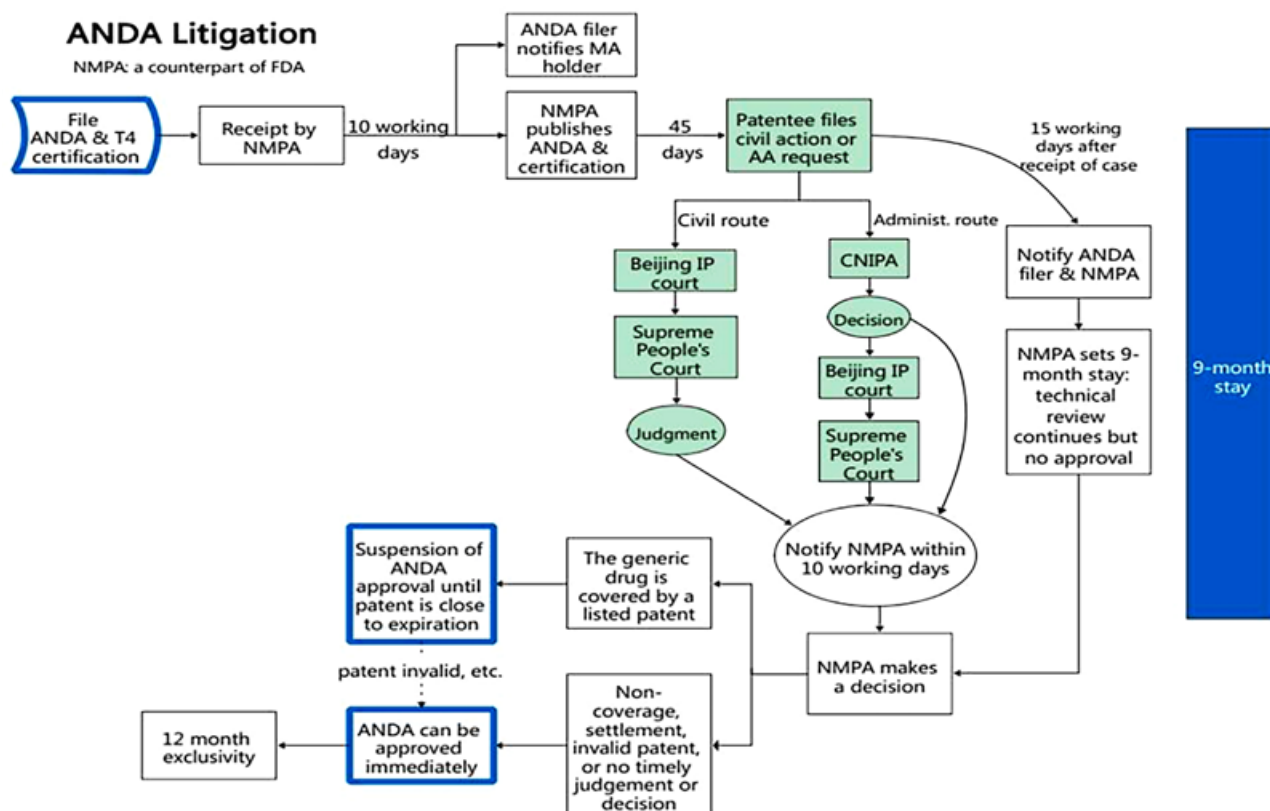
ANDA litigation strategy

It is suggested that originator companies could actively file a lawsuit or apply for an administrative adjudication against Type 4 certification, make full use of the nine-month waiting period and strive to obtain a judgement or ruling that the generic drug falls into the scope of the patent protection, to prevent the generic drug from being approved before the listed patents expire.

As shown in Figure 5, the MA holder or patentee is afforded only 45 days from the publication of the Type 4 Certification on the CDE Platform to file a civil action or administrative adjudication (AA) request against such certification, while generic applicants may fail to provide timely notification to the MA holder. Without ongoing monitoring of the CDE platform, originator pharmaceutical companies risk missing this 45 day deadline or being left with insufficient time to initiate relevant proceedings.

Upon receipt of the case acceptance notice, the MA holder or patentee shall promptly notify NMPA to request a nine month approval stay. After receiving a final decision from CNIPA

Figure 5



or an effective judgment issued by the SPC, the MA holder should notify NMPA within 10 working days. NMPA will then determine whether to suspend the approval of the generic ANDA until the relevant patent nears expiration, or to grant immediate ANDA approval.

Future strategic steps

Preparedness to initiate patent linkage litigation and respond to validity

challenges: It is strongly suggested that originators have adequate preparedness, e.g. on which of MAH or patentee or licensees is to take action, who has the right to sign power of attorney and proof to show

the right to sign, how to notarize and legalize the formality documents, how to prove coverage of originator drugs by patents, how to construe claims of the patents, how to respond to validity challenges and so on.

Early and more patent listing and monitoring of patent certifications:

The deadline to list patents is 30 days from drug approval. As patent listing is the first step to initiate the patent linkage and patents or claims that are not listed on the platform are not available for patent linkage in China, it is important to list all eligible patents and claims as soon as possible after the drug is approved and the patents are issued. Besides,

it is very important for the MAH to monitor the generic company's patent certifications published in the patent linkage platform.

Filing NDA almost simultaneously in China and other countries:

To take full advantage of patent listing, PTE and data exclusivity in China, it is suggested that when developing new drugs and applying for new drug marketing authorizations, originators conduct simultaneous global research and development, and almost simultaneously file new drug marketing applications in China and in other countries.



China enters new era in patent protection for plant-related inventions

By Juhua Luo

In November 2025, China issued a revised version of its Patent Examination Guidelines, which took effect on January 1 2026. The revision introduces significant changes to the examination standards for patent applications in the field of biological breeding, with particular emphasis on plant-related inventions.

These amendments mark an important step towards strengthening patent protection for innovations in plant breeding and improving coordination between the patent system and the plant variety protection (PVP) regime.

Background and purpose of the amendments

Plant breeding is inherently capital-intensive and time-consuming, with long R&D cycles and high technical risk. Intermediate breeding materials often constitute the essential foundation for developing new plant varieties, but they are highly susceptible to replication and misappropriation. In recent years, the widespread application of transgenic and gene-editing technologies has generated a large number of breeding

intermediates with substantial technical and commercial value.

Under the previous version of the Patent Examination Guidelines, however, the scope of plant varieties was defined in such a broad manner that, in practice, it operated to exclude virtually all individual plants and their reproductive materials from patent protection. As a result, many valuable breeding-related innovations fell into a protection gap between the patent system and the PVP regime, undermining incentives for technological investment in the breeding industry.

The current revision seeks to address this long-standing issue by clarifying the definition of plant variety and refining the boundaries of patent-eligible subject matter in the plant breeding field.

