新闻快讯

中国专利代理（香港）有限公司
China Patent Agent (H.K.) Ltd.

2009 年第一期

中国专利代理（香港）有限公司成立 25 周年

1984 年 3 月 27 日，中国专利代理（香港）有限公司伴随着中国专利法的诞生在香港成立。今年正值中国专利代理（香港）有限公司成立 25 周年，我公司全体员工借此机会感谢广大客户和业界同仁对我们的信任与支持。

我公司是中国政府最早指定的办理涉外专利商标业务的三家代理机构之一，在香港、北京、深圳、上海、纽约、东京和慕尼黑设有办事机构，现有员工 503 人，其中包括 163 名专利代理人、65 名专利工程师、36 名律师和 25 名商标代理人。我公司的专业人员队伍技术功底扎实、精通相关法律、代理经验丰富，竭诚为保护您的知识产权提供优质、高效和全方位的服务。

我公司深圳、上海办事处迁入新址

为适应我公司深圳和上海两地业务发展的需要、进一步提高我公司的服务质素、加强与客户的沟通联系、为客户提供更专业和个性化的服务，我公司对深圳和上海两个办事处的办公场地及人员进行了扩充。

从 2009 年 1 月 1 日起，我公司深圳办事处迁至深圳凤凰大厦。办公面积由原 930 平方米扩至 1400 平方米。我公司深圳办事处的现办公地址及联系方式如下：

地址：深圳市福田区深南大道 2008 号
中国凤凰大厦 1 座 12 楼
电话：(86 755) 8275 5788
传真：(86 755) 8368 8269

从 2009 年 3 月 16 日起，我公司上海办事处迁至上海市南京西路 1038 号梅陇镇广场。办公面积由原 250 平方米扩至 600 平方米。我公司上海办事处的现办公地址及联系方式如下：

地址：上海市南京西路 1038 号
梅陇镇广场 3301-03 室
电话：（86 21）5256 9688
传真：（86 21）6288 3922

我公司深圳办事处成立于 1985 年，现有员工 65 人；上海办事处成立于 2005 年，现有员工 23 人。深圳、上海及其周边地区现在正是中国知识产权活动最活跃的地区。随着我公司深圳和上海办事处的不断壮大，我公司将为深圳、上海及其周边地区的客户提供更周到、满意和优质的知识产权服务。

《中国专利法实施条例》修改的最新动向

2009 年 2 月 27 日，《中华人民共和国专利法实施条例修订草案（送审稿）》（简称“送审稿”）上报国务院审议。国务院法制办公室已经将“送审稿”及其说明全文公布，目前正面向社会各界公开征求意见。预计实施条例的最终文本将与 2008 年 12 月 27 日修改的专利法（简称“专利法”）一起于 2009 年 10 月 1 日同步生效。

实施条例是与专利法配套的行政法规。在此次上报国务院的“送审稿”中，体现出了一些值得注意的立法动向。下面我们将就此次修改中的重点进行简要评述。

1. 大幅度强化了行政执法的力度

设立县级专利管理机关。按照现行的法律规定，只有省、自治区、直辖市人民政府以

及部分设区的市人民政府才能设立专利管理机关，而“送审稿”中将这一权限下放到了县级以上地方人民政府，并且赋予其处理专利侵权纠纷、查处假冒专利行为以及调解专利纠纷的权限。这是一个令人吃惊的变化，因为中国目前的县级行政区划有将近 3000 个，设立数目如此庞大的专利管理机关将有可能使得专利纠纷的处理被进一步分散化。另外，由于行政执法力量的加强，寻求通过行政途径解决的专利纠纷案件的数量很有可能会增加。

国家知识产权局被赋予处理某些重大专利纠纷的职权。此前，国家知识产权局只能对地方专利管理机关处理和调解专利纠纷进行指导，而不能直接处理任何专利纠纷。“送审稿”中规定，省、自治区、直辖市人民政府专利管理机关可以报请国家知识产权局处理或者查处在全国有重大影响的侵犯专利权或者假冒专利的案件。这将使国家知识产权局一改长期以来在行政执法方面所扮演的“旁观者”角色，转变成兼具确权和维权双重功能的政府机构。

