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中国法院知识产权 司法保护状况

2021年

Intellectual Property Protection by
Chinese Courts in 2021

最高人民法院知识产权审判庭 编

人民法院出版社

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特别说明：

《中国法院知识产权司法保护状况（2021 年）》以中英两种文本发布，以中文文本为准。

Special Remarks:

This paper is published in both Chinese and English. The Chinese version shall be the authoritative version for interpretation purposes.

中国法院知识产权司法保护状况 (2021 年)

前 言

习近平总书记强调，创新是引领发展的第一动力，保护知识产权就是保护创新，要提高知识产权保护工作法治化水平。2021 年 9 月，中共中央、国务院印发《知识产权强国建设纲要（2021—2035 年）》，提出要统筹推进知识产权强国建设，全面提升知识产权创造、运用、保护、管理和服务水平，充分发挥知识产权制度在社会主义现代化建设中的重要作用。

2021 年，人民法院坚持以习近平新时代中国特色社会主义思想为指导，深入贯彻习近平法治思想，认真贯彻习近平总书记关于加强知识产权保护的重要论述，深入领会“两个确立”的决定性意义，增强“四个意识”、坚定“四个自信”、做到“两个维护”，紧紧围绕“努力让人民群众在每一个司法案件中感受到公平正义”目标，准确

把握加强新时代知识产权审判工作的总体要求，专业化审判体系基本建成，专业化审判能力显著提高，知识产权司法保护水平不断提升，为统筹疫情防控和经济社会发展提供有力司法服务，人民群众对知识产权审判的满意度不断增强，全社会尊重和保护知识产权的意识日益强化，我国知识产权审判国际影响力不断扩大。

一、案件数量大幅增长，审判质效不断提升

2021年，人民法院坚持依法公正高效审理各类知识产权案件，新收一审、二审、申请再审等各类知识产权案件642968件，审结601544件（含旧存，下同），比2020年分别上升22.33%和14.71%。

（一）各类案件数量

最高人民法院新收知识产权民事案件4243件，审结3557件，比2020年分别上升22.28%和9.11%。地方各级人民法院新收知识产权民事一审案件550263件，审结515861件，比2020年分别上升24.12%和16.52%。其中，新收专利案件31618件，同比上升10.98%；商标案件124716件，同比上升59.62%；著作权案件360489件，同比上升14.99%；技术合同案件4015件，同比上升22.52%；竞争类案件8419件，同比上升78.26%；其他知识产权民事纠纷案件21006件，同比上升38.01%。地方各级人民法院新收知识产权民事二审案件49084件，审结45468件，同比分别上升14.22%和4.5%。

最高人民法院新收知识产权行政案件 2852 件，审结 2487 件，比 2020 年分别上升 49.4% 和 43.34%。地方各级人民法院新收知识产权行政一审案件 20563 件，审结 19342 件，比 2020 年分别上升 11.37% 和 7.8%。其中，新收专利案件 1810 件，同比上升 27.73%；商标案件 18734 件，同比上升 9.97%；著作权案件 19 件，比 2020 年增加 7 件。地方各级人民法院新收知识产权行政二审案件 8215 件，审结 7418 件，比 2020 年分别上升 34.85% 和 19.97%。其中，维持原判 5636 件，改判 1597 件，发回重审 1 件，撤诉 145 件，驳回起诉 11 件，其他 28 件。

地方各级人民法院新收侵犯知识产权刑事一审案件 6276 件，审结 6046 件，比 2020 年分别上升 13.2% 和 9.53%。其中，新收侵犯注册商标类刑事案件 5869 件，同比上升 12.8%；侵犯著作权类刑事案件 333 件，同比上升 9.54%。在审结的侵犯知识产权刑事一审案件中，假冒注册商标刑事案件 2558 件，同比上升 13.19%；销售假冒注册商标的商品刑事案件 2623 件，同比上升 3.76%；非法制造、销售非法制造的注册商标标识刑事案件 476 件，同比上升 20.51%；侵犯著作权刑事案件 313 件，同比上升 14.65%；销售侵权复制品刑事案件 15 件，比 2020 年减少 2 件；侵犯商业秘密刑事案件 61 件，比 2020 年增加 16 件。地方各级人民法院新收涉知识产权的刑事二审案件 1050 件，审结 997 件，同比分别上升 20.83% 和 16.74%。

（二）全年案件特点

人民法院受理的知识产权案件呈现以下主要特点。

涉互联网案件持续增加。随着我国互联网行业高速发展，网络

成为知识产权侵权违法行为的最主要发生地之一，网络环境下的知识产权保护日益成为知识产权审判的重点。2021 年，杭州、北京、广州三家互联网法院共新收各类涉互联网知识产权案件 66148 件，比 2020 年增长 6.64%。总的来看，互联网案件数量逐年增长，涉及越来越多的新型、复杂、疑难法律问题。互联网环境下的侵权行为更易实施、更加隐蔽、更为复杂，影响范围更为广泛，收集固定证据更加困难，权利人维权难度进一步加大。加强网络空间的法治治理，保护互联网领域创新创造，是人民法院知识产权司法保护工作面临的重要课题。

新类型纠纷大量涌现。创新在我国现代化建设全局中居于核心地位。近年来，新技术新业态新模式蓬勃发展，为经济社会发展注入新动能，也带来新的法律问题。涉及互联网核心技术、基因技术、信息通信、集成电路、人工智能及平台经济等方面新型案件日益增多，复杂技术事实认定和法律适用难度加大，新领域新业态知识产权保护的权利边界、责任认定给司法裁判提出新挑战。人民法院积极回应新技术、新产业、新业态、新模式知识产权保护司法需求，对健全完善相关领域知识产权司法保护规则进行了积极探索。2021 年，人民法院审理的一批涉及生物医药、网络游戏、网络直播、“大数据杀熟”、共享经济、人工智能等方面新类型案件受到社会广泛关注。

涉公共利益案件数量上升。知识产权涉及的利益关系复杂，往往与社会公共利益息息相关。知识产权审判需要平衡保护个人权利和公共利益，准确把握多层次价值取向，更好统筹发展和安全的关

系。2021 年，在行政授权确权、民事侵权维权、竞争秩序维护等领域，人民法院审理了一批涉及商标恶意注册、“通知—删除”规则适用、“同人作品”等案件，平衡保护个人权利和公共利益。

刑事保护力度逐步加大。近年来，利用深度链接、游戏“外挂”等技术手段侵犯知识产权犯罪不断涌现，刑民交叉案件带来诸多法律适用难题。2021 年 3 月 1 日施行的刑法修正案（十一）对侵犯知识产权犯罪作了重大修改，为提升知识产权司法保护水平提供了有力支撑。人民法院认真贯彻落实习近平总书记提出的“要完善刑事法律和司法解释，加大刑事打击力度”要求，坚持罪刑法定和严格保护原则，依法惩治假冒注册商标、侵犯著作权、侵犯商业秘密、种子制假售假等犯罪，坚决保护权利人和消费者合法权益，维护良好市场秩序。2021 年，地方各级人民法院新收、审结侵犯知识产权犯罪案件数量明显增长，刑罚在惩治侵权假冒犯罪行为中的震慑和预防功能日益凸显。

二、加强科技创新保护，服务创新驱动发展

创新是引领发展的第一动力，是贯彻新发展理念、构建新发展格局、推动高质量发展的必然要求。人民法院充分发挥知识产权审判对科技创新的激励作用，努力保障知识产权保护强度与其技术贡献程度相适应，不断总结提炼科技创新司法保护规则，促进技术创新和产业升级。

（一）提升案件审判质效

依法审理各类知识产权案件，通过制定司法解释、司法政策，发布指导性案例、公报案例、年度案例，切实加强审判指导，统一裁判尺度，促进行政执法标准和司法裁判标准统一，审判能力水平不断提升。最高人民法院出台《关于审理申请注册的药品相关的专利权纠纷民事案件适用法律若干问题的规定》，聚焦药品专利链接制度落地后需要解决的程序性问题，注重诉讼程序与药品审评审批程序、行政裁决程序的衔接配合，为及时公正审理好该类案件提供明确指引，为医药行业的自主创新和高质量发展提供制度激励和司法保障。出台《关于审理侵害植物新品种权纠纷案件具体应用法律问题的若干规定（二）》，发布首批人民法院种业知识产权司法保护典型案例，对近年来的司法实践进行总结，切实贯彻实施种子法，强化品种权保护，激励育种创新和保障种业科技自立自强，提升我国种业知识产权司法保护水平，为种业振兴营造良好法治环境。

最高人民法院知识产权法庭经过三年试点，共受理涉及专利、植物新品种、集成电路布图设计等技术类知识产权案件 9368 件，审结 7625 件。其中，2021 年新收案件 4335 件，审结 3460 件，超四分之一案件涉及新一代信息技术、生物医药、高端装备制造、节能环保等战略性新兴产业。2022 年 1 月，中国科学技术协会、中国法学会分别完成对最高人民法院知识产权法庭试点第三方评估，认为试点方向正确、成效显著，实现了党中央决定设立最高人民法院知识产权法庭的预期目标，国家层面知识产权案件上诉审理机制进一步完善，有力推动了技术类案件裁判标准进一步统一和审判质效进

一步提升。2022 年 2 月 27 日，最高人民法院周强院长向第十三届全国人大常委会汇报关于专利等知识产权案件诉讼程序若干问题的决定实施情况，全国人大常委会审议并给予充分肯定。

（二）加强原始创新成果保护

人民法院加强对专利授权确权行政行为合法性的审查，提升专利授权确权质量。妥善审理涉及 5G 通信、生物医药、高端装备制造、新材料新能源等高新技术领域知识产权案件，激励科技创新。加强对新兴领域知识产权保护，公正审理涉及共享经济、人工智能、大数据、云计算等新型知识产权案件，明晰保护规则，明确权利边界，引导新技术新业态新模式在法治轨道上健康有序发展。最高人民法院在涉“磁共振成像”“中药发药机”等发明专利权无效案中，科学合理解释权利要求，维持专利权效力，依法服务和保障抗击新冠肺炎疫情大局。在涉“高温微波膨化炉”“指纹识别”等专利权属案中，明确职务发明权属争议的判断标准，激励科研人员创新创造，依法保护科技创新主体合法权益。在水稻“金粳 818”、玉米“隆平 206”等品种权案中，加强种业知识产权保护，促进种业科技自立自强。研究制定加强涉种子刑事审判工作的指导意见，依法惩治涉种子犯罪，服务加快推进种业振兴。组织召开中医药知识产权司法保护座谈会，助推中医药守正创新、传承发展。江苏高院联合 5 家省级机关开展“揭榜挂帅企业行”活动，涉及重点发展产业链企业 34 家，积极助力技术攻关。河南高院发布全面加强知识产权司法保护 20 条措施，强化对人工智能、生物医药等新领域科技创新成果保护。福建福州中院出台《关于加强对技术密集型行业重点企业知识