Revised definition of plant variety

To remedy the practical over-exclusion caused by the earlier definition, the revised guidelines redefine “plant variety” as a plant population that:

- Has been artificially bred or discovered and subsequently improved;

- Exhibits uniform morphological and biological characteristics; and

- Possesses relatively stable genetic traits.

This population-based definition replaces the earlier formulation, which focused on individual plants and their reproductive materials and effectively precluded patent protection for most plant-related inventions. By contrast, the revised definition limits the concept of plant variety to plant populations that meet clear requirements of uniformity and genetic stability.

Importantly, the revised guidelines align the definition of plant variety with the corresponding definitions under China’s Seed Law and the Regulations on the Protection of New Varieties of Plants. This alignment enhances coherence between the patent system and the PVP regime, reduces regulatory overlap, and helps avoid gaps in intellectual property protection.

In practical terms, the revision narrows the scope of subject matter excluded as plant varieties and creates greater room for patent protection of plant-related technologies that do not constitute

specific, uniform, and genetically stable plant populations.

Treatment of naturally occurring wild plants

The revised guidelines further clarify the treatment of naturally occurring wild plants. They explicitly provide that wild plants found in nature, without any technical intervention, constitute scientific discoveries within the meaning of Article 25(1)(1) of the Patent Law and therefore are not eligible for patent protection.

At the same time, the guidelines distinguish such scientific discoveries from situations in which wild plants have been artificially bred or improved and demonstrate industrial applicability. In the latter case, the plant itself is no longer regarded as a mere scientific discovery and may fall within patent-eligible subject matter.

This clarification follows the examination logic already applied to wild micro-organisms and naturally occurring genes or DNA fragments, and it provides clearer guidance for assessing the patent eligibility of plant-related inventions derived from natural resources.

Principles for determining whether claimed subject matter constitutes a plant variety

The revised guidelines set out explicit principles for determining whether claimed subject matter should be regarded as a plant variety. The determination is made based on the technical solution defined in the claims, in light of the disclosure of the

application as a whole.

In particular, examiners are instructed to assess whether the claimed plant or its reproductive material, at the population level, exhibits:

- Uniformity, meaning that the relevant characteristics or traits are consistent among individuals within the population, except for predictable natural variation; and
- Stability, meaning that the essential traits remain unchanged after repeated propagation or at the end of a specific propagation cycle.

For example, where a claim explicitly seeks protection for a specific plant variety or its reproductive material – such as “a transgenic soybean variety” – the subject matter generally falls within the scope of a plant variety.

By contrast, claims directed to a broad plant population defined primarily by the presence of a particular DNA sequence or functional protein typically do not satisfy the population-level requirements of uniformity and genetic stability and therefore fall outside the concept of a plant variety. For instance, a claim directed to “a drought-resistant rice plant comprising an exogenous gene as shown in SEQ ID NO:1” does not constitute a plant variety.

Transgenic plants under the revised guidelines

Following the narrowing of the plant variety concept, the revised

guidelines clarify that a transgenic plant constitutes a plant variety only if it exhibits uniform morphological and biological characteristics and relatively stable genetic traits at the population level.

This clarification has important implications for patent prosecution strategies in agricultural biotechnology. It underscores the need to distinguish between claims directed to specific, stabilised plant varieties and those directed to broader technical solutions involving genetic traits, constructs, or breeding methods.

Practical implications for IP practice

Overall, the amendments significantly strengthen patent protection for technological innovation in the field of plant breeding. As a general rule, plant-related inventions that do not involve a specific plant variety as defined under the PVP regime, and that are not naturally occurring wild plants without technical intervention, may constitute patent-eligible subject matter.

For intellectual property professionals, the revised guidelines highlight the importance of careful claim drafting, strategic coordination between patent protection and plant variety rights, and a nuanced understanding of population-level uniformity and stability. The changes provide greater legal certainty and create a more balanced and innovation-friendly framework for protecting breeding-related technologies in China.

China's Supreme Court curbing malicious IP litigation while enhancing IP protection

By Xiaojun Guo

On April 7, 2026, the Supreme People's Court of China promulgated the revised Interpretation on the Application of Punitive Damages in the Trial of Civil Disputes Involving Intellectual Property Infringement, effective on May 1, 2026, and repealing the 2021 version. This reaffirms China's commitment to strengthening IP protection. In parallel with this, the Court has turned its attention to curbing the abuse of IP rights and has issued benchmark cases targeting malicious litigation, since adding malicious IP litigation as a separate cause of action in 2011. In Case No. 96 rendered on 24 April 2026, the IP Court of the Supreme Court demonstrated its firm stance against malicious litigation by applying a multi-factor test.

Brief of Case No. 96

The plaintiff (appellant) sued the defendant (appellee) over its Go2 robot dog for patent infringement, and lost

the first-instance (Case No. 79) and the second-instance (Case No. 756). Shortly after suing the defendant over its Go2 robot dog, the plaintiff sued the defendant over its A2 robot dog for patent infringement. After losing the first-instance (Case No. 113), the plaintiff appealed to the IP Court of the Supreme Court (the present Case No. 96). The defendant counterclaimed for malicious litigation among others and sought damages in the two cases.

One of the key issues in dispute was whether the plaintiff acted maliciously. In determining this, the IP Court of the Supreme Court cited the precedent - Guiding Case No. 278, and applied a multi-factor test.

Multi-factor Test

In Guiding Case No. 278, the IP Court of the Supreme Court held that initiating a patent suit while knowing the claims lack any legal or factual basis constitutes malicious litigation

and abuse of rights.

In the present case, the Court further elaborated that, to determine whether malicious litigation exists, a court shall systematically assess all relevant factors, integrating subjective and objective elements, taking into account factors before and during the litigation, and considering circumstances both inside and outside the proceedings.

In addition to examining whether the litigation lacks a legal or factual basis, the court shall comprehensively evaluate factors such as the right holder's claims, the timing of initiating the litigation, litigation risks and strategy, and the degree of imbalance of interests caused to the parties, among others. In general, priority shall be given to four factors: (a) whether the action is manifestly devoid of legal or factual basis; (b) whether the right holder is aware of this and thus acts with subjective fault; (c) whether the action causes harm; and (d) causation.

The Reasons

Applying the above test, the IP Court of the Supreme Court found and ruled that the plaintiff acted maliciously in both Case No. 79 and the present case.

Firstly, the infringement actions were evidently unsupported by any factual grounds.

The evidence showed that the accused products, Go2 and A2 robot dogs, plainly lack several features that are identical to or equivalent to the patent claims. Moreover, the plaintiff, despite having full capability, did not follow the usual practice of producing the accused products for comparison.

Secondly, the plaintiff acted with clear subjective fault.