专利法中假冒和冒充专利行为合并为假冒专利行为。为与之相适应，“送审稿”中进一步明确界定了假冒专利行为的范围。

“送审稿”中还对地方专利管理机关行政执法的细节进行了规定。

2. 收费项目和程序要求的简化

从“建设服务型政府”的角度出发，“送审稿”中取消或简化了一些程序要求，并取消了一些收费项目，这为申请人提供了许多便利。例如，中止程序请求费、申请维持费等四项收费项目被取消。对于一件在 PCT 第 I 章规定的 30 个月期限前进入中国并在进入中国后第四年被授权的 PCT 国际申请而言，这有望为申请人节省大约 1200 元人民币(折合约 175 美元)；多缴或错缴费用的退款期限由 1 年延长至 3 年；承认与他国专利局通过电子方式传输的优先权文件副本，从而简化申请人提交优先权文件的手续；规定请求书中的优先权事项如果填错一项或两项的可以补正，而此前如果在先申请的国别或申请日填错的话将构成不可挽救的致命缺陷；对于进入中国国家阶段的 PCT 国际申请而言，如果通过邮寄方式提交申请文件的话，将可以同普通的国内申请一样，以申请文件的寄出日而不是收到日作为文件的提交日。

3. 对强制许可制度进行进一步细化和完善

明确了专利法第 48 条中“未充分实施其专利”的具体含义，并且根据《修改 TRIPS 协议议定书》的规定，引入与给予出口专利药品的强制许可相对应的程序性和实体性义务。

4. 鼓励专利权的运用和强化对发明人的保护

“送审稿”中明确提出鼓励和支持专利权人通过实施、转让、许可等方式运用专利权，实现专利权的市场价值。

提高了给予发明人的奖励的最低数额。给予发明人奖励和报酬的规定将适用于所有的中国单位，取消了此前将国有企事业单位和其他单位区别对待的做法，并且奖励和报酬所得将可以享受税收优惠。另一个值得注意的变化是，“送审稿”中赋予了企业通过合同事先与劳动者就奖励和报酬问题作出约定的自主权，这将使企业有机会避免适用条例中所规定的法定最低奖励和报酬标准而带来的财务风险。

5. 关于外观设计的一系列新规定

鉴于简要说明已经成为外观设计专利申请的必备文件，“送审稿”中对简要说明应当包括哪些内容作出了具体规定。此外，还规定当申请人就同一产品的多项相似外观设计合案申请时，应当指定其中一项外观设计为基本设计，并且一件申请中相似外观设计的总数不得超过 10 项。放宽了以授予专利权的

外观设计与他人在先取得的合法权利相冲突为理由请求宣告专利无效时的立案标准，只要求请求人是在先权利人或利害关系人即可，而此前，请求人必须提交生效的能够证明权利冲突的处理决定或者判决，否则专利复审委员会不予受理。

6. 明确了“同日申请发明和实用新型”的具体操作

规定在申请时应当在两件申请中分别作出声明，并且在授予发明专利的同时放弃先获得的实用新型专利权。

7. 细化了保密审查的规定

专利法第 20 条规定，任何单位或者个人将其在中国完成的发明创造向外国申请专利的，应当事先请求国家知识产权局进行保密审查，以获得提交外国专利申请的许可。“送审稿”中进一步明确了提出请求的三种方式以及作出审查决定的期限。值得注意的是，与此前的实施条例修改版本中“2 个月+2 个月”的审查期限相比，“送审稿”中保密审查的期限被延长了，变成了“3 个月+2 个月”的模式，即：对于任何可能涉及保密事项的可疑申请，应当在收到请求之日起 3 个月内通知申请人，并且在收到请求之日起 5 个月内作出是否需要保密的最终决定。