产权司法保护的实施意见（试行）》，积极回应高新技术企业知识产权司法需求。

三、加强注册商标保护，助力品牌强国建设

人民法院不断提高商标授权确权行政案件审理质量，坚决打击不以使用为目的的商标恶意注册行为，促进商标申请注册秩序正常化和规范化。加大驰名商标司法保护力度，重拳惩治商标攀附、仿冒搭车等行为。科学合理界定商标权权利边界与保护范围，强化商标使用对确定商标权保护范围的作用，积极引导权利人持续实际使用商标，发挥商标的识别功能，保护消费者合法权益。

（一）维护商标注册秩序

最高人民法院、部分地方法院与国家知识产权局开展商标授权确权业务研讨，共同提高商标授权确权质量。最高人民法院依法审结多起商标行政案件，进一步完善商标申请注册关于“显著性”的认定标准。北京知识产权法院结合商标授权确权行政案件审理情况，制定《推进行政诉讼程序繁简分流改革实施方案（试行）》，探索完善商标行政诉讼简易程序适用、电子诉讼应用相关规则，实现商标行政案件的繁简分流、轻重分离、快慢分道。江苏苏州中院在商标侵权案件审理中，推动建立全流程打击恶意注册商标工作机制。

（二）规范注册商标使用

人民法院持续加大对商标侵权行为打击力度，加强驰名商标、传统品牌和老字号司法保护工作。浙江高院组织开展品牌保护专项

行动，发布品牌保护典型案例。新疆塔城中院协调市场监督管理局加强巡查和监管，从源头上遏制假冒注册商标犯罪高发频发势头。四川成都中院向行政机关移送商标侵权线索，推动参照裁判标准确定行政处罚标准，促进降低相关纠纷数量。各地法院依法发挥惩罚性赔偿和刑事制裁对侵害商标行为的震慑作用，广东法院在两起侵害商标权纠纷案件中支持三倍惩罚性赔偿，分别判决 1000 万元和 3000 万元赔偿数额，贵州法院和黑龙江法院在两起涉假冒注册商标罪案件中分别判处 2100 万元和 2125 万元高额罚金。

（三）积极回应社会关切

随着司法审判对注册商标保护力度的不断加大，特别是判决赔偿金额的不断增长，一些滥用注册商标权、恶意维权甚至“碰瓷式维权”时有发生，给中小微企业和个体经营者的正常生产经营造成了严重困扰，引发社会高度关注。最高人民法院及时就“潼关肉夹馍”“逍遥镇胡辣汤”等地理标志司法保护问题发布答记者问，澄清模糊认识，指导审判实践，依法保护地理标志，严惩恶意诉讼，取得了良好社会效果。四川法院依法及时处理“青花椒”商标维权案，维护商标使用秩序，明确商标权利边界，保护正当使用和诚信经营。

四、加强著作权保护，促进文化强国建设

人民法院立足司法职能，充分发挥著作权案件审判对于优秀文化的引领和导向功能，大力弘扬社会主义核心价值观，加大对文化创作者权益保护，依法维护作品传播者合法权益，持续提升传统文

化和传统知识等领域的著作权保护水平，促进文化产业健康发展。

（一）大力弘扬社会主义核心价值观

各级人民法院依法保护红色经典传承和英烈合法权益，规范文化传播秩序，引导公众自觉抵制历史虚无主义，抵制低俗、庸俗、媚俗，加强遗传资源、传统文化、传统知识、民间文艺等知识产权保护，促进非物质文化遗产的整理和利用，促进中华优秀传统文化创造性转化、创新性发展。北京知识产权法院审结杂技作品著作权侵权纠纷案，加强传统杂技作品保护。北京石景山法院就四类易发侵害冬奥标识知识产权纠纷进行专题调研，助力冬奥会和冬残奥会成功举办。福建泉州法院出台《关于加强世界遗产司法保护实施意见》，设立海丝史迹保护巡回法庭，加大非物质文化遗产保护力度，促进文物资源保护利用以及文化遗产的保护传承。江西景德镇中院设立知识产权法庭，为国家陶瓷文化传承创新试验区建设提供司法服务和保障。

（二）促进新业态规范健康发展

近年来，网络游戏、体育赛事、网络直播等领域著作权侵权案件不断增多，司法裁判不断从实践层面完善作品认定与保护规则。2021年，新修正的著作权法正式施行。人民法院围绕修改重点，结合工作实际情况，积极开展调研，确保著作权案件依法审理，促进文化产业规范健康发展。最高人民法院多次组织研讨会，就游戏直播画面中的著作权法律问题、视听作品片段著作权保护法律问题等进行深入研讨，依法审结视听作品片段著作权保护系列案件。天津法院对于网络著作权纠纷案件所涉 ICP 备案、应用市场、短视频、

IPTV 侵权、赔偿数额等问题进行深入研究，形成《关于审理网络著作权纠纷案件相关问题的解答》，有效指导解决司法实践中的疑难问题。

（三）规范审理诉讼维权案件

随着文化产业的迅速发展和著作权权利人维权意识的提高，著作权维权诉讼持续增加。依法保护创作者权益，兼顾传播者和社会公共利益，平衡激励创作和保障人民文化权益关系，促进智力成果创作和传播，是审理著作权维权案件需要解决的重要问题。最高人民法院在 KTV 经营者侵害著作权纠纷系列案中，明确电子证据认定问题，减轻当事人举证负担，切实维护权利人合法权益。重庆高院、四川高院针对两地司法实践中侵害音像作品著作权案件数量居高不下、判赔数额标准不明确等情况，调研形成《关于确定 KTV 经营者侵害音像作品著作权案件赔偿数额的法官会议纪要》，依法引导相关行业健康发展。

五、加强公平竞争保护，维护市场法治环境

保护知识产权，促进公平竞争，是营造市场化法治化国际化营商环境、建设现代化经济体系、完善社会主义市场经济体制的内在要求。2021 年，人民法院加大对侵犯商业秘密等不正当竞争行为打击力度，加强对平台企业垄断的司法规制，依法惩治平台强制“二选一”“大数据杀熟”等破坏公平竞争、扰乱市场秩序行为，切实保护消费者合法权益和社会公共利益，维护和促进市场公平竞争，防

止资本无序扩张。

（一）加强反垄断、反不正当竞争审判工作

人民法院依法妥善审理垄断、不正当竞争案件，充分发挥司法裁判在维护市场公平竞争中的规则引领和价值导向作用，强化企业公平竞争意识，引导形成崇尚、保护和促进公平竞争的市场环境。在“驾校联营”横向垄断协议案中宣告联营协议和自律公约全部无效，从源头上制止垄断行为。积极探索完善涉互联网平台垄断行为认定标准，坚决制裁过度采集使用个人信息、利用算法实施价格歧视、价格欺诈等行为，依法规范市场竞争秩序。妥善审理数据确权、交易、服务、隐私保护等案件，探索完善数据权利保护规则，推动营造开放、健康、安全的数字生态。坚决制止仿冒混淆、虚假宣传、诋毁商誉等不正当竞争行为，净化市场环境，引导经营者通过技术创新等方式进行良性竞争。加强商业秘密保护，妥善处理保护商业秘密与自由择业、竞业限制和人才合理流动的关系，促进人才合理流动。明确诉讼中商业秘密保护的具体举措，打消权利人对诉讼中“二次泄密”的顾虑，鼓励权利人依法维权。针对赔偿低、成本高等问题，切实加大损害赔偿和维权合理开支支持力度，在“香兰素”技术秘密侵权案中，判赔 1.59 亿元。

（二）促进裁判标准统一

最高人民法院向全国人大常委会报告反不正当竞争法执法检查报告及审议意见的研究落实情况。研究制定《关于适用〈中华人民共和国反不正当竞争法〉若干问题的解释》，根据修正后的反不正当竞争法，重点对反不正当竞争法第二条、仿冒混淆、虚假宣传、网

络不正当竞争行为等问题作出细化规定，及时回应新领域新业态司法需求，对于加强反不正当竞争司法，强化竞争政策基础地位，促进形成高效规范、公平竞争、充分开放的全国统一大市场具有重要意义。发布互联网知识产权保护、反垄断和反不正当竞争方面 20 件典型案例，彰显司法营造公平竞争法治环境的鲜明态度。

六、深化审判领域改革，推动形成保护合力

2021 年，人民法院坚持以改革思维破解难题，以创新方式保护创新，出台《人民法院知识产权司法保护规划（2021—2025 年）》和《关于加强新时代知识产权审判工作为知识产权强国建设提供有力司法服务和保障的意见》，不断提升知识产权司法保护能力和水平，在健全专业化审判体系、完善诉讼规范等方面取得新进展。同时，人民法院积极强化司法审判与行政执法衔接机制，加强与知识产权行政职能部门协调配合，促进行政执法标准与司法裁判标准统一，着力推动健全知识产权大保护工作格局。

（一）优化中国特色知识产权专业化审判体系

我国已形成以最高人民法院知识产权审判部门为牵引、4 个知识产权法院为示范、27 个地方中级人民法院知识产权法庭为重点、地方各级人民法院知识产权审判庭为支撑的专业化审判格局，国家层面知识产权案件上诉审理机制进一步完善，知识产权专门审判机构建设进一步加强，互联网法院和地方各级人民法院知识产权审判庭审判功能不断强化。最高人民法院研究制定《关于第一审知识产

权民事、行政案件管辖的若干规定》，健全管辖科学的司法保护体制，合理定位四级法院审判职能，进一步优化审判资源配置，方便当事人诉讼，有效化解纠纷，破解当前第一审知识产权案件各地管辖标准不统一、管辖制度不够完善、当事人诉讼不便等问题。持续推进知识产权审判“三合一”工作，有效指导改革推进。西藏高院出台《知识产权案件“三合一”实施方案》，实现知识产权案件统一归口管理。海南高院出台《关于知识产权刑事案件指定管辖若干问题的意见》，明确知识产权刑事案件范围。

