

China's Supreme People's Court Releases the 39th Batch of Guiding Cases Covering Intellectual Property Law

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On December 19, 2023, China's [Supreme People's Court](#) (SPC, currently geoblocked) released the 39th Batch of Guiding Cases ([?????39??????????](#)) covering intellectual property law. While China's legal system is not a common law system, China nonetheless issues guiding cases "for reference when trying similar cases." This batch of Guiding Cases covers invention patents, utility models, trade secrets and other intellectual property matters.

The Key Points of Judgement as explained by the SPC:

?Guiding Case No. 217

Cixi Bomou Plastic Products Co., Ltd. v. Yongkang City Lianmou Industry and Trade Co., Ltd., Zhejiang Tianmou Network Co., Ltd., and others for infringement of utility model patent rights dispute case

(Discussed and approved by the Judicial Committee of the Supreme People's Court and released on December 15, 2023)

Keywords civil litigation/infringement of utility model patent rights/reverse behavior preservation/guarantee amount/fixed guarantee/dynamic guarantee

Key Points of Judgement

1. In intellectual property infringement disputes involving e-commerce platforms, if the alleged infringer applies to the People's Court for behavioral preservation and requests to order the e-commerce platform operator to restore links or services, the People's Court shall review the case.

2. Where, after the alleged infringer is subject to such measures as disconnection or suspension of services due to suspected infringement upon the patent right, the patent right in question is declared invalid but the relevant administrative action for the confirmation of patent right has not been concluded, the alleged infringer applies for taking action preservation measures to restore the link or service, and its preliminary proof or reasonable explanation indicates that failure to restore the link or service will cause irreparable damage such as severe loss of market competitiveness and business opportunities, and the damage to the right holder may be caused by taking the action preservation measures for restoring the link or service will not exceed the damage caused to the alleged infringer by not taking the action preservation measures and will not damage the public interest, the people's court may rule to grant permission.

3. If the People's Court adopts the aforementioned behavioral preservation measures, it may order the accused infringer not to withdraw a certain amount of money from his collection account from selling the accused infringing products through the e-commerce platform as security before the judgment of this case takes effect. The amount of guarantee provided should be reasonably determined by comprehensively considering the right holder's compensation request, the losses that may be caused to the right holder due to incorrect preservation measures, and the benefits available to the accused infringer after the preservation measures are taken. The security deposit can be in the form of fixed security deposit plus dynamic security deposit.

?Guiding Case No. 218

Suzhou Saimou Electronic Technology Co., Ltd. v. Shenzhen Yumou Technology Co., Ltd. and others, dispute over infringement of the exclusive right to layout design of integrated circuits

(Discussed and approved by the Judicial Committee of the Supreme People's Court and released on December 15, 2023)

Keywords civil/infringement of exclusive rights in layout design of integrated circuits/registration/object of protection/scope of protection/originality

Key Points of Judgement

1. The purpose of registration of integrated circuit layout design is to determine the object of protection rather than to disclose the design content. Disclosure of the layout design content is not a condition for obtaining exclusive rights to the integrated circuit layout design.
2. The scope of protection of the exclusive right of integrated circuit layout design can generally be determined based on the copy or drawing of the layout design submitted when applying for registration. For layout design content that cannot be identified from copies or drawings, it can be determined based on samples that are consistent with the copies or drawings.
3. Obtaining the registration of an integrated circuit layout design does not necessarily mean that the content of the registered layout design is original. The rights holder should still provide a reasonable explanation for the originality of the layout design for which he claims rights. If the accused infringer cannot provide sufficient counter-evidence to overturn the explanation, the relevant layout design may be deemed to be original.

?Guiding Case No. 219

Guangzhou Tianmou High-tech Materials Co., Ltd., Jiujiang Tianmou High-tech Materials Co., Ltd. v. Anhui Niumou Fine Chemical Co., Ltd. and others, dispute over infringement of technical secrets

(Discussed and approved by the Judicial Committee of the Supreme People's Court and released on December 15, 2023)

Keywords civil/infringement of technical secrets/professional infringement of intellectual property rights/punitive damages/amount of damages

Key Points of Judgement

1. When determining whether an infringement of intellectual property rights constitutes a serious

circumstance and punitive damages are applicable, comprehensive consideration may be given to such factors as whether the alleged infringer has made a career of infringing intellectual property rights, whether he has been subject to criminal or administrative punishment, whether he has committed repeated infringement, whether there is any obstruction of evidence in litigation, and the amount of loss or gain from the infringement, the scale of infringement, and the duration of infringement.