(i) The plaintiff's legal representative Zhou had previously filed over 20 patent infringement suits against others directly or indirectly, none successful; the plaintiff should have exercised greater caution when initiating a patent infringement action again. (ii) The plaintiff filed two separate suits based on the same patent over two robot-dog models. Case No. 79 had already found the Go2 robot dog non-infringing. Since the technical issues for the A2 robot dog were essentially the same as those with the Go2 robot dog and A2 robot dog clearly fell outside the patent scope, the plaintiff nevertheless pursued the present case, and sought court orders for production of sales/financial records, evidence preservation, and judicial audit. (iii) The timing is telling. Although Case No. 79 was filed less than 20 days before media reported



the defendant's IPO guidance filing, the defendant was already a hot media and industry topic. The present case was filed after extensive IPO coverage, during the defendant's critical regulatory-inquiry stage. The plaintiff, having acquired the patent from a third party, quickly initiated the first suit and then, shortly after IPO-related reports, filed this second suit and even threatened more. This forced the defendant to make IPO disclosures and explain risks, causing market concern and negatively affecting its IPO. The plaintiff was aware of and intended this, evincing stronger fault. (iv) The plaintiff's litigation conduct has been capricious and contrary to good faith: it sought nominal damages plus later audit-based amounts, then added a punitive claim; it claimed Go2 and A2 robot dogs were unrelated yet later sought to add Go2 robot dog as an infringing product in the present case; on appeal, it reserved damage claims while seeking production/sale and financial records, evidence preservation and judicial audit; it raised groundless procedural objections. These examples show baseless, contradictory, and harassing tactics of the plaintiff.

Thirdly, the plaintiff's conduct directly harmed the defendant. It negatively impacted normal business operations, especially by dragging a non-competitor at a critical IPO stage into costly litigation at minimal cost, disregarding the defendant's lawful rights and even its viability. This caused a gross imbalance of interests and disproportionate negative effects on both major commercial activities and daily operations of the defendant.

Comment

Article 7 of China's Civil Code stipulates that civil subjects shall comply with the principle of good faith, adhere to honesty, and abide by their pledges. Article 20 of China's Patent Law further mandates good faith in exercising patent rights and forbids abuse harming public or private interests. Case No. 96 signals that IP litigation should not be used as a strategic tool to exert commercial pressure, interfere with normal operations, or seek unjustified benefits. Chinese courts are prepared both to protect legitimate IP rights and to sanction abusive assertions.

Rules for determining civil liability of online platforms for IP infringement in China

By Hongxia Wu, Fan Li

Online platforms have been playing an increasingly critical role within China's commercial ecosystem. According to statistics, China's online retail sales reached 15.97 trillion yuan in 2025, a year-on-year increase of 8.6%. Among them, online retail sales of physical goods amounted to 13.09 trillion yuan, accounting for 26.1% of total retail sales of consumer goods. In 2024, the added value of the essential digital economy industry reached 1,408.91 billion yuan, accounting for 10.5% of GDP. The dynamic growth of online business in today's rapidly evolving

market demands both effective and proactive legal framework against online IP infringements.

While integrating multiple services into their business, online platforms have also taken on multiple identities. For example, some act both as an e-commerce platform operator and self-operated stores on the platform. Some content providers have evolved from initial user-generated short video and image-sharing media into comprehensive platforms integrating live streaming, e-commerce marketing,

and content monetization, with dual identities as content-sharing service providers and e-commerce operators. Different identities assumed by online platforms lead to different schemes in assessing their liabilities for IP infringements.

Moreover, online platforms have seen substantial shifts in their business models in recent years, particularly through the extensive integration of algorithmic recommendation technologies. Instead of passively providing technical support, online platforms are actively selecting and pushing contents, products and commercials. Online platforms' active or intentional participation and control over content dissemination and commodity transactions has introduced new layers of complexity to this already challenging legal landscape. This transformation of business models also poses challenges to the determination of intellectual property infringement liability for online platforms.



Rules for Determining Civil Liability of Online Platforms for Intellectual Property Infringement in Judicial Practice

1. Availability of the Safe Harbor Rule

The safe harbor rule is also available in China for determining the civil liability of online platforms for intellectual property infringement. The central logic is that an online platform shall not be liable if it takes necessary measures upon receiving a notice from a right holder that sufficiently identifies infringement. In addition, online platforms are not obligated to conduct prior review.

Article 1195 of the Civil Code of China clearly stipulates the safe harbor principle. Where a network user commits an infringement by using network services, the right holder has the right to notify the network service provider to take necessary measures such as deleting, blocking, or disconnecting links. The notice shall include prima facie evidence of infringement and the right holder's true identity information. Upon receiving the notice, the network service provider shall promptly forward the notice to the relevant network user and take necessary measures based on the prima facie evidence and the type of service. If the provider fails to take necessary measures in a timely manner, it shall be jointly and severally liable with the network user for the expanded damages.

The safe harbor rule clarifies the boundary that online platforms are not required to conduct proactive prior review. It is the most commonly applied



rule in current intellectual property rights protection involving online platforms in China.

2. Liability Arising from Contributory Infringement

Contributory infringement is currently the primary form of civil liability borne by online platforms in China. In contrast to liability exemption under the safe harbor rule, this liability focuses on situations where an online platform fails to fulfill reasonable duty of care — specifically, where it willfully neglects, permits, or assists a network user's infringing conduct. It mainly applies in two scenarios, covering the vast majority of instances in which online platforms may bear liability for infringement.

a) Contributory Infringement Arising from Non-compliance with Safe Harbor Rule

Specially, if an online platform fails to take necessary measures after receiving a notice from an IP right holder that is sufficient to make it aware of the infringement, it shall be jointly and severally liable with the user for the expanded damages.

However, judicial practice across

China shows that cases where online platforms are adjudged to bear joint liability are rare. In practice, when the direct infringer is identifiable, IP right holders often sue online platforms to urge them to stop infringement and to use the online platform as a jurisdictional connecting factor. Many right holders voluntarily dismiss their claims against online platforms or withdraw their lawsuits once infringing links are removed.

Furthermore, it must be clarified that an online platform's non-compliance with the safe harbor rule merely means it loses the protection of liability exemption provided by the rule; it does not automatically imply that the online platform must bear liability. In judicial practice, establishing such contributory infringement by an online platform typically requires the simultaneous satisfaction of four elements:

- i. Direct Infringement: The existence of direct infringement by a network user is established, fully meeting the four elements of general tort liability (fault, act, damage, and causation).
- ii. Valid Notice: The online platform has received a notice from the IP right holder sufficient to make it aware of

the infringement.

iii. Failure to Act: The online platform failed to take necessary measures in a timely manner as required by law and its own rules.

iv. Expanded Damages: The online platform's failure to take necessary measures resulted in the expansion of the infringement losses.

In a typical online infringement dispute, the Guangzhou Internet Court ruled that the online platform did not bear liability for contributory infringement despite failing to take timely measures in response to a notice. The basic facts of the case are as follows:

Guangzhou Solta Company discovered a video titled "Thermage Anti Counterfeiting" on a website operated by Baidu. Solta claimed the video falsely labeled its official account as counterfeit and disclosed its corporate information without investigation. Consequently, Solta complained twice to Baidu, submitting its business license and screenshots. However, Baidu refused to remove the video on the grounds that no infringement was found.