多元化技术事实查明机制不断完善，“全国法院技术调查人才库”已收录 450 余名技术专家名单，覆盖 30 多个技术领域，在全国范围按需调派，有效缓解技术类知识产权案件事实查明难题。上海知识产权法院积极探索外院案件委托机制，服务全市知识产权审判技术事实查明需求。辽宁沈阳中院在完善选用兼职技术调查官的基础上，探索建立专职聘用制技术调查官制度。

（二）完善符合知识产权案件规律的诉讼制度

最高人民法院积极研究探索符合知识产权案件规律的诉讼规范，推动完善知识产权案件诉讼制度。出台《关于审理侵害知识产权民事案件适用惩罚性赔偿的解释》，完善与民法典相配套的惩罚性赔偿制度，坚持全面平等保护原则，审慎明确适用条件，增强惩罚性赔偿司法适用的可操作性，保证惩罚性赔偿适用标准统一，依法惩处严重侵害知识产权行为，努力破解赔偿低、成本高等难题。发布 6 个知识产权惩罚性赔偿典型案例。2021 年，人民法院在 895 件案件中对侵权人判处惩罚性赔偿。发布《关于知识产权侵权诉讼中被

告以原告滥用权利为由请求赔偿合理开支问题的批复》，贯彻诚信原则，支持向滥诉者索赔合理开支，充分发挥律师费等合理开支对当事人诉讼行为的调节作用，更好地规制权利滥用，引导当事人诚信行使诉权。积极总结司法实践经验，会同最高人民检察院研究制定配套司法解释，确保刑法修正案（十一）有效实施。修改后的 18 件知识产权类司法解释于 2021 年 1 月 1 日与民法典同日施行，进一步促进知识产权案件裁判尺度统一。

地方各级人民法院积极开展知识产权小额诉讼、独任制审判等试点，推进案件繁简分流、轻重分离、快慢分道。努力克服新冠肺炎疫情影响，积极运用 5G、AR、人工智能等现代科技开展在线诉讼，巩固提升智慧法院建设成果，促进审判体系和审判能力现代化。北京高院制定《知识产权民事诉讼证据规则指引》，努力破解举证难问题。浙江高院推广应用“版权 AI 智审”，实现图案查重、创新点认定、相似性评估等功能，已在 173 件案件中实际运用，有效查重率为 43%。内蒙古呼伦贝尔中院积极试点应用司法区块链平台，为加强知识产权诉前和诉中保护提供高效便捷的技术支持。宁夏银川中院制定《知识产权类型化案件快审机制运行规范》，有效缩短了知识产权案件平均审理期限。

（三）积极参与构建知识产权大保护工作格局

知识产权保护是系统工程，人民法院一直注重强化协同配合，积极参与构建大保护工作格局，增强系统保护能力。最高人民法院积极参与打击侵权假冒行动和知识产权保护重要文件制定等工作，与国家知识产权局、国家反垄断局建立沟通联络机制，促进行政执

法和司法有效衔接。与农业农村部签署合作备忘录并联合召开种业知识产权保护工作座谈会，建立种业知识产权司法保护专家咨询机制，积极服务种业振兴。加强与国家中医药管理局和国家知识产权局的工作协调，推动建立中医药专利授权特别规则和特殊保护机制。持续指导长三角等地法院与行政机关共建跨地域跨部门协作机制，助推区域协同创新。深化落实与国家知识产权局共同印发的《关于建立知识产权纠纷在线诉调对接机制的通知》，建立“总对总”在线诉调对接工作机制，开展知识产权纠纷多元调解工作全流程线上办理，入驻调解组织 289 家、调解员 1635 名，各地法院委派诉前调解涉知识产权纠纷案件超过 2 万件。青海高院与省市场监督管理局会签《青海省对知识产权（专利）领域严重失信主体开展联合惩戒的合作备忘录》，联合惩治各类侵权失信主体。新疆高院与自治区市场监督管理局联合签署《知识产权保护合作框架协议》，实现跨部门协作。河北法院积极参与农资打假专项行动、电子商务领域知识产权保护联合行动等专项行动，提供有力司法服务和保障。安徽淮北中院依托《淮海经济区知识产权司法协同保护工作框架协议》，建设省际知识产权协同保护示范样板。辽宁高院联合省检察院、省公安厅印发《关于办理侵犯知识产权刑事案件若干问题的会议纪要》，统一执法司法标准，全面提升知识产权刑事司法保护力度。山东青岛中院与市检察院签订《知识产权审判与检察职能衔接合作框架协议》，完善案件管辖和协调机制。山西、吉林、湖南、广西、云南等地法院积极组织送法进企业、进社区，开展公开庭审、公开执行等活动，落实“谁执法谁普法”，深化司法公开，促进增强全社会尊重和保护

知识产权意识。

七、公正审理涉外案件，积极开展国际合作

人民法院坚持统筹推进国内法治和涉外法治，依法平等保护中外当事人及各类市场主体合法权益，维护公平竞争市场秩序，服务构建以国内大循环为主体、国内国际双循环相互促进的新发展格局，积极参与知识产权领域国际合作，为全球知识产权治理贡献中国司法智慧。

（一）平等保护中外权利人合法权益

人民法院通过公正审理涉外知识产权案件，妥善处理与国际贸易有关的重大知识产权纠纷，切实履行 TRIPs 协议、马德里协定、伯尔尼公约等我国参加批准的国际条约，积极营造开放、公平、公正、非歧视的科技发展环境和市场化法治化国际化营商环境，展示我国保护创新、开放包容的自信与决心。在最高人民法院审理的“带锁髓内钉”发明专利侵权案中，因侵权人拒不提交账册，改判全额支持外方权利人主张的 2000 万元赔偿，充分保障外国当事人合法权益，我国日益成为值得信赖的国际知识产权诉讼优选地。

（二）参与知识产权领域国际合作

人民法院持续深化国际司法交流合作，深度参与世界知识产权组织框架下的全球知识产权治理，推动全球知识产权治理体制向着更加公正合理方向发展。最高人民法院承办中欧知识产权诉讼制度比较论坛，参加第七届金砖国家国际竞争大会、第十八届上海知识

产权国际论坛、第二届知识产权司法保护国际研讨会、世界知识产权组织 2021 年知识产权法官论坛、中欧司法论坛标准必要专利研讨会、国际保护知识产权协会（AIPPI）中国分会青年知识产权研讨会等国际会议，与英国知识产权企业法庭在线交流，参与编写世界知识产权组织《全球专利案件管理司法指南》，积极发出中国声音，讲好中国知识产权司法保护故事，为全球知识产权治理体系贡献中国智慧。上海高院与世界知识产权组织仲裁与调解中心签署合作谅解备忘录，设立知识产权创新奖。

八、加强审判队伍建设，提升服务保障能力

2021 年，人民法院聚焦建设适应新时代要求的知识产权审判队伍，坚持以党建带队建促审判，深入开展党史学习教育和队伍教育整顿，着力加强政治建设，筑牢政治忠诚，增强知识产权审判队伍服务大局意识和能力，加强知识产权法官专业化培养和职业化选拔，完善知识产权审判人才储备和遴选机制，努力锻造一支政治坚定、顾全大局、精通法律、熟悉技术、具有国际视野的知识产权审判队伍。

（一）深入开展党史学习教育

2021 年是中国共产党成立 100 周年。人民法院坚决贯彻党中央重大决策部署，深入学习贯彻习近平总书记在党史学习教育动员大会上的重要讲话和“七一”重要讲话精神，认真学习领会党的十九届六中全会精神，紧紧围绕学史明理、学史增信、学史崇德、学史

力行，高标准高质量推动党史学习教育。各级人民法院以“我为群众办实事”实践活动为有力抓手，充分发挥审判职能作用，服务群众知识产权保护司法需求。最高人民法院就高校校园网使用他人作品侵权问题组织研讨会，搭建沟通桥梁，推动教育主管部门、视频企业、科研高校形成共识，有效化解纠纷。

（二）扎实开展队伍教育整顿

人民法院坚决贯彻落实习近平总书记关于政法队伍教育整顿重要指示精神和党中央决策部署，扎实开展队伍教育整顿，扎实推进筑牢政治忠诚、清除害群之马、整治顽瘴痼疾、弘扬英模精神“四项任务”，努力建设一支信念坚定、执法为民、敢于担当、清正廉洁的过硬政法队伍。各级人民法院坚持“当下治”与“长久立”相统一，结合知识产权审判实际，完善知识产权领域审判权力运行和制约监督机制，努力以队伍教育整顿成效推动新时代知识产权审判工作高质量发展。

（三）健全人才培养模式

各级人民法院着力培养复合型知识产权审判人才，提升办理新型、复杂、高技术案件专业水平。最高人民法院积极统筹全国知识产权审判专业化人才培养工作，通过召开专业研讨会议、组织业务培训、完善司法数据库、出版业务指导书籍、开展干部交流等方式提升队伍能力素质，持续加大对基层和西部地区法院人才队伍建设支持力度。陕西高院立足本省优势，与西北大学、西安交通大学签订全面战略合作协议，积极搭建“知识产权案例研究中心”等院校合作发展平台。江西、湖北、甘肃等高院举办知识产权审判业务培

训班，组织全省知识产权审判法官、法官助理和书记员参加培训。

结束语

2022 年是我国进入全面建设社会主义现代化国家、向第二个百年奋斗目标进军新征程的重要一年。人民法院将坚持以习近平新时代中国特色社会主义思想为指导，深入贯彻习近平法治思想，全面贯彻党的十九大和十九届历次全会精神，深刻领悟“两个确立”的决定性意义，增强“四个意识”、坚定“四个自信”、做到“两个维护”，弘扬伟大建党精神，不忘初心、牢记使命，紧扣立足新发展阶段、贯彻新发展理念、构建新发展格局、推动高质量发展要求，牢固树立保护知识产权就是保护创新理念，全面深化知识产权审判领域改革创新，巩固党史学习教育和队伍教育整顿成果，更好发挥知识产权审判职能作用，提升知识产权审判质量、效率和司法公信力，优化创新创业法治环境，提升我国法院在知识产权国际治理领域的话语权和影响力，为知识产权强国建设提供有力司法服务和保障，以实际行动迎接党的二十大胜利召开！

