

Highlights of September



Chang Tsi & Partners Awarded Highly Recommended Firm by Asialaw Profiles 2022

In the newly published edition of Asialaw Profiles 2022, Chang Tsi & Partners has been awarded as a Highly Recommended Firm. In addition, Spring Chang and Simon Tsi, founding partners of the firm, have been named “Elite Practitioner” and “Notable Practitioner” respectively.

New Amendment to the Copyright Law of PRC Has Come into Effect

The new amendment to the Copyright Law of PRC has come into effect since 1 June 2021. The amendment is expected to strengthen the protection of the copyright holders and to provide a desirable legal environment for innovation and creation. There are 42 revisions in total, while for your kind reference, we have summarised several revisions that may be noteworthy for your consideration. Please read the article for detailed information.

Summary for the Examination Changes of the Post-filing Data

Post-filing data is important for the Applicant to get a patent right, especially for the Applicant in the biological and chemical field. However, it is known that the examination standard for the post-filing data is rather strict in China. To this, the article walks you through the Examination Changes of the Post-filing Data.

Chang Tsi Family Day 2021 was Recently Held in Beijing

Chang Tsi Family Day 2021 was recently held in Beijing, with the theme of “Gathering Family Power, Sharing Happy Time”. All family members of our employees spent a happy afternoon together. In a fun, physically engaging, and high-energy environment, parents and kids were bound to have an amazing time with friends and family.

Holiday Notice

Our office and IP Administration in regions below will be closed for National Day as follows:

Mainland China: 1-7 October 2021

Taiwan: 9-11 October 2021

Hong Kong: 1-3 October 2021

Macao: 1-4 October 2021

All deadlines falling on a holiday will be automatically extended. Should you have any urgent cases, please let us have your instructions ahead of the holidays.

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For the last 28 years, Ms. Spring Chang, Founding Partner of Chang Tsi & Partners, has always devoted herself to IP services, including registration and protection of trademark, patent, copyright and domain name, IP management and assignment, and other IP-related fields. Her outstanding performance and rich experience in offering legal services to transnational companies have made her reputation in this legal sector.

Mr. Simon Tsi, Managing Partner of the firm, is mostly specialized in 1) intellectual property, 2) litigation & arbitration, and 3) corporate law. Always seeking for the most customized solutions for each client globally, Mr. Tsi has handled numerous complicated cases, particularly, petitions, retrials, and crisis management for enterprises.

Asialaw Profiles is a leading legal-rating agency. Asialaw's 2022 edition provides law firm recommendations and editorial analysis of key practice areas and industry sectors across 23 jurisdictions from China to Vietnam.

Achieving Extraordinary Results for Our Clients

Since its establishment in 2002, Chang Tsi & Partners has been managing to become one of the leading law firms in China. The firm has been constantly referred as the "National Outstanding Law Firm", "The Best IP Law Firm in China", "China IP Law Firm", "Tier 1 IP Law Firm of the Year" by Ministry of Justice of China, international legal directories and various business magazines such as Chambers Asia Pacific, The Asia Pacific Legal 500, Asialaw Profiles.

With over 350 professionals consist of attorney at law, patent attorneys, trademark attorneys, Chang Tsi & Partners is based in Beijing with fully fledged offices in Shanghai, Guangzhou, Shenzhen, Hainan and branch offices in the US, Korea, Hong Kong, Taiwan, and Guangxi while establishing an enviable reputation in Intellectual Property and Litigation.

New Amendment to the Copyright Law of PRC Has Come into Effect

Lilian Qiu | Trademark Attorney

The new amendment to the Copyright Law of PRC has come into effect since 1 June 2021. The amendment is expected to strengthen the protection of the copyright holders and to provide a desirable legal environment for innovation and creation. There are 42 revisions in total, while for your kind reference, we have summarized several revisions that may be noteworthy for your consideration. The highlights we would like to bring to your attention are as below:

1. Non-Profit Restriction on Free Performance

With respect to free performance, which may be a way of fair use, a general non-profit restriction has been added to prevent making a profit in disguise by means such as collecting advertising fees through free performance. Considering the development of internet and new profit models, the ways to make profits may not be as simple as they used to be, and the new restriction in such a short sentence in fact is regarded as a very important revision.

2. Increasing the Intensity of Administrative Punishment

The Amendment specifies the way of calculating monetary fine in administrative cases and removes the "if the case is serious" condition for confiscating and destroying materials, tools, and equipment mainly used to make the infringing reproductions. Generally speaking, the Amendment raises the intensity of administrative punishment to strengthen the protection of copyrights.

3. Introduction of Punitive Damages

Introduction of punitive damages is one of highlights of the Amendment. For intentional infringement, or in another word, infringement in bad faith, punitive damages

may apply. This is considered as a big step to enhance copyright protection.

4. Raising the Statutory Damages

The Amendment raises the statutory damages by 10 times from CNY 500,000 (approx. USD 75,500) to CNY 5,000,000 (approx. USD 755,000), which is also deemed as a very clear signal of punishing copyright infringement and enhancing the protection.

5. Shifting the Burden of Proof regarding Damages

In accordance to the Amendment, with respect to evidence regarding the amount of compensation/damages, the burden of proof may be shifted to the Defendant, if the plaintiff has assumed necessary responsibility of burden of proof. This revision eases the burden on the right holder's side and it increases the possibility to uncover the facts related to calculation of compensation/damages.