8. 细化了依赖遗传资源完成的发明的“来源披露”义务

明确了专利法第 5 条和第 26 条中的术语“遗传资源”和“依赖遗传资源完成的发明创造”的含义，并规定在申请文件中说明来源的具体要求。未能履行来源披露义务将成为专利申请被驳回的理由，但不是授权后请求宣告专利无效的理由。

9. 细化了实用新型和外观设计专利权的评价报告制度

提出了相关的具体操作细节，并且在检索结果不利于专利权人的情况下，将给予专利权人陈述意见的机会。

10. 扩大了实用新型和外观设计专利申请初步审查的范围

新增加的审查内容包括：实用新型专利申请是否明显不符合新颖性、实用性的规定；外观设计专利申请是否明显属于现有设计、是否明显属于与他人在先权利相冲突的情形、是否明显属于平面印刷品的标识性设计等。

我国受理专利申请总量突破 500 万件

截止到 2009 年 3 月 16 日，我国受理的专利申请总量突破 500 万件，达到 500.2143 万件，距突破第四个 100 万件仅 1 年零 4 个月。其中发明专利申请为 168.1464 万件。

与前四个 100 万件相比，我国专利申请受理的第五个 100 万件除继续保持快速增长外，还呈现出以下特点：

一是每 100 万件受理时间明显缩短。自专利法实施开始，专利申请总量用近 15 年的时间达到首个 100 万件，第二个 100 万件历时 4 年零 2 个月，2 年零 3 个月后达到第三个 100 万件，超越第四个 100 万件用时 1 年零 6 个月，突破第五个 100 万件仅用了 1 年零 4 个月。

二是国内发明专利申请比重大幅增长。前四个 100 万件中，国内发明专利申请的比重依次为 47.8%、50.7%、53.4%和 60.8%，而第五个 100 万件中，国内比重增长了近 7 个百分点，达到 67.0%。国内发明专利申请增幅明显高于国外。2008 年受理的发明专利申请中，国内申请同比增长 27.1%，比国外同期高出 20 多个百分点。

三是职务申请比重稳步提升。前四个 100 万件中，职务申请所占比重依次为 41.8%、49.5%、52.4%和 53.9%，而第五个 100 万件

中，职务申请所占比重为 58.1%，提高 4.2 个百分点。这一变化的主要驱动力来自于国内职务申请比重的增长。前四个 100 万件中，国内职务申请占国内申请的比重分别只有 31.3%、39.0%、41.2%和 45.6%，而第五个 100 万中，这一比重达到 51.9%，国内职务申请比重首次超过非职务申请。

有关专家表示，我国专利申请在继续保持平稳较快增长的情况下，结构进一步优化，充分表明随着国家知识产权战略的大力实施，全社会的创新热情得到极大激发，知识产权保护意识不断提高，企业、大专院校、科研院所等创新主体知识产权运用能力日益增强。（来源：中国知识产权报 ）

2008 年中国涉及知识产权的贸易仲裁案增多

中国国际经济贸易仲裁委员会 2008 年受理案件争议标的额达 209.18 亿元人民币，并出现了涉及知识产权案件增多等趋势。

2008 年中国国际经济贸易仲裁委员会及其分会共受理经贸仲裁案件 1230 件，审结案件 1097 件，案件当事人涉及 45 个国家和地区。其中，个案平均争议金额同比增长 70%，案件数量同比增长 27.74%。同时，与以往相比，这些案件呈现出涉及知识产权案件增多，争议金额显著增长，涉外案件数量增多，争议类型进一步多样化，案件复杂程度进一步提高，当事人均为境外企业、自然人的案件增多，通过协商达成的和解协议的案件增多等特点。

据悉，2008 年，我国高新技术产品出口总额超过 4500 亿美元。有关人士表示，随着国际贸易的发展，相关知识产权内容的争议也越来越多。仲裁作为一种解决争议的主要形式，同样适用于解决知识产权方面的侵权、转让合同与许可合同等有关的纠纷。(来源：国知网)