附件：

2021 年全国法院新收知识产权案件类型与数量图

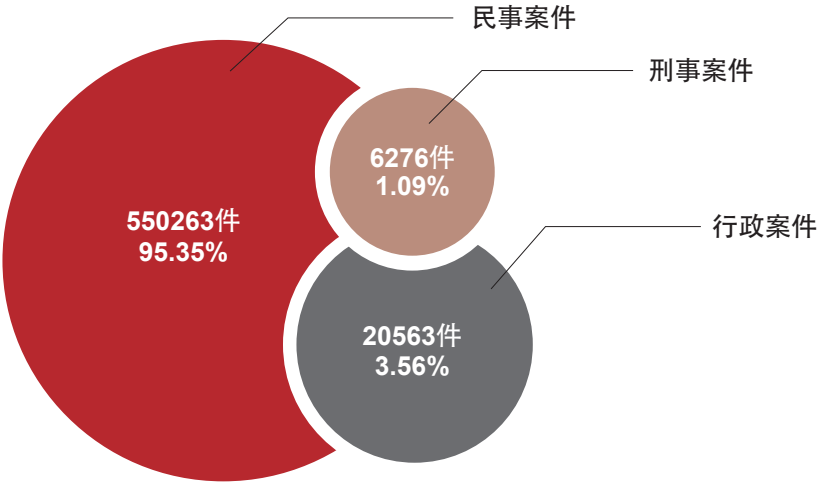


图 1 2021年全国地方人民法院新收知识产权一审案件类型与数量

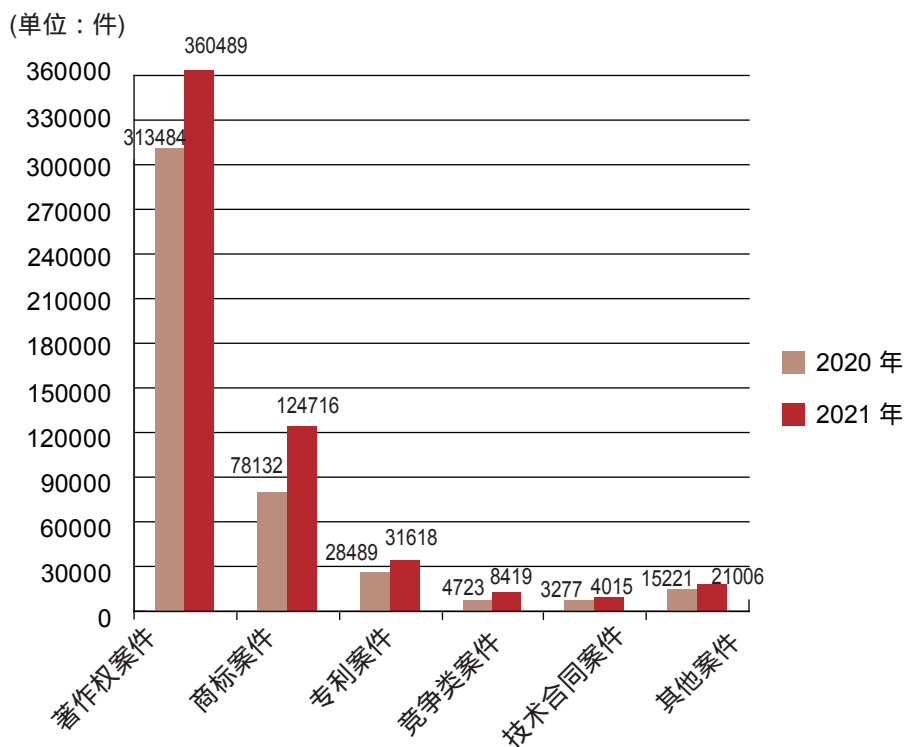


图 2 2021年与2020年全国地方人民法院新收知识产权民事一审案件^①数量对比

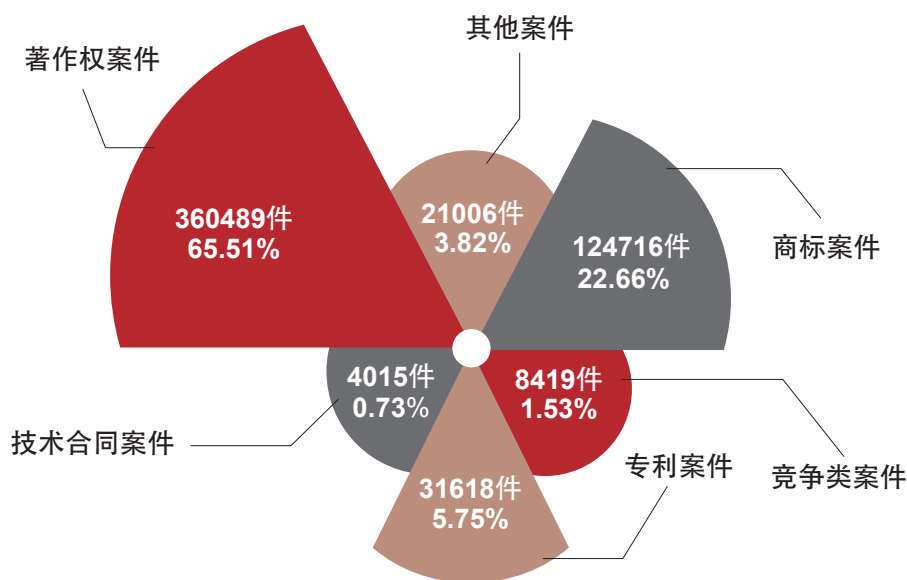


图 3 2021年全国地方人民法院新收知识产权民事一审案件类型与数量

^① 因统计口径调整，对 2020 年数据进行相应修正。

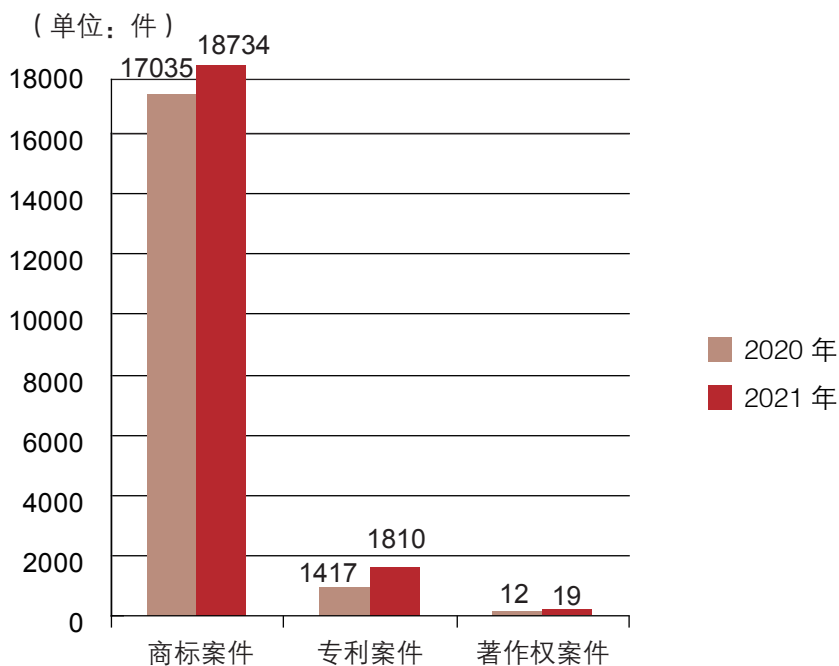


图 4 2021年与2020年全国地方人民法院新收知识产权行政一审案件数量对比

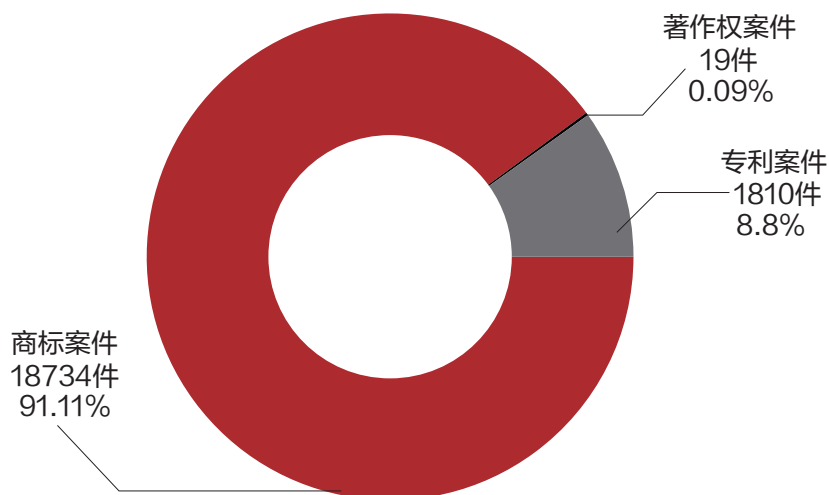


图 5 2021年全国地方人民法院新收知识产权行政一审案件类型与数量

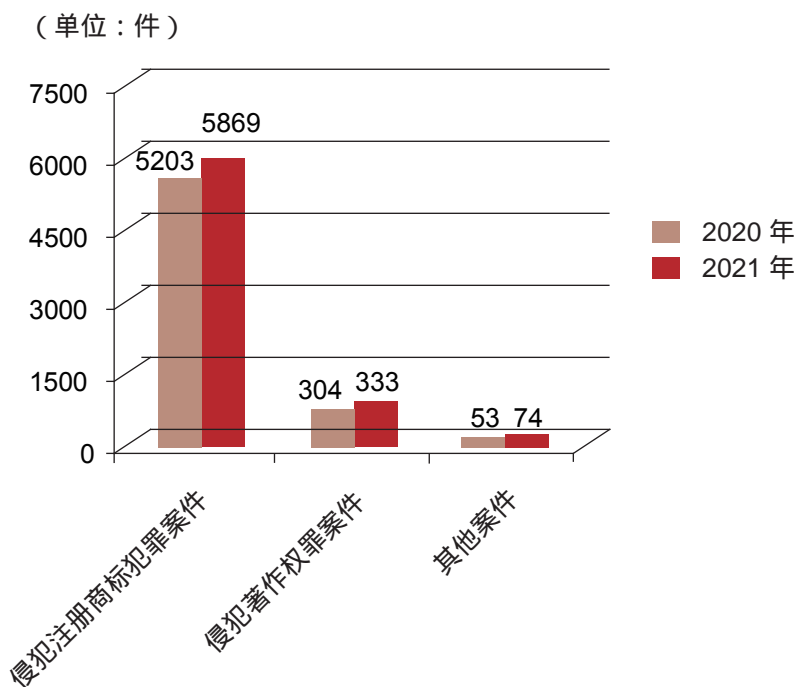


图 6 2021年与2020年全国地方人民法院新收知识产权刑事一审案件^①数量对比

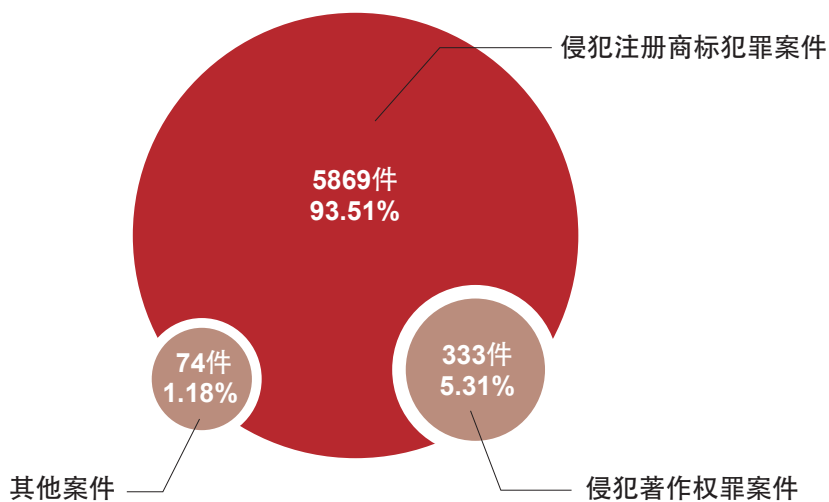


图 7 2021年全国地方人民法院新收知识产权刑事一审案件类型与数量

^① 因统计口径调整，对 2020 年数据进行相应修正。

Intellectual Property Protection by Chinese Courts in 2021

Introduction

General Secretary Xi Jinping emphasized that innovation is the primary force propelling development, that protecting intellectual property rights (IPRs) protects innovation, and that the rule of law for intellectual property (IP) protection should be strengthened. In September 2021, the Central Committee of the Communist Party of China (CPC) and the State Council released *The Outline for Building an Intellectual Property Powerhouse (2021-2035)* for the purposes of advancing the building of an IP powerhouse in an overall manner, comprehensively improving IP creation, use, protection, management and services, and maximizing the critical role of the IP system in the socialist modernization.

In 2021, people's courts adhered to the guidance of Xi Jinping

Thought on Socialism with Chinese Characteristics for a New Era and thoroughly implemented Xi Jinping Thought on the Rule of Law. The courts earnestly implemented General secretary Xi Jinping's important elaboration of enhancing the IPRs protection, acquired a deep understanding of the decisive significance of the two establishments of both Comrade Xi Jinping core position on the Party Central Committee and in the Party as a whole and the guiding role of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era; boosted four consciousnesses of the need to maintain political integrity, think in big-picture terms, follow the leadership core, and keep in alignment with the central Party leadership; stayed four self-confidence in the path, the theory, the system, and the culture of socialism with Chinese characteristics; upheld General Secretary Xi Jinping's position as the core of the CPC Central Committee and the whole Party, as well as the authority of the CPC Central Committee and its centralized, unified leadership. People's courts were relentlessly in their pursuit of "Striving to Make People Perceive Fairness and Justice in Every Judicial Case", accurately grasped the overall requirements for strengthening the IP adjudication in the new era. The professional adjudication system was largely established, the capacity for professional adjudication was significantly increased, and the level of judicial IP protection was substantially enhanced. People's courts have provided strong judicial

service in coordinating pandemic prevention and economic society development. Satisfaction with IP trials has increased in recent years, the entire society gradually strengthened an awareness of the importance of respecting and protecting IPRs. The global reach of China's IP adjudication has continued to expand.

I. Significant Increase of Cases and Continuous Improvement in Trial Quality and Efficiency

In 2021, people's courts adjudicated all types of IP cases in an impartial and efficient way in accordance with the law. A total of 642,968 IP-related cases were accepted by people's courts, including first and second instance cases and as well as apply-for-retrial cases, and 601,544 cases were concluded (including carried over cases, ditto hereinafter) representing a respective year-on-year increase of 22.33% and 14.7%.

(I) Quantity of Each Type of Cases

The Supreme People's Court of China (SPC) accepted 4,243 IP cases and concluded 3,557, up by 22.28% and 9.11% respectively on a year-on-year basis. Local people's courts at all levels accepted 550,263 cases in the first instance and concluded 515,861, up by 24.12% and 16.52% respectively from 2020. Among them, 31,618

patent cases were accepted, with a year-on-year increase of 10.98%, 124,716 trademark cases, up by 59.62%, 360,489 copyright cases, up by 14.99%, 4,015 technology contract cases, up by 22.52%, 8,419 competition-related cases, up by 78.26%, and 21,006 other civil disputes over IPRs with a year-on-year increase of 38.01%. Local people's courts at all levels accepted 49,084 cases of the second instance and concluded 45,468, up by 14.22% and 4.5% respectively on a year-on-year basis.

The SPC accepted 2,852 administrative cases on IPRs and concluded 2,487, up by 49.4% and 43.34% compared with those of 2020. Local people's courts at all levels accepted 20,563 administrative cases of first instance on IPRs, and concluded 19,342, up by 11.37% and 7.80% compared with 2020 respectively. Among them, 1,810 administrative cases on patent were accepted, with a year-on-year increase of 27.73%; 18,734 administrative cases on trademark, up by 9.97%; and 19 on copyright cases with an increase of 7 cases. Local people's courts at all levels accepted 8,215 administrative IP cases of second instance and concluded 7,418, up by 34.85% and 19.97% respectively from 2020. Among them, 5,636 cases were sustained, judgments of 1,597 cases were reversed, 1 case remanded for retrial, 145 cases withdrawn, 11 cases dismissed, and 28 cases resolved in other means.

