

The Intellectual Property Tribunal of China's Supreme People's Court Released Top 10 Cases of Technical Intellectual Property Rights in 2020

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On February 26, 2021, the [Intellectual Property Tribunal of the Supreme People's Court](#) released a [list of top 10 cases of technical intellectual property rights for 2020](#) that the tribunal ruled on. The list covers anti-suit injunctions, trade secret theft, punitive damages, software copyright infringement, [utility model](#) infringement, invention patent invalidation, dueling administrative and civil enforcement appeals of patents, integrated circuit layout design infringement, affirmative injunctions and antitrust.

最高人民法院知识产权法庭

2020年10件技术类知识产权典型案例

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2020年10件技术类知识产权典型案例

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The top 10 cases, as explained by the IP Tribunal of the Supreme People's Court, follows:

1. Three cases of “anti-suit injunction” for wireless communication standard essential patents

[Case No.] 2019732733734?

[Basic case] In January 2018, Huawei filed this case with the Nanjing Intermediate People's Court, requesting confirmation that it did not infringe Conversant Wireless Licensing's three Chinese patent rights and requesting confirmation of the license fee rate for standard essential patents in China. In April 2018, in order to counteract Huawei's lawsuit in this case, Conversant filed a patent infringement lawsuit in the court of Düsseldorf, Germany, requesting an order for Huawei to stop the infringement and compensate for losses. On September 16, 2019, the Nanjing Intermediate People's Court made the first-instance judgment of this case, which determined the license fee rate for the standard essential patents involved in Huawei and its Chinese affiliates and Conversant. Conversant refused to accept the judgment of the first instance and appealed to the Supreme People's Court. During the trial of the Supreme People's Court, on August 27, 2020, the German court made a first-instance verdict that Huawei and its German affiliates infringed Conversant's European patents and ordered Huawei and its German affiliates not to further infringe. The judgment can be temporarily enforced after Conversant provides a guarantee of 2.4 million euros. On the same day, Huawei filed

an application for an injunction with the Supreme People's Court, requesting that Conversant be prohibited from applying for the execution of the German court's judgment before the Supreme People's Court's final judgment. The Intellectual Property Tribunal of the Supreme People's Court comprehensively considers factors such as necessity, the balance of profit and loss, and the principle of international comity, and issued an injunction within 48 hours: Conversant shall not apply for the execution of the above-mentioned German judgment before the final judgment of the Supreme People's Court; if this ruling is violated, then from the date of violation, a daily fine of RMB 1 million (~\$154 thousand USD) shall be imposed, which shall be accumulated on a daily basis. Conversant requested reconsideration, and the Supreme People's Court organized a hearing for both parties and ruled to reject the request. After the ruling in this case was made, the parties concerned fully respected and implemented the ruling in this case while conducting active commercial negotiations, reached a global settlement agreement, ended all parallel litigation in multiple countries around the world, and achieved good legal effects.

[Typical Significance] In the three cases, the Intellectual Property Court of the Supreme People's Court made the first "anti-suit" injunction ruling in the field of intellectual property by a Chinese court, and pioneered the application of "daily fines" measures to ensure enforcement of injunctions. The rulings of the three cases clarified the applicable conditions and considerations for the "anti-suit injunction", made case studies for the establishment and improvement of China's "anti-suit injunction" system, accumulated useful experience, and effectively safeguarded national interests, judicial sovereignty, and the legal rights and interests of the enterprise.

2. "Vanillin" technology secret high-value judgment case

[Case No.] 2020111667?