去年我国审判知识产权案件量大幅增加

据最高人民法院最新统计数据显示，2008 年全国法院知识产权审判工作取得重大进展，全国地方法院共新收和审结知识产权民事一审案件分别为 2.4406 万件和 2.3518 万件，同比分别增长 36.52%和 35.2%；共审结涉及知识产权侵权的刑事案件 3326 件；新收一审知识产权行政案件 1074 件，审结 1032 件。

据悉，最高人民法院 2008 年知识产权民事案件数量继续保持稳定增长的势头。其中，全国地方法院新收专利案件 4074 件，同比增长 0.82%；商标案件 6233 件，同比增长 61.69%；著作权案件 1.0951 万件，同比增长 50.78%。全年共审结涉外知识产权民事一审案件 1139 件，同比增长 70.51%；审结涉港澳台知识产权民事一审案件 225 件，同比下降 30.34%。全年共新收和审结知识产权民事二审案件 4759 件和 4699 件，同比分别增长 66.11%和 63.73%；再审案件 102 件和 71 件，同比分别增长 161.54%和增长 57.78%。全国法院知识产权民事案件一审结案率从 2007 年的 80.01%上升到 2008 年的 81.73%。

同时，全国法院履行刑事审判职责，严厉打击了各类知识产权犯罪行为。2008 年全国地方法院共审结涉及知识产权侵权的刑事案件 3326 件，判决发生法律效力 5388 人，其中有罪判决 5386 人。

据悉，截至 2008 年底，全国已经有 9 个中级法院和 14 个基层法院开展了由一个审判庭统一受理各类知识产权案件的试点工作。目前全国具有专利案件管辖权的中级法院达到 71 个，可以审理一般知识产权民事案件的基层法院达到 66 个。(来源：国知网)

Newsletter

中国专利代理（香港）有限公司
China Patent Agent (H.K.) Ltd.

2009 Issue 1

25th Anniversary of China Patent Agent (H.K.) Ltd.

On March 27, 1984, China Patent Agent (H.K.) Ltd. (CPA) was founded following the enactment of the Chinese Patent Law. The year 2009 happens to be the 25th anniversary of China Patent Agent (H.K.) Ltd.. We would like to take this opportunity to thank all our esteemed clients and associates for your valuable trust and support for all these years.

Twenty-five years ago, our firm was founded and designated by the Chinese government as one of the first three IP firms to handle foreign-related IP matters. Currently we have grown into the biggest IP firm in China. We have offices in Hong Kong, Beijing, Shenzhen, Shanghai, New York, Tokyo and Munich, and the total number of staff members reaches 503, including 163 patent attorneys, 65 patent engineers, 36 lawyers and 25 trademark attorneys. This excellent team of patent attorneys, trademark attorneys and lawyers are highly proficient in their respective scientific, technological and engineering fields and well versed in law. We are more than pleased to provide you with our excellent, efficient and comprehensive services in protection of your IP rights in China.

Removal Notice of CPA Shenzhen Office and Shanghai Office

Thanks to your long-standing support and trust, our firm's businesses in China's Shenzhen and Shanghai areas are growing steadily. The previous scales of our offices in these two cities obviously do not suit the business growth any longer. Under such circumstances, our Shenzhen office and Shanghai office have moved into new sites to accommodate more staff members, in order to adapt to the needs of our clients in these two areas and to provide more client-tailored and professional IP services in China.

Starting from January 1, 2009, our Shenzhen office has moved into the Phoenix Tower of Shenzhen, the office area enlarged from the original 930 m^2 to the current 1400 m^2.

Starting from March 16, 2009, our Shanghai office has moved into Westgate Mall of Shanghai, the office area enlarged from the original 250 m^2 to the current 600 m^2.

