

W&B Legal Newsletter

2017 August Vol. 4

Spotlight

Latest on Watson & Band

- IAM Patent 1000 Lists W&B Listed among Top Chinese Law Firms in Patent Litigation and Transaction Areas
- Watson & Band Hold China Law Salon Entitled “Criminal Legal Risks in the Operation of an Enterprise”

Litigation Report

- MIIT Promulgates Amendment to the Administrative Measures for Telecommunications Business Licenses
- Anti-monopoly Guidelines on Abuse of IP Rights Will Probably be Promulgated This Year

Compliance Management

- Supreme People’s Court to Gradually Restrict Professional Counterfeiting for Profits

Monopolies and Competition

- Supreme People’s Court deems Digital TV Bundles Monopolistic Tie-in Sales

Chinese Entertainment Law

- General Principles of Reviewing Online Audiovisual Programs Published: Adhering to the Principle of Review before Broadcasting

IP Litigation

- Supreme Court: Over Half of IP Infringement Cases are Concluded by Withdrawal



Introduction

Watson & Band has flourished into a full-service law firm with more than 250 professionals 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 Law Offices is one of the oldest partnership law offices in China. Headquartered in Shanghai, our firm maintains multiple branch offices in Beijing, Harbin, Wuxi and Hong Kong. Our cooperative firms spread over all major cities in China and abroad.

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 a branch office in Beijing. 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 responsible for special clients. Agents from various technical divisions all have rich experience and are able to work with several languages.

Contact Us

Shanghai Office

Address: 26th Floor, The Center, No.989 Changle Road, Shanghai 200031 P.R.C.

Tel: (86-21) 5292-1111;
(86-21) 6350-0777

Fax: (86-21)5292-1001;
(86-21) 6272-6366

E-mail: mail@watson-band.com.cn ; mail-ip@watson-band.com.cn

Beijing Office

Address: 5C, D Block, Fuhua Mansion, No. 8 North Chaoyangmen Street, Dongcheng District, Beijing 100027 P.R.C.

Tel: (86-10) 6625-6025

Fax: (86-10) 6445-2797

E-mail: beijing@watson-band.com.cn ; mail-ip@watson-band.com.cn

Hong Kong Office

Address: Room 2004, Kinwick Center, 32 Hollywood Road, Central District, Hong Kong

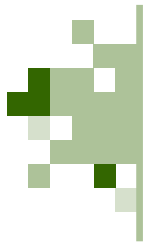
Tel: (86-21) 5292-1111*123; 852-3197-0091

Harbin Office

Address: Room A2, Madi-er Shopping Center No.37 West Badao Street, Daoli District, Harbin 150010 P.R.C.

Tel: (86-451) 8457-3032;
(86-451) 8457-3032

E-mail: harbin@watson-band.com.cn



Catalogue

Latest on Watson & Band

IAM Patent 1000 Lists W&B Listed among Top Chinese Law Firms in Patent Litigation and Transaction Areas	6
Watson & Band to Participate in 13th China International Comics and Gaming Expo	6
Watson & Band Named a “2015-2016 Trustworthy Shanghai Enterprise”	7
Watson & Band Hold China Law Salon Entitled “Criminal Legal Risks in the Operation of an Enterprise”	7

Litigation Report

SIPO Publishes Administrative Measures for Priority Patent Examinations	8
MIIT Promulgates Amendment to the Administrative Measures for Telecommunications Business Licenses	8
Anti-monopoly Guidelines on Abuse of IP Rights Will Probably be Promulgated This Year	8

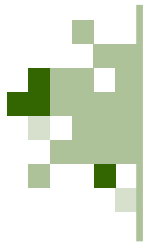


Dear Readers,

Thank you for your attention to Watson & Band. We enjoyed brilliant achievements in various endeavors during the first half of 2017. Two of our colleagues were promoted to partner, and we established a cooperation center with SISU Law School to cultivate legal talent. In our entertainment law practice, we enforced the reputation rights of famous pop star Lu Han. In our intellectual property law practice, we were named a top-tier IP law firm in the ALB legal rankings due to our outstanding trademark and patent law practice groups. We were also retained by the Japan Trademark Association as its legal consultant in China. Meanwhile, in addition to the patent infringement case SMC v. Bosun Pneumatic handled by W&B partner Jianguo Huang, which was listed in 2016 Typical Cases Heard by the Shanghai Intellectual Property Court, our “UL” trademark cases were also listed as Typical Cases by the Supreme People’s Court, the Beijing Court and the Shanghai Court.