[Basic case] Jiaxing Zhonghua Chemical Co., Ltd. and Shanghai Xinchun Co., Ltd. jointly developed a [process for producing vanillin by the glyoxylic acid method and protected it as a trade secret](#). The process is safe to implement, easy to operate, and has good effects. Based on this improvement compared with the traditional process, Jiaxing Zhonghua Chemical Company has become the world's largest vanillin manufacturer, having about 60% of the vanillin global market. Jiaxing Zhonghua Chemical Company and Shanghai Xinchun Company believed that Wanglong Group Company, Wanglong Technology Company, Xifu Lion Wanglong Company, Fu XX, Wang XX used their vanillin production process without permission and violated their technical secrets. Therefore, they filed a lawsuit with the Zhejiang High Court, requesting an injunction to stop the infringement and compensate for economic losses and reasonable expenses of 502 million yuan. The Zhejiang Higher People's Court determined that the infringement was established, and ordered the suspension of the infringement, compensation of 3 million yuan for economic losses and a reasonable expenditure of 500,000 yuan for rights protection. While making the judgment of the first instance, the Zhejiang Higher People's Court issued an injunction, ordering Wanglong Technology Company and Xifu Lion King Dragon Company to immediately stop using the trade secrets involved in the case, but Wang Long Technology Company and Xifu Lion King Dragon Company did not stop using them. Except for Wang XX, all parties in this case refused to accept the judgment of the first instance and appealed to the Supreme People's Court. In the second instance, the amount of compensation requested by Jiaxing Zhonghua Chemical Company and Shanghai Xinchun Company fell to 177 million yuan. The Intellectual Property Tribunal of the Supreme People's Court, based on the economic loss data provided by the right holder, comprehensively considered factors such as the huge commercial value of the trade secret involved, the large scale of infringement, the long infringement time, and the refusal to respect the injunction, and changed its sentence that defendants must jointly compensate the right holder for economic losses of 159 million yuan. At the same time, the court decided to

transfer the suspected criminal evidence to the public security organs.

[Typical significance] This case is the case of infringement of trade secrets with the highest amount of compensation in the effective judgment of a court in China. The Intellectual Property Tribunal of the Supreme People's Court ruled in this case to protect the core technology of important industries in accordance with the law, effectively intensifying the crackdown on malicious infringement, clarifying the joint and several liability of the legal representative of the company that uses infringement and forwarding the suspected criminal evidence in accordance with the law. The transfer to the public security organs promoted the convergence of civil relief and criminal punishment, and demonstrated the people's courts' clear judicial attitude of strictly protecting intellectual property rights in accordance with the law and cracking down on malicious infringement.

3. Case of punitive damages for “Kabo” technical secrets

[Case Number] ?2019???????562?

[Basic case] Guangzhou Tianci Company and Jiujiang Tianci Company claimed that Hua, Liu, Anhui Newman, Wu, Hu, Zhu, and Peng infringed their “Kabo” manufacturing process technology secrets and filed a lawsuit with the Guangzhou Intellectual Property Court requesting an order to stop the infringement, compensate for the loss, and apologize. The Guangzhou Intellectual Property Court determined that there was theft of trade secret and considering the intentional infringement of the trade secret right and the circumstances of the infringement, applied punitive damages of 2.5 times. Guangzhou Tianci Company, Jiujiang Tianci Company, Anhui Newman Company, Hua Mou and Liu Mou all refused to accept the judgment of the first instance and appealed to the Supreme People's Court. The Intellectual Property Tribunal of the Supreme People's Court of the second instance held that there was infringement of the trade secrets involved, but the first-instance judgment did not fully consider the contribution of the trade secrets involved in determining the amount of infringement compensation, and did not fully consider the infringement when determining punitive damages. Specifically, defendant's subjective maliciousness and evidence obstructive behavior, etc. The Court maintained the first-instance judgment on cessation of infringement, but increased the applicable punitive damages to 5 times. Anhui Newman Company was sentenced to compensate Guangzhou Tianci Company and Jiujiang Tianci Company for economic losses of 30 million RMB and a reasonable expenditure of 400,000 RMB. Hua, Liu, Hu, and Zhu shall be jointly and severally liable for the aforementioned compensation amounts within the range of 5 million RMB, 30 million RMB, 1 million RMB, and 1 million RMB respectively.

[Typical significance] This case is the first punitive damages case made by the Supreme People's Court. The judgment of the case fully considered the subjective malice of the alleged infringement, the obstruction of proof, the duration of the alleged infringement, the scale of the infringement, etc., applied punitive damages, and finally determined the statutory punitive damages, which is the highest multiple available of 5 times damages. The multiple clearly convey a strong signal to strengthen judicial protection of intellectual property rights.

4. NX computer software copyright infringement case

[Case No.] (2020)???????155?

