



2023 Annual Report of the Intellectual Property Tribunal of the Supreme People's Court (SPC)

General statistics on dispute cases in 2023	
Accepted	7776
New filling	5062
Closed	4562
Pending	3214
Carried forward	2714

Statistics on the number of cases handled by judges in 2023	
Ave. number of cases accepted per judge	140.4
Ave. number of cases closed per judge	82.3

Overview of cases involving foreign or Hong Kong, Macao & Taiwan parties

In 2023, 490 new cases involving foreign parties and parties from Hong Kong, Macao and Taiwan were received, accounting for 9.7% of all new cases.

New cases involving foreign or HK, Macao & Taiwan parties received by SPC-IPC in 2023	
Foreign parties	421
HK, Macao & Taiwan parties	69
2 nd Instance Civil Cases	246
2 nd Instance Administration Cases	244

Closed 2 nd Instance Substantive Civil Disputes in 2023	
Upholding 1 st instance decision	1082
Mediated	368
Withdrawn	798
Overturning 1 st instance decision	802
Other methods	36

Closed 2 nd Instance Substantive Admin. Disputes in 2023	
Upholding 1 st instance decision	740
Withdrawn	86
Overturning 1 st instance decision	85

Statistics Published by CNIPA (January, 2024)

Granted/Registered	January 2023	January 2024	Rate of Change
Invention patent	45474	72704	59.9%
Utility model patent	233303	148175	-36.5%
Design patent	57896	44785	-22.6%
Trade mark	378777	379915	0.3%
Number of PCTs Filed	4033	5103	26.5%

The number of granted invention patents increased by 59.9% compared with the same period of time in 2023. Further figures were also released by the CNIPA shown in the table, in which granted utility model patent in January 2024 decreased by more than 30% compared with the same period of time in 2023.

Trademark Section

Examination Procedures for the Same-day Trademark Applications in China

Updated: March 20,2024

The same-day trademark applications refer to identical/similar marks on identical/similar goods/services filed by two or more applicants on the same day. As China adopts first-to-file principle, for the same-day trademark applications whose prior right cannot be determined by the filing date, additional examination procedures need to be established before the substantial examination. Based on Guidelines on the Procedures for Same-day Trademark Applications published by the CNIPA in September 2023 and our practical experience, this article aims to provide a reference for the multi-stage examination mode for same-day trademark applications in China.

I.Multi-stage examination procedures and requirements

1.First Stage: Submission of Use Evidence - The applicant who can prove prior use of the mark before the filing date obtains the prior right. If all the applicants fail to submit any use evidence or the submitted use evidence fails to prove the prior use, the same-day trademark applications shall enter the next procedure.

The requirements of the use evidence are as follows:

- a.The trademark reflected by the evidence shall be the same as the applied format;
- b.The use as reflected by the evidence shall occur before the filing date of the mark;
- c.The goods/services in use as reflected by the evidence shall be identical with/similar to the designated goods;

d.The user reflected by the evidence shall be the applicant, or its licensees. If the user is the licensee, the license agreement which indicates the applicant’s authorization shall be also submitted;

e.The use shall be commercial use rather than token use;

f.The use evidence shall be true, valid and not contradict each other.

2.Second Stage: Negotiation - The applicants can determine the ownership of the trademark right through negotiation and submission of the signed written agreement. If no agreement is filed or the agreement is invalid due to failure to meet the requirements, the same-day trademark applications shall enter the next procedure.

The requirements of the agreement are as follows:

- a.It shall clearly show the necessary trademark information, including but not limited to the trademark application number, trademark name, and the designated goods/services.
- b.It shall clearly state that the right of the same-day trademark applications belong to a certain applicant, and shall not cause conflict of rights or damage the legitimate rights of others.
- c.It shall be jointly signed or sealed by all applicants and indicate the date of signing.
- d.A trademark co-existence agreement does not belong to the negotiation agreement.

