



2025.10

QUARTERLY

# NEWSLETTER

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.

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## CNIPA Exploring Use of AI to Improve Patent Examination

Recently, the China National Intellectual Property Administration (CNIPA) briefed on the relevant situation of using artificial intelligence (AI) technology to improve patent examination at a regular press conference in June 2025 and the serial themed press conference on "high-quality completion of the 14th Five-Year Plan".

In 2022, CNIPA launched the work on the construction of a patent intelligent examination and search system in an effort to continuously improve system functions in conjunction with the iterative upgrade process of artificial intelligence. In January 2023, the new examination system officially went online, delivering such technical functions as online translation, graphic recognition, and intelligent comparison, enabling examiners to reduce repetitive work and focus on addressing technology issues in examination for the purpose to improve the examination quality and efficiency.

With development of large model technology, CNIPA has initiated research on its application, selecting five scenarios of patent examination to carry out verification work, and building a flexible and scalable intelligent examination system architecture in the form of "platform+modules". In early July this year, multiple modules like large model search, AI academic assistant, and AI legal assistant have been officially launched, and currently the entire system is operating smoothly with desired results.

In the field of patent search, the CNIPA has trained a large model specifically designed for searches. Testing has shown a significant improvement in the reference detection rate, which further saves search time and enhances work efficiency. In terms of aiding technical understanding, they have collaborated with technology literature service organizations to provide examiners with relevant technical knowledge related to applications through natural language dialogue, to help them understand the technical background and comprehend the developmental context, thereby accelerating the examination process. Regarding the application of law, they have integrated resources such as laws and regulations, guiding cases, and training courses to build a specialized knowledge base. They have realized functions like legal text search and case analysis through intelligent Q&A and logical reasoning with the large model, enhancing the legal application capabilities of examiners and providing legal support for sound examination conclusion making.

The CNIPA also emphasizes that use of AI in patent examination serves an auxiliary role, and the reasoning results it produces should not be directly used as examination opinions. In practice, examiners must make objective examination conclusions under the provisions laid down in the Patent Law, Implementing Regulations of the Patent Law, and the Guidelines for Patent Examination.

Next, the CNIPA will further explore AI application



in the examination work, assisting examiners to better understand inventive concepts, making technical analysis more quickly, and drawing examination conclusions more accurately to continuously meet the diverse needs of the innovators with high-quality and refined examination.

*(Source: official website of the CNIPA)*

## CN Patent Pre-Examination Service Now Available to Hong Kong Applicants

On June 19, 2025, the Shenzhen Intellectual Property Protection Center (SIPPC) announced that starting from June 30, eligible Hong Kong enterprises and entities are allowed to apply for the expedited pre-examination service for their Chinese patent applications through the Center.

The expedited pre-examination refers to the process where an applicant requests a local intellectual property protection center to conduct examination on drafted application documents, before he formally files the patent application with the CNIPA. If the drafted application documents pass the pre-examination, the corresponding application filed with the CNIPA can enter the fast-track examination route, thus significantly shortening the examination process. Although there are multiple restrictions on the applications

using the pre-examination route, such as waiving the right to actively amend the application and being unable to change the bibliographic items before grant, most patentable applications can receive the official notice of allowance within three months from the application date.

Hong Kong enterprises or entities eligible for pre-examination at the SIPPC are required to be in the following industry sectors: internet, new energy, high-end equipment manufacturing, and jewelry processing. Additionally, they must first complete entity registration through the SIPPC's pre-examination management platform, and only after successful registration can they be allowed to request for pre-examination. It is important to note that Hong Kong applicants who do not have a permanent residence or business location in mainland China should entrust a CNIPA recognized patent agency with the registration and subsequent pre-examination matters.

For Hong Kong applicants who wish to expedite the patent application examination process in China, in addition to the pre-examination route, they can also consider filing a Patent Prosecution Highway (PPH) request with the CNIPA or requesting for prioritized examination through the SIPPC.

*(Source: Shenzhen Intellectual Property Protection Center)*

## CNIPA Revised the Measures on Expedited Trademark Examination

On July 7, 2025, the CNIPA released and officially implemented the revised Measures on Expedited Examination of Trademark Registration Applications ("the Measures" for short). The Measures have set forth detailed provisions on the circumstances under which the expedited examination is requested, the conditions that should be met, the materials or documents that are required to be submitted, the time limits for the expedited examination, and the circumstances under which the expedited examination may be terminated.

The CNIPA released the trial version of the Measures on January 14, 2022. The revised version has increased the four circumstances eligible for expedited examination specified in the trial version to the following five circumstances:

1. Relating to strategic emerging industries for national development such as commercial aerospace, low-altitude economy, deep-sea technology, and such future industries as bio-manufacturing, quantum technology, embodied intelligence, and 6G, for which the exclusive trademark rights are urgently required;
2. Relating to marks of significant national or provincial projects, major undertakings, major

scientific and technological infrastructure, major sports events, major exhibitions and expos, and important cultural heritage marks, for which trademark protection is urgently needed;

3. Relating to modern industrial systems promoted by provincial governments and industrial chain layout centered around the development of new quality productivity, in respect of which trademarks have already been used;

4. Involving undertakings related to responding to sudden public events such as particularly major natural disasters, particularly major accidents and catastrophes, particularly major public health incidents, and particularly major social security incidents, for which the requests are filed during the sudden public events;

5. Relating to those that are indeed necessary to implement the "Outline for the Construction of a Strong Intellectual Property Country" in order to serve the high-quality development of the economy and society, or those that are of major practical significance for safeguarding the national interests, public social interests, or major regional development strategies.

In addition, Article 3 of the revised Measures changes the condition for requesting expedited examination of trademark registration applications from trademarks "consisting solely of words" into trademarks of "words, graphics, letters, numbers, and combination thereof"; and modifies condition

"the designated goods or services thereof are closely related to the circumstances listed in Article 2 and are standard names listed in the Classification of Goods and Services for the Purposes of Registration of Marks" to "the designated goods or services are closely related to the circumstances listed in Article 2, and are acceptable names for goods and services that the CNIPA has published".

According to the current regulations, the CNIPA will finalize the examination of trademark registration applications approved for expedited examination within 20 working days, which will significantly shorten the examination time and accelerate brand protection.