Our Shenzhen office was founded in 1985, having 65 staff members now, and our Shanghai office was founded in 2005, having 23 staff members now. Shenzhen and Shanghai are two energetic industrial cities with the most active intellectual property markets. With the enlarging of our Shenzhen and Shanghai offices, we believe we will be able to provide clients in these areas with more satisfactory IP services.

Latest Trends on the Revision of the Implementing Regulations of the Chinese Patent Law

On February 27, 2009, the Amendment Draft of the Implementing Regulations of the Patent Law of the People's Republic of China (version for approval) (briefed as "Version for Approval") was submitted to the State Council of PRC for review. Legislative Affairs Office of the State Council has publicized the full text of the "Version for Approval" and its explanatory notes to widely solicit opinions from the public. It is expected that the final text of the Implementing Regulations will come into effect on October 1, 2009, simultaneously with the Patent Law revised on December 27, 2008 (briefed as the Patent Law).

The Implementing Regulations are auxiliary administrative rules of the Patent Law. In this "Version for Approval" submitted to the State Council, some legislative trends are worth noting. The following brief comments are made on the key points of this amendment.

1. Intensifying Administrative Enforcement

County-level patent administration departments will be set up. The current law provides that, patent administration departments can only be established by the governments of provinces, autonomous regions and municipalities, and some selected cities with districts, whereas the "Version for Approval" lowers this restriction to governments at or above county level, and endows them with jurisdictions for dealing with cases of patent infringements, investigating and punishing patent passing off activities, and mediating patent disputes. Since China currently has nearly 3,000 county-level administrative divisions, such an astonishing change of establishing so many patent administration departments may further decentralize the handling of patent disputes. Meanwhile, following the intensification of administrative enforcement, the number of patent disputes seeking resolution in administrative routes is very likely to increase.

SIPO is endowed with rights for handling some major patent disputes. Before that, SIPO can only direct local patent administration department's handling and mediating patent disputes, rather than directly handling any. The "Version for Approval" provides that patent administration departments of provinces, autonomous regions and municipalities can request SIPO to handle or investigate patent infringements or passing off activities which have nationwide influences. The longstanding role of a "watcher" which SIPO plays in patent administrative enforcement in the past will be changed. It will become a government organ with functions in both prosecution and enforcement.

The activities of passing off other patents and counterfeiting other patents are combined as passing off activities in the Patent Law. To correspond with that, the scope of patent passing off activities is further clarified in the "Version for Approval".

Details for administrative enforcement of local patent administration departments are also specified therein.

2. Reduction of Fees and Simplification of Procedural Requirements

Following the trend of "Establishing a Government of Service", the "Version for Approval" waives or simplifies some procedural requirements, and cancels some items of fees, which benefits the applicants a lot. For example, four items of fees are canceled, such as, fees for requesting to suspend a procedure, the application maintenance fee, etc.. In this way, for a PCT application which enters the national phase in China within the 30-month period as stipulated under PCT Chapter 1 and is granted a patent right four years later, it is expected to save the applicant about RMB1,200 (about USD175). The refunding time limit for overcharge or mischarge is prolonged from 1 year to 3 years; the burden of furnishing priority documents is reduced by SIPO's acknowledgment of priority documents transmitted electronically with foreign patent offices; amendments can be made if one or two items of the priority claim in the request are wrong, whereas in the past such mistakes are irreparable if the country or filing date of the earlier application is wrongly filled in; for PCT international applications entering into the Chinese national stage, if the application documents are submitted via mail, the mailing date, instead of the receiving date, will be considered as the effective date of filing for time calculation purposes, just like regular Chinese national applications.

3. Refinement and Improvement of Compulsory License System

The concrete meaning of "insufficient utilization of patent right" as stipulated under Article 48 of the Patent Law is clarified. According to the TRIPS Agreement Amendment Protocol, the procedural and substantial obligations which correspond to the issuance of a compulsory license for exporting the patented drug are introduced.

