

The Latest Development of Intellectual Property Legal System of China

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Overview of China's Intellectual Property Legal System

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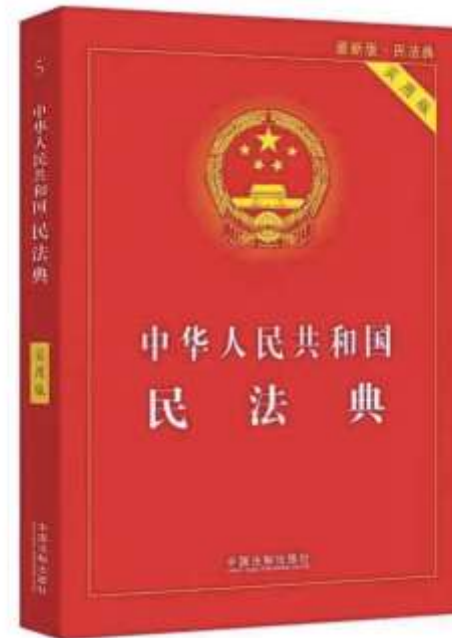
Patent Law

Copyright Law

Anti-unfair Competition Law

Regulations on the Protection of New Plant Varieties

Regulations on Protection of Integrate Circuit Layout Design



Civil Law Code

Time of Accession	Name of Treaty
1980-06-03	Convention Establishing the World Intellectual Property Organization
1985-03-19	Paris Convention for the Protection of Industrial Property
1989-10-04	Madrid Agreement Concerning the International Registration of Marks
1992-10-15	Berne Convention for the Protection of Literary and Artistic Works
1992-10-30	Universal Copyright Convention
1993-04-30	Convention for the protection of Producers of Phonograms against Unauthorized Duplication
1994-01-01	Patent Cooperation Treaty
1994-08-09	Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks
1995-07-01	Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure

Time of Accession	Name of Treaty
1995-12-01	Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks
1996-09-19	Locarno Agreement Establishing and International Classification for Industrial Designs
1997-06-09	Strasbourg Agreement establishing an International Classification for Industrial Designs
1999-04-23	International Convention for the Protection of New Varieties of Plants
2001-12-10	Agreement on Trade-related Aspects of Intellectual Property Rights
2007-06-09	World Intellectual Property Organization Copyright Treaty
2007-06-09	World Intellectual Property Organization Performances and Phonograms Treaty
2014-07-09	Beijing Treaty on Audiovisual Performances
2021-10-23	Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled
2022-02-05	Hague Agreement Concerning the International Registration of Industrial Designs

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Latest Development in Patent Legislation Area

- Three kinds of patent:
invention、 utility model 、 industrial design
- The first-to-file system, early publication and delayed substantive examination for inventions for invention
- the preliminary examination system for utility models and industrial designs
- Stipulate a system with Chinese characteristics such as the "dual-track system" protection mode
judicial protection and the administrative protection

Latest Development in Patent Legislation Area



中华人民共和国专利法 中华人民共和国专利法实施细则

■ Patent Law

Amended for the fourth time in accordance with the Decision on Amending the Patent Law of the People's Republic of China at the 22nd Meeting of the Standing Committee of the Thirteenth National People's Congress on October 17, 2020, in effect since June 1, 2021

■ Implementing Regulations of the Patent Law

On November 3, 2023, the State Council Executive Meeting reviewed and approved the draft amendments to the Implementing Regulations of the Patent Law, officially taking effect on January 20, 2024.

the 4th Amendment of Patent Law of China

01

1.Strengthen patent protection



02

2.Promote
Exploitation and
utilization



03

3.Improve patent
examination process



04

4.Strengthen patent
public services



The 4th amendment to Chinese patent law

- ▶ Introduce punitive damages compensation for intentional patent infringement
- ▶ Investigate and handle patent infringement with significant impact (CNIPA)
- ▶ Patent term compensation
- ▶ Modify Patent Examination Process

Increase the amount of compensation



1. For intentional infringement under serious circumstances, the amount of compensation may be up to five times the calculated damages



2. Statutory compensation is between CNY30,000 and CNY5 million



3. The amount of compensation shall also include the reasonable expenses of the right holder paid for putting an end to the infringement.



4. The court may order the infringer to provide account books etc. to determine the amount of compensation. Where the infringer refuses to provide the account books or materials, or provides false account books or materials, the people's court may determine the amount of compensation by reference to the right holder's claims and the evidence provided.

