

W&B Legal Newsletter

February 2023 / Vol.32

Spotlights

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Watson & Band Again selected into WTR1000 - the World's Leading Trademark Firms of 2023

Watson & Band honored with "2022 Excellence Award for Overseas Trademark Protection in Shanghai" and Its Case selected as a "2021-2022 Outstanding Trademark Agency Case in Shanghai"

LATEST LEGAL DEVELOPMENTS

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SPC and SPP Seek Comments on Interpretation on Several Issues Relating to the Application of Law in the Handling of Criminal Cases of IP Infringement

INTELLECTUAL PROPERTY

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CNIPA Revises Interim Measures for Handling Related Affairs after China's Accession to the Hague Agreement

CULTURE AND ENTERTAINMENT

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INTRODUCTION

Watson & Band has flourished into a full-service law firm with more than 400 pro-fessionals around China. We provide the highest quality services for our clients and enjoy a nationwide reputation as one of the most prominent law firms in China. This excellence and breadth has made us the firm of choice for many world's leading companies and financial institutions as they seek sophisticated legal service. Based on its commitment of quality service, Watson & Band has retained a team of professionals to provide diversified service to its clients, which has won it the honor of China's Best Law Firm and Top-tier IPR Team.

Watson & Band Law Offices

Established in 1995, Watson & Band is one of the oldest law firms in China that provide foreign-related legal services. Headquartered in Shanghai, Watson & Band maintains multiple branches or offices in Beijing, Hong Kong, Harbin, Lanzhou, Yantai, Guangzhou, Zhengzhou, Chengdu, Chicago and Tokyo.

For over decades our team members have collaborated to stay on top of IP and corporate issues, helping clients improve operations, reduce costs, limit risks, enforce rights and achieve common business goals. For these reasons, the firm and its professionals are consistently recognized in client and peer-reviewed industry awards and rankings as being among the best.

These superb services derive from a spirit of dedication that has brought Watson & Band the honor of being listed among "China's Best Law Firms". In past years our firm has received numerous awards from third-party ranking agencies such as "Top 10 IP Law Firm", "Recommended Law Firm". "China's Most Dynamic Law Firm" and "Premier IP Law Firm". Watson & Band Law Offices has also been named a "Key Shanghai Enterprise in Special Services Trades (Legal Services)" by the Shanghai Municipal Commission of Commerce and the Shanghai Judicial Bureau.

Watson & Band Intellectual Property Agent Ltd.

Headquartered in Shanghai, W&B Agent Ltd. operates branch offices in Beijing and Lanzhou. Our patent agency services cover various technical fields such as chemistry, biology, medicine, mechanics, electronics, communication, optics and physics, as well as design patent, IP searches, patent validity analysis, infringement analysis, requests for patent invalidation declaration, litigation and patent consultation, etc. We have established a patent agency service department re-sponsible for special clients. Agents from various technical divisions all have rich experience and are able to work with several languages.

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Disclaimer

- ◆ This Newsletter provides case brief only instead of formal legal opinion regarding any specific case.
- ◆ This Newsletter selects and summarizes official announcements, news and other public documents released by National Intellectual Property Administration of China (CNIPA), Trademark Office of CNIPA, National Copyright Administration of China and other official institutions.
- ◆ This Newsletter has cited the source of the aforementioned official announcements, news and other public documents.

Watson & Band and its Elites ranked in the 2023 Chambers Greater China Region Guide



In January, the authoritative global legal rankings guide, Chambers Greater China Region Guide, released its 2023 rankings. With quality professional services and a good reputation in the industry, Watson & Band maintains its high ranking in Intellectual Property: Non-litigation and Corporate/commercial sections. In addition, partner lawyer Zhu Xiaosu is recommended by the Corporate/commercial rankings for five consecutive years, and senior patent attorney Tang Guohua is selected into the individual rankings for Intellectual Property: Non-litigation.

Watson & Band selected into the List of Leading Intellectual Property Service Institutions in Shanghai

On February 6, the Shanghai Intellectual Property Services Association released on its official website the Notice on the Release of the List of Leading Intellectual Property Service Institutions (including cultivating institutions) in Shanghai. Watson & Band Law Offices passed the review for the first batch of "Leading Intellectual Property Service Institutions in Shanghai" and Watson & Band IP Agent Ltd. was selected into the list of the second batch of "Leading Intellectual Property Service Institutions in Shanghai (cultivating institutions)".

