HFG IP Gossip in China (March 2017)

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Part I: Latest Development of IP Protection in China

1. HFG won the case against professional fraud buster for Amazon.cn

亚马逊 amazon.cn V.S. 职业打假

In March, 2017, Yancheng Intermediate People's Court of Jiangsu Province supported the appeal of Beijing Shi Ji Zhuo Yue Information Technology Co., Ltd, revoking the first trial judgment by Yandu People's Court of Yancheng City, Jiangsu Province and objecting to the claims of the appellee in the first trial.

The defendant of this case in the first trial was Beijing Shi Ji Zhuo Yue Information Technology Co., Ltd, the operator of e-shopping platform Amazon.cn. The plaintiff of the case, the natural person CHEN Zhixin, bought on Amazon.cn two different teas, which were advertised on Amazon.cn as providing "more than 10 health protections for stomach, intestines, liver, blood lipid lowering, etc." therefore, in the first trial, the plaintiff sued Amazon.cn in Yandu People's Court of Yancheng City, Jiangsu Province for fraud in online product advertising, claiming a monetary refund of RMB 4,842 and RMB 14,526 (3 times the amount originally paid) as punitive compensation, based on the Consumer Protection Law of P.R.C.

After the first trial hearing, facts of online advertising and purchasing on the webpage were confirmed. At the same time, on whether the plaintiff CHEN Zhixin was qualified as a consumer under Consumer Protection Law, the court held that, "Consumer is just a definition distinguished from operator, without subjective judgment factor, therefore, the motivation and purpose to purchase goods or accept service shall not define the consumer." Therefore, the first trial court found that the fraud existed when the defendant advertised the misleading and deceptive goods online and upheld the plaintiff's claim for punitive damages. The first trial judgment was made in the first half of 2016.

The defendant was not satisfied with the judgment, and later appealed to Yancheng Intermediate People's Court of Jiangsu Province. In preparation for the hearing, HFG supplied large amounts of new evidence, including the conference record by Jiangsu High People's Court on expressly not supporting the practice of professional fraud busters in purchasing goods and claiming compensation for profit. **HFG** also provided evidence of multiple other proceedings brought by the plaintiff in the Yancheng area, against shopping malls and e-commerce platforms, to prove that the plaintiff was a professional fraud buster instead of a consumer falling under the Consumer Protection Law of P.R.C. The appeal court therefore focused on whether the plaintiff had intentionally purchased the tea, with knowledge that the tea would not do as claimed, in order to bring a fraudulent action and seek compensation.

After the hearing, the appeal court found that the plaintiff was well acquainted with the specific industry and that he had previously raised many similar civil actions. Therefore, as the plaintiff had knowingly purchased the products in an attempt to instigate a fraudulent action, the case was not qualified for fraud under Civil Law and the appeal court objected to the claims made by the plaintiff.

【HFG's Comments】

It is a controversial issue whether "know-fake-buy-fake" shall be supported by litigation, not only in legal theory but also in legal practice. **Lanny**, the chief lawyer of **HFG**, indicates that, for food (directly relating to food safety), the Supreme Court expressly supports "know-fake-buy-fake". But for all other products, the High People's Court of Jiangsu and Chongqing, both issued judicial interpretation that expressly objects to "know-fake-buy-fake". While the High People's Court of Beijing and Guangzhou have not issued any interpretation on this issue and in practice support "know-fake-buy-fake"; judgments are being issued in other courts that both support and contrast with these decisions. Such drastic inconsistencies seriously impact the stability of law, which makes many operators feel lost. At the legislative level, the draft of the new Implementation of Consumer Protection Law, which is led by the AIC, suggests excluding "know-fake-buy-fake" from the scope of application of punitive compensation, however this raised heated debate from all aspects as soon as it was released. At this stage it is difficult to predict whether the daft will be approved or not.

There is a large network of professional consumers who receive an income from undertaking this type of work, to the extent that it has become a business model. It is actually a game among administrative enforcement departments, court systems, professional fraud busters and business operators, the development of which is worth attention.

