

# China Releases Second Batch of Warning Cases in ‘Blue Sky’ Special Rectification Program of the Patent Agent Industry

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On December 9, 2023, [China's National Intellectual Property Administration](#) (CNIPA) released the second batch of warning cases for the “Blue Sky” special rectification action in the intellectual property agency industry ([“????????????”“??”????????????????](#)). CNIPA has been cracking down on both trademark and patent agencies that violate laws and regulations including unauthorized practice of law, filing of irregular (fake) patent applications, bribery, etc. So far, more than 7,400 patent and trademark agencies have been interviewed, more than 4,500 have been ordered to make corrections, and more than 930 warnings and fines have been issued. Agency qualifications have been revoked and agency business has been suspended for 33 agencies, with fines and confiscations of more than 40 million RMB.



Per CNIPA, the cases are:

## **[Case 1] A patent agency in Wuhan altered the patent notifications of the CNIPA**

Agencies that forge or alter legal documents harm the interests of their clients and affect the credibility of state agencies, and will be severely dealt with.

Basic case facts: In April 2019, the party involved, a patent agency in Wuhan, altered the “Notice for Authorization Registration Procedures” issued by the CNIPA and added the content of “Registration fee 1,000 yuan” without authorization; in July 2019, the party altered the “Notice for Authorization Registration Procedures” issued by the CNIPA, added without authorization the “Registration Fee of 1,200 yuan” and the annual fees and late fees that should be paid, and used the above-mentioned altered documents to charge relevant fees to the applicant.

Legal basis and punishment: The CNIPA, in accordance with Article 25, Paragraph 1, Item (5) of the Patent Agency Regulations and Article 51, Items (1) and (3) of the Patent Agency Management Measures, the party shall be punished by revoking the patent agency license.

## **[Case 2] A patent agency in Chengdu bribed officials and fabricated patent applications**

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A *typical* case of bribing staff of relevant administrative agencies and obtaining government subsidy funds through the patent application agency. Chen, a salesperson who does not have the qualifications to practice as a patent agent, was appointed to handle the patent agency business, which caused serious adverse consequences. The responsible parties were severely punished.

Basic Facts: From March 2013 to July 2019, the parties to a patent agency in Chengdu bribed Guo, the former section chief of the intellectual property administrative department of a city in Sichuan Province, 141,625 RMB successively 50 times in the name of “rebates” and “kickbacks.” Guo introduced business to the parties by taking advantage of his position, and provided assistance to the parties in matters such as filing applications for patent award funds.

From 2013 to 2017, Chen and Guo together made up 231 utility model patents. From 2014 to November 2019, they applied for and obtained IPR incentive funds of a people’s government of a county in Sichuan Province for 693,000 RMB .

The city’s People’s Procuratorate prosecuted Guo for bribery and corruption, and Chen for corruption. The city’s Intermediate People’s Court made a final judgment, finding that they were guilty, and sentenced Guo to 6 years and 8 months in prison and a fine of 400,000 RMB, and ordered him to compensate for the economic losses caused by corruption and recover his illegal gains.

Legal basis and punishment: The CNIPA shall, in accordance with Item (5), Paragraph 1 of Article 25 of the Patent Agency Regulation and Item (1), Article 51 of the Measures for the Administration of Patent Agency, impose a punishment of revocation of the practicing license of the patent agency on the party concerned.

### **[Case 3] An intellectual property agency company in Beijing acted as an agent for abnormal patent applications**

Agents who apply for abnormal patents in huge quantities harm public interests, undermine the patent system, seriously interfere with the normal conduct of patent examinations, seriously disrupt the order of patent work, and are severely punished.

Basic case facts: In February and May 2021, the CNIPA found during the quality monitoring of patent applications that the parties involved acted on behalf of 15,307 abnormal patent applications that were not intended to protect innovation. In August 2021, the CNIPA determined that 1,537 of the above 15,307 patent applications constituted abnormal patent applications stipulated in the “Several Provisions on Regulating Patent Application Behavior” (CNIPA Order No. 75). Submitting the above-mentioned applications as an agent constitutes an act of acting as an agent to apply for patents abnormally. The number is huge and the circumstances are serious.

Legal basis and punishment: The CNIPA shall impose a penalty in accordance with the provisions of Article 25, Paragraph 1, of the Patent Agency Regulations and Article 51, Items (2) and (4) of the Patent Agency Management Measures. The party concerned shall be punished by revoking the practice license of the patent agency.

### **[Case 4] A patent agency in Beijing rents out patent agency bar license and engages in abnormal patent applications**

Charging fees to submit a large number of patent applications for unqualified institutions and individuals on behalf of others constitutes the act of essentially renting out patent agency bar

licenses. There are also behaviors such as abnormal patent applications, fabricated patents, and “multiple sales for one case”, which seriously disrupts the order of the industry, interferes with the development of the industry and the normal conduct of patent examination work and will be severely punished.

Basic case facts: The parties have 24 branches across the country, and most of the firm’s cases come from these branches, trademark agencies, technology service companies, etc. The person in charge of each branch office is responsible for the operation and management of the branch office, is responsible for the establishment matters and expenses of the branch office, and is responsible for external operations, capital expenses, personnel wages, insurance, etc. The parties concerned provide seals, certificates, accounts, etc. according to the business needs of the branch offices, submit patent applications for each branch office, and charge fees per application. The personnel who wrote the cases in each branch were not practicing patent attorneys. Instead, they were written by a large number of unqualified personnel and submitted in the names of Li, Jiang, Huang, etc., who were practicing patent attorneys of the firm. The personnel, finance and responsibilities of the agency’s branches in various locations are the responsibility of each branch. The so-called “branch office” of this institution is not a real office in the true sense, but is merely leasing the patent agency bar license, because it does not have the patent agency qualification to cooperate with the parties concerned in the operation.

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