Local people's courts at all levels accepted 6,276 first-instance criminal cases of IPRs infringement and concluded 6,046, up by 13.2% and 9.53% respectively on a year-on-year basis. Among them, 5,869 trademark infringement and 333 copyright infringement cases were accepted, an increase of 12.8% and 9.54% respectively. Among these first-instance criminal cases, there were 2,558 cases of counterfeiting registered trademarks, up by 13.19%; 2,623 cases of selling goods with counterfeited registered trademarks (up by 3.76%); 476 illegally manufacturing or selling illegally manufactured logos of registered trademarks (up by 20.51%); 313 criminal cases of copyright infringement (up by 14.65%); 15 criminal cases of selling infringing copies (increase by 2); and 61 criminal cases of trade secret infringement (increase by 16). Local people's courts at all levels accepted 1,050 second-instance criminal cases of IP infringement and concluded 997, up by 20.83% and 16.74% respectively.

(II) Features of Cases

The following are the primary characteristics of IP cases received by people's courts.

Internet-related cases on a continuous rise. China's Internet industry has developed rapidly. Internet has become one of the most predominant areas that IP infringement occurs, and therefore IP

infringement violations on the Internet has become the focal point of the IP judiciary gradually. In 2021, the three Internet courts in Hangzhou, Beijing and Guangzhou accepted a total of 66,148 new cases involving various types of Internet IPRs, an increase of 6.64% over the previous year. The number of Internet cases has steadily increasing year by year, and more legal issues involved are novel, complex, and perplexing. In the Internet environment, infringements are easier to commit, which are more concealed and complicated. While the impact is greater, gathering and fixing evidence is harder. Consequently, the difficulty of right holders' ability to defend their rights is also rising. Strengthening the rule of law in cyberspace and ensuring the protection of innovation and creativity on the Internet is critical for the judicial protection of IPRs for people's courts.

New types of disputes in proliferation. Innovation is critical to China's overall modernization development. In recent years, the booming new technologies, new business forms and models have injected new momentum into the economic and social development, brought new legal issues as well. The number of new-type cases involving core Internet technologies, gene technologies, communications, integrated circuits, artificial intelligence, Internet platform economy, etc., continues to grow, complicating the determination of complex technical facts and the application of laws, poses new challenges to judicial decisions on the boundary of

rights and the determination of liability for the IPRs infringement in these new business fields and forms. However, people's courts have actively responded to judicial demand for IPR protection in new technologies, new industries, new business forms and models, and proactively explored ways to strengthen the judicial IPR protection rules in relevant fields. In 2021, people's courts have adjudicated a batch of new-type IP cases involving biomedicine, online gaming, live webcast, "Big data-enabled price discrimination against existing customers", sharing economy, artificial intelligence, etc., and all of which sparked widespread public concern.

Cases Involving Public Interests Increased. The interests involved in IPRs are complicated and often closely related to the social and public interests. The trial of cases needs to balance the protection of individual rights and public interests, to accurately grasp differentiated value orientation and to properly handle the relationship between development and security even better. In 2021, in the areas such as administrative granting and reviewing, civil infringement and competition order maintenance, people's courts heard a number of cases involving malicious trademark registration, the application of "Notice-and-Delete" Rule, fan works, etc. in order to keep the balance between private and public interests.

Expanding protection in criminal cases. In recent years, interlocked

civil and criminal cases have brought up many problems in application of law, such as IP infringement crimes using technologies such as deep linking and game plug-ins are constantly emerging. The *Criminal Law's Amendment (XI)*, effective as of March 1, 2021, has made major revisions for the crime of IP infringement and strongly supported further judicial IP protection improvement. By following the requirement of “improving criminal laws and judicial interpretations, intensifying criminal crackdown” put forward by General Secretary Xi Jinping, people’s courts adhered to the principles of “No Penalty without A Law” and “Strict Protection”, punished crimes such as counterfeiting registered trademarks, copyright infringement, trade secrets infringement, as well as producing and selling fake seeds in accordance with the law. By strongly protected the legitimate rights and interests of right holders and consumers, a sound market order is effectively maintained. In 2021, the number of criminal cases of **IP infringement** accepted and concluded by local people’s courts at all levels rose rapidly, and the deterrent and preventive functions of criminal penalties in punishing IP infringement and counterfeiting became increasingly prominent.

II. Enhancing the Protection of Science and Technology Innovation to Serve the Innovation-driven Development

Innovation is the primary driving force for development and the essential condition for implementing new development concepts, establishing new development patterns and promoting high-quality growth. People's courts have emphasized the role of IP adjudication in stimulating scientific and technological innovation, and strove to ensure that the protection of IPRs is proportional to the extent of its technological contribution. People's courts are constantly synthesizing and refining rules governing the judicial protection of scientific and technological innovation in order to foster continuous innovation of technology and industrial upgrading.