2. HFG assisted the enforcement department of Lianyungang City, Jiangsu Province to seize massive counterfeit lighting products


The scene of producing counterfeits


Seized counterfeits are being transported to the stockyard of the enforcement department

In March 2017, with the assistance of **HFG**, the enforcement officials of Donghai AIC of Lianyungang City took raid action against an anonymous counterfeiting den (production factory); seizing in total 638 metal halide lamps and 540 high-voltage sodium lamps, which were counterfeits of products produced by world famous brands, including 1,370 packages with fake trademarks.

In the middle of February, 2017, **HFG** knew that an underground factory was producing fake Philips lighting products. **HFG** immediately arranged 2 experienced investigators to confirm this and to obtain further detailed information on the counterfeiting network and general process. After a thorough investigation, on Feb. 28th, 2017, the investigators of **HFG** finally found an extremely large production of counterfeits in a building located in a park on Huanghe Road, Donghai Development Area. After further investigation it was confirmed that the boss of the targeted factory, named Mr. Zang, had roughly 10 workers in the factory, and that the factory was involved in production every day until 1 to 2 o'clock in the early morning.

In accordance with the investigation, the **HFG** investigators were clearly aware of the production and operation mode of the targeted factory; in that the workers transfer the finished products to a nearby house, therefore it can be deduced that this house acts as a warehouse for the stock.

After having gained a thorough insight into the infringement and operation mode of the targeted factory, **HFG** staff went to local AIC to make a complaint, and ultimately accompany the enforcement officials when undertaking raid actions against the factory and the stock. In the targeted factory, only a few unfinished products were found, while in the stockyard there were many counterfeits found. The same day, the representative of **HFG** assisted the officials in seizing and counting the counterfeits, and transported all the counterfeits to the stockyard of the enforcement department. The boss of the factory was detained back in the enforcement department for further investigation. The case is still undergoing further examination.

【HFG's Comments】

Lanny, founding partner of **HFG**, indicates that currently with the crackdown on counterfeiting, the acts of counterfeiters are becoming better hidden. This is a typical case, in which production is hidden and occurs predominantly at midnight; with stock being located separate from the factory, normally in a residential house for added privacy. The success of this counterfeit raid demonstrates the power that such an investigation can possess and can be attributed to the considerable experience of the **HFG** investigators. Factories and workshops are the source of counterfeits. Only a solid attack against counterfeiters can prevent counterfeits from entering the market. **HFG** will continue in its attack on infringement cases, in order to protect the IP rights of its clients.

3. "WEI LAI XING" of Mong Niu was held to infringe the package design of "QQ XING" of Yi Li and was required to pay RMB 2.15 million in compensation

Yi Li "QQ XING"

Meng Niu "WEI LAI XING"

It often appears that competitors imitate package designs of famous products, in bad faith, to confuse consumers and further grab market shares.

Recently, Beijing Haidian People's Court made the first trial judgment, holding that the production of "WEI LAI XING" nutritional juice yogurt drinks of Neimenggu Meng Niu Dairy (Group) Company Limited (defendant, hereinafter referred to as "Meng Niu") constituted unfair competition against "QQ XING" nutritional juice yogurt drinks of Neimenggu Yi Li Industrial Group Company Limited (plaintiff, hereinafter referred to as "Yi Li"). It was held that Meng Niu should immediately stop infringement, stop selling the infringing products, eliminate all design influenced by "QQ XING" and pay Yi Li RMB 2.15 in compensation for economic loss and reasonable expenses.

The plaintiff stated that the packaging of the "WEI LAI XING" products by defendant, imitates the package design of its own "QQ XING", which confuses consumers

The plaintiff, Yi Li, stated that, the package and package design of suspected infringing products of the defendant are similar to the products of plaintiff in regards to composing elements, design style, as well as product name. Therefore, since the products of the plaintiff and defendant are similar, an ordinary consumer would easily be confused as to the source of the products.

After the hearing, the court held that the category of the product, targeted consumers, profit model and market segments of the plaintiff and the defendant overlapped, so that there was direct competition between the products of the plaintiff and defendant. According to the relevant articles under the Anti-Unfair Competition Law of P.R.C., the court held that since the defendant began marketing the products after the plaintiff, and because the products of the plaintiff enjoy an elevated reputation in the market due to the significance of the single product package design, single set of products and its boxes,

and constitutes unfair competition and therefore instigated litigation proceedings.