*(Source: official website of the CNIPA)*

## Opinions on Accelerating High-Quality Development of Chinese Copyright Undertaking Released and Implemented

Recently, China National Copyright Administration released the Opinions on Accelerating High-Quality Development of Copyright Undertaking (hereinafter "the Opinions"), which are implemented as of July 17, 2025. The Opinions consist of 7 parts and 20 articles, with the four key areas of the copyright work clearly identified:

### 1. Accelerate the Work on Legislation Amendment

The Opinions propose to accelerate amendment to

such regulations as the Implementing Regulations of the Copyright Law and the Regulations on the Protection of Rights of Information Network Communication, and to formulate measures for copyright protection of folk literary and artistic works. Also, for emerging fields like blockchain and artificial intelligence, a sound copyright protection system will be established to provide legal safeguard for the healthy development of the digital economy.

### 2. Optimize Social Services to Promote Copyright Conversion

China will further harmonize and standardize the nationwide copyright registration system, and explore the establishment of a national unified copyright registration information platform. By optimizing copyright pledge financing services, focus will be put on solving prominent issues in copyright pledge financing, such as value assessment, risk compensation, collateral disposal, and work mechanisms. Strengthen the supervision of copyright collective management organizations and leverage the role of industry associations as a bridge.

### 3. Strengthen Copyright Protection

The Opinions require strengthened copyright enforcement in the key areas, focusing on fields of high-incident infringements like film and television, online audio-visual, online literature, e-commerce, and search engines, to carry out special governance and investigation of major cases. At

the same time, establish and improve a "one-to-one" online dispute resolution mechanism to address copyright disputes, and further promote wide use of copyrighted software.

#### 4. Intensify International Cooperation

China will proactively participate in the formulation of international rules in the field of copyright, support enterprises in protecting their rights overseas, and enhance the capacity for international copyright dissemination.

The release and implementation of the Opinions are of great significance for building the copyright rule system that adapts to the development of new technologies, promotes the standardization, digitization, and intelligence of copyright work, and fosters deep integration of copyright elements with new cultural formats, cultural enterprises, and cultural consumption models in fields like AI and big data, thus comprehensively enhancing the level of copyright creation, utilization, protection, management, and service.

*(Source: the National Copyright Administration)*

## IP Supporting Policies Associated with Private Economy Promotion Law Gradually Worked out for Implementation

To deeply implement the Private Economy Promotion Law, the CNIPA and the Supreme Court

have recently launched important supporting policies, aimed at boosting the administrative and judicial protection of intellectual property rights and effectively stimulating innovation vitality of the private economy.

The Private Economy Promotion Law, the very first fundamental law of the kind in China focusing on the development of the private economy, officially came into force as of May 20, 2025, with multiple articles specifically emphasizing the protection and application of intellectual property rights related to the innovations achieved by the private enterprises.

To promote effective implementation of the Law, the CNIPA released the Implementing Intellectual Property Measures for Promoting Development of Private Economy (Draft for Comments) on July 22, 2025 to solicit public opinions up till August 5. These Measures, focusing on enhancing the relevance and effectiveness of intellectual property work and specifying support measures for the creation, utilization, and protection of intellectual property for private enterprises, consist of twenty-one articles, mainly covering the following aspects:

(1) In terms of intellectual property creation, private economic organizations are clearly encouraged and supported to boost their independent innovation, to carry out high quality-oriented forward-looking layout of IP; the quality and efficiency of IP examination are to be

continuously improved, so as to actively serve the needs of various economic organizations, private economic organizations included, for IP right acquisition.

(2) In terms of intellectual property protection, efforts will be clearly intensified to protect the IP rights in the innovations achieved by private economic organizations and businesses, infringements upon exclusive trademark rights, patent rights, and other illegal activities are investigated and dealing with under the law. The role of the national-level IP protection centers will be enhanced, rapid and collaborative protection of IP rights will be strengthened, diversified channels for resolving IP disputes of private economic organizations will be expanded, work related to foreign IP protection will be enhanced, and the capability of providing early warning, prevention, and control of overseas IP risks will be improved.

(3) In terms of utilization of the intellectual property rights, private economic organizations are clearly encouraged and supported to adopt IP commercialization and use strategies that align with their own characteristics and development needs, and to promote efficient commercialization and use of IP through methods such as self-utilization, equity participation, transfer, licensing, and pledge. Private economic organizations are encouraged and supported to explore and establish new cooperative models for commercialization and use of intellectual property, such as forming patent pools and patent

open-source systems, and to make full use of open licensing to utilize their patents, and to form industry IP innovation alliances. They are encouraged and supported to comprehensively leverage the synergistic effects of various types of IP such as patents and trademarks, thereby boosting the creation of well-known trademarks and brands backed up by technical innovation.

(4) In terms of the IP-related public services, the advantages of such services provision will be clearly brought into play, so as to precisely serve private economic organizations, improve the functionality of the IP-related public service platform, provide convenient all-in-one services for private economic organizations, and increase the data openness and sharing for private economic organizations.

The Supreme Court also released the Guiding Opinions on Implementing the Private Economy Promotion Law on August 8, setting forth specific measures of judicial support for the development of the private economy in five aspects.

In the aspect of adhering to equal treatment under law and ensuring various economic organizations to fairly participate in market competition, the Guiding Opinions mention the need to strengthen judicial protection of technical innovations: increasing the protection of intellectual property rights for the achieved innovations while curbing bad-faith and fraudulent litigation involving IP rights, and optimizing the legal environment for innovation and entrepreneurship. They advocate



for legal proceedings concerning IP cases in high-tech fields to heighten the level of the judicial protection for the achieved technical innovations in the key areas and core technologies. Guiding opinions for the application of punitive damages should be researched on and formulated to improve judgment rules, refine determination standards, and effectively utilizing the system value of punitive damages for deterring infringements, effectively remedying rights, and incentivizing innovation and creation. Efforts should be made to actively resolve the issue of "one case waiting for another" under the intersection of patent civil and administrative cases, as well as the inconsistency in the ruling standards. Effort will also be made to achieve the integration of the trial procedures and coordination of outcomes in patent civil and administrative cases; work with the CNIPA to establish and improve the case trial collaboration mechanism, accelerate the administrative procedures for patent confirmation related to patent civil cases, and promote substantial dispute resolution. Increased effort is needed to coordinate the trial of batch IP protection cases, harmonizing the ruling standards for batch protection cases nationwide through publication of typical cases and guiding regulations.