(I) Improving Quality and Efficiency of Adjudication

People's courts hearing numerous IP cases in accordance with the law. By formulating judicial interpretations and judicial policies, and issued guiding cases, gazetted cases and annual cases, the courts effectively strengthened trial guidance, standardized the criteria for adjudication, facilitated the unification of administrative law enforcement and adjudication standards, and maintained a

consistently high level of trial competence. The SPC promulgated the *Provisions on Several Issues concerning the Application of Law in Civil Cases of Patent Rights Relating to Pharmaceutical Products Applied for Registration*, focusing on the procedural issues that must be resolved following the implementation of the patent linkage system for pharmaceutical products, particularly the interaction and cooperation between litigation procedures and administrative procedures of pharmaceutical products evaluation or approval, as well as the procedure of administrative decision. It established clear guidelines for the timely and impartial trial of relevant cases, as well as institutional incentives and judicial guarantees for the pharmaceutical industry's independent innovation and high-quality development. The SPC also issued the *Several Provisions on the Specific Application of Law in the Trial of Cases Involving Disputes over Infringement upon Rights of New Plant Varieties (II)*, and released the first series of typical cases of judicial IP protection in the seed industry tried by people's courts. The SPC summarized recent judicial practices in recent years, effectively implemented the *Seed Law*, strengthened the protection of plant variety rights, stimulated innovation in breeding and safeguarded the scientific and technological self-reliance of the seed industry. These initiatives have enhanced the judicial protection of IPRs in China's seed industry, and created a sound legal environment for the revitalization of the seed

industry.

After three years of pilot operation, the SPC's IP Court accepted 9,368 technical cases and concluded 7,625, which involving patent, new plant variety and layout design of integrated circuit. 4,335 were accepted and 3,460 were concluded in 2021. Among them, over a quarter of cases involved strategic emerging industries such as new generation information technology, biomedicine, high-end equipment manufacturing, and energy conservation and environmental protection. In January 2022, the China Association for Science and Technology, the China Society of Law, respectively completed the third-party assessments of the SPC's IP Court pilot program. Each assessment concluded that the pilot program was properly focused and effective in achieving the CPC's stated objectives of its establishment, further improving the appellate trial mechanism for IP cases at the national level, and vigorously promoting unification of adjudication standards and improvement of trial quality and efficiency of technology-related cases. On 27 February, 2022, Justice Zhou Qiang, President of the SPC, briefed the Standing Committee of the 13th National People's Congress on the implementation of the *Decision on Several Issues concerning Judicial Procedures for Patent and Other Intellectual Property Cases*, which got the full affirmation by the Standing Committee after deliberation.

(II) Reinforcing the Protection of Original Innovation

People's courts strengthened the review of legality of administrative acts over patent grant and confirmation in order to improve the quality. People's courts correctly adjudicated IP cases of high-tech fields such as 5G technology, biomedicine, high-end equipment manufacturing, new materials and new energy, and thereby sparked scientific and technological innovation. Additionally, the courts strengthened IP protection in emerging fields, fairly adjudicated cases involving the sharing economy, artificial intelligence, big data, cloud computing and other new-type IP cases, clarifying protection rules and rights boundaries, guiding the healthy and orderly development of new technologies, new forms and models of business along the rule of law's path. The SPC, in the invalidity cases of invention patent involving "magnetic resonance imaging" and "traditional Chinese medicine (TCM) sorting machine", interpreted the claims in a scientific and reasonable manner, upheld the validity of the patent, serving and safeguarding the fight against COVID-19 according to the law; in patent ownership cases involving "high-temperature microwave expanding furnace", "fingerprint identification", the criteria for determining disputes over the ownership of on-duty inventions were clarified to stimulate innovation and creativity among scientific researchers and protected the legitimate rights and interests of scientific and

technological innovation subjects in accordance with the law; in the variety rights cases involving rice “Jinjing 818” and corn “Longping 206”, the SPC strengthened the IPR protection and promoted self-reliance and self-improvement of the seed industry; the SPC also studied and formulated the guiding opinions on strengthening the criminal trial involving seeds, punishing seed-related crimes in conformity with the law, and accelerating the revitalization of the seed industry. Furthermore, the SPC hosted a symposium on the judicial protection of IPRs in TCM in terms of preserving rightfulness, innovation and inheritance. Jiangsu High People’s Court and five provincial authorities jointly selected top 34 enterprises from key development industry chains, and provided help to them in the technology research. Henan High People’s Court issued 20 measures aimed at comprehensive strengthening the judicial protection of IPRs, particularly in emerging fields such as artificial intelligence and biomedicine. Fujian Fuzhou Intermediate People’s Court issued the *Implementing Opinions on Strengthening the Judicial Protection of Intellectual Property Rights of Key Enterprises in Technology-Intensive Industries (for Trial Implementation)*, responding actively to the judicial demand for IPRs of high-tech enterprises.

III. Strengthening Registered Trademark Protection to Assist the Construction of Brand Power

People's courts have strove to improve the quality of the administrative cases of trademark granting and reviewing, resolutely crack down on malicious trademark registration not for the purpose of trademark use, and promote a normal and regulated trademark application and registration order. People's courts also have strengthened the protection of well-known trademarks, and severely punished trademark attachment, counterfeiting and other "free-riding" activities. The courts scientifically and reasonably defined the boundary of trademark rights and the scope of protection, enhanced the role of trademark usage in determining the protective scope of trademark rights, and actively guided the right holder to consistently and practically use the trademark to bring into play the identification function of the trademark and protect the legitimate rights and interests of consumers.

(I) Safeguarding the Trademark Registration

The SPC and several local people's courts collaborated with the National Intellectual Property Administration to hold seminars on trademark registration and reviewing cases to exchange views

with the goal of quality improvement. The SPC resolved a number of administrative trademark cases according to the law, and further consummated the recognition standards for “distinctiveness” in trademark registration applications. Based on the actual circumstances, Beijing IP Court formulated the *Implementing Plan for Promoting the Reform of Split-flowing Simple and Complex Administrative Proceedings (for Trial Implementation)*, which made an attempt to improve the rules on the application of simplified procedures for trademark administrative proceedings and the application of electronic litigation to split-flow the trademark administration cases in respect of the complexity, significance and duration of trial. Jiangsu Suzhou Intermediate People’s Court advocated for the establishment of a whole-process mechanism to combat malicious trademark registration in trademark infringement cases.

(II) Regulating the Use of Registered Trademarks

People’s courts continued to intensify the punishment on trademark infringement and strengthen the judicial protection for well-known trademarks, traditional brands and time-honored brands. Zhejiang High People’s Court organized special campaigns and released typical cases on brand protection. Xinjiang Tacheng Intermediate People’s Court coordinated the Municipal Administration for Market

Regulation to strengthen inspection and regulation to fundamentally curb the highly frequent trademark counterfeiting crimes from the source. Sichuan Chengdu Intermediate People's Court transferred relevant trademark infringement clues to administrative authorities, and promoted the practice of determining the administrative penalties in trademark infringement cases by referring to the civil infringement case standards to reduce the quantity of similar IP disputes. Local people's courts of different jurisdictions also emphasized the deterrent effect of punitive damages and criminal sanctions on trademark infringement. Courts in Guangdong Province awarded treble punitive damages in 2 trademark infringement cases, with damages of RMB 10 million and RMB 30 million respectively; and a court in Guizhou Province and a court in Heilongjiang Province imposed a fine of RMB 21 million and RMB 21.25 million respectively in two trademark counterfeiting cases.

(III) Actively Responding to Social Concerns

With the increasing judicial protection of registered trademarks, in particular the increasing amount of damages awarded the abuse of trademark rights, in a malicious or fraudulent manner, often occurred. These incidents have caused serious disturbances to the normal production and operation of micro, small and medium enterprises (MSMEs) and self-employed individuals which have

aroused great social concern. The SPC timely held a question-and-answer session on the judicial protection of geographical indications of Tongguan Roujiamo (the brand of the steamed meat roll named after Tongguan) and Xiaoyao Town Hulatang (the brand of the spicy soup originally made in Xiaoyao Town), and resolving ambiguities to guide judicial practice, protect geographical indications, and severely punish malicious litigation, thereby achieving positive social effects. The Sichuan courts handled the “Green Pepper” trademark disputes expeditiously and in accordance with the law, preserving the order of trademark usage, clarifying the boundary of trademark rights, and ensuring legitimate use and honest operation.

IV. Improving Copyright Protection to Accelerate the Construction of Strong Cultural Power

Based on judicial function, people’s courts have vigorously promoted core socialist values while fully executing the leading and guiding function of copyright adjudication for outstanding culture. The courts have strengthened the protection for culture creators’ rights and interests, safeguarded the legitimate rights and interests of those who distribute their works legally, and continuously improved the copyright protection in respect of traditional culture and traditional knowledge to boost the healthy development of cultural industry.

(I) Carrying forward Socialist Core Values

People's courts at all levels protected the inheritance of red classics and the legitimate rights and interests of heroes and martyrs, regulating the order of cultural dissemination, guiding the public to consciously resist historical nihilism, incivilization, vulgarity and kitsch, strengthening IPRs protection such as genetic resources, traditional culture, traditional knowledge and folk literature, and promoting the collation and utilization of intangible cultural heritage and the creative transformation and innovative development of Chinese excellent traditional culture. Beijing IP Court concluded the copyright infringement dispute over acrobatic works to strengthen the protection of traditional acrobatic works. Shijingshan Primary People's Court in Beijing conducted a special research on 4 types of disputes over IPRs which involved the infringement of the Winter Olympic Games logos to contribute to the success of Winter Olympic Games and the Winter Paralympic Games in Beijing. A court of Quanzhou in Fujian province promulgated the *Implementing Opinions on Strengthening the Judicial Protection of World Heritage Properties*, which established a circuit court for the protection of Maritime Silk Road Historical Sites to strengthen the protection of intangible cultural heritage and promote the protection and utilization of historical relics as well as the protection and inheritance of cultural heritage. Jiangxi Jingdezhen Intermediate People's Court established

an IP division to provide judicial guarantee for the construction of the National Ceramic Culture Inheritance and Innovation Pilot Zone.

(II) Improving the Regulated Development of Emerging Business Forms

In recent years, copyright infringement cases increased in the domains of online games, sports events and live webcasts, and relevant judicial decisions have continued to improve the rules for the practical recognition and protection of works. In 2021, the amended *Copyright Law of the People's Republic of China* came into force. People's courts at all levels conducted researches on the amendment to ensure that copyright cases were heard in accordance with the law and to promote the healthy and sustainable development of the cultural industry. The SPC held a series of symposiums to conduct in-depth discussions on legal issues about the copyright protection of game live-streaming footage and the audio-visual work clips, and concluded a series of cases on the latter one. Courts in Tianjin convened deliberate discussion on issues such as ICP filing, application market, short videos, IPTV infringement and the amount of compensation involved in the Internet copyright cases, and formulated the *Answers to Issues Concerning the Trial of Internet Copyright Cases* to guide the resolution of complicated issues in judicial practice.