Yi Li stated that "QQ XING" products were designed for children and began being marketed in 2012, which included strawberry and banana flavor. The package and package design of the products is unique and was designed according to the pioneering of 3D volumetric packaging by Disney in China. The products have won multiple awards since 2012 when they were first introduced to the market. Due to advertisement and promotion, it has gained a high reputation and large market share, which makes it a famous product which is well known by the public.

and the long-term competition between the plaintiff and the defendant; it is impossible that the defendant did not know about the product package design of the plaintiff; therefore that the defendant packaged the products in bad faith.

According to this, the court decided that the acts of the defendant constituted unfair competition. In the appeal, the appeal court modified the judgment of the original court, deciding that only the single bottle design and the bottle-set design, and not the box packaging design, of the defendant's products constituted unfair competition against the plaintiff and upheld the conclusion in the original judgment. Therefore, the appeal court decided to maintain the original judgment.

【HFG's Comments】

In this case the court makes extensive comment on the package design of products, highlighting that the product must be famous and that the related product name, package and package design should be unique to the specific product. The QQ XING products of Yi Li enjoy a certain reputation due to its long-term presence and constant promotion and use, and its unique package and package design have been identified by the public especially with the QQ XING products of Yi Li, which makes the consumers clearly aware of the source of products. Therefore the package and package design of the QQ XING products shall be regarded as special package and the package design of a famous product.

Lanny, the Chief Lawyer of **HFG** said that, with further examination several differences between the package and the package design of Yi Li's QQ XING products and those of Meng Niu's WEI LAI XING products could be found. It is clear that Meng Niu intended to imitate, not copy, the product of Yi Li; however, the courts judged that Meng Niu was required to pay Yi Li a large amount in compensation. It is just like "painting a tiger, but finally turning out a dog". Moderate imitation with reference to another product can sometimes stimulate market competition. However, "imitation with no creation" is simply following the herd; therefore, creation is the key component. A company can therefore gain a competitive advantage by utilizing creativity. This case reminds big enterprises with competition relationships that they should use their trademarks, competitive advantages and market resources to continuously create new operation modes and promote new products, and should avoid free riding on the business reputation of others in order to unfairly compete for market shares. This ensures the maintenance of market order and health.

4. Pudong People's Court hears the case of commercialization of "MO JIN FU"

<MO JIN XIAO WEI> (which is also a fabricated nickname for ghoul in the novel) is a new book series by ZHANG Muye (under the pseudonym TIAN XIA BA CHANG) after his famous book series <GUI CHUI DENG>. Due to its increasing reputation, there has been mass commercializing of the series.

Recently, a crowd-funding project was raised on the internet for an ornament named "MO JIN FU" (which is the identification of MO JIN XIAO WEI in the novel). This caught the attention of the economic rights owner of <GUI CHUI DENG>, Shanghai Xuan Ting Entertainment Information Technology Co., Ltd (hereinafter referred to as "XUAN TING").