*(Sources: the official websites of CNIPA & the SPC)*

## Analysis and Comments on the "Anti-Monopoly Guidelines for Standard Essential Patents": Navigating the Balance between Innovation and Competition

Mr. Richard Wang, Patent Attorney, Panawell & Partners

In the context of the digital economy and globalization, technical standards have become critical elements that connect different technologies and products, fostering interoperability and economies of scale. However, Standard Essential Patents (SEP) incorporated into these technical standards, due to their unique nature, may grant patent holders significant market power in relevant markets. If this market power is abused, it could eliminate or restrict competition, undermine innovation vitality, and harm consumer interests. Therefore, striking a balance between incentivizing innovation (by protecting the legitimate rights and interests of SEP holders) and safeguarding fair competition (by preventing the abuse of a dominant market position by SEP holders) has become a common challenge for antitrust laws across various jurisdictions.

As a major global manufacturing hub and a significant player in technological innovation, China has placed increasing emphasis on the anti-monopoly regulation of SEP. Against this backdrop, the State Administration for Market Regulation issued the "Anti-Monopoly Guidelines for Standard Essential Patents" (hereinafter referred to as the "Guidelines") on November 4, 2024. The Guidelines

aim to provide behavioral guidance for entities operating in the Standard Essential Patents domain and serve as a reference for anti-monopoly enforcement agencies. This document represents a key regulatory framework released by China's anti-monopoly authorities in the field of standard essential patents. This article will provide a systematic analysis of the Guidelines and offer commentary to elucidate their deeper implications and potential impact.

### I. The Theoretical Basis of Standard Essential Patents and Anti-Monopoly Regulation

In the "Guidelines" and this article, the term "SEP holder" includes standard essential patent holders and related rights holders, referring to entities that possess the rights to standard essential patents or are authorized to license others to implement such patents.

The uniqueness of standard essential patents lies in their close integration with technical standards. Once a patent is incorporated into a mandatory standard, any product seeking to implement that standard must utilize the patent. This necessity grants SEP holders a market position distinct from that of ordinary patent holders and gives rise to unique anti-monopoly concerns.

Standard Essential Patents (SEP) typically exhibit the following characteristics: 1) Technological Lock-in Effect, also known as irreplaceability. Once an industry adopts a certain standard, implementers often find it difficult to switch to

other technologies or standards, thereby becoming "locked in" to that standard and the SEP it encompasses. This enables SEP holders to potentially occupy a dominant position in licensing negotiations. 2) Patent Hold-up Effect, which refers to the behavior of SEP holders leveraging the high switching costs faced by implementers—after a standard has been widely adopted—to force them to accept unfavorable licensing terms (such as unfairly high royalties). This can easily lead to the issue of "royalty stacking," where an excessive number of SEPs incorporated into a product results in prohibitively high total licensing fees, thereby stifling innovation and hindering product sales.

In contrast to the aforementioned patent hold-up, there may also occur Patent Hold-out, whereby implementers leverage the difficulty SEP holders face in obtaining injunctive relief to deliberately prolong negotiations, refuse to pay reasonable royalties, or even use SEP without compensation. Such potential abuse of hold-out strategies may also undermine the legitimate rights and interests of SEP holders as well as their incentives to innovate.

In light of the aforementioned unique characteristics of SEP, standard-setting organizations (SSOs) typically require SEP holders to make FRAND (Fair, Reasonable, and Non-Discriminatory) licensing commitments. The term 'Fair' refers to the requirement that licensing terms be equitable to both parties, preventing the

exploitation of the lock-in effect of SEP to seek excessive profits. The term 'Reasonable' means that royalty rates should be justifiable, typically taking into account factors such as the value of the patent, its contribution to the standard, and comparable licensing agreements. The term 'Non-Discriminatory' requires that similarly situated licensees be offered identical licensing terms.

However, although the FRAND principle is widely accepted, its specific meaning remains ambiguous in practice. Particularly in determining a "reasonable" royalty rate, the lack of a unified calculation method often leads to negotiation difficulties and frequent disputes.

## II. Analysis of the Core Content of the "Guidelines"

The "Guidelines" consist of six chapters and twenty-two articles, which elaborate on the criteria for identifying abusive practices, emphasize the importance of the FRAND principle, good-faith negotiations, and ex-ante and in-process supervision, thereby systematically establishing the framework for anti-monopoly regulation of SEP in China.

### 1. General Provisions and Basic Principles

Chapter 1 (Articles 1-5) serves as the general provisions, explicitly stating the purpose of the Guidelines is to strike a balance between intellectual property protection and fair market competition. Regarding the definition of the relevant market, the Guidelines adopt the general principles of antitrust law while incorporating the

unique characteristics of SEPs. They clearly distinguish between the technology market and the product or service market affected by the implementation of the standard, emphasizing the need for both demand-side and supply-side substitution analyses. Demand substitution analysis is conducted from the perspective of consumers. It examines whether consumers would switch to other products if the price of a given product were to increase slightly and sustainably. If consumers can easily switch to alternative products, these products are considered to have high demand substitutability and should be regarded as part of the same relevant market. Supply substitution analysis is conducted from the perspective of producers. It assesses whether other producers could, in a short period and at low cost, adjust their production facilities or technologies to start producing the product and enter the market to compete if its price were to increase slightly and sustainably. If other producers can quickly and cost-effectively switch production, they are considered to have strong supply substitutability with the original producers and should be regarded as part of the same relevant market. These substitution analyses reflect a deep understanding of the unique sources of market power associated with SEPs. Additionally, the Guidelines encourage businesses to strengthen their antitrust compliance frameworks and establish ex-ante and ex-post supervision mechanisms, embodying a preventive approach to regulation.

## 2. Information Disclosure, Licensing Commitments, and Good-Faith Negotiations

Chapter 2 (Articles 6-8) of the Guidelines addresses information disclosure, licensing commitments, and good-faith negotiations concerning standard essential patents. This chapter is one of the highlights of the Guidelines, providing detailed guidance for the practical implementation of the FRAND principle.

**(1) Information Disclosure:** The Guidelines explicitly require entities involved in the development or revision of standards to disclose their SEP information in a timely and comprehensive manner. They also encourage non-participating entities to disclose essential patents they own or are aware of. Failure to disclose or asserting rights after waiving them will be a key factor in determining whether such conduct eliminates or restricts competition. This approach helps enhance market transparency and reduce information asymmetry.