Watson & Band Again selected into WTR1000 - the World's Leading Trademark Firms of 2023

On February 7, the World Trademark Review, a renowned legal media outlet specializing in trademarks, released the WTR1000 - the World's Leading Trademark Firms of 2023. Watson & Band once again achieved recognition in the "enforcement and litigation" and "prosecution and strategy" categories, and lawyers Liming Zhang and Yizhou (Joe) Liu, partners of Watson & Band, were ranked highly in the "enforcement and litigation" category, with lawyer Zhang also selected for the first time in the "licensing and transaction" category.



Watson & Band honored with "2022 Excellence Award for Overseas Trademark Protection in Shanghai" and Its Case selected as a "2021-2022 Outstanding Trademark Agency Case in Shanghai"

On February 9, 2023, the Shanghai Trademark Association successfully held the "Meeting for Advancing Standard Satisfaction of Trademark Agents", during which it released the "Decision on Awarding Excellence Award for Overseas Trademark Protection" and the "Decision on Awarding Top Trademark Agency Cases". Watson & Band IP Agent Ltd. was honored with the "2022 Excellence Award for Overseas Trademark Protection in Shanghai" for its constant outstanding performance in overseas trademark protection. Meanwhile, the trademark opposition case involving the "钢宝王 STK and device" trademark that Watson & Band Agent Ltd. represented for the client, was selected as one of the "2021-2022 Outstanding Trademark Agency Cases in Shanghai" after submission by the company, material review, online voting evaluation by the judging panel.



CNIPA Seeks Comments on Draft Revision to Trademark Law

On January 16, the China National Intellectual Property Administration (CNIPA) drafted the *Trademark Law of the People's Republic of China (Draft Revision for Comment)* (the “Draft”) to solicit public opinions by February 27, 2023.

The *Draft* further rationalizes the law system, expanding the trademark law to 101 articles in 10 chapters, of which 23 articles are added, six are formed by rearranging the existing clauses, 45 are materially revised, and 27 are basically kept unchanged. The main revisions include: (1) following the latest trends and serving the high-quality economic and social development; (2) safeguarding social fairness and justice and creating a market order of fair competition; (3) improving the procedures for trademark authorization and right confirmation and reinforcing the results of the reform of “streamlining administration, delegating power and strengthening regulation and improving services”; (4) reinforcing the obligations in trademark use and guide trademark registration to follow the rules; (5) enhancing the protection of trademark exclusive rights and cracking down on trademark infringement; (6) strengthening trademark supervision and management, and punishing trademark violations; and (7) proposing miscellaneous revisions.

(Source: China National Intellectual Property Administration)

SPC and SPP Seek Comments on Interpretation on Several Issues Relating to the Application of Law in the Handling of Criminal Cases of IP Infringement

On January 18, the Supreme People's Court (SPC) and the Supreme People's Procuratorate (SPP) jointly released the *Interpretation on Several Issues Relating to the Application of Law in the Handling of Criminal Cases of the Intellectual Property Rights Infringement (Draft for Comment)* (the “Draft”) to solicit public opinions by March 5, 2023.

The *Draft*, consisting of 31 articles, stipulates that, in the event that anyone, without permission from the owner of a registered trademark, uses a trademark which is identical to the registered trademark on the same kind of commodity, where any of several circumstances occurs, including “the amount of illegal income is more than CNY30,000 or the amount of illegal business is more than CNY50,000”, the case shall constitute “serious circumstance” as specified in Article 213 of the Criminal Law; in the event that anyone, without permission from the owner of a registered trademark, uses a trademark which is identical to the registered trademark on the same kind of service, where any of several circumstances occurs, including “the amount of illegal income is more than CNY100,000, the case shall constitute “serious circumstance” as specified in Article 213 of the Criminal Law.



(Source: China's Supreme People's Court)

NPC Standing Committee Seeks Comments on 13 Drafts Including the Second Draft Revision for Review of the Company Law

On January 3, the 38th session of the Standing Committee of the 13th National People's Congress (NPC) deliberated 13 draft laws, including the *Company Law of the People's Republic of China (Second Draft Revision for Review)* (the "Second Draft"), the *Value-Added Tax Law of the People's Republic of China (Draft)*, the *Financial Stability Law of the People's Republic of China (Draft)*, the *Civil Procedure Law of the People's Republic of China (Draft Revision)*, and the *Administrative Procedure Law of the People's Republic of China (Draft Revision)*. The full texts of all these drafts are published to solicit public opinions within a term of 30 days.