In terms of domestic legal developments, the promulgation of the Cyber Security Law and its related regulations will certainly exert far-reaching influence on enterprise information management. We will go into more detail on this matter in our next newsletter.

MuLe Li Partner CMO
m.le.li@watson-band.com.cn



Catalogue

Compliance Management

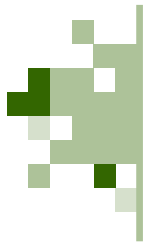
Supreme People's Court to Gradually Restrict Professional Counterfeiting for Profits	9
National Development and Reform Commission Issues Industry Association Pricing Behavior Guide	9
State Council: Abandon the Prior Approval System for Enterprise Names to Facilitate the Integration of Information about Registration for Enterprise Licensing and Certification into the Filing of Business Licenses	9

Monopolies and Competition

Supreme People's Court deems Digital TV Bundles Monopolistic Tie-in Sales	10
17 Papermaking Enterprises Fined 7.78 Million RMB for Price-Fixing	10
First Illegal Price Monopoly Agreement over Direct-Supply of Electricity is Investigated and Punished	10
Final Trial for the First Anti-Administrative Monopoly Case: Expert Witness Debut	10

Chinese Entertainment Law

General Principles of Reviewing Online Audiovisual Programs Published: Adhering to the Principle of Review before Broadcasting	11
Cyberspace Administration of China to Publish Emergency Plan for National Internet Security Events	11
Tencent Obtains Over 270,000 RMB in Compensation in a Lawsuit against News Porter "Toutiao" for Infringing its Right of Communication Through Information Network by Publishing News without Authorization	11



Catalogue

IP Litigation

Establishment of the Hangzhou Internet Court	12
Musical “Fountain Jet” Performances Protected by the Copyright Law	12
Supreme Court: Over Half of IP Infringement Cases are Concluded by Withdrawal	12

Dispute Resolution

Taobao’s Award of 120,000 RMB in First Lawsuit against Tenant That Offered Counterfeits: Does It Send a Signal?	12
Supreme Court Defines Jurisdiction for Dispute over Damage Liability for Property Preservation During Litigation	13

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 State Intellectual Property Office, China Trademark Office, 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.

Latest on Watson & Band

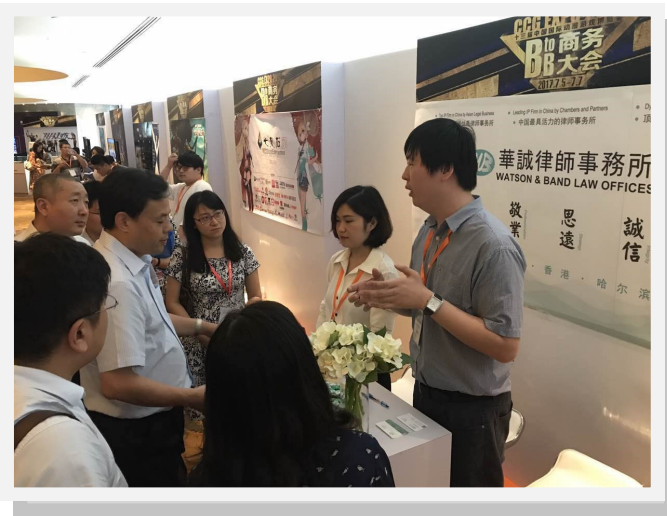
IAM Patent 1000 Lists W&B Listed among Top Chinese Law Firms in Patent Litigation and Transaction Areas

IAM Patent 1000 recently published its 2017 ratings, in which Watson & Band is once again listed among the Top Chinese Law Firms in Patent Litigation and Transaction Areas.