[Basic case] Siemens Software, which is the copyright owner of the NX series of software, filed a lawsuit with the Guangzhou Intellectual Property Court on the grounds that Wolf Company used the software involved in the case to design and manufacture products that constituted infringement. In

accordance with the application of Siemens Software, the Guangzhou Intellectual Property Court issued an evidence preservation order to Wolf. During the period, the Guangzhou Intellectual Property Court served a preservation ruling, explaining in detail the preservation measures to be taken and the legal consequences of refusing to cooperate with the preservation. According to the on-site inventory, there are 26 computers in the design office of Wolf Co. After the Guangzhou Intellectual Property Court preserved 17 computers and found that 9 of them were installed with the software involved, Wolf Co. suddenly took countermeasures by refusing to turn on some computers, cutting off power, stealing court cameras, and preventing court staff from leaving. Such methods hindered the preservation of evidence and forced the termination of the preservation work. The Guangzhou Intellectual Property Court ordered Wolf Company to stop the infringement and ordered Wolf Company to compensate Siemens Software Company for economic losses of 500,000 RMB and 100,000 RMB for reasonable rights protection expenses in accordance with the statutory compensation limit. The Intellectual Property Tribunal of the Supreme People's Court comprehensively considered Wolff's infringements, the price of the software involved, and Wolff's circumstances in this case that prevented the court's evidence preservation without justifiable reasons, and ruled Wolff to compensate Siemens Software for more than 2.61 million economic losses RMB and a reasonable expenditure of 100,000 yuan for rights protection.

[Typical Significance] This case equally protects the legal rights and interests of foreign-related entities in accordance with the law, clarifies the consequences of the litigation participants obstructing the preservation of evidence, and uses the performance of the accused infringer in the litigation as a consideration for determining damages. The decision in this case to increase the penalties for the parties who interfered with the preservation of evidence has important guiding significance for guiding the parties to litigate in good faith.

5. “Selfie stick” utility model patent batch infringement series cases

[Case No.] (2020)??????357?376?

[Basic case] Yuan Desheng Company is the patentee of the [utility model patent named “an integrated Selfie device.”](#) and it filed a batch of patent infringement lawsuits against manufacturers and sellers nationwide. In the case of Yuandesheng Company suing Pinchuang Company, the Guangzhou Intellectual Property Court determined that Pinchuang Company was a manufacturer of infringing products, and it continued to manufacture and sell infringing products despite the fact that its manufacturing and sales activities constituted infringement. Considering the nature of the source of infringement of the manufacturing act and the circumstances of Pinchuang's intentional infringement and repeated infringement, it was ordered to stop the infringement and compensate Yuandesheng Company 1 million RMB. Pinchuang refused to accept it and appealed to the Supreme People's Court. The Intellectual Property Tribunal of the Supreme People's Court dismissed the appeal and upheld the original judgment. In the case of Yuan Desheng Company v. Chenxi Communication Department, Yinchuan Intermediate People's Court determined that Chenxi Communication Department's act of selling infringing products constituted an infringement of the patent right involved. Considering that Yuandesheng did not submit evidence of the amount of infringement damages, and the accused infringing products have low prices and low profits, the business scale of Chenxi Communications Department as an individual business owner is small, which is a situation where there is evidence to prove that the infringement losses are below the lower limit of the legal compensation amount. Therefore, it is determined that the Chenxi Communication Department shall compensate Yuandesheng Company for economic losses of 2,000 RMB. Yuan Desheng Company refused to accept it and appealed to the Supreme People's Court. The Intellectual Property Tribunal of the Supreme People's Court rejected the appeal and upheld the

original judgment.

[Typical Significance] The Intellectual Property Court of the Supreme People's Court has actively promoted the traceability of infringement to the source for mass rights enforcement cases such as "selfie sticks" and "lighters." For manufacturers as the source of infringement, courts should intensify penalties for infringement, and encourage patent holders to directly trace the source of the infringing product to the manufacturing process; for retailers and users of alleged infringing products, determine their legal responsibilities in accordance with the law and have evidence to prove infringement. If the damage is higher than the upper limit of statutory compensation or lower than the lower limit of statutory compensation, the amount of compensation may be determined above the upper limit or below the lower limit.

6. Invalidation of invention patent for "secondary lithium ion battery"

[Case No.] ?2020???????406?407?

[Basic case] Two administrative disputes between Ren and Sun and Apple Shanghai Company, Apple Beijing Company, and the China National Intellectual Property Administration (CNIPA) on the invalidation of invention patent rights, involving the name "secondary lithium ion battery or battery pack, its protection circuit and electronics Device" invention patent. Ren and Sun are the patentees; Apple Shanghai and Apple Beijing applied for invalidation of the patent; the CNIPA maintained the validity of claims 1-12 and 14 of the patent. The Beijing Intellectual Property Court held that because the claims could not be supported by the specification, all the patent rights involved in the case should be invalid, so it ordered the CNIPA to review the case accordingly. Ren and Sun refused to accept and appealed to the Supreme People's Court. The Supreme People's Court held that the patent involved in the case could be supported by the specification, and the judgment was changed to maintain the validity of the patent right.