**(2) Licensing Commitments:** The Guidelines emphasize that the FRAND principle serves as a fundamental basis for SEP licensing negotiations. They explicitly state that when SEP holders transfer their patents, the FRAND commitment remains equally binding on the assignees. This effectively prevents attempts to circumvent FRAND obligations through the transfer of patents.

**(3). Good-Faith Negotiations:** This represents an innovative aspect of the Guidelines, as it delineates



the procedures and requirements for good-faith negotiations in detail. These include the obligation for SEP holders to present a clear offer, implementers to demonstrate a genuine willingness to engage, and both parties to propose solutions consistent with the FRAND principle. Simultaneously, the Guidelines specify that both parties are required to demonstrate that they have fulfilled their obligations to negotiate in good faith. They also clarify that implementers retain the right to raise objections regarding the essentiality or validity of the patents during negotiations. This provides a practical pathway to address both patent hold-up and hold-out.

### 3. Regulation of Monopoly Agreements

Chapter 3 (Articles 9-11) of the Guidelines elaborates on the assessment of monopoly agreements in the SEP domain, primarily including:

**1) Monopoly Agreements in Standard Development and Implementation:** The Guidelines prohibit practices such as excluding specific undertakings from participating in standard development without justified reasons, restricting the implementation of competitive standards, or limiting specific implementers from conducting testing and certification based on standards. These provisions aim to safeguard the openness and competitiveness of the standard development process.

**2) Monopoly Agreements Involving Patent Pools:** A patent pool refers to a commercial arrangement where two or more patent holders, through

agreements or the establishment of a specialized entity, combine their respective patents and collectively license them to third parties. The Guidelines acknowledge the positive role of patent pools in reducing transaction costs but also regulate their potential anti-competitive risks, such as the exchange of sensitive competitive information, the inclusion of competitive patents in the pool, and joint restrictions on independent licensing. This reflects a balanced consideration of both efficiency and competition.

**3) Other Monopoly Agreements:** These cover traditional types of monopoly agreements, such as restrictions on pricing, output, geographic markets, product quality, as well as limitations on the development of competitive technologies.

Accordingly, the reexamination panel rejected the request for reexamination by the reexamination requester.

### 4. Regulation of Abuses of a Dominant Market Position

Chapter 4 (Articles 12-18) constitutes the focus and most challenging aspect of the Guidelines, providing detailed definitions and analyses of various behaviors through which SEP holders may abuse their dominant market position.

**1) Determination of a Dominant Market Position:** In addition to the general factors outlined in the Anti-Monopoly Law, the Guidelines specifically consider elements such as the SEP holder's market share in the relevant market (which may account for the entire market share when no alternative standards

exist), its ability to control the relevant market, the degree of dependence of downstream markets on the SEP, and the difficulty for other patent holders to enter the licensing market. This approach makes the determination of a dominant market position in the SEP context more targeted and appropriate.

**2) Excessive Pricing for Licensing:** The Guidelines enumerate multiple factors for consideration, such as whether the licensing fees are significantly higher than comparable historical fees, whether charges are applied to expired or invalid patents, whether licensing fees are reasonably adjusted, and whether duplicate charges exist. This provides specific criteria for determining "excessive pricing".

**3) Refusal to License:** The Guidelines stipulate that after making a FRAND commitment, an SEP holder must not refuse to license to any standard implementer willing to obtain a license without justified reasons. Factors for determining justified reasons (such as the implementer's poor credit record, force majeure, etc.) are also specified.

**4) Tying:** Acknowledge the efficiency advantages of package licensing, but regulate the unjustified forced tying of non-SEPs or non-essential products, and consider whether it complies with industry practices, technical rationality, feasibility of unbundling, etc.

**5). Imposing Other Unreasonable Trading Conditions:** This provision details various unreasonable conditions, such as requiring

royalty-free reverse licensing as a precondition, enforcing compulsory cross-licensing, restricting the licensee's right to challenge patent validity, limiting dispute resolution measures or geographical scope, restricting transactions with third parties, prohibiting the development of competing technologies, and demanding irrelevant information. It reflects a comprehensive regulation of potential unfair terms that may arise in SEP licensing negotiations.

**6) Differential Treatment:** It regulates situations where SEP patent holders unjustifiably impose differential treatment on standard implementers under identical conditions, and specifies factors for determination, such as the timing of negotiations, market context, the conditions of the implementers, whether the licensing terms are substantially similar, and whether the differential treatment significantly and unreasonably impacts competition.

**7) Abuse of Remedies:** This represents a critical issue in antitrust regulation within the SEP domain. The Guidelines clarify that SEP holders are entitled to seek injunction relief. However, if such remedies are abused without engaging in good-faith negotiations to coercively impose unfair high prices or unreasonable terms on implementers, such conduct may constitute an abuse of a dominant market position. This approach aligns with the internationally cautious stance toward injunction relief and aims to prevent the occurrence of "patent holdup".

## 5. Examination on concentration of undertakings

Concentration of undertakings refers to situations where two or more undertakings acquire control or decisive influence over other undertakings through mergers, acquisitions of equity or assets, contractual arrangements, or other means. Chapter 5 (Articles 19-20) of the Guidelines brings SEPs within the scope of concentration of undertakings examination, taking into account factors such as whether the products or services covered by the SEPs constitute an independent business or generate independent revenue, as well as the licensing methods and duration of the SEPs. During the review, restrictive conditions may be imposed, such as divesting related assets, licensing under FRAND terms, or prohibiting tying arrangements, to eliminate or mitigate potential adverse effects on competition that may arise from the concentration.

### III. Features and Comments on the Guidelines

The release of the Guidelines marks a significant step forward for China in the field of antitrust regulation of SEPs and is characterized by the following salient features:

#### 1) Highlighting the Core Role of the FRAND Principle

The Guidelines place the FRAND principle at the heart of antitrust regulation for SEPs, permeating every aspect including information disclosure, licensing commitments, good-faith negotiations,

and the identification of abusive conducts stemming from a dominant market position. This approach aligns with practices in major global jurisdictions, reflecting China's international perspective on SEP regulation and its deep recognition of the importance of the FRAND principle. The clarity regarding the binding nature of FRAND commitments and their transmissibility to assignees effectively closes potential loopholes for circumvention.