As a world-class patent publication, IAM Patent 1000 provides individualized guidelines for patent authorities and patent companies in major judicial jurisdictions throughout the world. It is the only one-stop guideline publication in the global intellectual property industry that provides lists and rankings of first-class practitioners with respect to patent applications, patent litigation, etc.



Watson & Band to Participate in 13th China International Comics and Gaming Expo



The 13th China International Comics and Gaming Expo (the “CCG Expo”) will hold its grand opening in the Shanghai World Expo Exhibition and Convention Center on 6th July 2017. W&B Law Offices will set up a booth in the Business Section to seek partners in copyright importation, film and TV investment and distribution, IP adaptation, brand authorization and litigation and rights protection. W&B will also seek to communicate on-site with its peers in the comics and gaming

industry.

W&B has achieved remarkable success in this industry. By representing the victorious client in the unfair competition dispute Blizzard Entertainment’s Hearthstone vs. Legend of Wolong, W&B helped to exert a tremendous influence on the fight against the domestic copy-cattling of game products and on efforts to build a positive market environment. This case was selected as one of the 2014 Top Ten Typical IP Cases in Shanghai. Another W&B case, concerning infringement and unfair competition over the copyright for the Six Schools online game, was selected as one of the 2015 Top Ten Cases Involving Judicial IP Protection in Shanghai Courts.





Latest on Watson & Band

Watson & Band Named a “2015-2016 Trustworthy Shanghai Enterprise”

Recently the Shanghai Municipal Contract Credit Promotion Association listed Watson & Band as a 2015-2016 Trustworthy Shanghai Enterprise. Meanwhile, according to the (Interim) Measures for the Assessment and Ranking of the Contract Credit of Enterprises in Shanghai (promulgated by the Shanghai Municipal Contract Credit Promotion Association), Watson & Band was named an AAA Contract Credit Rating Enterprise by the Pudong New District Contract Credit Promotion Association.



Since its establishment in 1995, Watson & Band has dedicated itself to the philosophy of “Integrity, Strategy, Professionalism and Dedication” by demanding that its lawyers display excellent professional knowledge and ability as well as trustworthy professional accomplishments. During more than twenty years of practice, Watson & Band’s dedication to the interests of its clients has been recognized and highly recommended by clients from various industries, due to its brilliant performances in areas such as intellectual property, culture and entertainment, and enterprise operation and management.

Watson & Band Hold China Law Salon Entitled “Criminal Legal Risks in the Operation of an Enterprise”



On July 21st 2017, W&B convened a China Law Salon entitled “Criminal Legal Risks in the Operation of an Enterprise”. The speaker was Mr. Jiang Lifei, a W&B partner. Mr. Jiang approached the subject from studying classic cases of criminal risk for enterprises and offered strategies and solutions for those risks to eliminate operational crisis for enterprises and to safeguard healthy and sustainable development. Mr. Jiang highlighted the session by combining practical cases and legal provisions to provide a vivid and visual explanation of common operation and management issues that enterprises are currently faced with. He

explained these issues in detail, so that managers can understand how to protect the rights and interests of their enterprises. During the two-and-a-half-hour session, Mr. Jiang interacted frequently with his audience in a dynamic lecture.

Coming Event:

Theme: Workshop on FMCG and Retailing

Date: 2017 August 25th 1:30pm

Place: Watson & Band Shanghai Offices

Event Registration:

Grace Feng

Marketing Manager

lei.feng@watsonband.com

Litigation Report

SIPO Publishes Administrative Measures for Priority Patent Examinations

SIPO recently published the Administrative Measures for Priority Patent Examinations (the “Measures”), which were implemented on August 1st, 2017. The Measures apply to priority examination in four types of patent applications or cases, including “invention patent applications at the substantive examination stage” and “utility model and design patent applications”. A request for priority examination can be submitted in patent applications or patent reexamination cases involving any of six classifications, e.g.--the Internet, big data and cloud computing and rapid updates in technologies or products; moreover, a request for priority examination can be submitted in patent invalidation cases involving two circumstances e.g. the patent involved is of great significance to the national or public interest. According to the Measures, if SIPO approves the priority examination, it shall conclude the case within the time period prescribed in the Measures, starting from the date of approval. For an invention patent application, SIPO must issue a first office action within forty-five days and must conclude the case within a year.

