

W&B IP Newsletter

May of 2023, Vol. 73

Contents

The Latest from Watson & Band

Watson & Band Again Listed in Top Tiers in 2023 ALB China IP Rankings	2
Watson & Band's Senior Trademark Attorney Liming Zhang Selected into CTA's 2023 Trademark Talent Pool ...	2

Patent

The SAIP designates the CNIPA as the ISA/IPEA for PCT Applications	2
2013-2023 – a Decade's Review: Summary on Patent Infringement Cases Involving High Amounts of Damages ...	3

Intellectual Property

Jiangsu Provinces Issues its First Registration Certificate for IP Rights in Data	7
Customs IP Rights Protection in China in 2022	7



Website: www.watsonband.com

E-mail: mailip@watsonband.com | mail@watsonband.com

The Latest from Watson & Band

Watson & Band Again Listed in Top Tiers in 2023 ALB China IP Rankings

On May 22, the high-end legal magazine under Thomson Reuters – Asian Legal Business published its 2023 ALB China IP Rankings. Watson & Band is again recognized as a Tier 2 firm in both “Patent” and “Copyright/Trademark” areas for its professional services, good reputation and outstanding performance in the intellectual property area.

**ASIAN LEGAL
BUSINESS**

Watson & Band’s Senior Trademark Attorney Liming Zhang Selected into CTA’s 2023 Trademark Talent Pool

On May 10, China Trademark Association (“CTA”) published the final results on its evaluation of the (first batch of) trademark talent pool submissions. According to the accredited name list published on CTA’s official website, 176 talents are accredited as “Senior”, while following these “Senior Talents”, 460 are recognized as “Level 1” and still 594 as “Level 2”.

Vice General Manager and Senior Trademark Attorney of Watson & Band IP Agent Ltd., Mr. Liming Zhang, is honored to be listed among the “Senior Talents” in the aforesaid trademark talent pool.

(Source: CTA’s official website)

Patent

The SAIP designates the CNIPA as the ISA/IPEA for PCT Applications

According to the *Letter of Intent on PCT Cooperation* reached between the CNIPA (China National Intellectual Property Administration) and the SAIP (Saudi Authority for Intellectual Property), as officially acknowledged by the WIPO (World Intellectual Property Organization), from May 1, 2023 and on, the CNIPA will be designated as the ISA (International Search Authority) and IPEA (International Preliminary Examination Authority) for PCT applications submitted by a citizen or a resident of the Kingdom of Saudi Arabia, or submitted in the English language or in the Arabic language (appended with corresponding English translation).

The related matters will be published the in PCT Bulletin and the relevant PCT legal documents.

(Source: official WeChat account of the CNIPA)

Patent

2013-2023 – a Decade’s Review: Summary on Patent Infringement Cases Involving High Amounts of Damages

According to the recently released Annual Report of the *Intellectual Property Court of the Supreme People’s Court (2022)*, in the invention patent infringement case involving a melamine production system, the amount of damages granted by the court came to as high as 120 million RMB; plus the damages granted in the trade secret infringement case related thereto, the total amount of damages reached 218 million RMB. This case is known for its up-to-date the highest amount of damages granted for IP rights infringement in a single engineering project. In this Newsletter, we are glad to share with you a summary table on the patent infringement cases with considerably high amounts of damages that occurred during the past decade from 2013 to 2023.

Industry Sector	Parties Involved	The First/Second Instance Court and the Case Number	Product in Dispute	Patent Type	Legal Ground for the Damages	Amount of Damages (RMB)
life science (including medical devices, biomedicine)	Synthes GmbH vs Double Medical	second instance: Supreme People’s Court [(2021) SPC Zhi Min Zhong No.148] first instance: Changsha Intermediate People’s Court [(2017) Xiang 01 Min Chu No.428]	fracture treatment device	invention	profits from infringement (applying the obstruction of proof rule)	20.1 million
	Bayer vs Antmed	Nanjing Intermediate People’s Court [(2019) Su 01 Min Chu No.2024]	injector	invention	profits from infringement	24.3 million
	Mindray vs Edan	second instance: Guangdong Higher People’s Court [(2014) Yue Gao Fa Min San Zhong No. 878, 879, 936, 937, 938, 1033] first instance: Shenzhen Intermediate People’s Court [(2011) Shen Zhong Fa Zhi Min Chu No. 260, 267, 268, 323, 324, 325, 326]	multi-parameter monitor	invention	profits from infringement (applying the obstruction of proof rule)	10.29 million
	Dynisco vs Realcan	Shanghai Intellectual Property Court [(2017) Hu 73 Min Chu No.712]	/	invention	unrevealed (applying punitive damages)	11 million

