NEWSLETTER

2026.07

QUARTERLY

PANAWELL INTELLECTUAL PROPERTY

Cover: Interior of office block where Panawell locates

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Panawell Intellectual Property, consisting of Panawell & Partners, LLC and Panawell & Partners Law Firm, provide full spectrum of services in all fields of intellectual property rights, such as patent, trademark, copyright, computer software, anti-unfair competition, trade secrets, custom protection, domain name, license, assignment, enforcement, administrative and civil litigation, IP consulting and management.

Major Changes in the 5th Amendment to the Chinese Trademark Law

On June 26, 2026, the 5th revision of the Chinese Trademark Law (hereinafter referred to "new Trademark Law") was approved by the Standing Committee of the NPC and promulgated by the President of the country. The new Trademark Law will take effect on January 1, 2027.

The major changes in the amendment cover the following provisions:

- New registrable sign;
- Further prevention of trademark applications not intended for use or filed in bad faith;
- Time limit for opposition filing;
- Ex officio cancellation of trademark registration;
- Use of trademark; and
- Damages claim in trademark infringement litigation.

These changes will have significant impact on both domestic and overseas trademark applicants and rights holders, the details of which are provided by our team in the following:

Trademark Use Extended

Article 2(3) of the new Trademark Law: *The use of a trademark as referred to in the preceding paragraph includes any use conducted through information networks such as the Internet.*

Following the continuous advancement and broad application of internet technology, the scope of trademark use has expanded as well. This new provision clarifies that records of online activities—such as promoting and selling branded goods or services on social media platforms like WECHAT, REDNOTE, TIKTOK, and LINKEDIN—are the legally valid evidence of trademark use, thus facilitating proof submission by rights holders. Therefore, we recommend that trademark owners regularly collect and preserve well such evidence to support their claims of genuine use in the defense of non-use cancellation actions for three consecutive years, thereby safeguarding their rights and interests.

More Registrable Sign Allowed

Article 14 of the new Trademark Law: *Any sign capable of distinguishing the goods of a natural person, legal entities, or unincorporated organization from those of others—including words, devices, letters, numerals, three-dimensional marks, color combinations, sounds, dynamic marks, or combinations thereof—can be registered as a trademark.*

Due to the technological developments, the types of signs that can function to distinguish marks have been continuously increasing. The newly added "dynamic marks" not only align with the international trends in trademark registration but also offer applicants in various industries more options to seek protection in China for their dynamic visual marks of originality and distinctiveness. However, issues concerning the

assessment of distinctiveness and likelihood of confusion among such marks remain to be addressed by future examination guidelines and practices. We will share and update once available.

Further Prevention of Trademark Hoarding and Bad-Faith Registration

Article 19 of the new Trademark Law: *Filing applications of trademarks not intended for use and the filed trademarks obviously exceed the normal needs of business shall not be registered.*

No trademark application shall be filed by deceptive or other improper means.

Changes are made from the current prohibition on "bad-faith applications of trademarks not intended for use" to "applications of trademarks not intended for use and the filed trademarks obviously exceed the normal needs of business," thereby which to make the assessment criteria more objective and appropriate to prevent trademark hoarding. We expect that the follow-up implementing regulations will leave space for defensive registrations filed in good faith, to allow domestic and foreign applicants to reasonably maintain a certain number of trademarks for defensive purpose or future business.

It is worthy of attention that Article 44 of the current Trademark Law, which provides that "registrations obtained by deceptive or other improper means," has previously been applied to invalidation proceedings only. However the new Trademark Law will extend this provision to all stages of trademark examination—including that on new applications, oppositions and invalidation—thereby which to strengthen the fight against bad-faith registrations and offer greater protection to both domestic and foreign trademark owners against fraudulent squatting.

Period for Opposition Filing Shortened

Article 36 of the new Trademark Law: *For a trademark that has been preliminarily approved and published, if a prior right holder or interested party believes that it violates the provisions of Article 20... it may file an opposition with the trademark administrative authority under the State Council within two months from the date of publication.*

This amendment reduces the opposition period from three months to two, thereby to shorten the overall trademark registration cycle and accelerate the registration process, which benefits earlier protection of trademark. However, the shortened opposition period increases the pressure on opponents to monitor the newly published marks more closely, make faster decisions, and submit evidence more promptly, which is particularly disadvantageous for genuine foreign trademark owners seeking to prevent squatting through opposition proceeding.

Ex officio Cancellation of a Registered Trademark

Article 57(3) of the new Trademark Law--*If a registered trademark falls under any of the circumstances specified in the preceding*

paragraph, the trademark administrative authority under the State Council may revoke the said registered trademark.

Under the current law, the cancellation of a registered trademark on the grounds of non-use for three consecutive years relies entirely on third-party's petition for "non-use cancellation" action, leaving the administrative authority to respond passively. The new Trademark Law empowers the competent authority to proactively eliminate "zombie trademarks," release unused trademark resources, and remove obstacles for new trademark applications. This not only enhances the utilization of limited trademark resources but also helps domestic and foreign rights holders to remove squatted trademarks without filing a cancellation action, thereby to reduce the costs.

However, this change also increases the risk to the registered trademarks not yet being used, either for subjective or objective reasons, which may be cancelled ex officio. Thus we recommend that trademark owners use their registered marks actively and retain evidence of such use properly.

Severe Consequences for Improper Use of a Registered Trademark

Article 56 of the new Trademark Law: *If a registered trademark is used in a manner that misleads the public, the trademark enforcement authority shall order rectification within a specified period; if the illegal business turnover exceeds RMB 50,000, a fine of up to five times that amount may be imposed; if there is no illegal business turnover or the turnover is less than RMB 50,000, a fine of up to RMB 250,000 may be imposed. If rectification is not made within the prescribed period, the trademark administrative authority under the State Council shall revoke the registered trademark.*

To uphold the principles of fair competition and good faith, and to combat malicious registration and use of trademarks—including the recently emerged "scheming trademarks"—this newly added provision imposes stricter penalties on the use of registered trademarks in a misleading manner, thus to protect the public interest. We hereby remind trademark owners that the mark used on their goods or services must be consistent with the registered mark and shall not mislead the public, so as to avoid penalties.

Three-year-use Threshold for Claiming Damages

Article 78 of the new Trademark Law: *Where the owner of a registered trademark claims damages while the alleged infringer contends that the owner has not used the said registered trademark, the people's court may require the owner to provide evidence of actual use of the trademark within three years prior to the occurrence of the infringement.*

This amendment eliminates the vague reference to "the preceding three years" in the current law and clarifies that, in infringement litigations, if the alleged infringer raises a non-use defense, the timeframe for the rights holder's use evidence is "within three years prior to the occurrence of the infringement." This change imposes stricter requirements on the timeliness and precision of evidence, urging trademark owners to actively use their marks while also cautioning them to exercise prudence when filing infringement lawsuits and claiming damages. We therefore recommend that trademark owners maintain annual records of trademark use to facilitate the swift retrieval of such valid use evidence predating the alleged infringement during enforcement proceedings.

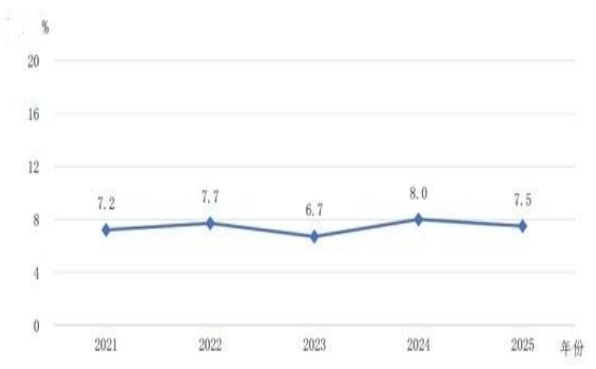
(source: official website of the CNIPA)

China Reports Steady Improvements in Patent Protection and Innovation Through 2025

The China National Intellectual Property Administration (CNIPA) officially released the 2025 China Patent Survey Report in April 2026. The report shows that from 2021 to 2025, China has achieved steady improvements in patent protection environment, commercialization efficiency, and inventiveness level, with the overall innovation ecosystem continuing to improve.