Solta subsequently sued Baidu, demanding an apology, compensation of 50,000 yuan, and disclosure of the uploader's information. After trial, the court dismissed all claims, and the judgment has taken effect.

Regarding whether Baidu was obligated to remove the content upon Solta's notice, the court held that the "notice and takedown" rule under Article 1195, Paragraph 2 of the Civil Code is a rule for exemption from liability, rather than a rule for establishing liability.

Whether a network service provider is liable for a user's acts depends on whether the provider constitutes contributory infringement. A prerequisite for establishing contributory infringement is that the complaint-against user has committed a tortious act for which they should be held liable. In other words, only after confirming the user's infringement can the court assess whether the provider had subjective intent ("should have known" or "knew") and whether it fulfilled the "notice and takedown" obligation.

The court found the video did not infringe Solta's right to reputation, and Solta's complaint was unjustified.

Therefore, Baidu was not liable for failing to act promptly, and Solta's claims for apology and damages lacked factual and legal basis.

b) Contributory Infringement Based on "Knowledge" or "Constructive Knowledge" (Residual Application)

This scenario serves as a more general clause for online platform contributory infringement. It has a broader application and is not subject to the prerequisite that the right holder must issue a prior notice. Its core legal basis is Article 1197 of the Civil Code, which stipulates that if a network service provider knows or should know that a network user is infringing others' civil rights and interests through its services but fails to take necessary measures, it shall be jointly and severally liable with the user.

In judicial practice, this type often applies to disputes where the direct infringer is unclear or difficult to hold accountable. The key factual issue is whether the online platform had "knowledge" or "constructive knowledge" of the user's infringement. While a valid notice from the right holder is the most common and



convenient way to prove that the online platform "knew," it is not the exclusive method. "Constructive knowledge" is determined comprehensively based on the online platform's business model, the popularity of the infringed content, the online platform's control behavior, etc.

Based on practical conventions, an online platform could be found to have "constructive knowledge" if:

- i. The online platform actively recommends infringing content through algorithms;
- ii. The infringed content consists of sports events or films included in the National Copyright Administration's key works protection warning list;
- iii. The infringing goods are commodities with significant brand influence and high market recognition;
- iv. The same user or product is a repeated infringer, yet the online platform failed to take necessary measures.

Typically, courts will consider various facts in combination to comprehensively determine whether an online platform possesses constructive knowledge.

3. Liability Arising from Direct Infringement

Where the online platform is no longer merely a bystander to the infringement but directly commits infringement, the platform will bear independent and full liability.

Article 1194 of the Civil Code clearly



stipulates direct infringement liability of online platform: "where network users and network service providers infringe others' civil rights and interests through the network, they shall bear tort liability, unless otherwise provided by law."

However, in Chinese judicial practice, cases where online platforms bear direct infringement liability are relatively rare. Typical scenarios include the following:

- i. Directly Providing Contents: The online platform directly provides infringing content or sells infringing goods. In light of the hybrid nature of contemporary online platforms, liability should be adjudicated based on the specific services provided and the actual acts performed by the platform in question.
- ii. Merging Conducts of user and platform. This refers to scenarios where the conduct of network users and the platform is indistinguishable. In the precedent case 2024 13 2 158 004, the adjudication opinions on the factors in determining whether a user's providing of contents can be attributed to the platform. The factors may include the platform's nature, the user's identity and relationship with the platform, and the specific

infringing acts. For instance, where a relationship of management or control exists between an online platform and a user, and the said user, by virtue of their administrator status, engages in long-term and stable acts such as posting content related to the platform, such acts may be deemed to have been committed by the platform. Notwithstanding the presence or absence of an employment relationship, such conduct shall be treated as that of the platform operator.

In summary, the rules governing civil liability for IP infringement by online platforms in China are categorized into three distinct types: no liability thanks to the "Safe Harbor" exemption, joint and several liability arising from "Contributory Infringement," and full and independent liability arising from "Direct Infringement." The application of these rules depends largely on the specific role as online platform plays in a given transaction or content dissemination process. As online platform business models become increasingly complex and integrated, with rapid technological advances, the legal assessment of liability will continue to be refined through ongoing judicial practice.

China's Draft Trademark Law revision: what brand owners need to know

By Ling Zhao

The National People's Congress (NPC) published the Draft Revision to the Trademark Law of the People's Republic of China on December 27, 2025, for public comment.

I. Background of the Draft Provision

China's Trademark Law, originally enacted in 1983, has undergone four revisions. To tackle growing issues of bad-faith trademark filings and infringement, the China National Intellectual Property Administration (CNIPA) conducted in-depth research and public consultations before submitting a draft revision to the State Council.

Following its review, the Ministry of Justice sought written opinions from central departments, local governments, courts, associations, enterprises, agencies, and experts. It also conducted field studies in Jiangsu and Sichuan provinces. The Ministry then revised the draft with CNIPA and other relevant units. The State Council adopted the revised draft at its recent executive meeting.

II. Overall Approach and Key Provisions

The Draft Revision comprises nine chapters and 84 articles, with the following significant amendments aimed at modernizing China's trademark regime:

• Refining the legislative purpose to explicitly serve high-quality development

The Draft Revision mandates the implementation of the national IP strategy across all aspects of trademark protection, enforcement, management, and services (Article 2) while clarifying the division of responsibilities for these functions (Article 3).

It also introduces a formal definition of a trademark and emphasizes that trademark applications and use must not harm national or public interests or infringe upon the lawful rights of others (Articles 4 and 9).

• Clarifying and consolidating registration conditions within a new chapter

It expands protectable signs to include "motion marks" but excludes color combinations, sounds, or motion effects that are dictated by the nature of the goods, necessary for technical effects, or that provide substantial value to the goods (Articles 14 and 17).

To curb abuse, it stipulates that applications filed without intent to use and that are obviously beyond normal business needs shall be rejected (Article 18). It also strengthens well-known trademark protection by prohibiting the registration of another's well-known mark on non-similar goods, regardless of whether the mark is already registered in China (Article 20).

• Optimizing examination procedures to improve efficiency and legal certainty

It shortens the opposition period from three months to two (Article 35). Furthermore, it addresses procedural suspensions, stating that proceedings should be suspended if the determination of prior rights depends on the outcome of another pending case.

It also clarifies judicial standards, specifying that when reviewing refusal, disapproval, or invalidation decisions under Article 19, courts must base their judgments on the facts existing at the time the original decision was rendered (Article 40).

● **Strengthening trademark administration to uphold fair competition**

It defines specific scenarios constituting bad-faith applications and outlines corresponding penalties (Article 53). It also regulates improper use, allowing fines or cancellation for misleading use of registered trademarks, and sets out management obligations and liabilities for collective and certification marks (Articles 56(1) and 59).