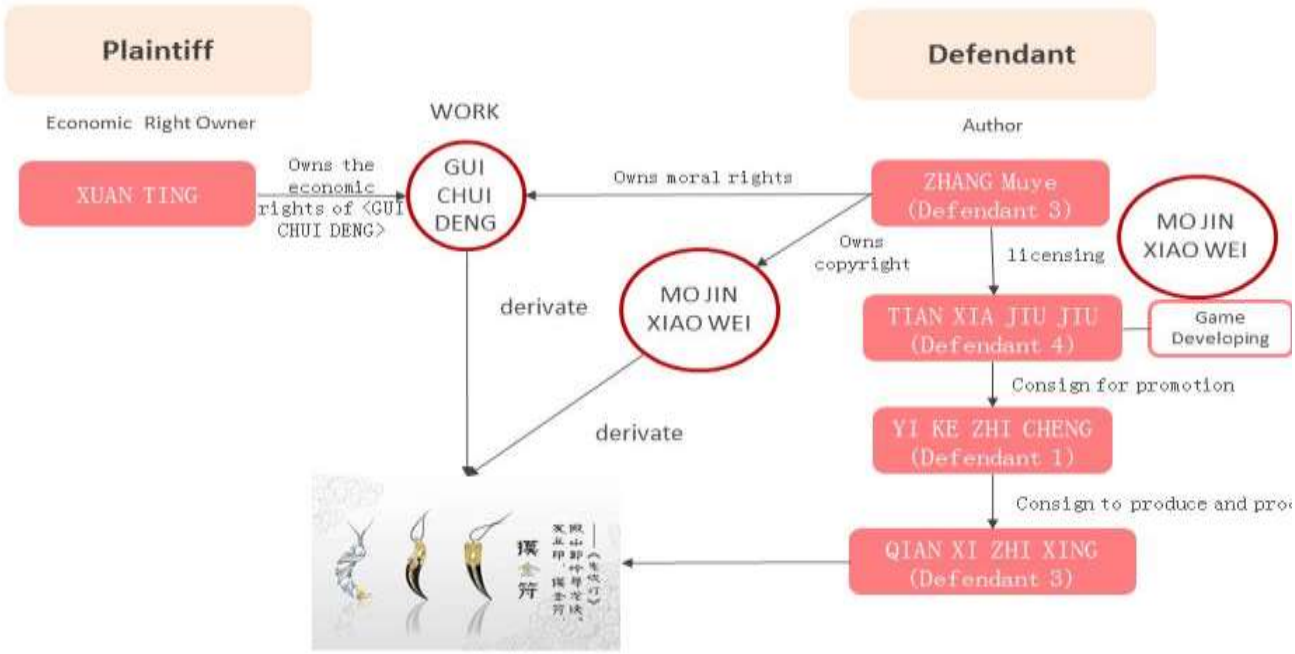
Four parties relating to the production of the product of "MO JIN FU"——Beijing Yi Ke Cheng Zhi Technology Development Co., Ltd (**Defendant 1, game promoter**), Qian Xi Zhi Xing Jewelry Company Limited (**Defendant 2, consignee and processor**), ZHANG Muye (**Defendant 3, pen name: TIAN XIA BA CHANG, author of <MO JIN XIAO WEI> and <GUI CHUI DENG> and copyright owner of <MO JIN XIAO WEI>**) and Wuxi Tian Xia Jiu Jiu Culture Development Co., Ltd (**Defendant 4, game developer**)—were sued by XUAN TING (**plaintiff, economic right owner of <GUI CHUI DENG>**) to the Shanghai Pudong People's Court.

Defendant 1 (**game promoter**) states that "MO JIN FU" is just a concept, which belongs to an idea and shall not constitute work and the expression of work, and thus has no economic interest. Defendant 1 also stated that any economic right to commercialize "MO JIN FU" is not covered by copyright. The rights and interests claimed by the plaintiff fall beyond the scope of the protection under Copyright Law.

Defendant 1 (**game promoter**) has been licensed by the author and related rights owners to reasonably and properly use the name of "GUI CHUI DENG" in good faith.

Defendant 3, ZHANG Muye (**author and right owner of <MO JIN XIAO WEI>**) believes that "MO JIN FU" should be part of an idea instead of an expression of work, was not transferred to the plaintiff together with the first 8 volumes of <GUI CHUI DENG>. Defendant 3 (**author and rights owner of <MO JIN XIAO WEI>**) has authorized Defendant 4 (**game developer**) to utilize the entire copyright of <GENERAL JIU YOU> of <MO JIN XIAO WEI>, and the Defendant 4 (**game developer**) has authorized Defendant 1 (**game promoter**) to develop, operate, promote and sell the peripheral products of a mobile game with the same name as <MO JIN XIAO WEI>.

Litigious Relation Diagram made by **HFG**:



The plaintiff believed that "MO JIN FU" was a key element for expression with originality in <GUI CHUI DENG>, for which it had the right to sole commercial use. The plaintiff stated that as the economic rights owner of <GUI CHUI DENG>, it enjoys an exclusive economic right to commercialize "MO JIN FU" and that the acts of the 4 defendants violate the rights of the plaintiff. Defendant 1 and Defendant 2 used the work's name and content related to <GUI CHUI DENG> on webpages for online crowd-funding projects. The defendants also sold products which were strongly influenced by <GUI CHUI DENG>, which is a famous product and constitutes unfair competition. The licenses of Defendant 3 and Defendant 4 constitute contributory infringement, as they contributed to the infringement of Defendant 1 and Defendant 2.

The hearing of this case will be broadcast online. Currently the case is still ongoing.