I. Patent Protection Environment Continues to Improve

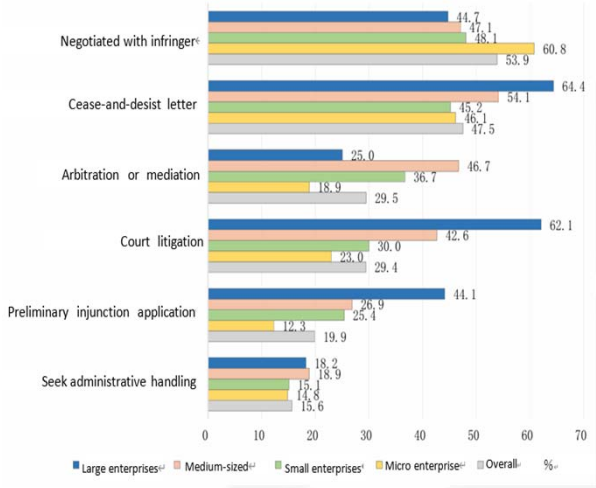
The proportion of patent holders in China who encountered infringement in 2025 stood at 7.5%, a slight decrease of 0.5 percentage points from the previous year. Among those who experienced infringement, the proportion that took enforcement measures reached 81.7%. Although this figure edged down from the prior year, it has generally shown a fluctuating upward trend over time.



Percentage of companies that suffered patent infringement, 2021–2025

Among enterprises that encountered patent infringement, 63.2% adopted two or more enforcement measures, and 35.3% adopted three or more. Both figures were higher than the previous year, indicating a trend toward more diversified approaches to rights protection. In terms of specific measures, a relatively large proportion of enterprises chose direct negotiation with the infringing party (53.9%) or sending cease and desist letters (47.5%). Meanwhile, 29.4%

resorted to court litigation, 29.5% opted for arbitration or mediation, and 15.6% sought administrative adjudication.



The amount of damages awarded or settlements reached in patent infringement lawsuits is showing an upward trend. In 2025, the proportion of cases where court-awarded damages or settlement amounts exceeded RMB 5 million reached 11.1%, up 1.6 percentage points from the previous year and 3.5 percentage points from 2021, reflecting the positive trend of increasingly high penalties for intellectual property infringement.

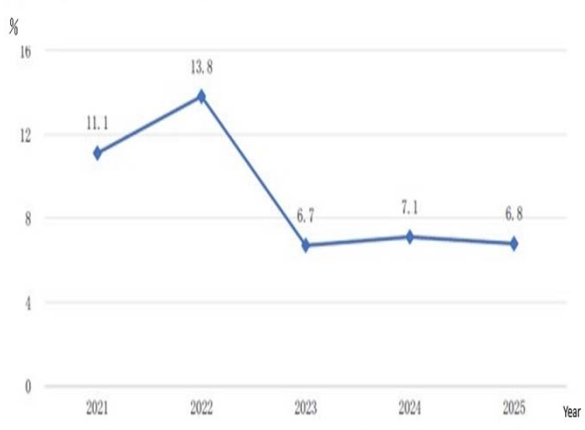
Patent Infringement Litigation Awards & Settlements, 2021–2025 (%)

	2021	2022	2023	2024	2025
Less than CNY100,000	17.7	21.8	16.3	15.7	16.0
CNY100,000～500,000	19.9	21.8	16.6	18.2	16.4
CNY500,000～1000,000	9.0	8.6	9.9	7.7	7.7
CNY1000,000～5000,000	9.0	7.0	11.0	11.4	9.4
More than CNY5000,000	7.6	7.0	8.4	9.5	11.1
No Compensation	36.8	33.7	37.8	37.6	39.4
Total	100.0	100.0	100.0	100.0	100.0

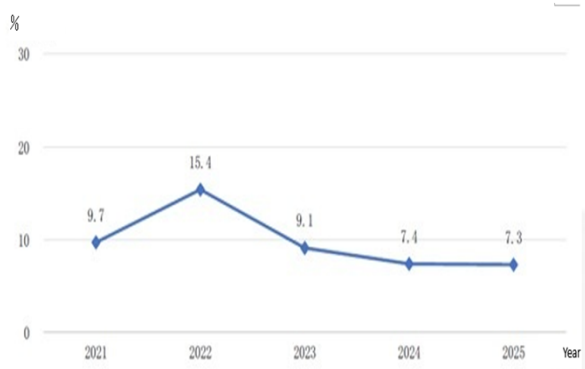
II. Patent Commercialization Rates Steadily Rise

From 2021 to 2025, the commercialization rates of all three types of patents held by Chinese enterprises have seen significant increases. The commercialization rate for invention patents rose steadily from 46.8% to 54.0%, a cumulative increase of 7.2 percentage points. For utility model patents, the rate increased from 46.2% to 58.1%, a cumulative increase of 11.9 percentage points. For design patents, the rate climbed from 52.3% to 66.9%, a cumulative increase of 14.6 percentage points over the same period.

The licensing rate and assignment rate of invention patents held by Chinese enterprises both followed a trend of first increasing and then decreasing, retreating after reaching a local peak for that period in 2022. In 2025, the licensing rate stood at 6.8% and the assignment rate at 7.3%, down by 7.0 and 8.1 percentage points respectively from their respective peaks in 2022.



The licensing rate of invention patents of Chinese enterprises from 2021 to 2025

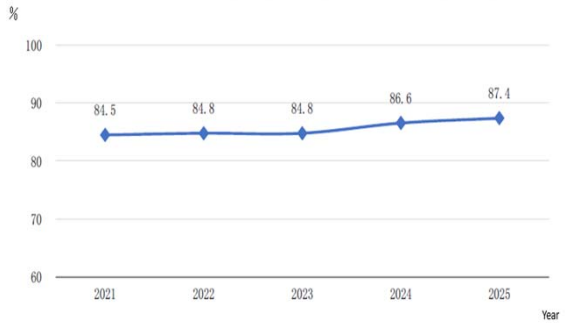


The transfer rate of invention patents of Chinese enterprises from 2021 to 2025

The average revenue from the commercialization of invention patents has steadily increased. In 2025, the average revenue per commercialized invention patent held by Chinese enterprises stood at RMB 8.72 million, remaining largely flat compared with the previous year.

III. Patent Inventiveness Level Keeps Growing

The proportion of valid invention patents obtained through independent R&D by Chinese enterprises has maintained a steady upward trend. In 2025, self-developed patents accounted for 87.4% of all valid invention patents held by enterprises, up by 2.9 percentage points from 2021.



In terms of R&D investment, the R&D expenditure per invention patent has remained relatively stable, mainly concentrated in the range below RMB 500,000; however, the proportion of invention patents with R&D expenditure in the range of RMB 500,000 to RMB 1 million has shown an upward trend, reaching 18.3% in 2025, up by 3.6 percentage points from 2021.

In terms of R&D cycle, the development period for invention patents is predominantly concentrated in the range of six months to two years, consistently accounting for over 70% of the total. Meanwhile, the proportion of invention patents with a development cycle of less than six months has shown an overall declining trend, reaching 6.3% in 2025, down by 2.2 percentage points from the previous year.