The *Second Draft* mainly proposes the following revisions: (1) reinforcing the responsibilities of the shareholders for contributions; (2) perfecting corporate governance; (3) improving the rules on the responsibilities of directors; and (4) strengthening the governance of listed companies. Among others, the *Second Draft* stipulates that where the lost stock rights are not transferred or deregistered, other shareholders shall pay the relevant capital contributions according to the proportion of capital contributions; where a company is unable to repay its debts due, the subscription by shareholders will expire more quickly; where a shareholder transfers the stock rights for which the time limit for capital contribution has not expired, the transferor shall assume supplementary liability against the transferee for the capital contribution that has not been paid on time.

(Source: www.npc.gov.cn)

State Council Forwards the Several Measures for Encouraging Foreign Investment in the Establishment of Research and Development Centers

On January 18, the General Office of the State Council forwarded the *Several Measures for Encouraging Foreign Investment in the Establishment of Research and Development Centers* (the "Measures") issued by the Ministry of Commerce (MOFCOM) and the Ministry of Science and Technology (MOST).

The *Measures* touch upon four aspects, including supporting the development of scientific and technological innovation, improving the convenience of research and development (R&D), encouraging the introduction of overseas talents, and raising the level of intellectual property protection. Among others, the *Measures* call for supporting the lawful cross-border transfer of R&D data. Efforts shall be made to abide by the *Cybersecurity Law*, *Data Security Law*, and *Personal Information Protection Law* and other relevant laws and regulations, strengthen the security management of cross-border data transfer, safeguard national security and public interests, and protect the rights and interests in personal information; efficiently carry out security assessment on the outbound transfer of important data and personal information, and promote the safe, orderly, and free flow of R&D data. Meanwhile, steps shall be quickened to improve the system for the trade secret protection rules. Actions need be taken to further define the scope of trade secret protection, infringement acts and legal liability, perfect infringement litigation procedures, and strengthen judicial protection of the trade secrets of various market entities.

(Source: www.gov.cn)

CNIPA to Fully Implement Electronic Patent Certificates from February 7

On January 29, the China National Intellectual Property Administration (CNIPA) issued the *Announcement on the Full Implementation of Electronic Patent Certificates* (the “*Announcement*”).

The *Announcement* clarifies that, the CNIPA will fully implement the electronic patent certificates beginning on and after February 7, 2023, with a view to continuously improve the information technology for and access to patent examination services. It states that, if the party files an application for a patent in electronic form and is granted the patent, it can download the electronic patent certificate through the patent affairs handling system; if the party files an application for a patent in paper form and is granted the patent, it can download the electronic patent certificate in the manner as notified in the Notice of Obtaining the Electronic Patent Certificate.

(Source: China National Intellectual Property Administration)

CNIPA Revises Interim Measures for Handling Related Affairs after China's Accession to the Hague Agreement

On January 6, the China National Intellectual Property Administration (CNIPA) issued the *Interim Measures for Handling Related Affairs after China's Accession to the Hague Agreement* (“*Measures*”), with effect from January 11, 2023 and on.

According to the Measures, a Chinese entity or individual may, in accordance with the provisions of Paragraph 2 of Article 19 of the *Patent Law*, and the 1999 Act of the *Hague Agreement Concerning the International Registration of Industrial Designs* (the “*Hague Agreement*”), file an application for international registration of an industrial design, from May 5, 2022 and on. The Measures clarify that, an application for international registration of an industrial design for which the date of international registration has been determined in accordance with the *Hague Agreement* and China has been designated for design protection shall be deemed to be an application for an industrial design patent filed with the CNIPA, and the date of such international registration is deemed to be the date of application mentioned in Article 28 of the *Patent Law*. The Measures also indicate that, the CNIPA shall process an international application for an industrial design in accordance with the *Patent Law*, the *Implementing Rules of the Patent Law*, the *Guidelines for Patent Examination and these Measures*.

(Source: China National Intellectual Property Administration)



MCT to Resume Acceptance and Approval of Commercial Performances Involving Hong Kong, Macao and Taiwan from February 16

On January 17, the Market Management Department of the Ministry of Culture and Tourism (MCT) issued the *Circular on Optimizing the Policies for Management of Commercial Performances Involving Hong Kong, Macao and Taiwan* (the “Circular”).

According to the *Circular*, from February 16, 2023 and on, cultural and tourism administrative departments in all localities will resume the acceptance and approval of commercial performances involving Hong Kong, Macao and Taiwan, and suspend the grant of approval for foreign-related commercial performance activities (except those whose cast members are already in China). All localities should continue to strengthen the review and control of commercial performances, urge performance organizers to implement epidemic prevention and control measures after “classifying COVID-19 infection as class B infectious disease and implementing Class B management”, continue to promote the prosperity and development of the performance market, to better meet the spiritual and cultural needs of the public.

(Source: China’s Ministry of Culture and Tourism)