(III) Regulating Adjudication of Rights Protection Cases

With the rapid development of cultural industry and the increased awareness of copyright holders, the copyright protection litigation has continued to grow. Protecting creators' rights and interests in conformity with legal provisions, keeping a balance between encouraging creativity and safeguarding people's cultural rights and interests, and promoting the creation and dissemination of intellectual works are all critical issues that must be addressed in copyright protection. In a series of cases involving copyright infringement by KTV operators, the SPC clarified the issues of electronic evidence determination, lowering the burden of proof for the parties, and effectively protected the legitimate rights of right holders. Chongqing High People's Court and Sichuan High People's Court researched and drafted the *Minutes of the Judges' Meeting on Determining the Compensation Amount for Cases Involving Copyright Infringement of Audio-visual Works by KTV Operators*, in response to the issues including heavy caseload of copyright infringement in audio-visual works and the ambiguous standards for determining the amount of compensation awarded in their jurisdictions, guided the healthy development of relevant industries according to law.

V. Strengthening the Protection of Fair Competition and Protecting a Law-based Market

The IPR protection and the promotion of fair competition are the necessary preconditions for establishing a market-oriented and law-based international business environment, as well as for constructing a modern economic system and improving the socialist market economic system. In 2021, people's courts intensified the crackdown on unfair competition activities such as infringement of trade secrets, strengthened on judicial regulation for monopolies by Internet platform enterprises. Acts that disrupted fair competition or market order such as "Either-Or Choice" of the Internet platform or "Big data-enabled price discrimination against existing customers" have been severely punished, so as to effectively protect the lawful rights of consumers and the interests of public. By maintaining and promoting fair market competition, the disorderly capital expansion was prevented.

(I) Strengthening Anti-monopoly and Anti-unfair competition Adjudication

People's courts have properly adjudicated anti-monopoly and unfair competition cases. Judicial decisions fulfilled the functions of rule

guidance and value orientation in maintaining fair competition in the market, increasing enterprise awareness of fair competition, and guiding the creation of a market environment that respects, protects and promotes fair competition. In the horizontal monopoly agreement case of “joint operation of driving schools”, the joint venture agreement and self-discipline convention were declared null and void, putting an end to monopolistic practice at their sources. People’s courts also actively explored and improved the standards for defining the monopolistic acts of Internet platforms. The practices of excessively collecting and using personal information, the use of algorithms to commit price discrimination and fraud were also severely punished, which regulated the market competition order. The courts heard cases including data rights, transactions, services and privacy protection, explored and improved the rules for data right protection, and promoted the development of an open, healthy and safe digital environment. The unfair competition practices such as imitating, confusion, false publicity, and commercial defamation were forbidden through the judiciary’s efforts to purify the market environment, and guide business operators to join in positive competitions through technological innovation. The protection of trade secrets was further tightened. Efforts have also been made to deal with the relationship between the protection of trade secrets and freedom of employment, as well as the relationship between

the non-compete restraints and the flow of talents to promote the reasonable mobility of talented personnel. The specific measures for protecting trade secrets in litigation were clarified, assuaging right holders' misgivings about "secondary disclosure" and encouraging them to defend their rights in accordance with the law. To address the issues including inadequate compensation and high costs, the court effectively increased the support for damages and reasonable expenses for rights maintenance, awarding RMB 159 million in the "Shannon" technical secrets infringement case.

(II) Vigorously Promoting the Unification of Adjudication Criteria

The SPC reported to the NPC Standing Committee on the study and implementation of the *Report on the Law Enforcement Inspection of the Anti-Unfair Competition Law and its Deliberations*. The SPC issued the *Interpretations on Several Issues Concerning the Application of the Anti-unfair Competition Law of the People's Republic of China* after research, which, in accordance with the newly amended *Anti-Unfair Competition Law*, focused on refining the provisions of Article 2 of the *Anti-Unfair Competition Law*, as well as counterfeiting and confusion, false publicity and unfair competition on the Internet, etc.. The Interpretation is a timely response to the judicial needs of emerging fields and new business forms which is critical in strengthening

the adjudication of anti-unfair competition cases, consolidating the fundamental position of competition policy, and promoting the formation of a domestic unified market that is efficient, well-regulated and fully open. The SPC published 20 model cases on Internet IPRs protection, anti-monopoly and anti-unfair competition, indicating the judiciary's unwavering commitment to fostering a fair and competitive law-based environment.

VI. Deepening the Adjudication Reform and Promoting Comprehensive Protection

In 2021, people's courts emphasized the importance of resolving difficult problems through reform thinking and protecting innovation in novel ways. The *Plan for Judicial Protection of Intellectual Property by People's Courts (2021-2025)* and the *Opinions on Strengthening the Trial of Cases Involving Intellectual Property Rights in the New Era to Provide Effective Judicial Services and Support for Building China into an Intellectual Property Rights Power* were issued, which promoted the judicial protection capability and standard in IPR protection steadily. It has made significant strides towards improving the professional trial system and promoting litigation standards. Simultaneously, people's courts have actively strengthened the mechanism for judicial adjudication and administrative enforcement,

improved coordination and cooperation with IPRs administrative departments, promoted the unification of administrative enforcement and judicial adjudication standards, and made efforts to promote a sound pattern of IPRs protection.

(I) Optimizing the Specialized IP Trial System with Chinese Characteristics

China has established a specialized IP adjudication system, with the SPC's IP judicial departments serving as the anchor, 4 IP courts serving as the model, 27 IP divisions in local intermediate people's courts serving as the focal points, and IP divisions of the local courts at all levels serving as the support. The appellate trial mechanism for IP cases at the national level was advanced, the building of specialized IP organs was reinforced, and the function of the Internet courts and IP divisions in local courts at various levels were under improvement. The SPC formulated the *Several Provisions on Jurisdiction over Intellectual Property Civil and Administrative Cases of First Instance*, which strengthened the judicial protection system through scientific jurisdiction, rationally positioned the trial functions of courts at all four levels, further optimized trial resource allocation, facilitated parties in litigations, effectively resolved disputes, and resolved current inconsistency problems in the standards, systems and inconvenience of IP cases jurisdiction

of first instance. The SPC has continued to improve mechanism for the “3-in-1” integrated trial of civil, criminal and administrative IP cases, and effectively guide the promotion of reform. Tibet High People’s Court issued the *Implementing Plan for Integrated 3-in-1 Trial of Intellectual Property Cases* to ensure consistent and unified adjudication. Hainan High People’s Court’s *Opinions on Several Issues of Designated Jurisdiction over Criminal Cases Involving Intellectual Property Rights* clarified the scope of IP-related criminal cases.

Diversified technical facts investigation mechanism has been improved. “The National Court Technical Investigator Talent Database” included a list of over 450 technology experts covering more than 30 technology fields, effectively alleviating the difficulties of fact-finding in technical cases by dispatching experts on demand nationwide. Shanghai IP Court initiated a mechanism of entrusting technical fact investigation to other professional agencies, which could meet the technical investigation demands on IP adjudication for courts at various levels in Shanghai. Based on the part-time technical investigators, Shenyang Intermediate People’s Court explored the establishment of a full-time technical investigators system on the basis of the improvement in the selection of part-time technical investigators.

(II) Improving the Litigation System Compatible with IP Adjudication

The SPC actively conducted researches and studies on litigation rules consistent with IP practice, and promoted the improvement of the IP litigation system. The SPC issued the *Interpretation on the Application of Punitive Damages in the Trial of Intellectual Property Infringement Civil Cases*, which improves the regulations on punitive damages that were compatible with the provisions of the *Civil Code*. Guided by the principle of Comprehensive and Equal Protection, the interpretation clarified the applicable conditions, improved the operability of the judicial application of punitive damages, ensured unified criteria for punitive damages application, punished serious infringement upon IPRs, and worked to resolve the difficult problem of “low compensation and high costs”. The SPC issued 6 model cases on punitive damages for infringements of IPRs. Approximately 895 cases in 2021 resulted in punitive damages being awarded to infringers. The SPC issued the *Official Reply on Issues concerning the Defendants’ Request for Reasonable Expenses in Intellectual Property Infringement Litigation on the Ground of Plaintiff’s Abuses of Rights* to uphold the bona fide doctrine, fully exploit the role of reasonable expenses such as attorneys’ fees in regulating parties’ litigation behaviour, support claims for reasonable expenses from abusive litigants, guide parties in exercising their rights in good faith, and prevent right abusement

in the meantime. The SPC also summarized the judicial practices, and in collaboration with the Supreme People's Procuratorate, examined the formulation of supporting judicial interpretations to ensure the effective implementation of the *Criminal Law's Amendment (XI)*. The amended eighteen judicial interpretations on IPRs entered into force on January 1, 2021, concurrently with the *Civil Code*, promoting greater uniformity in the scale of adjudication of IP cases.

Local people's courts at all levels also carried out pilot programs in small claims IP litigation and single-judge trials, classifying cases based on their complexity, significance, and duration of trial. They actively used modern technologies such as 5G, Augmented Reality, and Artificial Intelligence to conduct online litigation, consolidate and enhance smart court construction achievements to overcome the impact of COVID-19 pandemic, and comprehensively promote the modernization of the adjudication system and expertise. Beijing High People's Court formulated the *Guidelines on the Evidence Rules for Intellectual Property Civil Litigation* in an attempt to address issue of the difficulty in adducing evidence. Zhejiang High People's Court promoted the application of copyright examination by AI to check image duplicate, identifying the innovative points and evaluate similarities. The AI assistant has been put into practice in 173 cases, with an effective duplicate check rate of 43%. Hulunbuir Intermediate People's Court in Inner Mongolia piloted the use of

the judicial block-chain platform to provide efficient and convenient technical support for IP protection before and during the trial. Ningxia Yinchuan Intermediate People's Court formulated the *Guidelines for the Fast Trial Mechanism for Typed Intellectual Property Cases*, which effectively reduced the average term of IP case trial.