Via: State Intellectual Property Office

MIIT Promulgates Amendment to the Administrative Measures for Telecommunications Business Licenses

The MIIT (Ministry of Industry and Information Technology) recently promulgated the Administrative Measures for Telecommunication Business Licenses (the “Measures”), to be implemented on September 1st, 2017. The Measures incorporate 53 articles organized into nine chapters. They govern license-related issues such as the application and approval, use and modification, supervision and inspection and legal liability.

The Measures repeal requirements on (i) filing of business licenses for basic telecommunications and cross-regional value-added telecommunications services; (ii) submission of a financial accounting report and capital verification report when applying for a business license; and (iii) submission of a notice on pre-approval for an enterprise name when applying for a business license; and (iv) the possession of a telecommunication business license as a prerequisite for a change in corporate registration. The Measures explicitly provide for the establishment of telecommunications business comprehensive management information platforms, as well as the establishment of a credit management system, an annual information reporting and publication system, and a dishonesty blacklist and a sanctions regime.

Via: Ministry of Industry and Information Technology

Anti-monopoly Guidelines on Abuse of IP Rights Will Probably be Promulgated This Year

The IP Strategy Implementation Inter-Ministerial Joint Meeting Office under the State Council recently published the 2017 Plan for In-depth Implementation of a National IP Strategy and Expedited Construction of a Strong IP Nation, in which it is expressly provided that the Anti-monopoly Guidelines on the Abuse of IP Rights and the standards for determining monopolistic conduct in the IP area will be promulgated this year.

The Plan also provides that a great number of legislative tasks will be accomplished this year, including: (i) actively promoting the fourth amendment of the Patent Law and the legislative process for the Rules on Patent Agency; (ii) promoting the third amendment of the Copyright Law; (iii) actively promoting the amendment of the Rules on the Protection of New Plant Varieties; (iv) promoting the amendment of the Regulations for National Defense Patents; (v) participating in the amendment to the Regulations on the Protection of Olympic Marks; and (vi) promulgating the Interpretations on Several Issues Concerning the Application of the Law for the Review of Preservation in Cases Involving IP and Competition-related Disputes.

Via: Legal Daily

Compliance Management

Supreme People's Court to Gradually Restrict Professional Counterfeiting for Profits

Recently the Supreme People's Court published the Responsive Opinions on Proposal No.5990 of the 5th Session of the 12th National People's Congress, in which a response was provided for a proposal submitted by Guoxiu Yang et al concerning the guidance and regulation of professional counterfeiters. According to the Opinions, in the area of general consumer products, punitive damages paid to consumers should be based on actual fraud of operators; however, such fraud does not exist in the purchase by a person who is aware of the counterfeiting nature. In current judicial practice involving consumer enforcement actions, the purchase of counterfeits by persons who are aware of the counterfeiting nature has been gradually commercialized, not for the purpose of purifying the market, but rather for profits from punitive damages or even extort money from business operators. Since such conduct makes a mockery of the principles of honesty and credibility, the Supreme People's Court will not support such a "tit for tat" administrative model.

Via: *Supreme People's Court*

National Development and Reform Commission Issues Industry Association Pricing Behavior Guide

Recent, NDRC issued the Guidance on Price Behaviors of Industry Associations (the "Guidance"). The Guidance contains 13 articles that are meant to guide four types of pricing behavior by industry associations, including "selling goods and providing paid services".

