

# Overview of Intellectual Property Protection in the People's Republic of China

## OUTLINE

**Part I. The Laws and Regulations of the IP Protection in the PRC**

**Part II. Main Issues of the IP Protection in the PRC**

### **Part I. The Laws and Regulations of the IP Protection in the PRC**

Scope of the IP:

- Patent;
- Trademark;
- Copyright; and
- Anti unfair competition and trade secret protections.

#### Patent Law and Regulations

- *Patent Law of the PRC;*
- *Detailed Implementing Rules on the Patent Law of the PRC.*

#### Trademark Law and Regulations

- *Trademark Law of the PRC;*
- *Implementing Provisions on the Trademark Law;*
- *Provisions on Protection of Well-known Trademark.*

#### Copyright Law and Regulations

- *Copyright Law of the PRC;*
- *Implementing Provisions on the Copyright Law of the PRC;*
- *Regulations on the Protection of Computer Software.*

#### Other Laws and Regulations

- *Anti-Unfair Competition Law of the PRC;*
- *Provisions on Customs Protection of Intellectual Property;*
- *Criminal Law of the PRC.*

#### International Treaties and Conventions

- *Paris Convention for the Protection of Industrial Property;*

- *Berne Convention for the Protection of Literary and Artistic Works;*
- *Agreement on Trade-Related Intellectual Property Rights (TRIPs);*
- *Madrid Agreement Concerning the International Registration of Marks;*
- *Patent Cooperation Treaty (PCT).*

## **Main Issues of the IP Protection in the PRC**

### Protection of Patent

- Obtaining a Patent;
- The Administrative Authority;
- Protection Term of Patent;
- Remedies for Patent Infringement;
- Legislation Improvements on PCT Implementation.

### Protection of Trademark

- Obtaining a Trademark;
- The Administrative Authority;
- Protection Term of Trademark;
- Remedies for Trademark Infringement;
- Legislation Improvements.

### **•Well-Known Trademark Protections •Implementation of the Madrid Agreement**

### Protection of Copyright

- Obtaining a Copyright;
- The Administrative Authority;
- Protection Term of Copyright;
- Remedies for Copyright Infringement;
- Legislation Trend.

### Protection of Trade Secret

- Obtaining a Trade Secret;
- Remedies for Trade Secret Infringement.

### Litigation

- Jurisdiction
- Venue;

Either the court at the place where the tort is committed or where the defendant is domiciled may hear the case.

- Court System;

The Basic People's Courts / the Intermediate People's Courts / the High People's Courts / the Supreme People's Court.

#### General procedures for remedy

- Administrative Procedure;  
Application by the IP right owner → Processing by the IP administrative authority;
- Civil Procedure;  
Lawsuit raised by the IP right owner → Court hearing (First Instance / Second Instance)
- Criminal Procedure;  
Providing clues by the IP right owner → Investigation by the police → Prosecution by the Prosecutor → Court Hearing (First Instance / Second Instance).

#### Judicial Practices in China

- Investigation and obtaining evidence:  
Property Preservation/Evidence Preservation/Preliminary Injunction
- Evidence: Notarization
- Court appearance