Since the CNIPA first publicly released the China Patent Survey Report in 2016, the Report has drawn extensive attention both domestically and internationally. In recent years, the survey targets and methods have been continuously optimized. The 2025 China Patent Survey focuses on the theme of high-quality development, consolidating the survey on patent transfer and commercialization, deepening the survey on patent creation, protection, and overseas intellectual property activities, and paying close attention to patent activities in frontier fields such as strategic emerging industries, green technologies, and the digital economy. It also conducts special analysis on private enterprises. In addition to publishing

the main findings and thematic analysis of this year's survey, the report also presents the continuous survey data of the past five years as well as the baseline data of the national survey for this year.

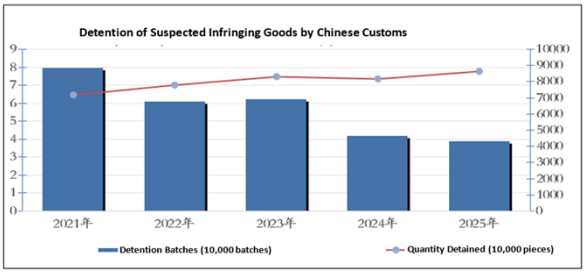
(Source: official website of the CNIPA)

China Customs Released 2025 Customs IPR Protection Report

On April 23, 2026, the General Administration of Customs (GAC) released the 2025 China Customs Intellectual Property Rights Protection Report, highlighting the achievements of customs IPR enforcement over the past year.

I. Overall Enforcement of Intellectual Property Protection by National Customs in 2025

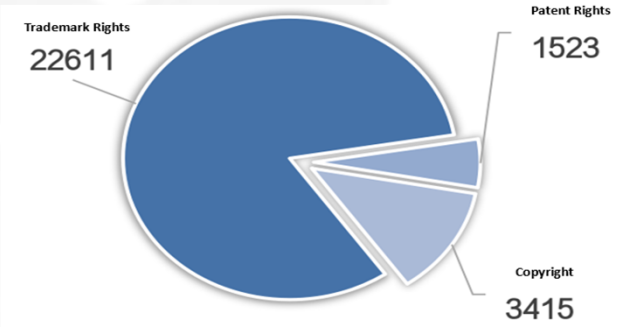
In 2025, customs authorities nationwide implemented a total of 53,400 IPR protection measures, seized 38,700 batches of suspected infringing import and export goods, totaling 86.42 million pieces. IPR holders from 57 countries and regions have benefited from customs protection to safeguard their legitimate rights and interests.



China Customs Detention of Suspected Infringing Goods, 2021–2025

1. Customs Protection Recordation Scale Continues to Expand

Over the past year, 5,431 new rights holders were recorded for customs intellectual property protection, marking a year-on-year increase of 20.26%. A total of 35,220 applications for customs recordation of IP rights were filed during the year, surpassing the 30,000 milestone for the first time. General guarantee applications submitted by 162 rights holders were approved, up 14.89% from the previous year.



2025 New IPR Customs Recordations

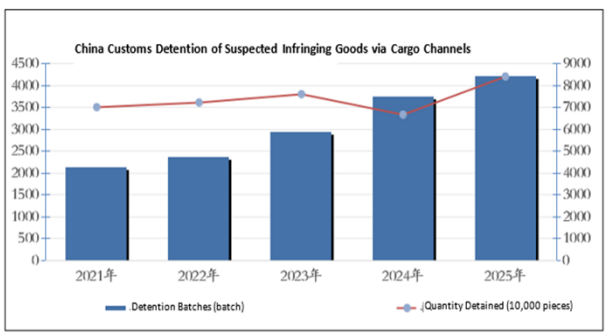
2. Copyright Protection Efforts Continue to Strengthen

Customs offices nationwide actively supported the "cultural going global" initiative, stepping up copyright protection for industries such as trendy toys and cultural and creative products. Over the year applications were approved, up 28.7% year-on-year. A total of 710 shipments comprising 6.3 million units of copyright-infringing goods were seized, marking increases of 61% and 26%

respectively, showing a notable upward trend in enforcement. In addition, 38,400 shipments of trademark-infringing goods totaling 80 million units, and 15 shipments of patent-infringing goods totaling 116,300 units, were also seized.

3. Ex Officio Enforcement Plays an Increasingly Prominent Role

Over the year, customs offices nationwide seized 4,205 shipments of suspected infringing goods in cargo channels, up 10.72% year-on-year. Of these, 4,084 shipments were subject to ex officio protective measures, involving nearly over 84 million pieces of suspected infringing goods. In accordance with the Customs Administrative Penalty Discretionary Benchmark (III), customs authorities nationwide refrained from imposing administrative penalties on 3,178 shipments (totaling 29,100 pieces) involving minor violations and first-time infringement offenses, as permitted by law. This approach effectively combines punishment with education, demonstrating a notable educational effect and continued improvement in law enforcement outcomes.



China Customs Detention of Suspected Infringing Goods via Cargo Channels, 2021-2025

4. Import Enforcement Efficiency Continues to Improve Steadily

Over the year, at the import stage of cross border e commerce, customs seized 242 shipments of suspected infringing goods totaling 318,900 pieces, increased by 2.6 times and 13.4 times year on year respectively. This drove a 14.81% increase in the total number of seized shipments in import enforcement by customs nationwide, underscoring the increasingly prominent role of emerging enforcement channels. In export channels, customs seized 38,300 shipments comprising over 85 million pieces of suspected infringing goods, which remains the primary focus of customs IPR enforcement.

5. Regional Coordinated Protection Sees Comprehensive Improvement in Quality and Efficiency

Over the year, eastern coastal areas remained the primary front for enforcement. Customs offices including Shanghai, Guangzhou, Shenzhen, Ningbo, Xiamen, and Fuzhou seized 27,500 shipments of suspected infringing goods totaling 84,275,700 pieces, accounting for 71.10% and 97.51% of the respective overall totals. In border areas, customs such as Nanning and Kunming seized 1,187 shipments amounting to 1,869,100 pieces. In central and western regions, customs including

Zhengzhou, Wuhan, and Changsha seized 10,000 shipments totaling 275,100 pieces. Customs offices such as Hohhot, Gongbei, and Chongqing saw their seizure shipments more than double year on year, while Manzhouli, Chengdu, and Urumqi registered substantial increases in seizure volumes, indicating more balanced regional enforcement.

6. Supervision in Emerging Trade Sectors Further Strengthened

Market procurement and cross border e commerce, as emerging trade formats, have become key areas of customs intellectual property enforcement. In 2025, customs offices nationwide seized 1,542 shipments of suspected infringing goods exported under market procurement trade, totaling 37,888,900 pieces, up by 27.8% and 48.4% year on year, respectively. A total of 24,600 shipments were seized via cross border e commerce channels, which remained largely flat compared with 2024, yet this channel still recorded the highest number of seizures among all enforcement channels.

7. Distinctive Structural Features of Seized Infringing Goods

In terms of seizure shipments, garments, footwear and headgear, leather goods and luggage, and electronic appliances ranked as the top three categories, with 19,000, 8,000, and 3,000 shipments seized, respectively. In terms of seizure volume, tobacco products, sports equipment, and garments, footwear and headgear ranked as the top three categories, with 18.49 million, 15.04 million, and 11.42 million pieces seized, respectively. Among these, tobacco products saw a year-on-year increase of 3.1 times compared with 2024.

II. Continuous Improvement of the Customs IPR Protection Institutional Framework

Chinese Customs has been comprehensively advancing the research on revising the Regulations on Customs Protection of Intellectual Property Rights, actively exploring protection rules for emerging trade formats, including ex officio protection for bonded e-commerce goods and IPR protection for goods in transit within pilot free trade zones. Innovative new models and mechanisms have also been introduced, such as pre-confirmation of IPR status, tripartite collaborative public-interest mediation, and a "prompt filing, swift review, and rapid response" mechanism.