The Guide categorizes pricing activities of industry association during (i) industry self-regulation, (ii) the release of industry information and (iii) the organization of industry activities and examines the degree of legal risk undertaken with respect to each of the items above. According to the Guidance, industry associations face extremely high legal risk when implementing pricing behaviors that clearly eliminate or restrict competition.

Via: *National Development and Reform Commission*

State Council: Abandon the Prior Approval System for Enterprise Names to Facilitate the Integration of Information about Registration for Enterprise Licensing and Certification into the Filing of Business Licenses

Li Keqiang, Premier of the State Council, chaired an executive meeting on July 12th, which described the agenda to expedite the integration of information about registration for enterprise licenses and certificates and filing this information with the Business License in order to create a unified national electronic business license management system. Measures will be implemented to establish a one-stop registration system with a time limit for domestic and foreign funded enterprises. The pre-approval system of enterprise names will be replaced by an independent declaration system. The reform of simplified procedures for enterprise cancellation of registration will be comprehensively implemented.

Via: *State Council*

Monopolies and Competition

Supreme People's Court deems Digital TV Bundles Monopolistic Tie-in Sales

The Supreme People's Court pointed out in its recently-published 2016 Annual Report on IP Rights Cases, that when an operator utilizes its dominant market position to bundle a basic maintenance fee for digital TV with a fee for paid digital TV programs, and then charges consumers for the entire bundle, it infringes the consumers' right of choice and prevents other service providers from entering the digital TV service market. Even charging separately for the two service fees is still insufficient to prevent the sale from being characterized as a prohibited monopolistic tie-in sale under the Anti-monopoly Law.

Despite the current rise in the number of anti-monopoly cases, party litigation capacity still requires accumulation and enhancement. Trade secret disputes account for a relatively large proportion of unfair competition cases, and the issues in dispute mostly focus on legal issues related to certification of the basis of rights, such as the actual confidentiality of the information and whether confidentiality measures have been taken to protect the information.

Via: www.legaldaily.com.cn

First Illegal Price Monopoly Agreement over Direct-Supply of Electricity is Investigated and Punished

Recently, the State Development and Reform Commission guided the Shanxi Provincial Development and Reform Commission to issue a decision over the conclusion and performance of a price monopoly agreement on the direct-supply of electricity by 23 thermal power enterprises organized by the Shanxi Province Electric Power Association. The Shanxi Provincial Development and Reform Commission imposed a penalty of 73.38 million RMB for the offense of having these enterprises negotiate a monopoly agreement to control the price of directly supplied electricity. The Shanxi Province Electric Power Association violated provisions of the Anti-Trust Law, breached national electricity supply reforms designed to encourage competition, encouraged direct power purchases by large industrial users from power generation enterprises, increased the burden of power consumption by downstream entity enterprises and damaged the interests of consumers.

Via: *State Development and Reform Commission*

17 Papermaking Enterprises Fined 7.78 Million RMB for Price-Fixing

The NDRC recently instructed the Zhejiang Provincial Pricing Bureau to issue a penalty decision on a price-fixing agreement concerning whiteboard paper that was concluded and performed by 17 papermaking enterprises under the Hangzhou Fuyang District Paper Association. The Fuyang District Paper Association was legally deregistered and a fine of 7.78 million RMB was imposed on the 17 enterprises involved, thereby effectively curbing the price increase and preserving fair market competition. The 17 enterprises involved, as independent market participants manufacturing and distributing whiteboard paper, are in fact competing operators. Since they held a meeting convened by their industrial association and reached a price-fixing agreement concerning whiteboard paper, and since they later performed the agreement, they violated Article 13.1 of the P.R.C. Anti-Monopoly Law. The illegal conduct of the Fuyang District Paper Association and the enterprises involved excluded and restricted competition on the whiteboard paper market, illegally promoted a rise in the price of whiteboard paper, increased the burden on downstream enterprises such as printing and packaging enterprises, and ultimately harmed consumers.