To encourage genuine use, it empowers the Trademark Office to cancel marks that have become generic or have not been used for three consecutive years without justified reasons (Article 56(3)). It also tightens oversight of trademark agencies and their practitioners (Articles 64–67).

● **Enhancing protection of exclusive trademark rights and safeguarding legitimate interests**

It improves investigation measures against infringement and adds provisions for referring suspected criminal cases and coordinating enforcement efforts (Articles 72 and 73). It also ensures that reasonable expenses incurred to stop infringement are included in damage awards (Article 74).

To balance rights, it defines boundaries for fair use, stating that using a trademark solely to indicate the purpose, applicable object, or scenario of one's own goods, or to state their origin truthfully, does not constitute infringement (Article 70). Notably, it introduces penalties and civil liability for malicious trademark litigation that causes losses to the defendant (Article 78).

The Draft Revision mandates the implementation of the national IP strategy across all aspects of trademark protection, enforcement, management, and services while clarifying the division of responsibilities for these functions.

III. Analysis and Expectations

Key Revisions to the 2023 Draft Revision

The latest Draft Revision introduces substantial changes to the 2023

version of the draft, by removing several highly controversial clauses, which include provisions requiring “a use undertaking to be filed at the application stage,” “prohibition of repeat filings,” “mandatory transfer of bad-faith trademarks,” and “availability of civil damages for purely malicious applications.” Instead, the revision focuses on three core goals:

- Strengthening the protection of exclusive trademark rights;
- Streamlining the trademark administration system; and
- Curbing bad-faith trademark registrations.

Upon enactment, the revised Trademark Law will expand from 8 chapters and 73 articles to 9 chapters and 84 articles, with a heightened emphasis on the obligation to use registered trademarks.

Tackling Bad-Faith Trademark Applications

The Draft Revision clearly defines the scope of bad-faith conduct, specifies typical scenarios of bad-faith trademark applications, and outlines corresponding penalties.

Core Provisions on Bad-Faith Applications

- Article 18 integrates the contents of Article 4 and Article 44(1) of the current law, targeting two major types of misconduct:





- ◉ Filing trademarks without intent to use (that is, mass hoarding of trademarks); and
- ◉ Obtaining registrations through fraud or other improper means (for example, large-scale copying or imitation of others' trademarks).

The article stipulates that applications filed without intent to use and clearly exceeding normal production and business needs shall be rejected; registrations obtained through fraud or improper means shall be deemed invalid. As a provision under the "Conditions of Registration" chapter, it serves as a key basis for substantive examination of trademark applications.

- Article 53 identifies three categories of malicious trademark applications:
 - ◉ Filing applications with full knowledge that they violate prohibitive provisions;
 - ◉ Filing applications without intent to use or beyond the scope of legitimate business needs; and
 - ◉ Filing applications to intentionally infringe on others' prior rights.

For acts that cause adverse effects,

offenders may face warnings or fines of up to 100,000 yuan (approximately US\$ 14,200).

Outstanding Issues to Be Clarified

The practical implementation of these rules requires further clarification through supporting regulations and law enforcement practices. In particular, clear criteria need to be established for determining:

- What constitutes "adverse effects";
- How to prove a party "has actual knowledge" of rights violations; and
- The threshold for identifying "intentional infringement."

Clarification of these points will help avoid inconsistent penalties and ensure fairness in administrative enforcement.

The Draft Revision clearly defines the scope of bad-faith conduct, specifies typical scenarios of bad-faith trademark applications, and outlines corresponding penalties.

Reinforcing the Requirement for Trademark Use

China follows the first-to-file principle

for trademark rights, meaning that registering trademarks to cover all relevant goods and services is the most effective way to secure protection. For this reason, the recommended strategy remains early and comprehensive filing.

While use of a trademark is not a prerequisite for filing an application, registrations are subject to non-use cancellation proceedings if unused for three consecutive years without just cause. The Draft Revision strengthens this rule through Article 56, which grants the CNIPA the authority to proactively cancel such unused registrations.

Penalties for Misuse of Registered Trademarks

Article 56 also specifies legal consequences for "using registered trademarks in a misleading manner," including:

- Order to make corrections within a specified time limit;
- Fines of up to 50,000 yuan (approximately US\$ 7,100) for failure to comply; and
- Cancellation of the trademark registration in serious cases.

In addition, CNIPA has issued the "Notice on Strengthening the Administration of Trademark Use," which targets seven types of illegal or non-compliant trademark use practices. According to this notice, "misleading use" includes two typical scenarios:

- Using a registered trademark with

generic product names, advertising slogans, or packaging/decorative elements in a way that misleads the public about the goods' quality, origin, or production process; and

- Altering the registered trademark to mislead the public about product quality or to free ride on the reputation of other brands.

China follows the first-to-file principle for trademark rights, meaning that registering trademarks to cover all relevant goods and services is the most effective way to secure protection.

Expanding Protection for Well-Known Trademarks

The Draft Revision extends the protection scope of unregistered well-known trademarks in China to non-similar goods and services, marking a significant enhancement of well-known trademark protection.

Criteria for Determining Well-Known Trademarks

Article 62 lists five factors to be considered when recognizing a trademark as well-known:

- The degree of recognition of the trademark among the relevant public;
- The duration, manner, and geographical scope of the trademark's use;
- The duration, intensity, and geographical scope of the

trademark's promotional activities;

- The record of the trademark's protection, including (but not limited to) prior recognition as a well-known trademark; and
- Other factors contributing to the trademark's reputation.

Notably, compared with the current law, the revised provision expands the scope of "protection records" to include favorable court judgments, administrative rulings against infringement or counterfeiting, and inclusion in local key trademark protection lists.

Evidentiary Requirements in Practice

In practice, claiming well-known trademark protection requires substantial evidence. Generally, applicants must demonstrate that the trademark has been used in the Chinese market for:

- At least three years for registered trademarks; and
- At least five years for unregistered trademarks.

Revising the Suspension Rule for Trademark Proceedings

The Draft Revision clarifies both the scope and criteria for suspending the examination of trademark cases—covering oppositions, refusal-review proceedings, and other related matters. It shifts the rule from a discretionary

"may suspend" to a principle-based "shall suspend," which standardizes adjudication criteria, reduces resource waste caused by ambiguous rules, and elevates proven administrative practices to statutory law.

A Key Limitation: No Consideration of Subsequent Factual Changes

However, the revision includes a provision restricting administrative litigation: courts hearing trademark-related administrative cases must base their judgments on facts as they existed at the time the challenged administrative decision or ruling was made. This effectively excludes the application of the doctrine of changed circumstances in such litigation.

For example, in a refusal-review case, even if the cited trademark (the basis for refusal) undergoes material changes during litigation—such as revocation, invalidation, assignment, or cancellation—the court must still rule based on the cited trademark's valid status at the time of the original review. This may result in the dismissal of the plaintiff's claim despite subsequent changes in the factual basis.