#### 2) Refined Criteria for Identifying Abusive Conduct and Enhanced Operability

The Guidelines enumerate extensive specific factors for assessing abusive behaviors related to a dominant market position, such as unfair pricing, refusal to license, tying, imposing unreasonable trading conditions, discriminatory treatment, and abuse of remedies. This refinement helps improve the accuracy and consistency of enforcement agencies in identifying such conduct, while also providing businesses with clearer behavioral guidelines and reducing compliance risks. In particular, the detailed provisions on the "good-faith negotiations" procedure offer important practical guidance for resolving SEP licensing disputes, contributing to a reduction in litigation and promoting dispute resolution through consultation.

#### 3) Emphasizing ex-ante and in-process supervision as well as compliance building

The Guidelines encourage businesses to strengthen antitrust compliance mechanisms

and allow enforcement agencies to conduct ex-ante and in-process supervision through measures such as reminders, urging, and rectification via interviews. This reflects a shift in China's antitrust enforcement approach from "ex-post punishment" to "ex-ante prevention" and "in-process intervention," helping to address potential monopolistic behaviors before they occur, reduce social costs, and promote healthy market development.

#### **4) Balancing Intellectual Property Protection and Maintenance of Competitive Order**

The Guidelines repeatedly emphasize in multiple provisions the need to "strike a balance between protecting intellectual property rights and maintaining fair market competition," as well as to "balance the interests of SEP holders and implementers." For example, when regulating refusal to license, legitimate reasons such as the implementer's poor credit record are listed; when addressing tying arrangements, the efficiency advantages of package licensing are also acknowledged. This balanced approach runs throughout the document, aiming to avoid stifling innovation through excessive regulation while effectively curbing monopolistic practices.

#### **5) Alignment with International Practices and Chinese Characteristics**

The Guidelines draw on mature international practices in the field of SEP antitrust regulation, such as the application of the FRAND principle

and the cautious approach toward injunction relief. At the same time, they incorporate the specific realities and enforcement practices of the Chinese market, including the regulation of patent pools and the emphasis on ex-ante and in-process supervision, reflecting distinctive Chinese features.

#### **IV. Potential Impact and Challenges of the Guidelines**

The author believes that the introduction of the Guidelines will have the following impacts on market participants' behavior: it will help promote the standardization of FRAND negotiations. The detailed good-faith negotiation guidelines will encourage SEP holders and implementers to adopt more standardized and transparent practices during licensing talks, reducing information asymmetry and improving negotiation efficiency. It can mitigate the risk of patent holdup. Regulations addressing unfair pricing, refusal to license, and abuse of injunction remedies will help prevent SEP holders from exploiting lock-in effects to engage in patent holdup, thereby reducing costs for implementers and encouraging innovation and product adoption. It will raise awareness of antitrust compliance. The clear guidance will prompt SEP holders, standard-setting organizations, and patent pool administrators to strengthen internal antitrust compliance mechanisms and prevent monopolistic risks.

Given that SEP cases often involve complex legal and technical issues, the Guidelines will assist enforcement personnel in better understanding



and addressing these challenges. From an enforcement perspective, the issuance of the Guidelines provides a clear legal basis, offering antitrust enforcement agencies a more specific and actionable framework for analysis in the field of SEPs. This will help enhance the efficiency and consistency of enforcement. Additionally, it will promote transparency in enforcement. The detailed consideration factors and analytical methods will enable enforcement agencies to handle cases with greater transparency, reduce discretionary power, and enhance the predictability of enforcement actions.

However, the Guidelines may also unfavorably increase the risk of reverse holdup. While the Guidelines emphasize the obligation of implementers to negotiate in good faith, the ambiguity in quantifying FRAND royalty rates and the restrictions on injunction relief could, to some extent, incentivize implementers to engage in reverse holdup. Effectively balancing patent holdup and reverse holdup remains a challenging issue in practice.

Overall, while the issuance of the Guidelines further supplements and refines China's antitrust regulatory framework in the field of intellectual property by clarifying antitrust analysis principles and regulatory methods related to SEPs thereby providing operable guidance and norms for resolving SEP-related cases, it has not resolved some long-standing issues that have troubled both SEP holders and implementers for many years.

Many cases may continue to face challenges in the future, including but not limited to:

**1) The Challenge of Quantifying FRAND Royalty Rates:** Although the Guidelines provide factors for determining unfairly high pricing, the quantification of FRAND royalty rates remains a global challenge. How to precisely determine reasonable rates in future enforcement practice will require continued accumulation of experience and exploration of methodologies.

**2) The Complexity of Determining "Good-Faith Negotiations":** Given that good-faith negotiations involve subjective intent and complex interactive processes, effectively demonstrating and determining whether both parties have fulfilled their obligations of good-faith negotiation will pose challenges in enforcement and judicial practice.

**3) The Non-binding Nature and de facto Binding Force of the Guidelines:** The Guidelines themselves are not mandatory, and their effectiveness is primarily reflected in providing reference for business operators and guidance for enforcement. How to effectively steer market behavior under this non-binding framework will depend on observing its practical influence.

#### Conclusion:

"Anti-Monopoly Guidelines for Standard Essential Patents" represent a significant milestone in China's regulation of SEPs from an antitrust perspective. It systematically establishes a regulatory framework, refines the criteria for

identifying abusive conduct, and emphasizes the importance of the FRAND principle, good-faith negotiations, and ex-ante and in-process supervision.

The issuance of the Guidelines not only helps standardize market behaviors between SEP holders and implementers, facilitates the smooth progress of FRAND licensing negotiations, and reduces the risk of patent holdup, but also provides clearer enforcement guidance for China's antitrust authorities. Although challenges remain in areas such as the quantification of FRAND royalty rates and the determination of good-faith negotiations, the Guidelines undoubtedly represent an active exploration and important practice in balancing intellectual property protection with the maintenance of fair market competition. As the Guidelines are implemented, they will play a key role in fostering a healthy and orderly SEP ecosystem, stimulating technological innovation, and ultimately promoting the sustainable development of the digital economy.

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Mr. Wang received his bachelor's degree in 1991 from the department of computer science of East China Normal University and his master's degree from the Institute of Computing Technology of the Chinese Academy of Sciences in 1994. In 2005, he received degree of master of laws from Renmin University of China. Mr. Wang joined Panawell in January 2007.