Final Trial for the First Anti-Administrative Monopoly Case: Expert Witness Debut

A case in which Thsware, a technology company, sued the Guangdong Provincial Office of Education for suspected acts of administrative monopoly, attracted much attention in legal circles. The Guangdong Supreme Court issued an appeal judgement ruling that the Office of Education abused its administrative power by appointing Glodon Software Company Limited as the exclusive participating software provider in a provincial contest entitled "Basic Skills for Construction Cost Management". The court dismissed all appeal claims asserted by Glodon and the Office of Education and upheld the first instance judgement. This case, spanning over 3 years, was the first administrative monopoly lawsuit since the promulgation of the antitrust law, and it ended in a citizen's victory over government officials. This was also the first case where expert witness appeared in court for an administrative monopoly lawsuit.

Via: *LexisNexis*

Chinese Entertainment Law

General Principles of Reviewing Online Audiovisual Programs Published: Adhering to the Principle of Review before Broadcasting

Recently the China Netcasting Services Association published the General Principles of Reviewing Online Audiovisual Programs, which demands that applicable operators of online audiovisual program services must adhere to the principles of “pre-broadcast review” and “effective implementation of a review system” in reviewing online audiovisual content. According to the General Principles, applicable operators must establish a review system for broadcast content as well as retention and work systems for review and feedback. They must also be equipped with reviewers and adequate review facilities as necessitated by their business development. Reviewers must submit fair and objective written opinions on the programs being reviewed, and they should specify items to be modified, issue broadcast approval/disapproval and state the grounds for their decisions.

Via: *China Netcasting Services Association*

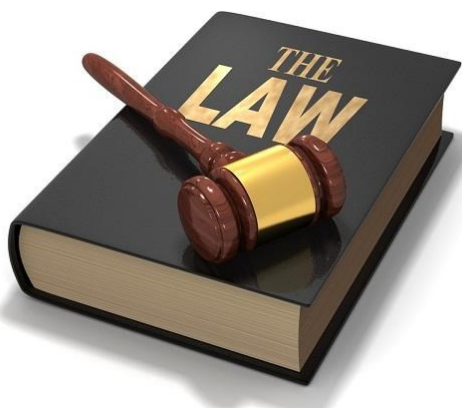
As the legal service provider for Shanghai International Film Festival, Shanghai International Arts Festival, MPA and SMG, W&B boosts extensive and intensive professional experience in China's culture and entertainment industry. Please contact us for any legal need for your cultural or performance activities in China.

Cyberspace Administration of China to Publish Emergency Plan for National Internet Security Events

On the afternoon of 27th June, the Central Cyberspace Administration of China issued a notice entitled Emergency Plan for National Internet Security Events, effective on the date of publication. The Plan categorizes Internet security Events into especially serious events, serious events, major events and general events. Red, orange, yellow and blue are used, in order of severity, for early warning of such events, corresponding to existing or potential “especially serious events”, “serious events”, “major events” and “general events”, respectively. Upon the occurrence of especially serious Internet security events, the Level I response must be promptly activated and a command center should be established for centralized emergency response leadership, direction and coordination. The Office for Emergency Response is open 24/7.

Via: <http://www.cac.gov.cn/>

Tencent Obtains Over 270,000 RMB in Compensation in a Lawsuit against News Porter “Toutiao” for Infringing its Right of Communication Through Information Network by Publishing News without Authorization



The Haidian District People's Court recently issued a first-instance judgment for a case series in which Shenzhen Tencent Computer System Co., Ltd sued the operator of Toutiao for infringement of the right of communication through information networks. Tencent claimed that 287 sports and entertainment articles to which Tencent enjoyed the exclusive right of communication through network information were provided by the defendant on the Toutiao website or mobile client it operated. The court heard the case and ruled that Toutiao had committed infringement due to its failure to provide corresponding evidence in its defense, and it ordered Toutiao to pay a sum of over 270,000 RMB for all of the 287 cases – RMB 810 to RMB 1980 for each case for economic losses and reasonable enforcement expenses.