Recognizing Motion Marks as Registrable Trademarks

To keep pace with technological development and market demand, the Draft Revision responds to the growing use of dynamic signs (for example, continuous image sequences) in commercial activities by recognizing motion marks as a new type of

registrable nontraditional trademark.

Compared with the 2023 draft, the latest revision narrows the scope of protectable nontraditional trademarks to four categories:

- 3D marks;
- Sound marks;
- Color combination marks; and
- Motion marks.

Single-color marks, position marks, scent marks, and other nontraditional signs remain unregistrable under the current proposal.

Shortening the Trademark Opposition Period

The Draft Revision reduces the trademark opposition period from the current three months to two months, aiming to shorten the overall trademark registration process and improve administrative efficiency.

Implications for Opposition Applicants

The shortened timeline compresses the window for decision-making and evidence submission. Applicants intending to file oppositions must now:

- Quickly assess whether to initiate opposition proceedings; and
- Complete evidence preservation, document collation, and submission within a tighter timeframe.

This places higher demands on the timeliness, completeness, and professionalism of evidence collection. To adapt to this change, relevant parties should implement robust trademark monitoring systems and prepare opposition materials in advance.

IV. Key Takeaways and Outlook

The Draft Revision to the Trademark Law represents a targeted and pragmatic upgrade to China's trademark legal framework, responding proactively to the demands of the digital economy, evolving market practices, and enhanced intellectual property (IP) protection.

By clarifying registration rules for new trademark forms (for example, motion marks), intensifying the crackdown on bad-faith applications, optimizing procedural efficiency through a shorter opposition period, and strengthening protections for well-known trademarks and legitimate use rights, the revision strikes a balance between three core objectives: promoting innovation, safeguarding fair competition, and streamlining administrative management.

While the draft addresses long-standing issues such as malicious registration and procedural ambiguity—by removing controversial clauses and focusing on key priorities—it still faces implementation challenges. In particular, the definition of subjective elements in bad faith claims and the coordination between suspension rules and subsequent factual changes will require further refinement through supporting regulations and consistent law enforcement.

Overall, this amendment underscores China's commitment to improving its IP governance system, enhancing the predictability and enforceability of trademark rights, and fostering a more transparent, efficient, and fair business environment. As the draft advances through public consultation and legislative review, it is expected to establish a more robust legal foundation for supporting high-quality economic development, protecting the legitimate rights and interests of market entities, and facilitating the healthy development of China's trademark ecosystem in the new era.



China's Trademark Law amendment: A systematic improvement

By Jun Li

China's Trademark Law was amended on June 26, 2026, and will take effect on January 1, 2027. The amendment brings changes in what can be registered, how to stop bad-faith filings, rights balance, and procedures. These changes respond to the digital economy and long-standing judicial disputes. The following thirteen key points introduce its scope and effect.

1. Dynamic Marks Can Now Be Registered. The new law allows "dynamic marks" such as startup animations, software logos, and movie title sequences, embracing new forms of digital brand expression.

2. Better Coordination Across Laws and Departments. The registration and use of national park marks, Olympic symbols, and special signs must follow both the Trademark Law and other relevant laws. Several provisions also improve coordination

between administrative enforcement and criminal justice.

3. A Catch-All Rule Against Bad-Faith Application. Anyone may oppose or seek to invalid applications that are clearly beyond normal business needs or that disrupt the registration system or harm public interests. This shows the trademark office's strong commitment to stopping bad faith at the start.

4. Full-Chain Penalties for Bad-Faith Acts. Penalties apply throughout the whole process — from filing, administrative review to court cases. They cover bad-faith applicants, non-compliant agencies, and individual attorneys. Penalties include fines, warnings, and civil damages, creating a strong deterrent.

5. The Office May Cancel Marks Ex Officio. The trademark office may cancel registered marks that have

become generic names, have not been used for three years without justifiable reason, or are used in a misleading way. A new reporting column on the CNIPA website allows the public to report misleading-use marks.

6. Shorter Opposition Period. The time to oppose a published mark is cut from three months to two months, helping applicants get their rights sooner. Opponents should act quickly within this shorter period.

7. Suspension of Cases Now Allowed in Opposition Proceedings. If the decision on prior rights depends on the outcome of another pending court or administrative case, the opposition may be paused to avoid wasted effort and inconsistent decisions.

8. Restriction Period Greatly Reduced. The one-year restriction on

registration of same or similar marks by others now applies only to marks that were voluntarily cancelled and no longer applies to marks that are cancelled due to non-use, invalidated, or not renewed. This reflects a practical approach to marks that no longer have legal protection or market presence.

9. Stronger Protection for Well-

Known Marks. Even without registration, well-known marks now can also enjoy protection against use on unrelated goods or services. In addition, in unfair competition investigations, the right holder may also ask for a well-known status finding at the same time.

10. Protection Now Covers "Prior

Interests." The law now protects not only "prior rights" but also "prior interests," including titles of well-known works, character names, and distinctive names of well-known products, etc. This gives clearer legal support to those interests holders.

11. Licensors Have a Statutory Right to End the License.

Even without a specific clause in the contract, a licensor may end the license if the licensee fails to meet quality-control duties.

12. Nominative Use Is Allowed as Fair Use, but Confusion Must Be Avoided.

Beyond descriptive use, functional use, and prior-use defenses, the new law makes it clear that "nominative use" is a kind of fair use, as long as the user clearly avoids any risk of consumer confusion.

13. A Clear Starting Point for the Three-Year Non-Use Defense.

Courts previously diverged on whether to count three years backward from the date of the lawsuit or from the date of the infringing act. The amendment now sets "the date of the infringing act" as the uniform starting point, making court decisions more predictable.

For brand owners and agencies, these changes mean faster rights and clearer rules, restoring trademarks to their core role of indicating source and carrying goodwill. This presents both challenges and opportunities for all involved. Your feedback and contributions to the discussion are most welcome.



CCPIT Patent and Trademark Law Office assists renowned German liqueur company in securing first-ever well-known trademark recognition for “JÄGERMEISTER” in China

Recently, in the trademark infringement and unfair competition dispute case (hereinafter referred to as "YEGE Vitamin Energy Drink Case I") where CCPIT Patent and Trademark Law Office (hereinafter referred to as "CCPIT") represented the Plaintiff, Mast-Jägermeister SE (hereinafter referred to as "MJSE"), against Qingdao XX Co., Ltd. and another Defendant, the court of first instance, Qingdao Intermediate People's Court, ruled that the Plaintiff's "野格" (pronounced as YEGE, the Chinese trademark for "JÄGERMEISTER") trademark and "JÄGERMEISTER" trademark constitute well-known trademarks in China. The court held that the Defendants constituted trademark infringement, ordered them to cease the trademark infringement and unfair competition acts, and awarded the Plaintiff a total of RMB 1.5 million in economic damages. After the first-instance judgment was served, neither the Plaintiff nor the Defendants filed an appeal, and

the judgment has become final and effective.

