

Policy:

- CNIPA issued *Amendments to Guidelines for Patent Examination*, which will come into effect as of November 1st, 2019. Most proposed amendments are favorable to the applicant, e.g. examiner's burden of proof for common knowledge, applicant's opportunity to request face to face interview with the examiner, introduction of deferred examination, eligible subject matter for inventions of isolation or obtaining of stem cells by utilizing a human embryo that has not undergone in vivo development and that is within 14 days after fertilization, etc. Highlights of the Amendments with our comments and detailed Amendments



Highlights



Amendments

- *Fourth amendment to the China Trademark Law* took effect on April 23, 2019. The content of regulating malicious registration was added. The punishment for trademark infringement has been strengthened.

Detailed Amendments



Amendments

- *Amendments to the China Anti-Unfair Competition Law* took effect on April 23, 2019. The new Law features trade secret protection and raises fines and damages for unfair competition acts.

Detailed Amendments



Amendments

- *Provisions on Regulating Applications for Trademark Registration* will take effect as of December 1, 2019. According to the Provisions, the good faith principle should be complied when applying trademarks. Article 4 of the amended Trademark Law can be applied as an absolute ground to reject a trademark application in the examination and opposition procedure, or to invalidate a registered trademark in the invalidation procedure.





Provisions

- The *Regulation of the People's Republic of China on the Administration of Human Genetic Resources* became effective on July 1, 2019. According to the Regulation, Foreign entity shall not collect or store China's Human Genetic Resources (HGR) within the territory of China and shall not provide China's HGR abroad. Foreign entity should collaborate with a Chinese institution when carrying out research and development of HGR in China, and both parties should jointly apply for and own the patent rights arising from the results generated from international collaborations that utilize China's HGR.

Full text: <http://en.pkulaw.cn/display.aspx?cgid=089bca0349d42372bdfb&lib=law>

- The China National Intellectual Property Administration issued the *Administrative Regulations of Collective Patent Examination (pilot scheme)*, effective as of August 30, 2019, which aims at improving the examination efficiency and quality of important patent applications. "Collective Patent Examination" means the collective processing of a group of patent applications focusing on the same key technology by the same applicant(s).

Full text: <http://www.sipo.gov.cn/gztz/1141943.htm>



Requirements

Statistics:

- Premier LI Keqiang said on June 25, 2019 that China will take measures to optimize business environment. By the end of 2019, China will reduce the average examination period for high-value patent applications to 17.5 months, reduce the average examination period for trademark registration to 5 months and to reduce 100,000 backlog of invention patent examination.
- In 2018, China's courts newly received 334,951 and concluded 319,651 IP-related cases, up 41.19% and 41.64% respectively. The Supreme People's Court newly received 913 and concluded 859 IP civil cases, up 81.51% and 74.24%



respectively. The Supreme People's Court also newly received 642 and concluded 581 IP administrative cases, up 64.19% and 41.02% respectively.

- On October 16, 2019, the Beijing Intellectual Property Court released a Summary of their adjudicated IP cases involving foreigners. The Summary reveals that foreign entities and individuals play a growing and substantial role among those cases adjudicated during the period from the establishment of the court in November 2014 to the first half of 2019.

Since its establishment, the Beijing Intellectual Property Court has accepted 13,736 IP cases involving foreigners (excluding Hong Kong, Macao and Taiwan), accounting for 21.1% of the total number of cases. During the same period, a total of 10,755 foreigner-related cases were concluded, accounting for 20.7% of the total. The number of foreigner-related cases increased year by year, with an average annual growth of about 8.4% in received cases and an average annual growth of about 40.4% in concluded cases.

In terms of geographical distribution of the concluded cases, 90 countries and regions (excluding Hong Kong, Macao and Taiwan) are involved, among which the cases involving US entities or individuals take the largest percentage, accounting for 33.2%; the cases involving German entities or individuals account for 10.3%, the cases involving Japanese entities or individuals account for 8.8%; the cases involving European Union countries entities or individuals account for 39.3%.

In the administrative cases involving foreigners, the winning rate of foreign parties is 49% (excluding the situation where both the plaintiff and the third party are foreigners); in the civil cases, the winning rate of foreign parties is 68% (excluding the situation where both the plaintiff and the defendant are foreigners).

Others:

- The World Intellectual Property Organization (WIPO), together with INSEAD and Cornell University, published the *2019 Global Innovation Index (GII)*. This is the 12th edition of the index, and aims to assist decision-makers in understanding the innovative activity that propels economic and human development. China continues its upward rise to become 14th (17th in 2018).

News: https://www.wipo.int/global_innovation_index/en/2019/



- The China Banking and Insurance Regulatory Commission, the China National Intellectual Property Administration and the China National Copyright Administration jointly issued the *Notice on Further Strengthening IP Pledge Financing* in August, 2019. The Notice aims to optimize the service system, to enhance the service innovation, to improve the risk management and to improve the guarantee of IP pledge financing.
- The *Regulation on Optimizing the Business Environment (Draft)* was adopted on October 8, 2019, providing institutional guarantee to create a sound environment for all market participants to start business and invest. China will establish and improve the mechanisms of punitive damages for IP infringement and of IP enforcement assistance.
- The first shelf securitization product of IP asset was approved in August by the Shenzhen Stock Exchange to raise the total amount of 3 billion yuan.
- The European Union Chamber of Commerce in China released its *European Business in China Business Confidence Survey 2019* in May 2019. According to the report, 62% of respondents from European companies view China as a top three destination for present and future investment.

Report: <https://www.europeanchamber.com.cn/en/publications-business-confidence-survey>