[Typical Significance] The typical meaning of this case is to clarify whether a claim with two or more different numerical ranges that jointly define the scope of protection can be supported by the specification. If the corresponding relationship between the two or more numerical ranges can be determined within the range described in the specification and drawings, so that those skilled in the art can reasonably determine the scope of patent protection, the claim should be considered supported by the specification. The clarification of this rule is of great significance for ensuring that the patent system stimulates innovation and promotes the development of emerging industries.

7. Two cases of crossover of patents for "method of accessing portal websites" between civil and commercial banks

[Case No.] ?2020???????282???2019???????725?

[Basic case] Dunjun Company is the patentee of the invention patent titled "A Method for Easy Access to the Portal of a Network Operator." Dunjun Company believes that Weimeng Company manufactures and sells without permission, and Guanfeng Company sells products that fall within the scope of its patent protection without permission, so it filed a lawsuit with the Quanzhou Intermediate People's Court. The Quanzhou Intermediate People's Court found that the alleged infringing product fell within the scope of the patent protection in the case; Guanfeng's legal source defense was established, and the first-instance judgment was made: Weimeng and Guanfeng immediately stop the infringement; Weimeng compensates Dunjun's economic loss of 10 million RMB. Weimeng

refused to accept it and appealed to the Supreme People's Court. Before Dunjun Company filed this case with the Quanzhou Intermediate People's Court, the CNIPA made an examination decision on the invalidation request made by Weimeng Company for the patent right involved in the case, and maintained the validity of the patent right involved in the case. After the court of first instance made a first-instance judgment on the civil infringement case filed by Dunjun Company, Weimeng Company filed an administrative lawsuit against the above-mentioned invalidity review decision, and later appealed to the Supreme People's Court because of dissatisfaction with the first-instance judgment of the administrative lawsuit. The Intellectual Property Court of the Supreme People's Court coordinated the trial of the aforementioned administrative and civil appeal cases involving the same patent. It issued an administrative second-instance judgment on December 23, 2020 to maintain the validity of the patent rights involved, and a second-instance civil judgment was issued on December 30, confirming the accused infringed the patent, and the first-instance judgment injunction and compensation of 10 million RMB was upheld.

[Typical significance] The Intellectual Property Tribunal of the Supreme People's Court gave full play to the systematic advantages of concurrently hearing civil and administrative appeals of technical intellectual property rights in the two cases, and effectively solved the problem of dueling appeals of patent administrative confirmation (patent validity) and the civil infringement. The problem of dueling appeals may cause the problem of procedural delays, as well as inconsistent interpretations of claims. The seamless connection and coordination of results promoted the substantive and combined settlement of patent disputes.

8. “Lithium battery protection chip” integrated circuit layout design infringement case

[Case No.] (2019)??????490?

[Basic case] On April 22, 2012, Saixin Company applied for the registration of the integrated circuit layout design entitled “Single-chip negative electrode lithium battery protection chip with integrated controller and switch tube.” The integrated circuit layout design is still in effect. Saixin Company claimed that the chips copied and sold without permission by Yusheng Company and Hu XX were essentially the same as the integrated circuit layout design involved in the case, which constituted an infringement of the exclusive right of its integrated circuit layout design, so it sued in Shenzhen Intermediate People's Court. Saixin requested an injunction to stop the infringement, compensation for losses and a reasonable cost of 1 million yuan for rights protection. The Shenzhen Intermediate People's Court held that the alleged infringing chip was essentially the same as the original part of the layout design involved and constituted infringement. It ruled that Yusheng Company compensate Saixin Company for economic losses of 500,000 RMB; Hu, Huang, and Huang have joint and several liability for the above compensation. Yusheng Company, Hu, Huang, and Huang appealed to the Supreme People's Court. The Intellectual Property Court of the Supreme People's Court dismissed the appeal in accordance with the law and upheld the original judgment.