This case is not only about traditional copyright and unfair competition; it is also about a new legal concept — **Right and Interest to Commercialize Elements of Work**. Currently, there is no law and regulation on rights of commercialization in China, and no certain definition on the intension and extension of the "rights of commercialization". This case is worthy of attention and is worth following up for the legal decision on certain issues and how the rights of commercialization are protected.

【HFG's Comments】

Right of commercialization means the right to use of a real person, virtual character or the image, name, etc. of other property/work for commercial purpose. **Chinese Law originally did not accept the right of**

commercialization; however it has been influenced by laws of the U.S.A. and other developed countries and now accepts the right of commercialization. The Supreme Court has legally interpreted and expressly confirmed the right of commercialization as a kind of prior right during trademark application, authorization and confirmation process. However, there is still no clear legal interpretation and cases in civil law confirm that the right of commercialization shall be a civil right and can obtain judicial remedies if infringed. However, the interpretation by the Supreme Court in administrative cases still explores a new avenue for the right of commercialization, yet to be confirmed as a civil right. It is predicted that in the future, the right of commercialization will finally be recognized as a civil right.

In the current legal practice, **the rights of commercialization of a work are mainly protected in two ways**. First, when somebody else applies to register some specific factor in a work as a trademark, if the use of the trademark of designated goods might infringe the right of commercialization of the work, such a specific factor should be protected as "prior rights" as in Art.32 under Trademark Law, so that the trademark application shall be objected to, or invalidated if the trademark has been registered. Besides, if somebody uses the specific factor of a work without a license, such acts shall be prohibited and the unlicensed user shall compensate the copyright owner for any loss, eliminate influence and undertake other civil responsibilities, according to Anti-Unfair Competition Law.

5. CCTV exposed "AIR CUSHION GATE" of Nike on 3.15, while suspected of infringing copyright of others

CCTV, on its 3.15 Party this year, exposed Nike's air cushion shoes. On Nike's official Chinese website, it was stated that the reissue of basketball shoes which Kobe Bryant, the NBA star, wore when he became Olympic champion with his team mates in the 2008 Beijing Olympics, would be sold as a limited edition by Nike. Also, it was stated that the reissued shoes were equipped with a "zoom air" air cushion in the heel, of which Nike owned the patent rights. However, when consumers wore the shoes, they felt that the shoes were unreasonably hard. Facing challenges from the consumers, the consumer service of Nike admitted that there was no air cushion in the shoes, which surprised everyone. It is the "AIR CUSHION GATE" as

At the same time that "AIR CUSHION GATE" raised heated public discussion, KUAI CHUAN SPORTS issued on its official website a "Public Statement on CCTV exposing on 3.15 Party about "AIR CUSHION GATE" of Nike", saying that the use of pictures by CCTV violated its copyright.

In the statement, KUAI CHUAN SPORTS claimed that the pictures referred to by CCTV were originally a comparison picture in [KUAI CHUAN SPORT Nov.26, 2016, Disassembly evaluation on HYPERDUNK 08 FTB]. However, when CCTV used this article, they did not note that the picture was originally from "KUAI CHUAN SPORT", even worse, they eliminated, without

known by the public.

After the "AIR CUSHION GATE", Nike insisted that it was just a mistake in advertising rather than a product defect. However, driven by the force of public opinion, on Mar.17th, Nike adjusted their attitude, and issued an apology letter to the consumers. The letter stated that Nike regrettably found that an incorrect statement was made online in relation to their Nike Hyperdunk 2008 FTB shoes (of which 300 complaints were made on shoes sold) and that it was mistakenly advertised that there was zoom air equipped in the heel. Nike stated it would refund the purchase price and compensate each buyer RMB 4,500 at the same time to recycle the product.

authorization, water marks of the logo of KUAI CHUAN SPORT on both the right and left side of the picture, as well as the blue logo of KUAI CHUAN SPORT at the bottom right corner of the picture. KUAI CHUAN SPORT declared that they would preserve any right to take legal action against CCTV-2 and CCTV 3.15 Party for infringement. CCTV has still not made a public reply to this statement.

【HFG's Comments】

It is not something new that CCTV does not respect the IP of others. There have been many previous reports that CCTV has used articles, pictures, etc., without noting the origin of those works, and refusing to apologize, even when the rights owner has warned them of infringement. It is ironic that CCTV violates the IP of others, when they are reporting on the IP infringement and false advertisement of others. Therefore, this case reminds the public that it should be careful not to violate the IP of others, even in the description of events and fact reporting.