Patent

Industry Sector	Parties Involved	The First/Second Instance Court and the Case Number	Product in Dispute	Patent Type	Legal Ground for the Damages	Amount of Damages (RMB)
electronic communication products, household appliances, communication equipment and semiconductors)	Gree vs Aosheng	second instance: Guangdong Higher People's Court [2018] Yue Min Zhong No.1132] first instance: Guangzhou Intellectual Property Court [(2017) Yue 73 Min Chu No.390]	air conditioner	utility model	profits from infringement (applying the obstruction of proof rule)	40 million
	Huawei vs JBL	second instance: Supreme People's Court [(2020) SPC Zhi Min Zhong No.1791] first instance: Guangzhou Intellectual Property Court [(2019) Yue 73 Zhi Min Chu No.510]	inverter	invention	loss of the right holder	10.5 million
	Huawei vs Samsung	second instance: Fujian Higher People's Court [(2017) Min Min Zhong No.501] first instance: Quanzhou Intermediate People's Court [(2016) Min 05 Min Chu No.725]	mobile phone	invention	profits from infringement	80 million
	Spreadtrum vs ASR	Tianjin No.3 Intermediate People's Court [(2020) Jin 03 Zhi Min Chu No.319]	baseband chip	invention	profits from infringement	24.41 million

Patent

Industry Sector	Parties Involved	The First/Second Instance Court and the Case Number	Product in Dispute	Patent Type	Legal Ground for the Damages	Amount of Damages (RM)
automobile	CATL vs TAFEL	Fujian Higher People's Court [(2020) Min Min Chu No.1.]	battery	utility model	loss of the right holder	23.3 million
	Litens vs Gates Unitta	second instance: Jiangsu Higher People's Court [(2015) Su Zhi Min Zhong No.00172] first instance: Suzhou Intermediate People's Court [(2012) Su Zhong Zhi Min Chu No.0106]	engine	invention	profits from infringement	10.64 million
	Bridgestone vs Shengtai	Beijing Intellectual Property Court [(2015) Jing Zhi Min Chu No.1622]	tyre	design	profits from infringement	10.03 million

Patent

Industry Sector	Parties Involved	The First/Second Instance Court and the Case Number	Product in Dispute	Patent Type	Legal Ground for the Damages	Amount of Damages (RMB)
construction engineering (chemical equipment, large equipment)	Golden Elephant Sincerity vs Huailu Hengsheng	second instance: Supreme People's Court [(2020) SPC Zhi Min Zhong No.1559] first instance: Guangdong Higher People's Court [(2017) Yue Min Chu No.97]	melamine production system	invention	profits from infringement (applying the obstruction of proof rule)	120 million
other sector(s)	Spin Master vs Lingdong	second instance: Supreme People's Court [(2020) SPC Zhi Min Zhong No.1282] first instance: Suzhou Intermediate People's Court [(2017) Su 05 Min Chu No.1177]	toy	invention	profits from infringement (applying the obstruction of proof rule)	15.5 million

Intellectual Property

Jiangsu Provinces Issues its First Registration Certificate for IP Rights in Data

On May 15, Jiangsu Provinces issued its first registration certificate for IP rights in data, and thus the pilot IP work of the province involving data elements welcomed a new breakthrough.

It is said that the registration of IP rights in data is a positive try for the protection of IP rights in data. Said registration certificate will be a preliminary proof to make believe that the innovator holds the corresponding data, and it can be applied in a number of scenarios like data assets entry into (financial) statements, data transaction and circulation and related dispute resolution and thereby help release the potential value of data elements, promote in-depths integration of the digital economy and the real economy and push forward high-quality economic development.

(Source: China Intellectual Property News)

Customs IP Rights Protection in China in 2022

• Customs IP Rights Enforcement in China in 2022

In the year 2022, Customs around China initiated a total of 64,600 IP rights protection actions, detained 60,900 batches of suspected infringing import and export goods in a total of 77,938,500 pieces. The Customs received 23,412 applications for Customs recordation of IP rights and approved 21,356 of these applications. Among them, 15,091 applications were filed by domestic right owners. The detained suspected infringing goods are mainly featured by:

(1) Trademark infringement is still the top 1 cause for the Customs detention. The types involved in the detained goods include trademarks, patents, copyrights and the exclusive right to the Olympic symbol. The number of the detained goods suspected of trademark infringement reached 76,323,100, accounting for 97.93% of the total detained goods. As 182 batches in a total of 10,684 pieces of goods suspected of infringement upon the exclusive right to the Olympic symbol (including toys, souvenirs, key chains and sports shoes) were detained, the protection granted for the Olympic symbol was more powerful than ever before.

.....

(3) Notable progress has been witnessed in the law enforcement in cross-border e-commerce and other new business forms. The Customs detained 21,000 batches in a total of 4,023,000 pieces of suspected infringing goods in the cross-border e-commerce channel. The proportions accounted by both the number of batches and the number of goods detained through the non-freight channel enforcement further enhanced – they increased up to 35.73% and 50.39% from 23.53% and 22.70% in 2021 respectively. The Customs detained 670 batches in a total of 27,203,100 pieces of suspected infringing goods to be exported through market procurement means, accounting for 31.71% and 38.89% respectively in terms of the freight channel enforcement.

Intellectual Property

(4)The goods detained mainly involved electronic appliances, stationery and office supplies, among others. The suspected infringing goods detained by the Customs mainly included electronic appliances, stationery and office supplies, toys and tobacco products, of which electronic appliances like inductors, capacitors and integrated circuits amounted to 15,946,200 pieces; stationery and office supplies like pencils and ball pens amounted to 13,347,200 pieces; toys like gaming cards amounted to 12,433,900 pieces; and tobacco products like cigarettes and cigarette paper amounted to 11,897,500 pieces.

(Source: abstracted from the official WeChat account of the P.R.C. General Administration of Customs)