In the past years, Mr. Wang has handled thousands of patent applications for both domestic and foreign clients, and he has extensive experiences in application drafting, responding to office actions, patent reexamination and invalidation proceeding, patent administrative litigation, infringement litigation, software registration and integrated circuit layout design registration. As a very experienced patent attorney and attorney-at-law, Mr. Wang also participated in many patent litigation cases on behalf of a number of multinational companies as leading attorney. Mr. Wang's practices include computer hardware, computer software, communication technology, semiconductor devices and manufacturing process, automatic control, household electrical appliances, and etc.

## CNIPA Released Typical Trademark Opposition and Review Cases 2024 (Part Two)

On April 26, 2025, the CNIPA released the top 10 typical trademark opposition and review cases of 2024.

(Continued from our July Issue)

### 4. *Guanhuai* Trademark Opposition Case No. 71667779.

#### 【Basic Facts】

The Opponent: A Press

The Opposed: An Anhui-Based Development Group Co., Ltd.

Main Reason of the Opponent: the acts of the opposed involve obtaining registration of the opponent's previous influential trademark by unfair means, which violates Article 32 of the Trademark Law.

The opposed did not make defense within the specified time limit.

Upon examination, the Trademark Office concluded that the disputed trademark is designated to be used in respect of news delivery and electronic transmission services such as news agency services. The evidence from the opponent demonstrates that prior to the application for registration of the disputed trademark, *Guanhuai* was already available as a client terminal name

in multiple APP stores, thus possessing a relatively high level of reputation. The disputed trademark is identical with the opponent's prior used word *Guanhuai*, and the designated services of the disputed trademark are similar to those previously provided by the opponent. The act of the opposed to apply for the registration of the disputed trademark constitutes an act of preemptively registering in bad faith a trademark that another party has previously used and that has certain influence, and the opposed violated the provisions of Article 32 of the Trademark Law. The disputed trademark is refused for registration.

#### 【Significance】

This case is a typical example of protecting the name of a news APP under the digital economy. New media names have a high socioeconomic value, and government new media serve both governmental and livelihood functions, symbolizing the credibility of the government. Based on a thorough consideration of the communication and radiation characteristics of the APP itself, this case accurately determines the establishment of trademark squatting acts, effectively maintaining the image of mainstream media and the rights of the user, and supporting the healthy development of government new media platforms.

### 5. *Xiaofang Kiln* Trademark Opposition Case No. 69778265

#### 【Basic Facts】

The Opponent: A Ceramic Art Company

## The Opposed: Someone by the Surname Feng

Main Reason of the Opponent: the disputed trademark is similar to the trademarks *Xiaofang* and *Xiaofang Kiln* previously registered by the opponent, and violates the provisions of Article 30 of the Trademark Law..

Upon examination, the Trademark Office concluded that the disputed trademark *Xiaofang Kiln* is designated to be used in respect of firing of pottery and similar services in Class 40. The opponent cited prior registered *Xiaofang* trademarks No. 7746889 and *Xiaofang Kiln* trademark No. 7746890, which are approved for use in respect of products such as teapots and tea cups in Class 21. Evidence in the case shows that Mr. Xiaofang CAI, the founder of *Xiaofang Kiln*, has been engaged in firing of imitation ancient porcelain for decades, and through promotion and use, the *Xiaofang Kiln* trademark has gained significant reputation in the ceramics industry. The goods or services in respect of which both parties' trademarks are used are highly related in terms of functionality, purpose, and characteristics, making them similar goods or services. The trademarks, also similar in terms of lexical composition and pronunciation, constitute similar trademarks used in respect of similar goods or services. The disputed trademark is refused for registration.

### 【Significance】

This case is a typical example of appropriately breaking through the similar relationships outlined

in the *Classification of Goods and Services for the Purposes of Registration of Marks* to prevent market confusion and misidentification. The case gives special consideration to the influence of the opponent's *Xiaofang Kiln* trademark in the ceramics industry and factors such as cultural heritage, providing legal protection for the *Xiaofang Kiln* trademark. This effectively safeguards the legitimate rights of the trademark proprietor and positively promotes the propagation of the fine Chinese traditional culture.

## 6. BRTV Beijing Time Trademark Refusal Reexamination Case No. 74447834

### 【Basic Facts】

The Applicant: A Beijing-Based TV Outlet

Main Reason of the Applicant: the *BRTV Beijing Time* has gained significant reputation and influence through extensive use, which has established a unique correspondence with the applicant, and possessing secondary meaning and distinctiveness. BRTV is an abbreviation of the applicant's English name, and when combined with the phrase Beijing Time, the overall trademark has acquired distinctiveness for registration and use as a trademark.

Upon examination, the Trademark Office concluded that the *BRTV Beijing Time* trademark filed for application is, as a whole, somewhat different from the administrative division name Beijing, and does not constitute the situation described in Article 10, paragraph two, of the



Trademark Law. The evidence from the applicant proves that *BRTV Beijing Time*, which has been used extensively and for a long time, and has gained significant reputation, has formed a unique correspondence with the applicant, and is capable of distinguishing the source of services, thus possessing the distinctiveness required for trademark registration, and does not violate Article 11, paragraph one (3), of the Trademark Law. The trademark application is preliminarily approved.

#### 【Significance】

The applicant in this case plays an important role in cultural promotion and political public opinion guidance. The preliminary approval of the trademark fully recognizes the applicant's leading position in cultural communication and political public opinion, reflecting protection and support for media brands, which positively contributes to the healthy development of the media industry in China. During the review, the use of the trademark by the applicant was fully considered, establishing a unique correspondence between the trademark and the applicant, demonstrating a flexible and reasonable application of the distinctiveness provisions of the trademark law, which has significant value of reference for dealing with future similar cases.

#### 7. Device Trademark Invalidation Case No. 42820164

#### 【Basic Facts】

The Opponent: A Cultural and Tourism Branch of a

Shanghai-Based Company

The Opposed: A Shanghai-Based Industrial Company

**Main Reason of the Opponent:** The applicant holds the opinion that the disputed trademark has infringed upon their prior rights, and is likely to cause confusion among the public with respect to the source of the goods or services. The opposed has also fraudulently registered trademarks that are identical with or similar to the names of other well-known scenic spots, which shall be considered as obtaining registration by other unfair means.