Via: *China Press, Publishing, Radio, Film and Television Journal*

IP Litigation

Establishment of the Hangzhou Internet Court

On February 26th, the Leading Group for Deepening Comprehensive Reform passed the Plan for Establishing the Hangzhou Internet Court at its 36th meeting. Establishment of the Internet court marks a major institutional innovation in which the judiciary system is actively adapting itself to the development trends of the Internet. According to the Notice on the Centralized Jurisdiction of Some of the Hangzhou Cases Involving the Internet by the Hangzhou Railway Transport Court (Zhe Gao Fa [2017] No.70), as of May 1st, 2017, the Hangzhou Railway Transport Court began exercising centralized jurisdiction over the following five types of first-instance Hangzhou Internet civil cases: i) contract disputes over online shopping; ii) liability disputes over products purchased online; iii) online service contract disputes; iv) disputes over financial loan contracts and micro-loan contract disputes signed and performed online; and v) Internet copyright disputes.

Via: dffyw.com

Musical “Fountain Jet” Performances Protected by the Copyright Law

Recently the Haidian Court issued a first-instance judgement over a case in which Beijing Water Design Technology Co., Ltd sued Beijing CSCA Co., Ltd and the West Lake Management Office for infringing a fountain design. The court ordered the two defendants to cease their infringement and pay damages. The Court ruled that since musical fountain jets display a unique and aesthetic visual effect of water jets that match specific background music, the fountain jet effect claimed by the plaintiff falls within the scope of protection of copyright for this type of work. The two works in dispute exhibit considerable similarity in terms of (i) details such as flow, shape, directional choreography by water columns, air blasting, water film and lighting changes; (ii) comprehensive coordination between musical rhythms and dynamic fountain jet shapes, spouting effects and overall imagery. Based on the foregoing, the court determined that the two works were substantially similar.

Via: bjhdfy.chinacourt.org

Supreme Court: Over Half of IP Infringement Cases are Concluded by Withdrawal

On July 5th, 2017, the Supreme People’s Court released its Special Report on Intellectual Property Infringement Statistics, which showed that from 2015 to 2016, 50.88% of Chinese IP cases ended in withdrawal. The report on IP infringement pointed out that the average trial duration for national IP infringement cases was 105 days. The nine types of cases that exceeded this average included counterfeiting of patents owned by others, infringement of invention patents and infringement of computer software copyrights. Only 7.93% IP of infringement cases concluded with judicial support of all of the claims asserted by the plaintiff.

Via: Legal Daily News-www.legaldaily.com.cn

Dispute Resolution

Taobao’s Award of 120,000 RMB in First Lawsuit against Tenant That Offered Counterfeits: Does It Send a Signal?

The Shanghai Fengxian District People’s Court recently issued a ruling on the first instance of a case in which Taobao sued its tenant for selling counterfeit products. It ordered the defendant, Yao, to pay compensation to Taobao in the amount of 120,000 RMB. According to information from the court and Alibaba Group, this was the first public case in China in which an e-commerce platform sued an online shop for selling counterfeits. Professionals believe that the judgment will ward off other similar violations and play a positive role in promoting social governance, maintaining fair competition and improving the consumption environment.

Via: PKULAW

Dispute Resolution

Supreme Court Defines Jurisdiction for Dispute over Damage Liability for Property Preservation During Litigation

At the request of Zhejiang Provincial High People’s Court for instruction, Supreme People’s Court recently issued its Official Reply to Jurisdiction Issues over Damage Liability for Property Preservation During Litigation, which came into force on August 10, 2017.

To facilitate prosecution, the Official Reply specifies that a lawsuit filed by a respondent and an interested party over damage liability for property preservation during litigation in accordance with Article 105 of the P.R.C. Civil Procedure Law shall be subject to the jurisdiction of the court granting the petition for property preservation during litigation. Article 105 provides that: “When the preservation petition is improperly filed, the applicant shall compensate the respondent for the loss incurred as a result of preservation activities.”

Via: Supreme People’s Court

Your Reliable Disputes Specialist — Watson & Band Law Offices

