

Annual Report of the Intellectual Property Tribunal of the Supreme People's Court (2020)

Written by Ming Liu and Haoyu ZHOU (Elliot)

Over the past year, the Intellectual Property Tribunal of the Supreme People's Court (SPC) has given full play on the trial of intellectual property cases at the national level, and has continuously improved the quality and efficiency of the trials. Here we outline some key points of the annual report.

1. Statistics of the average number of cases concluded by judges and the average trial period of cases

In 2020, judges from the IP tribunal of the SPC concluded 82.5 cases per capita, with a year-on-year increase of 73%. The average trial timeline for the second-instance civil cases is 121.5 days, and the average trial timeline for the second-instance administrative cases is 130.7 days.

2. Statistics of cases involving foreign countries, Hong Kong, Macao and Taiwan

In 2020, a total of 376 cases involving foreign affairs, Hong Kong, Macao and Taiwan were received by the tribunal, accounting for 12% of the total number of cases received, with a year-on-year increase of 116%. Among them, there were 228 second-instance civil cases and 148 second-instance administrative cases.

A total of 281 cases involving foreign countries, Hong Kong, Macao and Taiwan were concluded by the tribunal, accounting for 10% of the total number of cases closed, with a year-on-year increase of 187%. Among them, there were 185 second-instance civil cases and 96 second-instance administrative cases.

3. Characteristics of patent-related civil cases

(1) The proportion of disputes on **infringement by utility model** patent was decreased, from 47% in 2019 to 38% in 2020.

(2) The number of disputes on **ownership of patent or patent application** was increased rapidly.

(3) The number of cases involving **complicated technical fact** was increased. The tribunal has actively recommended the parties to invite expert assistants to participate in the investigation on technical facts, and may even invite the technical investigators to participate in the trial of the cases.

(4) There was slightly increase in circumstances where administrative organs were sued for infringement upon the intellectual property rights.

4. Characteristics of patent-related administrative cases

(1) A wide range of technical fields are involved, and the primary patent type involved is invention patent. The market players are focusing more and more on the invention patents, indicating that China is moving from quantity to quality of the patent.

(2) The disputes in these case were primarily focused on **inventive step** and **novelty** issues, and especially the inventive step.

(3) Although the rate of reversal was relatively low, however it is increased significantly compared to the past year.

(4) The appellants were primarily patentees or patent applicants.

If you have any questions on this topic, please feel free to contact Ms. Ming Liu and Elliot ZHOU at patent@foundin.cn.