4. Encouraging Utilization of Patent Rights and Reinforcing Protection to Inventors

The minimum reward to inventors is elevated. The "Version for Approval" expressly encourages and supports patentees' utilization of patent rights by various means such as practicing, assigning or licensing, thus realizing the market value of patent rights. Provisions regarding reward and remuneration to inventors will be applied to all Chinese entities, replacing previous practice that state-owned enterprises are treated differently from other entities. In addition, such rewards and remunerations may enjoy a favorable tax rate. Another notable change is that, according to the "Version for Approval", enterprises are endowed with rights to conclude agreements with their employees on reward and remuneration issues at its discretion in advance, which enables an enterprise to avoid financial risks caused by the application of the legal standards of the minimum reward and remuneration.

5. A Series of New Provisions Regarding Designs

As "Brief Description" has become an essential part of the application documents for a design patent, the "Version for Approval" provides specifically what contents shall be included in a "Brief Description". More specifically it is provided that, when multiple similar designs for the same product are included in a single application, the applicant shall designate one of the designs as the basic design and the total number of similar designs to be included in one application shall not exceed 10. The minimum requirements for accepting a new request of invalidating a design patent, which is based on the ground that the design patent is conflicting with a lawful right obtained earlier, are reduced. It is merely required that the requester shall be the owner or an interested party of the earlier right. In the past, however, such request shall not be accepted by the Patent Reexamination Board unless the requester provides an effective decision or judgment which can prove the rights confliction.

6. Clarifying the Practice of "Filing Applications for an Invention and a Utility Model on the Same Date"

It is provided that the applicant shall, on the date of filing, make a declaration in the two applications respectively, and shall abandon the previously obtained patent right for utility model on the date when the patent right for invention is granted.

7. Detailed Provisions Regarding Security Examination

Article 20 of the Patent Law provides that: where any entity or individual intends to file in a foreign country an application for patent for an invention-creation completed in China, it or he shall request a security examination by SIPO to obtain an approval to file abroad. The "Version for Approval" indicates three ways to raise such a request and the duration to reach a decision of examination. It is noteworthy that, compared to the examination duration of "two months plus two months" in the previous version of the revision to the Implementing Regulations, the duration for security examination given in the "Version for Approval" has been extended to "three months plus two months". That is, for any suspicious application that might involve secrets, the applicant shall be informed within three months

as from receipt of the request, and a final decision as to whether the application needs to be kept secret shall be reached within five months as from receipt of the request.

8. "Source Disclosure" Obligations for Inventions Whose Completion Relies on Genetic Resources

The "Version for Approval" expressly defines the terms "genetic resources" and "invention-creations whose completion relies on genetic resources" which appear in Article 5 and Article 26 of the Patent Law, and specifically provides that the source of such genetic resources shall be indicated in the application documents. Failing to fulfill the source-disclosure obligation shall constitute a reason for rejection of the patent application, but shall not be a reason to invalidate a granted patent right.

9. Patentability Evaluation Report System for Utility Model and Design Patents

The "Version for Approval" gives details for practicing evaluation of utility model and design patents. Where search results are unfavorable to the patentee, he/she will be given a chance to present his/her observations.

10. Enlarging the Scope of Preliminary Examination of Utility Model and Design Patent Applications

The newly added contents in the preliminary examination include: whether a patent application for utility model obviously lacks novelty or practical applicability; whether a patent application for design obviously belongs to a prior design, whether it is obviously conflicting with other's prior rights, or whether it obviously pertains to a design serving as marks for printing.

Patent Filings Hit 5 Million

As of March 16, patent applications filed in China surpassed the 5 million mark, registering at 5,002,143 and leaving the 4 million mark behind after only a year and four months. Invention applications contributed 1,681,464.

Compared with the first four one millions, on top of still keeping the fast-growing momentum, the road to the fifth may be summarized as follows.

Firstly, it takes much less time to finish a million. Since the Chinese Patent Law came into force, it took 15 years to hit the first million; the second million takes 4 years and two months; third, 2 years and 3 months; fourth, 1 year and 6 months; and fifth, 1 year and 4 months.