III. Comprehensive Rollout and Implementation of Key Smart IP Projects

The intelligent risk screening model for infringement risks has been deployed and put into operation across all customs offices nationwide, enabling second level risk screening for import and

the Customs IPR Recordation Subsystem, allowing rights holders to keep timely track of the recordation progress and validity status, resulting in a notably improved experience and satisfaction.

IV. Promoting Collaborative Governance and Participating in Global IPR Enforcement Governance

Customs offices nationwide have been implementing the "Smart Customs, Stronger Nation" initiative, enhancing coordination between customs and local authorities, and strengthening inter departmental collaboration. Efforts have also been made to consolidate and expand international customs enforcement cooperation, with deeper engagement in global governance of IPR infringement.

V. Notable Achievements in Serving Enterprise Innovation and High-Quality Foreign Trade Development

Customs offices have focused on addressing the innovation and development needs of various entities, supporting the global expansion of brands with independent intellectual property rights. Over the year, 3,002 shipments totaling over 11 million pieces of goods infringing on independent IP rights were seized. Customs authorities have encouraged foreign-invested enterprises to file for customs IPR recordation, established dialogue and communication platforms for IPR protection for these enterprises, and maintained regular channels for soliciting their opinions. For foreign-invested enterprises that frequently suffer from infringement at the import and export stages, a rapid response mechanism has been put in place, along with tailored solutions for rights protection, thereby fostering a pro-business and investor-friendly environment that welcomes and supports foreign investment.

(Source: official website of GAC)

CNIPA Seeks Public Comments on Guidelines for Handling Administrative Adjudication and Mediation of Patent Disputes Cases

To protect the legitimate rights and interests of patent holders and the public, and to standardize the procedures for administrative adjudication and mediation of patent disputes, the China National Intellectual Property Administration (CNIPA) has drafted the Guidelines for Handling Administrative Adjudication and Mediation of Patent Disputes Cases (Draft for Public Comment), hereinafter referred to as the "the draft". The period for soliciting public comments on the Draft was from May 25 to June 9, 2026.

The draft consists of two main parts: administrative adjudication of patent infringement disputes, and administrative mediation of patent disputes. The former comprises seven chapters, covering overview, case-handling procedures, infringement determination, evidence, administrative adjudication of major patent infringement disputes,

administrative adjudication under the early resolution mechanism for drug patent disputes, and administrative litigation arising from administrative adjudication of patent disputes; the latter comprises nine chapters, covering overview, procedures for mediating patent disputes, administrative mediation of ownership disputes, administrative mediation of disputes over inventor or designer attribution, administrative mediation of remuneration disputes, administrative mediation of disputes over usage fees during the provisional protection period of invention patents, administrative mediation of disputes over the implementation of patent open licensing, mediation of patent infringement compensation amounts, and administrative mediation of other patent disputes.

In addition to making adaptive revisions to the article numbers of the Patent Law and its Implementing Regulations and to changes in institutional names, the draft further studies and implements new systems, and refines the scope, procedures, and institutional framework for administrative adjudication and mediation of patent infringement disputes, as set forth below.

Implementing New Systems

First, the draft incorporates the relevant provisions of the newly amended Patent Law and its Implementing Regulations, by adding chapters on administrative adjudication of major patent infringement disputes, administrative adjudication under the early resolution mechanism for drug patent disputes, administrative litigation arising from patent adjudication, and administrative mediation of disputes over the implementation of patent open licensing, as well as by introducing provisions on the time limit for filing requests for administrative adjudication of patent infringement disputes, and by including, in the chapter on infringement determination, contents concerning the determination of the scope of protection for partial design patents and the adjudication of partial design patent infringement.

Second, the draft refines the relevant provisions of the newly formulated *Measures for Administrative Adjudication and Mediation of Patent Disputes*, by maintaining consistency in structure, adding provisions clarifying that the entrusting party bears direct liability, incorporating "advisory opinions on confirmation of non-infringement" into the chapter on case-handling procedures, and adding "joint infringement of patent rights" into the chapter on infringement determination with clear standards for determining contributory infringement and inducement to infringe.

Third, the draft draws on beneficial practices from experience, by specifying the adjudication body for major patent infringement disputes and the evidentiary materials required for major cases, clarifying the hearing procedures and rules of the early resolution mechanism for drug patent disputes with case analysis provided, and

systematically reviewing the legal framework, rights and obligations, mediation procedures, and case types relating to patent open licensing.

Refining the Substantive Rules for Case Handling

First, the draft responds to the demands of case-handling authorities and parties involved, by adding provisions on the joinder of parties or third parties, introducing online oral hearing procedures, and clarifying matters relating to the collegial panel, technical investigators, and technical appraisals.

Second, the draft clarifies the substantive standards for infringement determination by adding provisions on the rental of infringing products and circumstances for exemption from liability, and criteria for determining partial design infringement, joint infringement, and acts not deemed infringement, as well as by specifying the rules for infringement determination in traditional Chinese medicine and the defenses available under standard essential patents (SEP).

Third, the draft refines other provisions by specifying case-handling personnel qualifications, jurisdiction, and case closure methods; adding provisions on handling non-compliance with administrative adjudications and repeated infringements; clarifying that a copy of the patent register serves as valid proof; strengthening the evidentiary value of patent evaluation reports; and updating guiding cases.

Optimizing Procedural Formalities for Case Handling

First, the draft refines the provisions on the respondent's time limit for defense, circumstances for suspension and non-suspension of proceedings, time limits for case closure, and enforcement of mediated settlements, as well as by adding provisions on consolidated hearings, clarifies the burden of proof for process patents for new products, and introduces provisions on assistance in investigation.

Second, the draft refines the circumstances and personnel subject to withdrawal, clarifies the confidentiality obligations and legal liabilities of parties with respect to information learned during proceedings, and systematically sorts out relevant procedural documents.

The *Measures for Administrative Adjudication and Mediation of Patent Disputes*, issued by the CNIPA in December 2024, have been in effect since February 1, 2025. The drafting of the present Guidelines for public comment, which are intended to serve as a supporting document to the Measures, aims to standardize adjudication and mediation work at the operational level, actively respond to the demands of rights holders and the public, effectively address new situations and issues arising in case handling, and strengthen operational guidance for local authorities.

(Source: official website of the CNIPA)

Analysis of Administrative Adjudication as a Resolution Approach in the Early Resolution Mechanism for Pharmaceutical Patent Disputes

Yuying Zhang, Patent Attorney, Panawell & Partners

I. Institutional Framework

The early resolution mechanism for pharmaceutical patent disputes (also known as the pharmaceutical patent linkage system) represents a significant institutional innovation in the field of pharmaceutical intellectual property protection in China. Its core purpose is to align the marketing approval procedure for generic drugs with the patent dispute resolution process, thereby resolving potential infringement risks before generic drugs are approved for marketing. Article 76, newly added in the Fourth Amendment of Chinese Patent Law in 2020, established this system at the legal level. In July 2021, the National Medical Products Administration (NMPA) and the China National Intellectual Property Administration (CNIPA) jointly issued the Implementation Measures for the Early Resolution Mechanism for Pharmaceutical Patent Disputes (Trial) (hereinafter referred to as the "*Implementation Measures*"), and the CNIPA also issued the Administrative Adjudication Measures for the Early Resolution Mechanism for Pharmaceutical Patent Disputes (hereinafter referred to as the "*Administrative Adjudication Measures*"). Concurrently, the Supreme Court issued a judicial interpretation, marking the official implementation of this system.