Meanwhile, in another trademark infringement and unfair competition dispute case (hereinafter referred to as "YEGE Vitamin Energy Drink Case II") between MJSE and Hubei XX Co., Ltd. and other Defendants, both the Qingdao Intermediate People's Court (the court of first instance) and the Shandong High People's Court (the court of second instance) recognized the Plaintiff's "野格" and "JÄGERMEISTER" trademarks as well-known trademarks in China. The courts held that the Defendants constituted trademark infringement and unfair competition, ordered them to cease the trademark infringement and unfair competition acts, and ruled that the three Defendants jointly compensate MJSE a total of RMB 1.5 million for economic losses and reasonable expenses. After the first-instance judgment was served, the Defendants appealed to the Shandong High People's Court. After

a public hearing, the Shandong High People's Court rejected the appeal and upheld the original judgment.

The two aforementioned cases were both filed at the Qingdao Intermediate People's Court concurrently, both involving alleged infringing products of YEGE Vitamin energy drinks, with total damages awarded amounting to RMB 3 million. For these reasons, the two cases are collectively referred to as the YEGE Vitamin Energy Drink Cases.

In the YEGE Vitamin Energy Drink Cases, the Qingdao Intermediate People's Court recognized both the Plaintiff's Trademark No. 5614224 "野格" and Trademark No. 992806 "JÄGERMEISTER" as well-known trademarks. This marks the first time that MJSE's "JÄGERMEISTER" trademark has been recognized as a well-known trademark in China, and also marks another recognition of MJSE's "野格" trademark as a well-known trademark in the country.



Both YEGE Vitamin Energy Drink Cases are cases remanded for retrial. In trademark civil litigation, it is extremely rare for a case to be remanded by the second-instance court for retrial. There is currently no accurate unified national statistics data on the rate of remand for retrial in trademark civil cases at the second instance, nor are there statistics on the number of remanded trademark civil cases in 2023. However, according to the Status of Judicial Protection of Intellectual Property Rights Chinese Courts (2024) released by the Supreme People's Court of the People's Republic of China, in 2024, Chinese courts concluded a total of 32,055 intellectual property civil second-instance cases, of which only 2 were remanded for

retrial, accounting for merely 0.006% of all concluded intellectual property civil cases that year. This illustrates just how uncommon remanded civil trademark retrials are in practice.

The YEGE Vitamin Energy Drink Cases were remanded for retrial not due to procedural irregularities in the original first-instance trial, but rather because the cases involve a vast body of evidence, multiple Defendants, complex fact-finding, and multiple thorny issues in the application of law. The two cases spanned a long period: from the initial filing to the final favorable judgment, the process lasted 6 years in total, with 11 court hearings held throughout the procedure.

During the handling of the cases, the legal team of CCPIT demonstrated a strong sense of responsibility and perseverance. Leveraging our extensive case handling experience and outstanding professional competence, we secured the favorable judgment and safeguarded the client's legitimate rights and interests. As China's earliest foreign-related patent and trademark agency and a leader in the country's intellectual property service industry, CCPIT will continue to enhance its professional capabilities and service levels, and deliver higher-quality professional services to clients.

Members of the case handling team are Fuhai CHU and Aimin HUO.

CCPIT Patent and Trademark Law Office successfully defends core patent rights for an internationally renowned medical imaging enterprise's new-generation diagnostic agents

Recently, the China National Intellectual Property Administration (CNIPA) issued an examination decision in a high-profile patent invalidation case, rejecting all invalidation grounds raised by the petitioner and maintaining the full validity of the core invention patent in question. The case was represented by the China Council for the Promotion of International Trade Patent and Trademark Law Office (hereinafter referred to as "CCPIT Patent and Trademark Office") on behalf of an internationally renowned enterprise in the medical imaging field, securing a comprehensive victory for the client in this highly complex and closely watched intellectual property rights confirmation case.

The patent at issue embodies the core original technology of the client's new-generation medical imaging diagnostic agents, holding critical strategic value for the product's market launch and global commercial deployment. During the invalidation

proceedings, the petitioner asserted comprehensive grounds spanning multiple dimensions, including the legality of patent amendments, the clarity of the claims' scope of protection, the support of the technical solutions by the description, as well as novelty and inventiveness. Involving numerous complex issues of legal application and professional technical disputes, the case carried a high degree of complexity.

To address the core disputes, the case handling team constructed a robust defense system, submitting well-founded arguments and evidence against each invalidation ground to clearly elucidate the patentability of each technical solution. Throughout

the proceedings, the team accurately grasped the rules for interpreting claims in international applications entering the national phase, as well as the standards for determining the validity of product patents in the chemical field. By leveraging the conventional knowledge of those skilled in the art for rigorous reasoning, the team effectively refuted all of the opponent's assertions, successfully safeguarding the stability of the client's core patent rights.

Ultimately, through a comprehensive and rigorous response, the case handling team successfully maintained the full validity of the patent, establishing a solid legal barrier for the client's market advancement and global intellectual property layout.



Trademark ruled invalid for free-riding on fame of impressionist Master Monet

Does the decease of a celebrity mean that his/her name enters the public domain and can be arbitrarily registered as a trademark by any party? A recent judgment issued by the Beijing Intellectual Property Court has given a clear answer to this question.

In 2023, a ceramics company in the Chinese city Foshan applied for the trademark "MONET" on the goods "*ceramic tiles; etc.*" in class 19. The inheritor of Claude Monet, the renowned late French Impressionist painter, entrusted CCPIT Patent & Trademark Law Office to file an invalidation against the disputed mark. The invalidation was not supported by the National Intellectual Property Administration and was then appealed to the Beijing Intellectual Property Court.

During the court hearing, the CCPIT team presented sufficient evidence and delivered rigorous arguments. The Beijing Intellectual Property Court finally adopted such arguments/

evidence and issued a judgment in favor of Claude Monet's inheritor. In the judgment, the Beijing Intellectual Property Court holds:

Claude Monet, the renowned late French Impressionist painter, enjoys high reputation in the Chinese mainland and is commonly referred to as Monet in media reports. The registration of the disputed mark is liable to lead the relevant public to believe that the goods bearing the disputed mark are specifically associated with the painter Monet. This will easily mislead the public as to the origin, style and other characteristics of the goods. Therefore, the registration of the disputed mark constitutes the situation of Article 10(i) (7) of the Trademark Law.

Furthermore, the Foshan company has applied for a total of 32 trademarks in various classes. Many of these marks, including MONET and its Chinese version 莫奈, are identical or similar to the names of celebrities and reputed brands. The Foshan company did not

provide any reasonable explanation for such trademark applications, which demonstrates its obvious bad faith and disrupts the normal trademark registration order. Therefore, the registration of the disputed mark also constitutes the situation of "obtaining trademark registration by other improper means" as stipulated in 44(i) of the Trademark Law.