Part II: Latest Tendency of Development of IP in China

6. New Guideline for Patent Review enforced on April 1st, 2017

On March, 1st, 2015, SIPO issued <Decision to Modify Guideline for Patent Review>. According to the

4. Modification on procedure of invalidation

On the relevant regulations relating to "review of

decision, the modified Guideline for Patent Review will be enforced on April 1st, 2017. The modifications this time include 6 aspects, conclusively as follows:

1. Modification on "Non-authorization Object": Business mode

It is expressly stated that "any claims referring to business mode shall not be excluded according to article 25 of Patent Law of the possibility to be granted as patent, if such business includes business rules and mode as well as technical characters", which no longer excludes the possibility of business mode being granted as a patent, however requires that such business mode has technical characters.

2. Modification on the invention referring to computer program:

The Guideline after modification further indicates that the "computer program itself" is different from "the invention referring to computer program" and is allowed with claims composed by "agent + computer program process". The Guideline after modification expressly indicates that computer "program" can be composed of claims of equipment. This modification shows that SIPO holds a more open attitude in protecting computer programs as a patent, and the practice of reviewing the claims of "virtual equipment" is also predicted to be unified.

3. Modification on the supplemental submission of experimental data

On "fully open of chemical invention", the modifications this time improve the regulations on supplemental submission of experimental data, expressly indicating that "reviewer shall review the experimental documents submitted as supplement".

request for invalidation", the modification this time liberalizes the way to modify patent documents, allowing the addition of one or more technical characters recorded in other claims into the present claim, in addition to the elimination of claims and technical schemes, to narrow the range of protection (further limitation to claims); also allowing the correction of obvious mistakes in patent specifications (correction of obvious mistakes).

5. Modification on the publication of patent documents

The modifications this time liberalize the limitation to publish patent documents, regulating that not only can the documents that are submitted before substantive examination procedure be checked and copied, but also "any notice, search report and written decision in the process of substantive examination" can also be checked and copied. For those application archives of patents that have been granted with patent rights and published, the content that can be checked and copied has been further increased and includes documents of priority, notices issued by the Patent Re-examination Board in the process, search reports and written decisions, as well as Reply Opinions of the parties to the notice (not limited to the "text of rely opinions" in the draft).

6. Modification on Suspension Procedure

The modifications this time regulate that for any suspension procedure executed due to a request from the people's court to the patent office to assist in property preservation, the period of suspension shall be calculated based on the period of property preservation in Civil Decisions and the Notice on Assistance for Property Preservation. The fixed suspension period which is currently in effect shall be abolished.

【HFG's Comments】

Senior associate of **HFG** and patent agent, **XU Liping**, has introduced that business mode and computer program are objects protected by Patent Law in the U.S.A. and other developed countries, and in China, many people also support the protection of business mode and computer programs under Patent Law. This time the modifications relating to the Guideline on Patent Review, is in a way adhering to public opinion, which is also advantageous for the Chinese patent system as it is now more consistent with the rest of the world. The former guideline limited the

modification of claims in the process of invalidation to "the combination of claims", "the elimination of claims" and "the elimination of technical schemes", and it is forbidden to supplement technical characters in other claims or to disclose technical characters in the specification. The strictness of the former guideline was not recognized by the courts, and was severely criticized by patent owners. The judgments by the Supreme Court also pointed out that the modifications to claims shall not be strictly limited to the above 3 ways. The new Guideline allow for the supplementary addition of technical characters in other claims, which can be regarded as a kind of remedy. However, we should still focus on whether the disclosed technical characters in specifications can be allowed to be supplemented into the claims.