Article 76 of the Chinese Patent Law provides parties with two parallel dispute resolution avenues: filing a lawsuit with the court, or requesting administrative adjudication with the CNIPA. This "dual track" design not only reflects the distinctive features of China's patent protection system, but also gives rise to ongoing discussions on how the two avenues should be coordinated in practice. This article aims to systematically introduce the early resolution mechanism for pharmaceutical patent disputes, with a particular focus on the institutional design and operational practice of the administrative adjudication pathway, and to conduct a comparative analysis of the similarities and differences between administrative adjudication and judicial proceedings.

II. Key Institutional Aspects of the Administrative Adjudication Pathway

(1) Legal Basis

On July 5, 2021, the CNIPA issued the *Administrative Adjudication Measures*, which set forth systematic provisions on the acceptance conditions, adjudication procedures, and legal effect of administrative adjudication.

According to the *Administrative Adjudication Measures*, the CNIPA is responsible for handling administrative adjudication as referred to in Article 76 of the Chinese Patent Law, and has specifically established the Administrative Adjudication

Committee for the Early Resolution Mechanism for Pharmaceutical Patent Disputes to organize and conduct the relevant adjudicative work. The establishment of this specialized body reflects the professional orientation of the administrative adjudication pathway.

(2) Acceptance Conditions and Qualification of Parties

Article 4 of the *Administrative Adjudication Measures* explicitly stipulates seven conditions that a request for administrative adjudication must satisfy. Among these, particular attention should be paid to subparagraph (6): where the applicant for drug marketing authorization files a request for administrative adjudication, it is required that within forty five days from the date when the Center for Drug Evaluation (CDE) under the NMPA publicly discloses the application for drug marketing authorization, neither the patentee nor any interested party has filed a lawsuit with the people's court or filed a request for administrative adjudication concerning the pharmaceutical patent dispute. This provision establishes the "supplementary" status of the generic drug applicant in initiating administrative adjudication, meaning that the generic drug applicant may initiate administrative adjudication only on the condition that the patentee or interested party has not filed an administrative adjudication request or lawsuit within a 45-day period.

With regard to the qualification of parties, where the patentee or an interested party requests a determination that the technical solution of the generic drug falls within the scope of patent protection, the applicant for drug marketing authorization shall be named as the respondent. Conversely, where the applicant for drug marketing authorization requests a determination that its technical solution does not fall within the scope of protection, the patentee shall be named as the respondent. Interested parties include licensees of the relevant patent or registered drug marketing authorization holders.

(3) Procedural Features and Rules of Evidence

The administrative adjudication procedure exhibits several notable features:

First, efficiency. Administrative adjudication does not follow the complex civil litigation procedures; it does not require the full suite of judicial steps such as filing a complaint, acceptance, hearing, examination and cross-examination of evidence, and appeal, resulting in a relatively shorter adjudication cycle.

Second, professionalism. Administrative adjudication is conducted by patent examiners with technical backgrounds, who possess professional advantages when comparing complex technical solutions. The core of the adjudication lies in determining whether the technical solution of the generic drug falls within the scope of protection of the patent claims, which is essentially

a question of technical fact-finding.

Third, the specificity of the burden of proof. In the administrative adjudication procedure, the generic drug applicant bears the obligation to submit its technical solution. Failure to submit within the specified time limit will result in adverse legal consequences for failing to meet the burden of proof. The evidence submitted by the generic drug applicant should focus on whether all technical features of the patent in question are covered by the generic drug's technical solution.

Fourth, the confidentiality protection mechanism. The technical solution of the generic drug may involve trade secrets of the applicant. In the administrative adjudication procedure, the CNIPA imposes strict confidentiality measures on the submitted technical solutions, restricts the circle of case participants, and conducts separate exchanges of confidential evidence.

(4) Legal Effect of the Adjudication

Once an administrative adjudication is rendered, the determination of whether the generic drug falls within the scope of patent protection may serve as the basis for the drug regulatory authority in approving the generic drug for marketing. However, it should be noted that the administrative adjudication itself is not a final decision. Parties dissatisfied with the administrative adjudication may, in accordance with the law, initiate administrative litigation with the people's court. Notably, even if such administrative litigation is initiated, the nine-month waiting period for the registration and approval of chemical generic drugs will not be extended accordingly. This institutional arrangement not only safeguards the parties' right to judicial remedy, but also prevents the market entry of generic drugs from being indefinitely delayed due to prolonged litigation proceedings.

III. Comparison Between Administrative Adjudication and Judicial Approaches

(1) Institutional Positioning of the Two Approaches

Administrative adjudication and judicial approaches together constitute the "dual track" system of the early resolution mechanism for pharmaceutical patent disputes in China. Pursuant to *the Implementation Measures*, where a patentee or an interested party objects to a Type IV patent declaration, it may, within 45 days, elect either to initiate litigation with the people's court or to request administrative adjudication from the CNIPA. The two approaches differ markedly in their institutional positioning: the judicial approach emphasizes final and authoritative adjudication, whereas administrative adjudication prioritizes the swift resolution of disputes.

(2) Comparison of Core Differences

First, the competent authorities and adjudicating bodies differ. In the judicial approach, first-instance cases are under the centralized jurisdiction of the Beijing Intellectual Property Court. In contrast, administrative adjudication is

handled by the Administrative Adjudication Committee for the Early Resolution Mechanism for Pharmaceutical Patent Disputes, a specialized body established by the CNIPA.

Second, the adjudication cycles differ. Administrative adjudication has a clear efficiency advantage, with an average completion time of approximately six months. In the judicial approach, the first-instance trial cycle is about six months, and the second-instance trial cycle is about three months, with the total duration of both instances typically exceeding nine months. This difference directly affects whether a final and effective decision can be obtained within the nine-month waiting period. Administrative adjudication can most likely be completed within the waiting period, whereas judicial judgments often cannot become final and effective within that timeframe.

Third, the finality of the adjudication/judgment differs. Civil judgments rendered by the people's court have final and binding effect and, once effective, carry res judicata. Administrative adjudication, by contrast, does not have finality; parties dissatisfied with the adjudication may initiate administrative litigation.

(3) Coordination of the Two Approaches

While the "dual-track" design offers parties a choice of forum, it also gives rise to challenges in procedural coordination. Under Article 4, subparagraph (5) of the Administrative Adjudication Measures, the CNIPA shall accept a request for administrative adjudication only if the people's court has not previously docketed a civil case concerning the same pharmaceutical patent dispute. However, the Provisions of *the Supreme People's Court on Several Issues Concerning the Application of Law in the Adjudication of Civil Cases Involving Patent Disputes Related to Pharmaceutical Applications for Registration* explicitly stipulate that where a party argues that the people's court should not accept the litigation on the ground that the CNIPA has already accepted a request for administrative adjudication, such argument shall not be sustained by the people's court. This means that the administrative adjudication procedure does not constitute a pre-condition or barrier to judicial proceedings, and the people's court shall independently accept civil litigation related to pharmaceutical patent linkage in accordance with the law, without being affected by the parallel administrative adjudication.

IV. Conclusion

The early resolution mechanism for pharmaceutical patent disputes represents a significant milestone in China's pharmaceutical intellectual property protection system. As one of the two tracks of this mechanism, the administrative adjudication pathway provides an important channel for the early resolution of pharmaceutical patent disputes, characterized by its efficiency and professionalism. According to statistics, as of 2025, the CNIPA has heard several hundred cases of administrative adjudication

concerning pharmaceutical patents, playing an irreplaceable role in practice.