Upon examination, the Trademark Office concluded that the disputed trademark is substantially similar to the works in which the applicant has prior copyright, thus infringing upon the opponent's copyright. The opposed not only copied the works in question, but also registered multiple trademarks that are identical with or similar to the names of spots of tourist attractions, clearly indicating an intention to copy and plagiarize.

This registration by unfair means not only leads the relevant sector of the public to mistakenly identify the source of goods or services but also disrupts the normal order of trademark registration administration and the fair competition environment of the market.

### 【Significance】

In this case, with multiple legal provisions applied, arguments were made from different perspectives that the disputed trademark should be declared invalid. It confirms that the secondary creations of elements from cultural heritage sites are eligible for the copyright protection, promotes the legal use of cultural resources, and provides legal support for derivative creations in cultural heritage. Also, the case highlights the review standard of legitimacy of trademark registration purposes, curbing trademark registration activities that seek to exploit public resources, mislead the public, and disturb the order of trademark registration, thus preventing unfair competition in the market and ensuring a balance between the private trademark rights and public interests.

### 8. *Childhood Time* Trademark Invalidation Case No. 8223462

#### 【Basic Facts】

**The Opponent:** Someone by the Name Clark

**The Opposed:** A Nanjing-Based Biotechnology Co., Ltd.

**Main Reason of the Opponent:** The opposed has a distribution relationship with the opponent, and without the latter's authorization, the opposed has applied for registration of a large number of its trademarks, artistic works, and domain names, including, among other thing, *Childhood Time*, *CHILDLIFE*, and the red heart graphic sign. The

opposed, having also plagiarized others' nutritional supplement brands, has obviously acted in bad faith.

Upon examination, the Trademark Office concluded that during the negotiations for concluding the agency distribution agreement, the opposed and its affiliates were already the second-level distributors of the opponent. Without the latter's consent, the opposed repeatedly registered the *Childhood Time* word and graphic trademarks. After the cooperation between two parties broke up, the opposed transferred the reputation of the *CHILDLIFE* brand by using *Childhood Time*, *inne*, and the red heart graphic sign in combination. The opposed also plagiarized other people's nutritional supplement brands in bad faith. The disputed trademark constitutes a situation as stipulated in Article 41, paragraph one, of the Trademark Law as of 2001, which states that it has obtained the registration by other unfair means.

#### 【Significance】

The disputed trademark has high reputation, the products in respect of which it is used are special, and the market value considerable. Declaring the disputed trademark invalid has dealt a significant blow on the practice of passing off and the malicious registration of the trademark of the company the opposed acted as its agent, clarifying the rights to the *Childhood Time* trademark. This resolves the issues of trademark infringement and unfair competition at the source, and demonstrates

the administrative authority's zero tolerance and determination against profiting from illegal activities. It serves as a model for establishing a market protection framework that strictly protects the intellectual property rights while ensuring public interests.

#### 9. *Lantian Boke* Trademark Invalidation Case No. 48678713

##### 【Basic Facts】

The Opponent: Someone by the Name W·Chen

The Opposed: Someone by the Name S·Chen.

Main Reason of the Opponent: The opposed is the legal representative of a mechanical manufacturing company, and the opponent a shareholder of that company. The disputed trademark belongs to the company. The opposed registered the disputed trademark in an individual capacity, and with reference to the invalidation case of trademark No. 20291251, *Lantian Boke* trademark should be declared invalid under Article 15, paragraph one, of the Trademark Law.

Upon examination, the Trademark Office concluded that the evidence on record shows that after the company was dissolved, the opposed received the intellectual property assets, and two-thirds of the shareholders agreed to the opposed registering the disputed trademark. After the company decided to dissolve, the opposed applied to register and used the trademark *Lantian Boke*. Although the opponent made a shareholder

statement objecting to the aforementioned registration, this statement was made after the company had made the decision to dissolve, and the number of the agreeing shareholders did not reach a half. Additionally, the opposed submitted evidence showing that the opponent had previously engaged in embezzlement of duties and illegal transfer of trademarks. In summary, the disputed trademark does not violate Article 15, paragraph one, of the Trademark Law. In this case, the opposed obtained evidence of company authorization and majority shareholders' consent, which constitutes new evidence and hence made things different from that related to the conclusions of the previous case.

##### 【Significance】

In this case, the conclusions of the previous case were not mechanically adopted, but rather new evidence and other evidence was considered comprehensively, thus ensuring the equal protection of the parties' interests. This reflects the basic principle of fact-based review and adjudication in trademark examination. Also, this case combines the intention of the company's shareholders with the actual use of the trademarks by the parties involved, confirms trademark ownership, and provides a precedent and reference for dealing with future similar cases.

#### 10. *CVF and Device* Trademark Invalidation Case No. 38247153

##### 【Basic Facts】

**The Opponent:** The Office of an Organizing Committee of a Technology Expo in China

**The Opposed:** A Shouguang City-Based Packaging Company

**Main Reason of the Opponent:** The cited trademark *CVF SHOUGUANG* serves as the logo for the China (Shouguang) International Vegetable Expo, and had already gained a certain level of influence prior to the filing date of the disputed trademark. The disputed trademark is highly similar to the cited trademark, and there is a close relation between the goods and services, which is likely to cause confusion and misrecognition among the relevant sector of the public.

Upon examination, the Trademark Office concluded that the disputed trademark is basically identical with the cited trademark in the distinctive part. The newspaper, rental of sales display racks in respect of which the disputed trademark is approved to be used are closely related to those of the cited trademark in terms of target sales customers and service content and other services of organizing commercial or advertising trade fairs in respect of which the disputed trademark is approved to be used. Also, both parties are domiciled in the same region, and the cited trademark has certain reputation. The coexistence of the two, likely to cause confusion, constitutes the situation referred to in Article 30 of the Trademark Law.

### 【Significance】

The case is not limited to the inherent classifications set forth in the *Classification of Goods and Services for the purposes of Registration of marks*; instead, it comprehensively considers factors such as the trademark similarity, relevance of goods and services, well-knowingness of the prior mark, and the subjective bad faith of the opposed, providing a cross-class protection for the prior trademark and reflecting an overall determination of the likelihood of confusion. As a typical case involving protection of the commercial logo at a national agricultural expo, this case vividly exemplifies the practice of intellectual property protection in the agricultural sector, upholding the core legislative spirit of preventing market confusion, effectively combating "brand ambushing" acts, and contributing to the high-quality agricultural development in China.