Secondly, domestic users ate up bigger share of the pie for invention. Domestic invention applications represented 47.8%, 50.7%, 53.4% and 60.8% of the total respectively in the first four one millions. In the run for the fifth, domestic robbed another 7% to mount to 67%. Domestic invention applications increase significantly faster than foreign applications. Among the patent applications accepted in 2008, there is a 27.1% increase in domestic applications, over 20% higher than foreign application at the same duration.

Thirdly, service applications maintained steady growth. The proportion of that are 41.8%, 49.5%, 52.4% and 53.9% in the first four one millions respectively. In the fifth, it reached 58.1%, 4.2% higher than the previous proportion. The main force of this change comes from the increase of domestic service applications. In the first four million patent applications, the proportions of service applications are 31.3%, 39.0%, 41.2% and 45.6% respectively, while in the fifth, the proportion reaches 51.9%. The proportion of domestic service applications surmounts that of

non-service applications for the first time. (Source: China Intellectual Property News)

IPR Arbitration Grows in Number and Size in 2008

Revealed by the China International Economic and Trade Arbitration Commission on February 25, the total size of disputes received by the Commission registered at 20.918 billion yuan along with drastic growth of IPR cases.

The Commission and its branches received 1,230 cases for arbitration in 2008 and conclude 1,097 involving parties from 45 countries and regions. Average monetary size of dispute soared 70% year-on-year while the number of cases skyrocketed 27.74%. In parallel, IPR cases grew in both number and size. The highly diversified cases were very complex and all involved foreign parties. An increasing number of them were resolved with settlement. Besides, all disputed parties being foreign enterprises and more cases involving natural person, especially with a sharp growth in English or bilingual arbitrations, the complexity of cases has been upgraded. Moreover, litigant-agreed arbitration procedures and formation of the arbitration tribunals keep growing, as well as reconciliations upon negotiations.

It is said that the total export value of China's hi-tech product in 2008 is over USD450 billion. Relevant people say that with the development of international trading, IP-related disputes will keep increasing. As a main solution for disputes, arbitration also applies to resolving infringements on IP matters as well as disputes regarding assigning and licensing agreements. (Source: SIPO website)

The Number of IP Cases Tried in China Increased Greatly

In 2008, local courts nationwide totally accept and conclude 24,406 and 23,518 IP cases of the first instance, up 36.52% and 35.2%t year on year respectively, making great progress in this regard; a total of 3,326 criminal cases of IPR infringement are concluded; they also accept 1,074 IP administrative cases of the first instance, with 1,032 cases being concluded.

In 2008, the number of IP civil cases tried by the Supreme People's Court maintains stable growing impetus. That year, local courts newly accept 4,074 cases of patent, a year-on-year growth of 0.82%, 6,233 cases of trademark, up 61.69%, and 10,951 cases of copyrights, rising 50.78%. Local courts also conclude 1,139 IP civil cases of the first instance, up 70.51%, and 225 IP civil cases involving Hong Kong, Macao and Taiwan, down 30.34% year on year. A total of 4,759 and 4,699 IP civil cases of the second instance are accepted and concluded, up 66.11% and 63.73% respectively. The numbers of retried cases accepted and concluded reach 102 and 71, up 161.54% and 57.78% respectively. The conclusion rate of IP civil cases of the first instance of the courts nationwide increases from 80.01% in 2007 to 81.73% in 2008.

In 2008, local courts nationwide totally conclude 3,326 criminal cases of IP infringement with judgments of legal effect involving 5,388 people, of which, 5,386 are sentenced guilty.

By the end of 2008, a total of nine intermediate courts and 14 grassroots courts initiate the pilot project of trying various IP cases in one tribunal. Currently, the number of intermediate courts with jurisdiction of trying patent cases hits 71, and a total of 66 grassroots courts are authorized to try general IP civil cases. (Source: SIPO website)