[Typical Significance] This case is the first appeal case of infringement of the exclusive right of integrated circuit layout design accepted by the Supreme People's Court. The judgment in this case clarified the nature of the registration behavior of integrated circuit layout design and the basic idea of ??judging the originality of integrated circuit layout design. It protected the interests of the rights holder of integrated circuit layout design in accordance with the law, and played a significant role in regulating the innovation and development of the integrated circuit industry.

9. Involving “Tmall” reverse behavior preservation case

[Case Number] ?2020???????993?

[Basic case] Bosheng Company is the patentee of the utility model named “flat mop cleaning tool with new barrel structure.” It believes that the mop sold by Lianyue Company on “Tmall.com” constitutes its patent infringement. The infringement lawsuit was filed with the Ningbo Intermediate Court. The Ningbo Intermediate Court determined that the infringement was established and ordered Tmall to immediately delete and disconnect the sales link of the alleged infringing product. Subsequently, Tmall Company deleted the relevant link. Lianyue Company and others appealed to the Supreme People’s Court. During the appeal, the patent rights involved in the case were declared invalid by the CNIPA. Lianyue Company then filed an application for an affirmative injunction to the Supreme People’s Court, requesting that Tmall be ordered to immediately restore Lianyue’s product sales link on “Tmall.com.” After receiving the application, the Intellectual Property Tribunal of the Supreme People’s Court made a ruling within 26 hours and adopted the form of “fixed + dynamic” guarantee to support Lianyue’s application for injunction. After the injunction ruling was made, the parties reached a settlement.

[Typical significance] This case is the first time that the Supreme People’s Court has made a reverse behavior preservation case. The Intellectual Property Tribunal of the Supreme People’s Court has adopted high-quality and efficient judgments, especially the application of dynamic security funds, which has well balanced the interests of the three parties, the patentee, the accused infringer, and the e-commerce platform operator. After the ruling was made, Lianyue Company was able to carry out online operations normally at the specific sales timing of “Double Eleven” to avoid irreparable damage to its interests; at the same time, the dynamic guarantee fund based on the sales of Lianyue Company was also calculated. This fully guarantees that the interests of the patentee Bosheng Company will not be infringed due to mistakes in behavior preservation.

10. “Brick and Tile Association” Monopoly Case

[Case No.] ?2020???????1382?

[Basic case] Zhang claimed that he joined the Yibin Brick and Tile Association under the coercion of the founders of the Association (Wuqiao Company, Sihe Company, and Cao) and signed the “Suspension of Production and Rectification Contract.” The contract forced production of bricks and tiles to stop. The Association and its promoters contracted extensively using this contract, forcing other brick and tile enterprises in Yibin to suspend production, reducing the supply of bricks and tiles to increase the price of bricks and tiles and win improper benefits. However, the Association and the brick and tile enterprises that still maintained production paid a small amount of support to Zhang for suspension of production and no longer paid according to the agreement. Their behavior precluded Zhang from participating in competition and constituted a violation of the anti-monopoly law, so Zhang sued in the Chengdu Intermediate Court, requesting an order for the Association, Wuqiao Company, Sihe Company, Cao, etc. to jointly compensate Zhang 336,000 RMB for economic losses and 80,000 RMB for reasonable expenses for safeguarding rights. The Chengdu Intermediate Court held that the accused act constituted a violation of the anti-monopoly law and infringed on Zhang’s rights and interests, so it ruled that Wuqiao Company, Sihe Company, Cao, and the Association jointly compensate 336,000 yuan for economic losses and reasonable rights protection expenses of 5,000 yuan. Wuqiao Company, Cao, and the Association appealed to the Supreme People’s Court. The Intellectual Property Tribunal of the Supreme People’s Court held that Zhang voluntarily participated in the monopoly agreement in this case as one of the implementers, and claimed that

other implementers of the horizontal monopoly agreement should compensate him for the so-called economic losses caused by the implementation of the monopoly agreement. It was a request for the division of monopoly benefits and was not the object of relief intended by the Anti-Monopoly Law, so the original judgment was annulled and all of Zhang's claims were rejected.

[Typical Significance] This case clarifies the purpose and orientation of monopoly civil remedies, clarifies that voluntary implementers of horizontal monopoly agreements are not the objects of remedies intended by the anti-monopoly law, and clarifies that implementers of horizontal monopoly agreements that request other implementers to compensate for so-called losses from the implementation of monopoly agreement are in fact sharing monopoly benefits. This is of great significance for cracking down on horizontal monopoly behavior in accordance with the law and maintaining a fair competition order.

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