(III) Actively Participating in Establishing an Overall Protection Framework for IPRs

Protecting IP rights is a systematic endeavour. People's courts have always laid stress on coordination and cooperation, actively participating in the development of a comprehensive protection system and bolstering systemic protection capacity. The SPC was a positive participant in the work to crack down IP infringement and counterfeiting, as well as the formulation of significant IP protection documents. It established communication and liaison mechanisms with the State Intellectual Property Office and the State Anti-Monopoly Bureau to facilitate an effective interface between administrative enforcement and the judiciary. It signed a memorandum of cooperation with the Ministry of Agriculture and Rural Affairs and jointly hosted a symposium on IPRs protection in the seed industry, established an expert consultation mechanism for judicial protection of IPRs in seed industry, actively promoted the revitalization of the seed industry. Additionally, the SPC bolstered

coordination with the National Administration of Traditional Chinese Medicine and the State Intellectual Property Office in order to promote the establishment of special rules and protection mechanisms in patent granting for TCM. The SPC continued to advise courts in the Yangtze River Delta and other regions to establish cross-regional and inter-departmental collaboration mechanisms with administrative authorities in order to foster regional collaborative innovation. As a furtherance to the *Notice of Establishing an Online Litigation and Mediation Connecting Mechanism for Intellectual Property Disputes* jointly issued by the SPC and the National Intellectual Property Administration, an online platform that connects litigation and mediation by incorporating mediators and mediating organizations at all levels was established to enable the whole-process online IP dispute mediation. There were 289 mediation organizations and 1,635 mediators in the platform, and over 20,000 IP cases were assigned to this platform by local courts for pre-litigation mediation. Qinghai High People's Court and the Qinghai Administration for Market Regulation signed the *Memorandum of Cooperation on Joint Punishment of Seriously Dishonest Entities in Intellectual Property (Patents) Domain* which was intended to jointly punish the dishonest entities in respect of IP infringement. Xinjiang High People's Court and the Xinjiang Administration for Market Regulation signed the *Framework*

Agreement on Intellectual Property Protection Cooperation to promote cross-departmental coordination. Courts in Hebei Province have actively participated in special actions such as the campaign against counterfeiting agricultural materials and the joint action of IP protection in e-commerce by providing legal services and judicial support. Anhui Huaibei Intermediate People's Court, on the basis of the *Framework Agreement for Coordinated Judicial Protection of Intellectual Property in Huaihai Economic Zone*, built itself into a model for inter-provincial coordinated IP protection. Liaoning High People's Court, Liaoning Provincial People's Procuratorate and Liaoning Provincial Public Security Department jointly issued the *Minutes of the Conference on Several Issues concerning the Handling of Criminal Cases of Intellectual Property Infringement Cases*, which standardized law enforcement and adjudication, comprehensively enhanced the crackdown of IP crimes. Shandong Qingdao Intermediate People's Court and Qingdao Municipal People's Procuratorate signed the *Framework Agreement on the Connection and Cooperation between the Court and Procuratorate on Intellectual Property Protection* to resolve jurisdiction issues and advance coordination. Courts in Shanxi, Jilin, Hunan, Guangxi, Yunnan and other regions and provinces were actively organized the delivery of laws to enterprises and communities, conducted public court hearings and law enforcement activities, implemented "whoever

enforces the law is responsible for promoting the law”, enhanced judicial disclosure, and raised the general public’s awareness of the importance of respecting and protecting IP rights.

VII. Impartial Trial of Foreign-related Cases and Actively Engaged in International Cooperation

People’s courts have adhered to coordinate efforts to advance domestic and international rule of law, equally safeguarded the legitimate rights and interests of Chinese and foreign parties and all types of market entities in accordance with the law, maintaining the market order of fair competition, and serving the new development paradigm featuring dual circulation, in which domestic and overseas markets reinforce each other with the domestic market as the mainstay. The courts actively engaged in international cooperation in IPRs protection, and contributed China’s judicial wisdom to global IP governance.

(I) Equally Protecting the Legitimate Rights and Interests of Chinese and Foreign litigants

By fairly adjudicating foreign-related IP cases and properly resolving major IP disputes relating to international trade, people’s courts implemented the TRIPs Agreement, the Madrid Agreement, the

Berne Convention and other international treaties ratified and acceded to by China. The courts actively promoted an open, fair, just and non-discriminatory environment for science and technology development, as well as a market-oriented, law-based and international business environment, which demonstrates China's confidence and determination of protection innovation, openness and inclusiveness. The SPC ruled in favour of the full amount of RMB 20 million in damages claimed by the foreign right holder in the case of patent infringement for the "locking intramedullary nail" invention based on the refusal of submitting account books from the infringer. Therefore, the legitimate rights and interests of the foreign litigants were fully protected. China has increasingly become a reliable and trustworthy choice for international IP litigation.

(II) Participating in International Cooperation in IPRs Protection

People's courts maintained a high level of international judicial exchanges and cooperation, actively participated in global IP governance through the World Intellectual Property Organization (WIPO), and promoted the development of a more just and rational global IP governance system. The SPC hosted the Sino-European Forum on the Comparison of Intellectual Property Litigation Systems, participated in international conferences such as the 7th

BRICS International Competition Conference, the 18th Shanghai International Intellectual Property Forum, the 2nd International Symposium on Judicial Protection of Intellectual Property Rights, the 2021 WIPO Intellectual Property Judges Forum, the China-EU Judicial Forum Seminar on Standard Essential Patents, the International Association for the Protection of Intellectual Property (AIPPI) China Youth IP Seminar. The SPC also held an online exchange with the UK IPR Enterprise Court and co-wrote the *WIPO Global Judicial Guide to Patent Case Management*. Chinese courts have actively promoted China's voice, told the story of China's legal protection of IPRs, and contributed Chinese wisdom to the global IP governance system. Shanghai High People's Court established the IP Innovation Award after signing a Memorandum of Understanding with the WIPO Arbitration and Mediation Centre.

VIII. Strengthening Capacity Building for Judges to Serve and Guarantee Fairness

In 2021, people's courts concentrated their efforts on developing an IP trial team capable of meeting the demands of a new era. The courts conducted an in-depth research and education on the Party's history, as well as team education and rectification, adhered to Party Building in order to promote team building and trials, strengthened

political construction, developed political loyalty, and increased the IP trial team's awareness and ability to serve the overall situation. Professional training and judge selection were strengthened, and the mechanism for IP judge reservation and selection was also improved. The courts sought to develop an IP trial team that was politically committed, cognizant of the broader context, well-versed in the law, knowledgeable about technology, and with an international perspective.

(I) Carrying out the In-depth Education of CPC's History

The year 2021 marks the 100th anniversary of the founding of the CPC. People's courts diligently implemented the Party Central Committee's major decisions, conducted an in-depth research and implementation of the spirits of General Secretary Xi Jinping's important speeches on the Mobilization meeting of the study and education of the Party's history and delivered on July 1, 2021, and continuously strengthened their understanding of the spirit of the 19th CPC Central Committee's Sixth Plenary Session, focusing on promoting Party history learning through the education with high standards and high quality, with the core of learning history to understand the reasoning, boost self-confidence, respect morality, and promote practice. At all levels, people's courts used the "I do practical work for the public" campaign as a powerful tool to exercise

their judicial functions fully and to meet the public's judicial needs for IP protection. The SPC organized seminars on issues concerning the copyright infringement in the use of other people's works on university campus networks, with the goal of establishing a communication channel and promoting consensus among education authorities, video companies, and research universities to resolve disputes.

(II) Carrying out Education and Rectification

By resolutely implementing the spirits of important instructions on the education and rectification of political and legal team elaborated by General Secretary Xi Jinping as well as the decision-making and deployment of the Party Central Committee, people's courts have educated and corrected their teams, resolutely completing the "four tasks" of building political loyalty, eliminating vicious members, resolving persistent and chronic problems, and promoting the spirit of heroism, in order to develop a reliable team with firm belief, responsibility, incorruptibility and people-centered awareness. People's courts at all levels have worked to achieve the unification of delivering one-time judgment and ensuring long-lasting peace, and in consideration of practice of IP trials, improved the mechanism for the exercise and supervision of judicial power, and taken the achievements of rectification education to push forward high-quality

development of IP trial in the new era.

(III) Improving Talent Training Model

People's courts at all levels endeavored to enhance the professionalism of IP talents in handling new, complex and highly technical cases by cultivating their comprehensive trial abilities. The SPC actively coordinated the training of specialized IP talents nationwide by convening professional meetings and seminars, organizing professional training, improving judicial databases, publishing trial guidelines, carrying out human resource exchanges and other methods, the capability and quality of IP trial team were well promoted. Meantime, the court continued to increase support for the construction of court talent teams to the primary courts as well as the courts in the western region. Shaanxi High People's Court, taking advantage of the abundant resources in scientific and technology education, signed a comprehensive strategic cooperation agreement with Northwest University and Xi'an Jiaotong University, and built court-university cooperation platforms such as the Intellectual Property Case Study Center. High People's Courts in Jiangxi, Hubei, Gansu and other regions and provinces gave professional training courses on IP trial for the judges, judge assistants and clerks specialized in IP adjudication.

Closing Remarks

The year of 2022 is of great significance for starting the new journey to build China into a modern socialist country in all respects and achieve the Second Centenary Goal. Facing new developments and tasks, people's courts at all levels must follow the guidance of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era and implement Xi Jinping Thought on the Rule of Law. The courts should fully act on the guiding principles from the Party's 19th National Congress and the plenary sessions of the 19th Party Central Committee. The courts should acquire a deep understanding of the decisive significance of the establishment of both Comrade Xi Jinping's core position on the Party Central Committee and in the Party as a whole and the guiding role of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, and boost our consciousness of the need to maintain political integrity, think in big-picture terms, follow the leadership core, and keep in alignment with the central Party leadership. The courts should stay confident in the path, the theory, the system, and the culture of socialism with Chinese characteristics. The courts should firmly uphold Comrade Xi Jinping's core position on the Party Central Committee and in the Party as a whole and uphold the Central Committee's authority and

its centralized, unified leadership. The courts should carry forward the great founding spirit of the Party, remaining true to our original aspiration and keeping our mission firmly in mind. The courts will closely follow the requirements of “standing grounded in the new development stage, applying the new development philosophy in full, creating a new pattern of development, and promoting high-quality development”. The courts should firmly establish the concept of IP protection as a means of protecting innovation, and comprehensively deepen the reform and innovation in the field of IP adjudication. What the courts have gained from the initiatives to study the history of the CPC and the team education and rectification will be consolidated. All of us in the Courts will strengthen our role in IP trials, enhancing their quality, efficiency, and judicial credibility, and optimizing the rule of law environment conducive to innovation, creativity, and entrepreneurship. Efforts will be taken to increase the international influence of China’s IPR judiciary, as well as provide judicial services and a guarantee for China to become a major player in IPRs. These efforts will enable the courts to pave the way for a successful 20th National Party Congress.



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