This is an ad-hoc newsletter to inform UK stakeholders of recent developments in the Chinese IP environment. The content is collected from publically available sources, where information is often available in Chinese only. Please feel free to forward this newsletter, and contact Emily.Tan@fco.gov.uk to be added to/removed from the distribution list. A pdf version is available on the Embassy’s IP webpage.

Policy & Government

Guideline on Strengthening Protection of IPRs

On July 24 in Beijing, President Xi presided over the ‘9th Meeting of the Central Committee for Deepening Overall Reform in China’. The meeting approved a series of documents, including a ‘Guideline on Strengthening Protection of IPRs’. The meeting underlined the importance of a comprehensive and coordinated approach to IPR protection in China, including examination and granting, administrative enforcement, judicial protection, arbitration and mediation, and industry self-discipline. It also announced that working mechanisms would be improved by combining legal, administrative, economic, technological and social governance approaches, in order to enhance IP protection capacity. More here in English and here in Chinese.

State Council IP Media Briefing

On July 24, the State Council held a media briefing on IP, China Intellectual Property Administration (CNIPA) gave updates on their work in the first half of 2019 and future plans. Mr. Zhao Gang, Vice Commissioner of CNIPA, stated that Patent Law and Copyright Law revisions are being actively progressed; that an extensive revision to the Trademark Law is ongoing; and that administrative regulations and explanations related to Patent Law and Trademark Law are being refined. To address major concerns over patent infringement, there will be substantive progress on legislation to increase damages, and punitive damages have also been introduced explicitly into the draft amendment of the law. More here in Chinese.

China to promote IP backed financing

China Banking and Insurance Regulatory Commission, together with CNIPA and National Copyright Administration of China issued the Notice on Further Strengthening Intellectual Property Backed Financing in August. Financial institutions are encouraged to establish and improve the working mechanism on IP pledge loans, and to establish sound credit approval and risk management systems. The policy aims to support more innovative enterprises and provide guidance to solve the problems such as IP valuation, that often restrict the development of IP backed financing. In the first half of 2019, the total amount of newly pledged patents and trademarks nationwide reached RMB 58.35 billion (approx. £6.63 billion), up 2.5% year on year, among which RMB 40.4 billion yuan (approx. £4.6 billion) was patents. More here in English and here in Chinese.
ENFORCEMENT

SPC IP Tribunal opens first circuit trial and mediation
On 23 July, the IP Tribunal of Supreme People’s Court of China (SPC) opened the first circuit trial at the SPC Third Circuit Court in Nanjing, Jiangsu Province. The case involved an invention patent for an electric submersible pump, given the physical weight of infringing products and that the parties involved are based in Jiangsu, a circuit trial was chosen for convenience. Another two circuit trials were conducted in Guangdong and Shandong provinces in August. The IP Tribunal also accomplished its first mediation case during a circuit trial in Shandong. Since establishment of the IP Tribunal in January 2019, it had practiced innovative approaches in case hearing including partial verdict, circuit trials, and technical investigators. More here in English and here in Chinese.

Net Sword Campaign launched to regulate online market
Eight ministries in China including State Administration for Market Regulation, National Development and Reform Commission, Ministry of Industry and Information Technology co-launched the ‘Net Sword Campaign’ to regulate the online market. The campaign, which lasts 6 months from June to November, aims to crack down on prominent issues in the online market, and promote a well-regulated market with fair competition. The key priorities of the campaign are regulating credentials of online businesses, cracking down online sales of counterfeit, shoddy products, unsafe food and fake medicines, eliminating unfair competition, and determining the responsibility of e-commerce platforms. Overseas purchasing agents, import and export of cross-border e-commerce will also be under stricter supervision. More here in Chinese.

CASE REPORTS

Bentley invalidate a free-riding trade mark
A trade mark case related to British company Bentley Motors Limited (Bentley) was heard by Beijing IP Court in August. Bentley filed an application to CNIPA to invalidate the trade mark of East Tomorrow (Jinjiang) Import & Export Co. Ltd. (East Tomorrow), claiming the East Tomorrow’s “B in Wings” trade mark is similar with Bentley’s, and that using the opposed trade mark on wine bottles created a false association with Bentley and confused Chinese consumers. CNIPA upheld that the opposed trade mark is in different class from Bentley’s and cannot be considered as a similar trade mark being used on same or similar goods. However, CNIPA noticed that East Tomorrow historically applied for a number of marks related to Bentley and other international alcoholic beverage and luxury brands, without being able to explain the intention of registration and source of design. Therefore, CNIPA invalidated the trade mark on the grounds of free-riding a famous brand, unfair competition and violation of good faith principal. East Tomorrow made an appeal to Beijing IP Court and the case is ongoing. More here in Chinese.

Entertainment One won a copyright infringement case
On 15 August, Entertainment One (eOne) won the copyright infringement case in first instance delivered by Beijing Internet Court. The infringer Beijing TOGO Technology Co. Ltd (TOGO) which provides car-sharing services, used Peppa Pig’s image on its car and in its branding without authorization. The court ruled TOGO infringed eOne’s right of reproduction and right of dissemination via information networks, ordering TOGO to cease infringement immediately and pay RMB 500,000 (approx. £57,284) in damages. When calculating damages, the court believed it should not be lower than the licensing fee otherwise it will not achieve the purpose of warning and prevent potential infringements. More here in Chinese.
STATISTICS

Patents
There were 649,000 invention patent applications filed in China in the first half of 2019, down 9.4%. 238,000 invention patents were granted, up 9.9%. 78,000 invention patent applications from foreign applicants, up 8.6% with Japan, US and Germany ranking top. Huawei remains the top applicant and Beijing the top region followed by Shanghai and Jiangsu. More here in Chinese.

Trade marks
3.4 million trade marks were applied for in China in the first half of 2019, down 4.1%, 3.5 million trade marks were granted, up 67.8%. The amount of valid trade marks in total reached 22.7 million, increasing 35.3% year-on-year. 127,000 trade mark applications were from foreign applicants, up 15.4%. Average trade mark examination time was down to under 5 months. More here in Chinese.

Enforcement
In the first half of 2019:
- Chinese courts nationwide concluded 150,000 IP civil cases and 2,000 IP criminal cases of first instance, up 80% and 23% respectively year-on-year.
- Chinese procuratorial organs throughout the country approved the arrest of 3,400 people in 1,900 IP infringement cases. By comparison, they approved 5,627 people for arrest in 3,306 cases over the whole of 2018.
- Chinese public security organs cracked down 4,200 cases worth 4.8 billion yuan concerning IP infringement and counterfeiting crimes, 9,900 infringers were arrested. By comparison, in 2018, 19,000 cases worth 9.87 billion yuan were solved and 28,000 suspects were arrested. More here in Chinese.

If you would like any further information on any of the above matters or to discuss Embassy support for your company in China please contact Emily Tan (Emily.Tan@fco.gov.uk).