7. Summary of judicial work of Patent of Beijing IP court

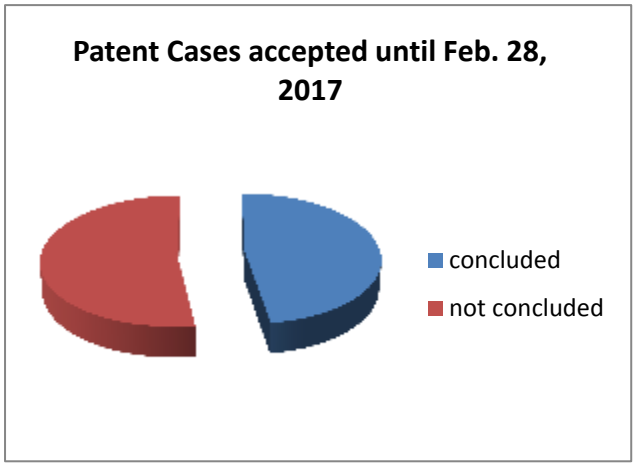
On Mar. 22, 2017, the Beijing IP Court held a press conference to summarize the judicial work of patent cases. Currently, the Beijing IP Court is mainly responsible for two kinds of patent cases: 1) civil and administrative cases on patents in Beijing; 2) cases throughout China on dissatisfaction with decisions by the Patent Re-examination Board on patent authorization and right confirmation, as well as decisions by SIPO on patent compulsory license, license fees and rewards.

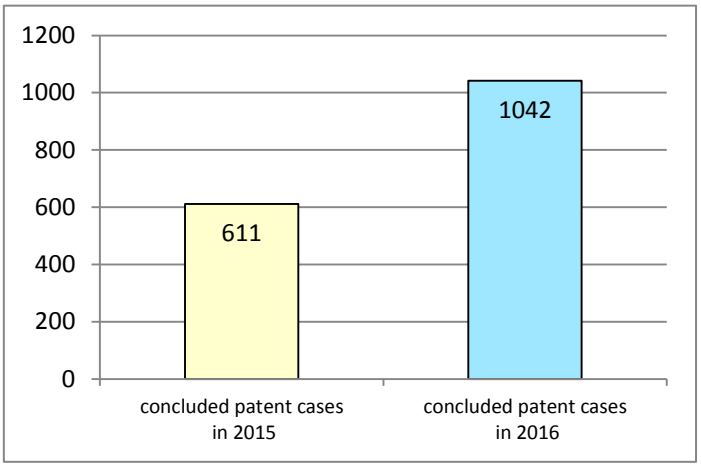
Since the establishment of the Beijing IP Court (Nov. 6, 2014) and until Feb, 28, 2017, the Beijing IP court has accepted 3,693 patent cases, 1,760 of which have been concluded. The number of concluded patent case increased to 1,042 in 2016, compared with 611 patent cases which were concluded in 2015.

With the increasing number of patent cases, the Beijing IP Court has also released some new information relating to the tendencies that have been indicated in patent cases: 1) there are an increasing number of cases in relation to high-tech; 2) new types of patent cases; 3) an increasing number of patent cases with a large amount of subjects, as well as more cases between foreign companies, especially between big companies; 4) litigation raised by plaintiffs that exist both domestically and abroad.

For the increasing "new situation" and developing character of patent cases, the Beijing IP Court has made several countermeasures. These mainly include:

1. organizing 12 different groups of judges; based on the features of the case, the amount of patent cases that are required to be heard and the judges' professional technical backgrounds, to increase trial efficiency;





In this press conference the Beijing IP Court explained the inherent characteristics of patent cases and the recent developing trends. According to the introduction of the Beijing IP Court, the following 3 characteristics are the features of the current ongoing patent cases:

1. **The technology referred to in the cases are difficult to comprehend:** patent cases often refer to frontier technologies which are precision and advanced;
2. **Long-term for trial：** Plenty of time and effort needs to be spent on a patent case to identify technical facts, to organize experts for demonstration, to consult, etc.;
3. **Huge social influence：** Patent cases are normally related to the benefit of people's livelihood and public welfare, so patent cases shall be heard and judged with extraordinary caution.

2. assigning several technical investigators to assist judges to prepare, understand and clear the technical issues in patent cases;
3. increasing the amount able to be obtained in compensation, so as to eliminate the “win the case while lose the market” situation;
4. strengthen the judicial review in patent license cases, to transfer patents from being numerous and largely quantitative, to being of high quality.