6. Further Infringement Liabilities

The Amendment adds that infringing reproductions should be destroyed upon the request of the plaintiff except for exceptional cases, and materials, tools, and equipment mainly used for reproductions should be destroyed without compensation. The revisions are made in hopes of ceasing the infringement thoroughly.

7. Empowering the Administrative Authority to Investigate

Unlike the police, the administrative authority responding for copyright matters is not clearly empowered by the law to conduct further investigations in enforcement cases, which sets obstacles for the authority to uncover relevant facts. The Amendment specifies the authority's power and ways of investigation, which is another step to enhance copyright protection through public power.

Summary for the Examination Changes of the Post-filing Data

Phoebe Xi | Patent Attorney

Post-filing data is important for the Applicant to get a patent right, especially for the Applicant in the biological and chemical field. However, you may find the examination standard for the post-filing data is very strict in China.

The sixth amendments to the Guidelines for Patent Examination already have taken effect on January 15, 2021, making a new clarification for the examination of the post-filing data.

In combination with this new clarification, the changes for the examination of the post-filing data during these recent years are summarized as follows:

Before April 1, 2017, the post-filing data only can be used to prove the technical effect directly recorded in the original application.

After April 1, 2017, according to the third amendment to Guidelines for Patent Examination, the Examiner should make an examination on the post-filing data, and the technical effect proved by the post-filing data should be obtainable by the skilled in the art from the contents disclosed by the patent application. This means that even if the effect is not clearly recorded in the original application, the un-recorded properties can be intrinsically, inherently produced from the disclosure such as other use, properties recorded in the original application, then the claimed technical solution has the inventiveness. That is to say, the Applicant can provide arguments or other evidences to prove that there are the intrinsic, inherent relationship between the technical effects

proved in the post-filing data and the contents in our patent, such as principle, other properties, or uses.

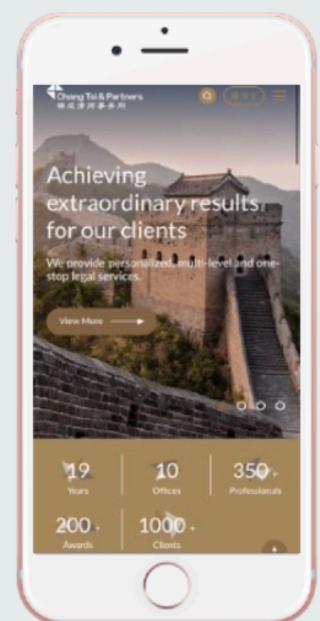
However, during the particular examination, the Examiners are more inclined to accept the post-filing data for proving the inventiveness of the claimed technical solutions relative to the prior art, rather than that for proving sufficient disclosure.

Therefore, the sixth amendments to the Guidelines for Patent Examination, further indicates that, the post-filing data can be submitted by the Applicant for meeting the requirements for inventiveness and sufficient disclosure etc.

Chang Tsi & Partners is a leading full-service Chinese law firm with a strong reputation in intellectual property and litigation. Established in 2002, Chang Tsi & Partners always integrates legal solutions and peace of mind in China's competitive and turbulent market.

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Chang Tsi Newsletter

Moreover, the newly amended Guidelines for Patent Examination provide the following two examples in terms of post-filing data of drug patent.

Example 1

A claim seeks to protect Compound A. The specification records the preparation examples of Compound A, the effect of lowering blood pressure and the experimental method for measuring the activity of lowering the blood pressure, but the experimental result data are not recorded. In order to prove that the specification is fully disclosed, the Applicant supplemented the effect data of Compound A for lowering the blood pressure. For those skilled in the art, according to the original application documents, the effect of Compound A for lowering the blood pressure has been disclosed, and the technical effect to be proved by the post-filing data can be obtained from the disclosure of the patent application documents. It should be noted that the post-filing data should also be examined when commenting the inventiveness.

Example 2

A claim seeks to protect the compound of general formula I, the specification records the general formula I and its preparation method, as well as the preparation examples of several specific compounds A, B, etc. in the general formula I, and also records the anti-tumor effect of general formula I and the experimental method and experimental result data for determining antitumor activity, wherein the experimental result data records the IC50 value of the example compound on tumor cells is in the range of 10-100 nM. In order to prove the inventiveness of the

claims, the Applicant submitted the comparative experimental data, which showed that the IC50 value of compound A was 15nM, while the compound of Reference 1 was 87nM. For those skilled in the art, according to the recordation of the original application documents, compound A and its anti-tumor effects have been disclosed, and the technical effects to be proved by the post-filing data can be obtained from the disclosure of the patent application documents. It should be noted that, at this time, the Examiner needs to further analyze whether the technical solution sought to be protected by this claim meets the requirements of inventiveness in conjunction with the post-filing data.

As can be seen, the examination standard for post-filing data is more flexible than before, which is benefit for the Applicant. In conflict cases, we should pay attention to skillfully using notarial means to improve the probative force of evidence.

Chang Tsi Newsletter

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After the lovely opening dance, children and parents thereof participated in a series of funny competitions, including but not limited to rabbit jumping, kangaroo running and frisbee. Looking at the exciting gifts at the end, the children burst out their extraordinary potential.

Next to the Competition Zone, we also had large range option for kids play equipment at the Fun Zone. Trampoline, drawing board, play fields, games... Looking at the angelic smiles on children's faces, you will know how happy they were!



During the event, we also set up a book donation zone because we believe that donating used books is sharing a love of reading and learning. As part of the "Spring Charity Project", all books will be sent to schools in Tibet, so that more children can share the happiness of reading with us.