At the same time, the coordination between administrative adjudication and judicial approaches still requires further optimization. How to establish a smoother procedural linkage mechanism while preserving the respective advantages of both approaches, and how to avoid resource waste and conflicting outcomes, represent important directions for future institutional improvement. With the implementation of the *Administrative Adjudication and Mediation Measures for Patent Disputes* in February 2025, the administrative adjudication system under the early resolution mechanism for pharmaceutical patent disputes will be further standardized and systematized, providing stronger institutional safeguards for the innovative development of China's pharmaceutical industry.

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Ms. Zhang received her Bachelor degree in Chemical Engineering and Technology from the Qingdao University of Science and Technology in 2015, and her Master degree in Chemical Engineering from the Dalian University of Technology in 2018. She specializes in patent prosecution in the fields of chemical engineering, materials, organic chemistry, and pharmaceuticals, providing full cycle services covering patent mining, drafting, prosecution, reexamination, and invalidation. She excels at constructing persuasive technical arguments based on unpredictable synergistic effects in chemical experiments, effectively safeguarding clients' rights in reexamination proceedings. She is proficient in conducting novelty searches, invalidity searches, and infringement comparative analyses, and performing detailed dissection and comparison of key technical features of target products, thereby providing data driven strategic recommendations for corporate research & development directions and product market entry.

CNIPA Released Top 10 Typical Cases of Patent Reexamination and Invalidation for 2025 (Part I)

On April 24, 2026, the CNIPA officially released the top 10 typical cases of patent reexamination and invalidation for 2025 during its Open Day event.

The 10 typical cases comprise 7 invention patent invalidation cases, 1 design patent invalidation case, and 2 invention patent reexamination cases. These cases further elucidate examination rules concerning the determination of synergistic effects in compositions and the admissibility of supplemental experimental data, address the issues regarding how to curb the abuse of invalidation procedures and how to prove that parameter features are disclosed in the prior art, and contribute to refining the patent examination standards in emerging sectors including "AI+" and the marine seed industry, thereby offering clear practical guidance for the examination of reexamination and invalidation cases.

Case 1: Invalidation Case of the Invention Patent for "Ruxolitinib Phosphate"

Patent No.: ZL 200880102903.3

Decision: Invalidation Examination Decision No. 580173, maintaining the patent right valid.

【Reflections and Insights】

In recent patent invalidation proceedings, there has been a notable upward trend in cases where the patent's inventiveness is challenged by first denying the claimed priority and then expanding the scope of prior art. As a result, the patentee's own earlier filing has increasingly become the petitioner's "preferred" choice of the closest prior art. Consequently, how to properly interpret Article 29.1 of the Patent Law, specifically the requirement that a later-filed patent application must pertain to the "same subject matter" of the priority application, has emerged as a critical issue in numerous disputes.

First, providing sufficient evidence that the invention was completed before the priority date is one of the conditions for claiming priority for the corresponding technical solution. The Patent Examination Guidelines stipulate that inventions and creations of the "same subject matter" mean that the patent in question and the earlier application serving as the basis for priority are identical in technical field, technical problem solved, technical solution, and expected technical effect. In the pharmaceutical chemistry field, due to the high unpredictability of technical effects, it is generally necessary to include in the description qualitative or quantitative experimental data sufficient to demonstrate that the claimed use and/or expected effect can be achieved, so as to convince a person skilled in the art that the invention can indeed achieve such use or effect. This is one of the conditions for determining whether the invention has been completed. Correspondingly, in determining whether an invention in this field belongs to the "same subject

matter," when assessing whether the earlier application and the later application share the same technical effect, examination on experimental data is also involved. In the present case, Evidence 2 not only serves as the earlier invention to confirm the activity of Ruxolitinib as a JAK inhibitor, but also acts as a cited document to link the priority document and the present patent document with respect to technical effects. Of course, when drafting patent documents, it would be more prudent to include the experimental data of Ruxolitinib in the priority document itself, rather than relying on a cited document as in this case.

Second, when the description is drafted by citing other documents, whether the contents of the cited documents can be regarded as part of the description is subject to certain conditions. On the one hand, different types of cited documents have different requirements regarding their publication dates. For non-patent literatures, the publication date must be before the filing date of the patent in question. For patent literatures, the publication date must not be later than the filing date of the patent in question. On the other hand, not all contents of the cited documents are necessarily considered as part of the description. Only those portions that are explicitly referred to can be incorporated as part of the description. Therefore, for contents that are essential to the realization of the invention, it is advisable to avoid drafting the description by means of citing other documents.

Case 2: Invalidation Case of the Invention Patent Entitled "Treatment of Metastatic Stage Prostate Cancer with Degarelix"

Patent No.: ZL200980104713.X

Decision: Invalidation Decision No. 568709, declaring the patent wholly invalid.

【Reflections and Insights】

This case involves an invention in the field of "precision medicine," which represents a recent trend in clinical medical practice. The case first examines whether the physiological indicator defined in the claims is generally recognized in the art as a basis for disease classification and staging, so as to determine whether the claimed pharmaceutical use essentially defines a new disease classification and staging. When the physiological indicator is insufficient to distinguish a new disease classification and staging, but has a certain correlation with disease progression, the case further examines whether a change in that physiological indicator reflects a better therapeutic effect on disease progression. Finally, by comprehensively considering the overall therapeutic effect of the prior art on the disease, the case assesses whether such therapeutic effect would be predictable to a person skilled in the art, thereby accurately measuring the technical contribution of the invention.

Precision medicine primarily involves selectively adjusting or altering treatment methods based on individual patient classification results. Since

treatment methods fall under the non-patentable subject matter under patent law, pharmaceutical use inventions for disease classification and staging drafted in the form of Swiss-type claims constitute an important form of protection for precision medicine inventions.

However, in the medical field, diseases can be classified and staged from one or multiple dimensions, and there is no clear definition for such classification and staging. The International Classification of Diseases (ICD) system formulated by the World Health Organization, the Chinese Classification of Diseases formulated by China's National Health Commission, and the classification systems issued by subfield medical societies such as the American Psychiatric Association, various professional associations, international organizations, and expert groups all have their own classification and staging standards. These different disease classifications vary considerably in their basis and results, making it difficult to achieve full compatibility among them. Consequently, the determination of classification and staging in the sense of patent law and its impact on the scope of protection have become difficult issues in patent examination. In examination practice, disputes have also arisen regarding whether a clinically recognized new classification and staging constitutes a necessary condition for an invention to possess novelty.

Meanwhile, the medical field's understanding of disease classification and staging is a process of constant change and development. Take the ICD system as an example. It is updated only once every ten years, and the classification of certain diseases often lags considerably behind the consensus of the industry. Technological innovation usually outpaces industry standards over time. Rigid adherence to industry standards in patent examination may systematically overlook the innovative value of inventions in new fields and new business models. Patent examination should take this factor into account and, to the extent possible under the patent law framework, protect innovative achievements of industrial value.

For pharmaceutical use inventions drafted in the form of Swiss-type claims, if the invention further refines the pharmaceutical use by characterizing the subject to be administered with a specific physiological indicator, then it should be assessed, based on information such as the disease's pathogenesis, clinical manifestations, and therapeutic effects, whether a person skilled in the art would recognize that the physiological indicator has actual clinical guidance value for drug administration. Furthermore, if such clinical guidance value is sufficiently confirmed, it should generally be determined that the physiological indicator has a substantial impact on the scope of protection of the invention.

The logic underlying the decision of this case is that if a physiological indicator has clinical guidance value for drug administration, it can generally serve as a basis for further classification

and staging of the disease. Since technological innovation often precedes industry disease classification systems in time, patent examination should adopt a certain degree of forward-looking perspective. Including such indicators within the scope of consideration is more reasonable and does not contradict existing regulations. Accordingly, in the three-step approach for assessing inventiveness, it is necessary to grasp the relationship between the physiological indicator and the therapeutic effect, and to determine the actual technical problem solved by the invention. Attention should be paid to the technical effects reflected by the physiological indicator, and the technical contribution of the invention should be measured objectively, so that truly valuable inventions receive patent protection; and meanwhile emphasis should be placed on examining the general teachings in the prior art for treating the disease.