This case confirms that the name rights of deceased celebrities remain protected by law and cannot be arbitrarily registered as trademarks. Even without prior trademark right, the inheritors may still lodge opposition or invalidation based on absolute grounds such as deceptiveness and bad faith.

This case further clarifies the judicial rules for protecting the name rights of deceased celebrities under the Trademark Law. It also sets an important precedent for curbing the malicious trademark squatting of the deceased celebrities' names.

Successful defense against trademark squatting: CCPIT wins case for a famous german hardware company

CCPIT Patent & Trademark Law Office (CCPIT) recently secured a favorable judgment for a leading German furniture hardware manufacturer in a trademark invalidation dispute before the Beijing Intellectual Property Court. The Court ruled that the third party's mark "HIDSHI" constituted bad-faith free-riding on the German company's core trademarks and fell within "registration obtained by other improper means" under Article 44.1 of the Chinese Trademark Law. The victory effectively eliminates the squatted mark targeting the client's core brand and strongly protects its goodwill and market rights.

The disputed mark "HIDSHI" was registered in 2015 for goods including metal hinges and household metal sliding rails. Notably, the registration had already passed the five-year statutory deadline for invalidation based on relative grounds. During the litigation stage, the CCPIT team comprehensively reviewed the facts of the case and developed a precise

litigation strategy. Addressing the objective circumstances that the disputed mark had been registered for over five years and that the third party held only a limited number of trademarks, the team built a complete argumentation system from key dimensions to fully reconstruct the chain of the third party's deliberate imitation and persistent "brand-hitching" conduct.

The Court accepted the arguments presented by CCPIT at trial and ruled that the registration of the disputed mark constituted "registration obtained by other improper means" and should be declared invalid according to law. This case overcame the limitations of the mark having been registered for over five years and the registrant holding a relatively modest trademark portfolio, clarifying that for malicious registration conduct involving persistent free-riding on famous marks, the absolute invalidity provision may be applied to regulate such conduct, providing an important

reference for brand owners to combat long-term, concealed brand-hitching behavior.

CCPIT Patent & Trademark Law Office has been providing intellectual property services for 70 years. Leveraging extensive experience in handling complex trademark cases, the firm successfully defended its client's core trademark rights through precise strategy formulation and solid evidence organization. This case once again demonstrates CCPIT's professional strength in complex trademark administrative litigation.

Looking ahead, CCPIT will continue to uphold its fine traditions and its motto, "Enriching Your Ideas," while adhering to more specialized, refined, and international legal service standards. The firm remains fully committed to safeguarding the intellectual property rights of both Chinese and foreign enterprises.



Profile

320+

Patent Attorneys and Trademark Attorneys

100+

Professionals with Lawyer's Qualification

CCPIT PATENT AND TRADEMARK LAW OFFICE, with a history dating back to 1957, is the oldest full-service Chinese intellectual property law firm. We have 320 patent and trademark attorneys, more than 100 of whom have Chinese Lawyer's Qualification or passed bar examination of other jurisdictions. We provide one-stop professional services, including consultation, prosecution, mediation, administrative enforcement and litigation services, in relation to patents, trademarks, copyrights, domain names, trade secrets, unfair competition and other intellectual property-related matters. Headquartered in Beijing, we have branch offices in New York, Tokyo, HongKong, Shanghai, Shenzhen and Wuhan.

OUR MISSION is to render tailored services to clients with high quality, efficiency and reliability. We continuously devote more resources to improvement of reliability and flexibility of our portfolio management system and make every effort to increase the effectiveness of our quality control mechanism. Our attorneys work proactively in teams in response to our client's diverse needs, providing insightful advice and practical solutions.

OUR PROFESSIONALS attend internal academic and experience-sharing activities and various external trainings continuously to keep pace with the rapid development of laws and technologies. Our professionals are also active participants and frequent speakers in domestic and international intellectual property-related conferences and seminars. Our colleagues participate voluntarily in formulation and amendment of related laws and regulations, and intellectual property-related governmental policy making.

OUR CLIENTS represent every sector of industry and commerce, from start-up businesses to multinational giants such as Fortune 500 companies. Through decades of unrelenting efforts, we have successfully assisted our clients from home and abroad in acquiring millions of patent rights and trademark registrations across the globe and in enforcing patents, trademarks and other intellectual property rights in different jurisdictions. With rich legal experience and extensive technical expertise, we are in a position to satisfy our clients' demands in all aspects of intellectual property protection.



Recognitions

OUR SERVICE QUALITY is widely recognized and highly appreciated by our clients and international associates. In the past decades, we have been ranked highly by *Managing Intellectual Property (MIP)*, *Chambers and Partners*, *The Legal 500*, *Asia Legal Business (ALB)*, *Intellectual Asset Management (IAM)*, *World Trademark Review (WTR)*, *Asia IP*, *China Business Law Journal*, etc.

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— Chambers and Partners

"The firm has a sizeable intellectual property practice and offers clients a full-service approach. The firm advises clients on both contentious and non-contentious matters relating to trademarks, patents, domain names and more. The firm has a strong international presence with office locations spread across Asia, USA, and Europe."
— The Legal 500

CCPIT Patent and Trademark Law Office

Beijing Headquarter Office

10/F, Ocean Plaza 158 Fuxingmennei Street Beijing 100031, China

TEL: +86-10-66412345 FAX: +86-10-66415678 / 66413211

E-mail: mail@ccpit-patent.com.cn

New York Office

One Penn Plaza, Suite 4425 New York,
NY 10119, U.S.A.

TEL: +1-212-8682066

FAX: +1-212-8682068

E-mail: NewYork@ccpit-patent.com.cn

Tokyo Office

2nd floor, 265 section, Shin-Otemachi Building,
2-2-1, Chiyoda-ku, Tokyo, Japan

TEL: +81-03-6262-6643

FAX: +81-03-6262-6645

E-mail: tokyo@ccpit-patent.com.cn

Hong Kong Office

Unit 9, 34/F, Office Tower Convention Plaza
No.1 Harbour Road, Hong Kong

TEL: +852-25231833

FAX: +852-25231338

E-mail: hongkong@ccpit-patent.com.cn

Shanghai Office

18/ F, Crystal Century Mansion 567 Weihai
Road, Jingan District Shanghai 200041, China

TEL: +86-21-62888686

FAX: +86-21-62883622

E-mail: shanghai@ccpit-patent.com.cn

Shenzhen Office

Room 1601, International Chamber of
Commerce Center, Futian District, Shenzhen,
518046, China

TEL: +86-755-33046671

E-mail: shenzhen@ccpit-patent.com.cn

Wuhan Office

Room 06-116, Building B Optical Valley New
Development International Center, No.473 Guanshan
Avenue, Hongshan District, Wuhan 430074, China

TEL: +86-27-87200400

E-mail: wuhan@ccpit-patent.com.cn

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