The methods of determining the amount of damage compensation are the same as for trademarks

2.patent term compensation A42

- Where a patent right for an invention is granted after the expiration of four years from the filing date and after the expiration of three years from the date of the request for substantive examination of the application, CNIPA shall, at the request of the patentee, extend the term of the patent to compensate for the unreasonable delay in the granting process of the invention, except for the unreasonable delay caused by the applicant.
- In order to compensate for the time taken for the review and approval process before the marketing of a new pharmaceutical product, CNIPA shall, at the request of the patentee, extend the term of the new pharmaceutical-related invention which has been approved for marketing in China. The compensation term may not be more than five years, and the total effective term of the patent right may not be more than fourteen years from the date of marketing approval.

3. Investigate and handle patent infringement with significant impact

CNIPA may, at the request of the patentee or any interested party, deal with patent infringement disputes that have a major impact throughout the country.

When dealing with patent infringement disputes at the request of the patentee or any interested party, the department in charge of patent-related work of the local people's government may deal with the cases of infringement of the same patent right within its administrative area in a combined manner; for cases infringing the same patent right across administrative areas, it may request the department in charge of patent-related work of the local people's government at a higher level to deal with the matter.

3.Promote exploitation and utilization

- --License of right

also named as the open license.

The patentee can provide a declaration (for Utility Model and Design: evaluation report of patent is required) to the platform offered by CNIPA, and anyone who satisfied the requirement should be permitted to use the patent.

Modify Patent Examination Process-designs

01

Partial design protection now available Art. 2(4) Patent Law

02

Introduction of domestic priority, Art. 29(2) Patent Law

03

Protected for 15 years, Art. 42 PL

04

Patent evaluation report now also available for alleged infringers

the Latest Amendment of Implementing Regulations of the Patent Law

To ensure the effective implementation of the newly amended Patent Law, adapt to the needs of joining international treaties such as the Hague Agreement, and address practical issues encountered in practice, it is necessary to further amend the Implementing Regulations of the Patent Law.

- The provisions have been increased from 123 articles to 149 articles
- and from 11 chapters to 13 chapters.
- Among them, 30 new articles have been added, 4 articles have been deleted, and two new chapters, namely "Chapter Five: Compensation for Patent Term" and "Chapter Twelve: Special Provisions on International Applications for Industrial Designs," have been introduced.

the Latest Amendment of Implementing Regulations of the Patent Law

The latest amendment to Implementing Regulations of the Patent Law

- Improvements of the Patent Application System for the Convenience of Applicants and Inventors.
- Improvements of the Patent Examination System to Enhance Examination Quality.
- Enhancements of Patent Protection to Safeguard Patent Patentees' Legitimate Rights and Interests.
- Enhancements of Patent Public Services to Facilitate Patent Commercialization and Utilization.
- Introduction of Special Provisions for International Design Applications in Accordance with the Hague Agreement.

3

Latest Development in Trademark Legislation Area

the Basic Content of Trademark Legal System

- The Trademark Law of the People's Republic of China came into effect on March 1, 1983.
- It stipulates the basic content of trademark legal system:
- Establish the legislative purpose of protecting the right to exclusive use of registered trademarks and protecting the interests of consumers;
- Stipulate a clear registration procedure;
- Stipulate a dual-track protection system of administrative protection and judicial protection.



Latest Development in Trademark Legislation

The new round of amendment to
trademark law

- Serving high-quality economic development, optimizing the legislation structure
- Maintaining fair market order, strengthening the construction of creditability system, combating the bad-faith registration
- Improving the trademark registration and opposition procedures and streamlining the procedures
- Emphasizing the trademark use obligations
- Enhancing protection of exclusive trademark rights, and combating trademark infringement
- Enhancing trademark administration, and regulating trademark violations

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Latest Development in GI Legislation Area

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Trademark Law System

02

Sui generis System

Two Protection Modes

Applying for registration of geographical indications as certification trademarks or collective trademarks to obtain legal protection

- Regulations on Protection of Geographical Indication Products-focus on enhancing product quality control, accurate product labeling regarding origin, and other aspects of protection.
- Measures for Protection of Foreign Geographical Indication Products-To protect foreign geographical indication products sold in China and standardize the use of the names and special symbols of these products

01

- actively conducting indepth research on special legislative protection on geographical indications

02

- Administrative rule on Protection of Geographical Indication Products
- Measures for the Registration and Administration of Collective Trademark and Certification Trademark



Thank You!