*(Source: originally published on the official websites of Chinese Trademark Office and China IP News)*



## How to defer examination of Chinese patent applications?

Since November 2019, applicants have been able to request deferral of examination for Chinese invention and design patent applications. And following the revision of the Patent Examination Guidelines in December 2023, provisions have been added to allow deferral of examination for utility model patent applications, as well as the withdrawal of such requests.

Deferral of examination can be an option under certain circumstances: where the applicant needs time to decide whether to proceed with the Chinese patent examination process based on factors such as the product life cycle, changes in market conditions, and the examination results of foreign counterpart patent applications; to better align the timing of grant with commercialization of the patent; to take advantage of the latest examination policies; to keep the possibility of further amendments, making it difficult for competitors to predict the scope of protection; and to adapt the scope of claims during formulation of international, national, or industry standards.

Details of the delayed examination of different types of Chinese patent applications are as follows:

Patent Application Type	Invention	Utility Model	Design
Deferral Period that the Applicant Can Choose	One, two, or three years	One year	1, 2, 3, ... or 36 months
Timing (only one chance)	At the filing of request for substantive examination	At the filing of application	At the filing of application
Effect	The patent application will begin to be queued for examination after the expiration of the deferral period.		
Official Fee	None		
Withdrawal	Before the expiration of the deferral period, the applicant can withdraw the request for deferred examination by submitting an observation.		

Please note that for patent applications filed on or after October 1, 2025, if applicants wish to utilize special procedures such as deferred examination, prioritized examination, accelerated pre-examination, the Patent Prosecution Highway (PPH), or centralized examination procedures, they will need to submit the application documents in XML format. Failure to submit the new application files in XML format, or subsequent submission of amendment or replacement documents in non-XML formats, will be regarded as an automatic waiver of the right to use the relevant special examination procedures.

## Panawell Honored at BTA 30th Anniversary Celebration

On August 8, 2025, the 30th anniversary celebration of the Beijing Trademark Association (BTA) and the Trademark Development Conference was held in Beijing. Under the theme "Thirty Years of Collaboration, A New Chapter of Glory," the event gathered nearly 500 participants, including leaders from national and Beijing municipal departments, IP experts, peer associations from other provinces and cities, friend business associations in Beijing, and representatives of members, to review the past, look forward to the future, and discuss new chapters in the development of the trademark undertaking. As a member of the Beijing Trademark Association, our firm, led by partner, Mr. Guangxun Guo, attended the event.

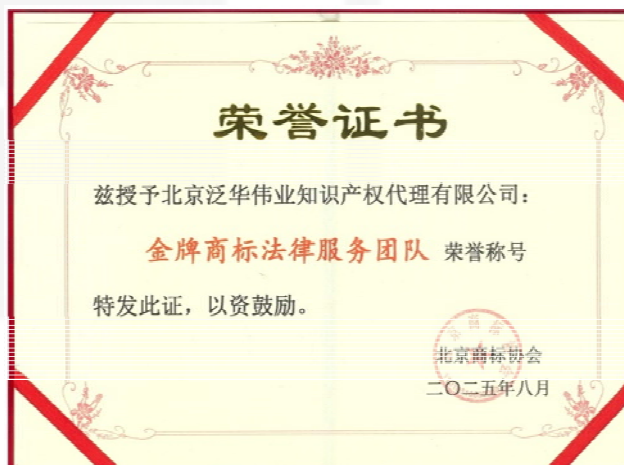


That evening, the BTA awarded honor certificates to organizations and individuals who had made significant contribution to the development of trademark industry in Beijing and to the growth of

the association over the years. Panawell received the honor of Gold Medal Trademark Legal Service Team and was enlisted in the first tier of the Top 300 Trademark Agencies in Beijing.



Partner Mr. Guangxun Guo (fifth from the right) receiving the Award on behalf of Panawell.



Certificate of Honor for Gold Medal Trademark Legal Service Team



Honorary Certificate of T300 First-tier Beijing Trademark Agencies.

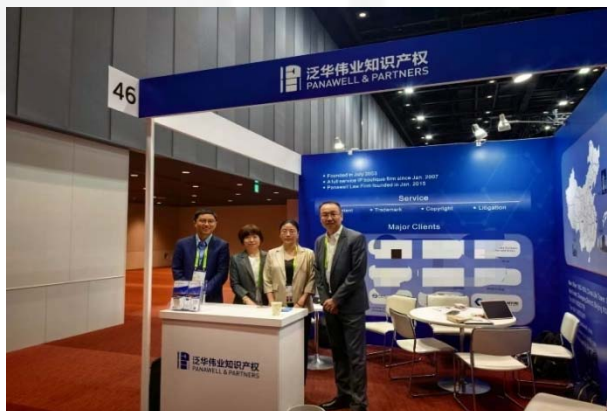
Over the past 30 years, the BTA has made remarkable accomplishments in promoting trademark protection, serving member development, and facilitating regional cooperation. Panawell is honored to be a part of all this. In the future, our Firm will continue to delve into the trademark industry to provide our clients with more customer-tailored, efficient intellectual property solutions.

## Panawell Team Attending 2025 AIPPI World IP Conference in Japan

The 2025 World Intellectual Property Conference was held from September 13 to 16 in Yokohama, Japan. Panawell, as one of the exhibitors (booth number 46), is represented by partners Mr. Bo Wang, Ms. Dan Jin, and lawyers Mr. Bo Li and Ms. Yujing Zhang to have attended this annual event in the global intellectual property community.



The International Association for the Protection of Intellectual Property (AIPPI), established in 1897, is one of the oldest non-governmental international organizations in the field of intellectual property headquartered in Switzerland, and currently has over 8,000 members from more than 110 countries and regions. The World Intellectual Property Conference, held annually by the Association, has become one of the largest, most comprehensive, and influential international conferences in the global intellectual property community. The Conference of this year attracted over 2,700 professionals from around the world.



During the Conference, Panawell team actively engaged in in-depth exchanges with intellectual property practitioners and lawyers from various countries, and extended our international cooperation network. In the future, we will continue to enhance and improve our professional services, further strengthen international communication and collaboration, and strive to provide our clients with higher quality and more comprehensive intellectual property solutions.



The next AIPPI World Congress will be held in Hamburg, Germany in September 2026.



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