Case 3: Invalidation Case of the Invention Patent Entitled "Apparatus, Method and Computer-Readable Storage Medium for Manipulating User Interface Elements"

Patent No.: ZL201280055598.3

Decision: Invalidation Decision No. 568592, maintaining the patent right valid.

【Reflections and Insights】

In examination practice, when interpreting a technical term appearing in a claim, the following factors may generally be considered to determine its specific meaning. If the specification clearly indicates that the technical term has a specific and clear meaning, or if the technical term has a meaning commonly understood in the relevant technical field, it shall be handled in accordance with the provisions of the Patent Examination Guidelines. If the specification does not provide a clear and explicit definition, for example, if it only provides certain specific examples and explanations of the technical term, and the term is not a general term in the field and does not have a commonly accepted meaning, then it should be determined whether other technical features in the claim can help understand the meaning of the technical term. Those other technical features may serve as context for the technical term within the claim, and it should be assessed whether the meaning of the technical term can be clarified based on that context. Where necessary, description and drawings may also be considered to fully understand the invention from the perspective of a person skilled in the art, so as to objectively determine the meaning of the technical term. In addition, in order to avoid improperly narrowing the claims or creating inconsistent technical solutions by introducing the content of the description and drawings, the relevant meaning may be placed back into the claim and compared with the surrounding context of the claim to further verify the accuracy of the meaning.

In addition, during the patent invalidation proceeding, apart from the claims, description, and drawings of the patent, the parties may also

submit other relevant evidence to aid in the understanding of the claims, such as examination files from preliminary examination, substantive examination, reexamination, other invalidation proceedings, effective infringement judgments, reference books, textbooks, and even procedural documents of related patents. Among the aforementioned considerations, such relevant evidence may be referred to for interpreting the meaning of the technical term.

This case illustrates the rules for interpreting claims and the approach for interpreting technical terms in invalidation proceedings. On the one hand, accurate claim interpretation requires a comprehensive understanding of the claims, description, and drawings from the perspective of a person skilled in the art, so as to identify the technical means by which the invention solves the technical problem, the technical features included in such technical means, and the relationships among those technical features, thereby avoiding unreasonable interpretations that deviate from the essence of the invention. On the other hand, when interpreting the meaning of a technical term, the claim language shall remain the primary basis, and it should be avoided to improperly narrow the claims by introducing content from the specification where the claims lack relevant recitation. The approach to interpreting technical terms set forth in this case effectively achieves an organic unity of the above two aspects, thereby enabling a reasonable determination of the meaning of technical terms used to characterize new functions in the computer field and an accurate claim interpretation.

Case 4: Invalidation Case of the Invention Patent Entitled "Electromechanical Rear Derailleur"

Patent No.: ZL201410571813.6

Decision: Invalidation Decision No. 566944, declaring the patent wholly invalid.

【Reflections and Insights】

The description of the patent in question does not describe the background art or the technical problem to be solved, nor does it set forth the beneficial effects in comparison with the prior art. In other words, the description fails to clearly reflect the technical approach of the invention. In view of this situation, the panel, in its inventiveness assessment, systematically reviewed the overall state and development trajectory of bicycle transmission technology prior to the filing date. On the basis of an accurate understanding of the patent in question, the panel proceeded to evaluate the closest prior art and the manner in which the prior art references could be combined. The decision provides a detailed analysis of the general trend toward electromechanical transformation in the relevant technical field, the interchangeability of technical means among different types of rear derailleurs, and the absence of technical obstacles to combining the prior art references, ultimately concluding that the prior art provides a technical teaching. The decision further clarifies that even if the patent in question describes other technical

effects, such effects do not affect the conclusion on inventiveness, provided that those effects would be readily ascertainable by a person skilled in the art in the technical solution obtained by combining the prior art.

When applying the three-step approach to assess inventiveness, the closest prior art serves as the basis for determining whether the invention has an outstanding substantive feature. Different choices of the closest prior art imply different starting points and different directions for improvement. In identifying the closest prior art, primary consideration should be given to prior art that is related to the technical problem to be solved by the invention. For cases where the description does not describe the technical problem or describes it too broadly or in an insufficiently objective and accurate manner, in order to put oneself in the position of a person skilled in the art, it is necessary to grasp the overall state of the relevant technical field and the trajectory of technical development prior to the filing date, to replicate the process of making the invention as much as possible, and to select an appropriate closest prior art and an appropriate manner of combining prior art references, so as to achieve an objective assessment of inventiveness.

Furthermore, with respect to the technical effects, if such technical effects would be predictable by a person skilled in the art in the art in the technical solution obtained by combining the prior art, they do not affect the conclusion on inventiveness.

Case 5: Invalidation Case of the Invention Patent Entitled "Aggregation Feedback Method, Device and System of Carriers"

Patent No.: ZL201210137097.1

Decision: Invalidation Decision No. 566944, maintaining the patent right valid on the basis of the amended text.

【Reflections and Insights】

Based on the evidence and arguments submitted by both parties, the key point in assessing inventive step in this case lies in determining whether there exists a motivation to combine cross-generational standards and in evaluating obviousness. In order to objectively appraise the inventive contribution made to the prior art, the assessment of obviousness should be conducted from an overall perspective, by accurately positioning the person skilled in the art, closely focusing on the technical problem, taking into account the stage of technological development and the characteristics of the relevant field, and drawing upon the knowledge and capabilities of the person skilled in the art, so as to determine whether the claimed technical solution is rendered obvious in light of the teachings or pointers provided by the prior art.

More specifically, the assessment may be carried out along the following lines. First, it is necessary to determine, relative to the prior art, in what aspects the cross generational changes embodied in the patent in question actually lie: whether they are changes in system architecture, or changes in

technical scenarios and user applications, etc. Generally speaking, from 1G to 2G to 3G, communication technologies evolved with long update cycles, and cross generational transitions usually involved changes in system architecture, often requiring the deployment of new base station equipment. Starting from the 4G era, with the explosive growth of mobile Internet, standard version update cycles have shortened and downward compatibility has become stronger; many cross generational standards now involve only changes in technical scenarios and user applications, such as how to transmit more information within a limited frequency band or achieve higher speed data transmission. This necessitates the adoption of more innovative technologies in terms of spectrum utilization, deployment scenarios and technical characteristics. Second, it is important to judge the relationship between the technical problem solved by the distinguishing features and the cross generational aspect, whether it is a new problem brought about by the cross generational transition or a traditional problem that has persisted throughout the development of communication technologies. Third, from the perspective of the person skilled in the art, one should grasp the overall inventive concept while paying attention to the technical field, the technical problem, the technical means and the technical effects, and conduct a holistic assessment to determine whether there is any technical teaching in the prior art. When considering technical teaching, a distinction can be made between inheritance and iteration of technical features. Inheritance refers to provisions in preceding standards that are followed for downward compatibility, while iteration refers to replacements of, or additions to, such provisions. On that basis, it should be determined whether the prior art offers any technical teaching and whether there exists a motivation to combine different pieces of prior art. For example, one should ascertain whether the same or similar problems exist in the prior art, such that the person skilled in the art would be motivated to improve upon the prior art, and whether the prior art provides logical guidance as to the direction of improvement, leading the person skilled in the art to pursue that direction. Finally, it should be determined whether the process of improvement would have been obvious to the person skilled in the art, and whether the technical effects resulting from the improvement would have been predictable for the person skilled in the art.