【HFG's Comments】

The Beijing IP Court has been focused in IP since its establishment. In the past 2 years, the judgments of the Beijing IP Court have directed the judgments of IP cases all over the country. Especially in the recent few months, some of the cases heard by the Beijing IP court have attracted the attention of the public. The cases accepted by the Beijing IP court with a large number of subjects are increasing, e.g., Where Apple Inc. sued Qualcomm for abuse of market ascendancy, claiming RMB 1 billion as compensation; Qualcomm used MEI ZU to confirm that the necessary patent licensing conditions for communication standards should not constitute monopoly, claiming RMB 520 million in compensation; Samsung sued HUA WEI for patent infringement, claiming RMB 161 million in total from 2 cases as compensation; BAIDU sued SOGOU for patent infringement, claiming RMB 100 million as compensation; HUA WEI sued Samsung for patent infringement, claiming RMB 80 million as compensation. The judgments of the aforesaid cases will provide the reference point for patent infringement cases in China.

8. Notice issued by NDRC to reduce the trademark registration fees to half

On March 15, 2017, China NDRC issued a notice to clean and regulate revenue from administrative and institutional fees. Since April 1, 2017, 41 of the fees will be cancelled or suspended, the most attractive one of which is that **the trademark registration fee will be reduced to half**. The following list, are the cancelled or suspended fees which are of greater interest to the public:

1. the revenue from administrative and institutional fees which are cancelled: registration fees (including: the registration fee for the environmental protection of imported wastes, the registration fee for the import of chemicals; the ship registration fee; the fee for protection of new varieties of plants; the entry and exit inspection and quarantine fee; **the registration fee for the computer software copyright**, etc.), which total 23 items;
2. the revenue from administrative and institutional fees referring to individuals, to be cancelled or suspended: the doping fee of the sports department; the registration fee of the Civil Affairs Department (including the marriage registration fee, the adoption registration fee); **the fees to apply for retrieval of public information held by the government (including the search fee, the reproduction fee, the postal fee) according to the application)**, which are 6 items in total;
3. the cancelled administrative fees referring to enterprise: property price appraisal fees in non-criminal cases; motor vehicle mortgage registration fees; outside-the-border inspection fees; **housing transfer fees**; safety evaluation fees for genetically modified agricultural organisms, which are 12 items in total.

【HFG's Comments】

The reduction of the trademark registration fee by half, from RMB 600 to 300, will to a certain extent stimulate an increase in trademark applications. At the same time as promoting enterprise to use trademarks, it also reduces the costs of pre-emptive registration of trademarks by others, which is also good news for the pre-emptive registers. Therefore, **HFG** advises every rights owner, that to protect your IP more completely, you should not only strengthen the protection of your major trademarks, but take into consideration registering and protecting trademarks on related peripheral products. As paying lower registration costs now, will result in avoiding higher costs in safeguarding the rights of your trademarks in the future.

HFG Law Firm

March 6th, 2017

ABOUT HFG

HFG since found in 2003，as a firm uniquely integrated and co-managed by multi-national professionals, persists in providing clients with service of the highest standard and quality all the time. By profound understanding for the commercial requirements of clients from all walks of life all over the world, we do our best to obtain the largest business interests for clients. At the moment, HFG consists of three entities: HFG Law Firm, HFG Intellectual Property Consulting Co. Ltd and HFG Intellectual Property Agency Co. Ltd. and sets up two offices in Beijing and Shanghai.

HFG collects an abundant and diversified knowledge base and multi-lingual communication capability through a long-term practical experience, and does all kinds of intellectual property business for clients in administrative and judicial authorities at various levels at provinces, municipalities directly under the central government and autonomous regions of the country.

HFG integrates the commercial and corporate law services of IP contentious and non-contentious practices, providing a one stop solution to companies whose intangible assets out value the tangibles. Service scope of HFG includes IT communication，petrochemistry, wine such as grape wine, fashion cosmetics, retail and e-commerce trade, food and pharmaceuticals standard, the acquirement of certificate and the earnings of patent technology etc.

Cases completed by HFG are evaluated as the top ten representative criminal cases and top five classic cases by Ministry of Public Security for several continuous years, in addition, the top ten best cases claimed by high quality brand protection committee of CAEFI and the classical lawsuit in that every year by many medium and high courts at many main provinces. HFG has been awarded as the best IP service provider by many international clients for several continuous years.

HFG is recommended by Legal 500 as the No.1 in terms of IP business in Shanghai since 2010 and by MIP ranked in Chambers and Partners and WRT 1000.

Please feel free to contact us if you have any advice or opinions for IP news or food industry.

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