2. If the perpetrator knows that his behavior constitutes infringement, has actually carried out the infringement behavior and constitutes his main business, he may be deemed to be engaged in [intentional] infringement of intellectual property rights. For those who make a business of infringing on intellectual property rights and commit infringement on a long-term and large-scale basis, the amount of damages can be determined by applying punitive damages multiples from a high level or even the highest level in accordance with the law.

?Guiding Case No. 220

Jiaxing Zhongmou Chemical Co., Ltd., Shanghai Xinmou New Technology Co., Ltd. v. Wangmou Group Co., Ltd., Ningbo Wangmou Technology Co., Ltd. and others, dispute over infringement of technical secrets

(Discussed and approved by the Judicial Committee of the Supreme People's Court and released on December 15, 2023)

Keywords civil/infringement of technical secrets/use of all technical secrets/intentional infringement of technical secrets/amount of damages

Key Points of Judgement

1. If the right holder provides evidence to prove that the accused infringer has illegally obtained the complete product process, complete set of production equipment information and other trade secrets and has actually produced the same product, the people's court may determine that the accused infringer has used all the trade secrets, unless the alleged infringer provides sufficient evidence to prove to the contrary.

2. If the accused infringer intentionally infringed trade secrets, the people's court can calculate the amount of damages based on the sales profits of the accused infringer's relevant products; if the sales profits are difficult to determine, the people's court can calculate the amount of damages based on the sales prices and sales profit margins of the rights holders' relevant products multiplied by the sales volume of the accused infringer's related products.

?Guiding Case No. 221

Zhang XX v. Yibin Hengmou Investment Group Co., Ltd., Sichuan Province Yibin City Wu Building Materials Industry Co., Ltd. and other monopoly dispute cases

(Discussed and approved by the Judicial Committee of the Supreme People's Court and released on December 15, 2023)

Keywords civil/monopoly/horizontal monopoly agreement/perpetrator of monopolistic behavior/compensation for losses

Key Points of Judgement

No one can benefit from his or her illegal conduct. Where a horizontal monopoly agreement is obviously illegal, if the business operator that participates in the horizontal monopoly agreement sues another business operator that participates in the agreement and claims compensation for its losses incurred during the period of participation in and performance of the agreement in accordance with the relevant civil liability provisions of the Anti-Monopoly Law of the People's Republic of China, the people's court shall not support such a claim.

?Guiding Case No. 222

Guangzhou Demou Fisheries Equipment Technology Co., Ltd. v. Guangzhou Yumou Fisheries Technology Co., Ltd. and Nanmou Fisheries Research Institute Property Damage Compensation Case

(Discussed and approved by the Judicial Committee of the Supreme People's Court and released on December 15, 2023)

Keywords civil litigation/property damage compensation/unpaid patent annual fees/termination of patent rights/compensation for losses

Key Points of Judgement

The registered patentee has the obligation to safeguard the validity of the patent in good faith during a patent ownership dispute. If the patent right is terminated, invalidated or lost due to his fault and damages the legitimate rights and interests of the real rights holder, it constitutes an infringement of the real rights holder's property rights and shall bear civil liability for compensation for losses.

?Guiding Case No. 223

Zhang XX v. Beijing Moudie Culture Communication Co., Ltd., Cheng XX, and Ma XX infringement of work information network dissemination rights case

(Discussed and approved by the Judicial Committee of the Supreme People's Court and released on December 15, 2023)

Keywords civil litigation/infringement of the right to disseminate work information online/jurisdiction/place of infringement

Key Points of Judgement

When there is uncertainty in the place of infringement of the right to disseminate work over a network that should not be used as the basis for determining jurisdiction. When determining the jurisdiction over cases of civil disputes over infringement of the right to disseminate information on information networks, Article 15 of the "Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Civil Disputes concerning Infringement of the Right to Disseminate Information Networks" should be applied, that is, the people's court at the place of the

infringement or at the place of domicile of the defendant shall have jurisdiction.

?Guiding Case No. 224

A dispute over the infringement of the right to disseminate work information online by Beauty (Tianjin) Image Technology Co., Ltd. v. Henan Lufeng Industry Co., Ltd.

(Discussed and approved by the Judicial Committee of the Supreme People's Court and released on December 15, 2023)

Keywords civil litigation/infringement of rights of network dissemination of work information/ownership/burden of proof

Key Points of Judgement

In the case of disputes over copyright ownership, the copyright ownership of the work cannot be determined based solely on the watermark or rights statement. The party claiming copyright should provide further evidence to prove it, otherwise he or she will bear adverse legal consequences.

The full original text, including facts and reasoning, is available [here](#) (geoblocked, Chinese only) and [here](#) (via the SPC's social media account, Chinese only).

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