The patent in question introduces, across generations, a new 4.5G scenario and addresses new problems arising in that scenario. The prior art evidence relating to the old 4G scenario does not disclose the new problems faced in the new scenario, while the evidence relating to 4.5G either fails to disclose a specific solution or discloses different technical means for solving the problems. A comprehensive assessment of the prior art should consider whether it teaches the possibility of combining the relevant features from the two different scenarios, and whether there are

differences in the functions or effects of those features in their respective scenarios. These differences mean that the prior art from the old and new scenarios cannot be combined due to the constraints imposed by each scenario. Therefore, there is no motivation for such a combination, and it would be difficult to arrive at the path leading to the invention.

The technical solution of the patent in question is a communication technology in the course of standard evolution applicable to different scenarios. It addresses problems arising in new scenarios, adopts technically innovative means, and has been widely applied in the industry. In determining whether there is technical teaching for combining technical solutions across different generational standards, the assessment should be carried out in accordance with the three-step approach for assessing inventive step, and the actual technical problem solved and the technical effects achieved should be accurately determined based on the distinguishing features. In particular, comprehensive consideration should be given to the specific application scenarios of different generational standards and the new technical problems faced thereby, so as to objectively evaluate whether the cited prior art documents provide a motivation for combination and whether there exists any obstacle to such combination, thus leading to a sound examination conclusion.

To Be Continued...

(Source: official website of the CNIPA)

Key Points on Claiming Punitive Damages After the Implementation of the New Judicial Interpretation on Punitive Damages in IP Infringement Cases

The newly issued Interpretation of the Supreme Court on the Application of Punitive Damages in the Adjudication of Civil Disputes Arising from Intellectual Property Infringement took effect on 1 May 2026, repealing the same-named judicial interpretation issued in 2021, refining the scope of application, determination of circumstances, and calculation of damages for punitive damages. After the implementation of the new interpretation, the following key points should be noted when claiming punitive damages:

1. Conditions and Timing for Claiming Punitive Damages

When claiming punitive damages, the plaintiff shall specify the amount of damages, the calculation method, and the underlying facts and grounds. A rough claim in the complaint is insufficient.

Under the 2021 version of the judicial interpretation, if a plaintiff raised a claim for punitive damages in the appeal and the mediation failed, the court would advise the plaintiff to file a separate lawsuit. However, under the new version, if the mediation regarding punitive damages fails in the appeal, the court will no longer support such claim. Moreover, if the plaintiff did not request punitive damages in the infringement action and, after being clarified by the court, still fails to do so, the court will not accept any subsequent claim for punitive damages based on the same infringing facts after the conclusion of the litigation. Henceforth, punitive damages claims must be raised within the intellectual property infringement action, and no follow-up remedial procedure will be available.

2. Punitive Damages Are Available Only for Unfair Competition Involving Trade Secret Misappropriation.

Article 5 of the new judicial interpretation provides that if a plaintiff seeks punitive damages against a defendant for intentional acts of unfair competition other than trade secret misappropriation, the court shall not support such claim, unless otherwise provided by law. This further limits the scope of punitive damages.

3. New and Refined Circumstances of Willful Infringement and Seriousness

With respect to common scenarios in practice, Article 6 of the new judicial interpretation adds that in the following circumstances: (i) the defendant, after reaching a settlement with the plaintiff and agreeing to cease the infringement, commits the same or a similar infringing act again; and (ii) the defendant conceals its actual controlling relationship by establishing affiliated companies, changing the legal representative or controlling shareholder, setting up a company under a nominee name, or signing a disclaimer agreement to evade

liabilities for infringement, unless the defendant presents sufficient contrary evidence, the court will find the defendant's infringement is willful. This provides more legal grounds for the plaintiff to claim punitive damages.

In determining serious circumstances of infringement, the new judicial interpretation replaces "can determine" with "shall determine", and refines the meaning of "engaging in infringement as a business" to include "taking infringement as the main business or deriving the majority of profits from infringement". It also adds the circumstance of "the infringement causes serious harm to the right holder's goodwill, market share, etc." after "huge profits from infringement", corresponding to the factors in determining the amount of damages "actual losses" and "infringement profits". The above offer clearer guidance for both courts and plaintiffs.

4. Statutory Damages Cannot Serve as the Base for Calculating Punitive Damages

Where actual losses, illegal gains, profits from infringement, or licensing fees are difficult to determine, the court will, at its discretion, determine the amount of damages (statutory damages), and under such circumstances, punitive damages shall no longer be applicable. In practice, due to factors such as the covert nature of certain infringing acts and the inaccessibility of materials such as the defendant's accounting books and records, it is often challenging to adduce evidence to prove actual losses or infringing profits. In light of Point 1 and Point 4, the courts now impose higher evidentiary requirements on plaintiffs. To successfully claim punitive damages, proving the defendant's willfulness and the seriousness of the infringement is only one aspect, while proving the specific amount of damages is equally important.

5. Clarifying the Profit Margins Applied to Calculate Profits from Infringement

Article 9 of the new judicial interpretation clarifies the profit margins that may be used to calculate infringing profits. The defendant's illegal gains or profits from infringement can be calculated by reference to its operating profit. If the defendant is engaged in infringement as a business, its profits can be calculated by reference to its sales profit. Where the profit margin cannot be determined, reference can be made to the average profit margin of the same industry in the same period released by institutions such as statistical authorities and industry associations, or the right holder's profit margin.

New Requirement by the General Administration of Customs Regarding the Recordal of International Registered Trademarks

Nowadays, when handling the renewal of the Customs recordal for an international registered trademark,

the General Administration of Customs requires submission of the latest trademark registration certification issued by the Trademark Office of the China National Intellectual Property Administration (CNIPA).

Previously, the Customs had already stipulated that for new recordal applications, a trademark registration certification from the CNIPA is required, and a stamped trademark file is no longer acceptable. In previous practice, for renewal applications, the WIPO renewal certificate along with its Chinese translation would be accepted by the Customs. However, it now appears that the Customs is imposing stricter requirements on supporting documents for international registered trademarks, requiring a trademark registration certification for both new applications and renewals.

Panawell Awarded 5A-Level Patent Agency Certification

In March 2026, the results of the patent agency rating evaluation organized by the Beijing Patent Attorneys Association (BJPAA) were officially announced. Our firm successfully passed the evaluation and secured the highest 5A level, a testament to our high professional expertise, efficient service workflows, and outstanding industry reputation. This top-tier recognition affirms our comprehensive service strength and professional excellence in the intellectual property field.

BJPAA's patent agency rating evaluation has been conducted annually since 2016, in strict accordance *with the Specification for Rating Patent Agencies* (Beijing Local Standard DB11/T 1182 - 2015). The evaluation comprehensively assesses and reviews agencies across six dimensions and twenty-one indicators, covering personnel qualification, operational environment, internal rules and regulations, service capability, and honorary achievements. The rating process involves multiple rigorous stages, including preliminary review, expert evaluation, secondary review, council deliberation, and public disclosure, before the final results are confirmed. The rating outcomes have been officially accredited and adopted by the Beijing Enterprise Credit Information Publicity System.

The 5A-Level patent agency represents the highest-level certification in Beijing's patent agency industry, signifying the top-tier service standards and overall strength within the sector. Going forward, our firm will take this accreditation as a new point of departure. We will strictly adhere to the 5A service standards, continuously refine our service framework, and advancing our professional expertise. We remain committed to deepening our focus on core IP services, while bolstering our talent pool. With a relentless focus on greater professionalism, efficiency, and client-centric service excellence, we aspire to earn lasting client trust and broad industry recognition as a top-tier patent agency.

Back Cover: Exterior of office block where Panawell locates

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