

The China National Intellectual Property Administration Announces Top 10 Patent Invalidation Cases of 2019

Article By:

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The [China National Intellectual Property Administration](#) (CNIPA) has [announced](#) the top 10 patent invalidation and reexamination cases of 2019. Technologies include pharmaceuticals, light emitting diodes (LEDs), software and other technologies. While none of the petitioners were foreign, several of the patentees were foreign and their patents all survived invalidation.

The top ten cases per CNIPA are:

1. [Decision No. 33344](#)

Patent number: [ZL97196762.8](#)

Title: Light-emitting device and display device

Patentee: Nichia Chemical Industry Co., Ltd.

Requestor: Everlight Electronics (China) Co., Ltd.; Beijing Metropolis Everlight Trading Co., Ltd.

Examination conclusion: maintain patent right

The patent in question relates to white LEDs. The focus of this case was whether the prior art has given technical inspiration, so that those skilled in the art can obviously obtain the technical solution of this patent.

2. [Decision No. 42407](#)

Patent number: [ZL01807269.0](#)

Title: Pyrrole substituted 2 -indoline ketone protein kinase inhibitor

Patentee: Sugen Co., Ltd., Famasia Puqiang Co., Ltd.

Requester: CSPC Ouyi Pharmaceutical Co., Ltd.

Examination conclusion: maintain patent right

The patent in question (patent number: ZL01807269.0) relates to the new compound “sunitinib” and its medicinal salts, pharmaceutical compositions and pharmaceutical uses. The compound belongs to a small molecule multi-target receptor tyrosine kinase inhibitor and is a multi-target anti-tumor drug. The case discusses how the burden of proof should be allocated in the process of determining inventiveness and how to investigate technical facts.

3. [Case No. 39900](#)

Patent number: [ZL200880112278.0](#)

Title: Method for transmitting uplink signals

Patentee: Optical cellular technology LLC (original applicant: LG Electronics Inc.)

Requester: Huawei Technologies Co., Ltd.

Examination conclusion: maintain patent right

The patent relates to mobile communications. The case discusses multiple bases for invalidation including lack of support in the claims, entitlement to a priority date (enabling certain prior art published after the priority date to be used to invalidate claims), and clarity.

4. [Case No. 38950](#)

Patent number: [ZL200680042417.8](#)

Title: Dipeptidyl peptidase inhibitor for the treatment of diabetes

Patentee: Takeda Pharmaceutical Co., Ltd.

Requester: Yabao Pharmaceutical Group Co., Ltd.

Examination conclusion: maintain patent right

The patent relates to a pharmaceutical composition for treating diabetes. The decision discussed if a person skilled in the art can clearly determine the scope of the claims based on the contents described in the description, the claims are considered to be clear. Novelty and inventiveness were also considered.

5. [Case No. 41958](#)

Patent number: [ZL200680037518.6](#)

Title: Restaurant Service System

Patentee: HeineMack GmbH

Requester: Weightlessness (Beijing) Catering Management Co., Ltd.

Examination conclusion: maintain patent right on the basis of amendment

The patent relates to a new rail system for delivering food to diners as discussed in [a separate article](#). Inventiveness was determined based on a “three-step method” based on determining technical problems, technical means and technical effects to avoid using hindsight.

6. [Case No. 41733](#)

Patent number: [ZL201730667916.7](#)

Title: Graphical user interface (shared) for mobile communication devices

Patentee: Beijing Microcast Vision Technology Co., Ltd.

Requester: Qiao Jin

Examination conclusion: all patent rights declared invalid

This design patent relates to a widely used video sharing interface. Unlike the US, design patents for GUIs must be shown on a tangible carrier, such as a mobile phone, which must be claimed as part of the design.

7. [Case No. 35449](#)

Patent number: [ZL201220686731.2](#)

Title: Multi-rotor UAV

Patentee: Shenzhen DJI Innovation Technology Co., Ltd.

Requester: Shenzhen Datong Intelligent Aviation Technology Co., Ltd.

Examination conclusion: all patent rights declared invalid

The utility model patent relates to multi-rotor UAV technology. DJI and Datong have a history of patent litigation in both the US and China. The Patent Reexamination Board held prior art from the Internet can act to mutually verify each other to show their probative value.

8. [Case No. 39289](#)

Patent number: [ZL201310556488.1](#)

Title: Cyclone dry pulverized coal gasifier

Patentee: Shenhua Group Co., Ltd., Shenhua Ningxia Coal Industry Group Co., Ltd.

Requester: Wang Chong

Examination conclusion: maintain patent right

The patent relates to the high conversion rate dry powder coal gasification technology. Wang Chong, presumably a straw man, attempted to invalidate the patent based on inventiveness. The Patent Reexamination Board (PRB) stated, “if a claim has different technical features compared to the closest prior art, and the prior art does not give the technical inspiration for applying the different technical features to the closest prior art to solve the corresponding technical problem, and there is no evidence that it belongs to common knowledge in the field, then the claim has prominent substantive features [and is therefore patentable].”

9. [Case No. 40870](#)

Patent number: [ZL201621037804.X](#)

Title: Keyboard switch that produces a pressing sound

Patentee: Dongguan Kaihua Electronics Co., Ltd.

Requester: Tongfang International Information Technology (Suzhou) Co., Ltd.; Wu Dongmei

Examination conclusion: maintain patent right

The utility model patent relates to keyboards. The PRB held that it is inappropriate to evaluate claim limitations in isolation or unreasonably dismantle limitations with inherent relationship into scattered elements to determine inventiveness.

10. [Case No. 185132](#)

Application number: [CN201710733227.0](#)

Title: A process method for improving oxide depression of contact hole plug

Request for review: Changjiang Storage Technology Co., Ltd.

Review conclusion: Revocation of rejection decision

The patent application relates to the semiconductor manufacturing process. The case shows that during the evaluation of inventiveness, it should be judged based on the existing technology at the time of filing whether that technology can produce a motivation for improvement, otherwise it is impermissible hindsight.

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