3.Third Stage: Drawing lots - The party who wins in the drawing lots or the only party

who attends the drawing lots will enjoy the prior right.

If the cause for examination of the same-day trademark applications no longer exists before the Notification of Drawing lots is issued (including but not limited to the assignment of the same-day trademark applications to the same entity, withdrawal of the application or deletion of the similar goods by the applicant), the examination procedure of same-day trademark applications is terminated.

While, if the Notification of Drawing lots has been issued, even if the cause for examination of the same-day trademark applications does not exist before the date of drawing lots, the applicant still needs to attend the drawing lots to keep its rights alive. Otherwise, it shall be deemed as abandonment.

II.Exceptions

In principle, the ownership of same-day trademark applications shall be determined first during the above examination procedures before the substantial examination. While, exceptions exist for the following same-day trademark applications, which will directly be refused and not go through the above examination procedures:

- 1.Stable prior registered trademarks - If others, except the applicants of the same-day trademark applications, have registered identical trademark on identical/similar goods or services, and the prior registered trademark are not under removal, non-use cancellation

or invalidation proceeding when the same-day trademark applications are examined, the prior registered mark will be directly cited to partially or wholly refuse the same-day trademark applications.

2.Violating Article 19.4 of the Trademark Law - If the same-day trademark application is filed by a trademark agency on goods/services in other classes other than agency services, it shall be directly refused in accordance with Article 19.4 of the Trademark Law.

3.Violating Article 4 of the Trademark Law - If the same-day-filed mark is deemed as a malicious application not for use, it will be directly refused in accordance with Article 4 of the Trademark Law.

4.Others that need to be directly refused

III.Conclusion

As it normally takes several months or a year to conclude each stage of examination procedure, the more stages the application goes through and certainly more examination time would be needed. Thus, once the same-day trademark applications enters the aforesaid examination procedures, it is suggested to actively submit evidence of use or negotiate with other applicant(s) so as to conclude the examination procedures and let the application move forward to substantial examination as early as possible. (By: Flora Duan)

Vibrant Chinese City – Yiwu (义乌)

How much do you know about this county-level city Yiwu, which is located in Zhejiang Province and ca. 300 Kilometers away from Shanghai?

The following information may surprise our readers:

- With 1.89 million residents Yiwu hosts the largest small commodity wholesale market in the world
- Yiwu Market has an operating area of more than 6.4 million square meter and 75 000 business stalls
- Here 2.1 million kinds of commodities in 26 major categories are being offered
- Yiwu is known as the biggest Chinese producer for fashion jewellery
- On average around 50% of Christmas trinkets worldwide come from Yiwu

The longest railway route in the world with a distance of ca. 13 000 kilometers is between the city Yiwu and the Spanish capital Madrid (Yixin-Europe). ‘Yixin-Europe’ freight trains pass through Kazakhstan, Russia, Belarus, Poland,



Germany and France. The journey takes 21 days; by sea it would take the whole six weeks!

The ‘Yixin-Europe’ freight trains, Yiwu platform has opened and operated 18 routes with its business scope covering more than 50 countries and over 160 cities overseas. Throughout 2023 the Hanzhou Customs (capital city of Zhejiang Province) supervised the cumulative import and export freight volume of the ‘Yixin-Europe’ freight trains which reached more than 1.2 million tons, a year-on-year increase of 8.7%.

Apart from commercial activities the city has a national economic and technological development zone. At present two modern manufacturing clusters of optoelectronics and automobile have formed here. It is also worth mentioning that photovoltaic module shipments account for nearly 20% of the global share.

Yiwu is 120 kilometers from Hangzhou, where the AIPPI Congress will take place in coming October.



义乌港
YIWU PORT



BEYOND ATTORNEYS AT LAW in Key Figures

- Over 800 employees headed by a core team of 12 partners
- Headquarters in Beijing, China
- 16 branch offices in major Chinese cities
- 3 overseas representative offices in Munich, New York and Tokyo
- Ranked one of the top 10 Chinese IP law firms.

Our Services

