

中国法院知识产权

司法保护状况

 2019年

Intellectual Property Protection by

 Chinese Courts in 2019

最高人民法院知识产权审判庭 编

人民法院出版社

**CONTENT**

[Introduction 1](#_Toc37682825)

[I. Leveraging the adjudication process for more effective protection 2](#_Toc37682826)

**[(I)](#_Toc37682827)****[More effective adjudication of civil disputes](#_Toc37682827)** [2](#_Toc37682827)

**[(II)](#_Toc37682828)****[More rigorous legality review of administrative actions](#_Toc37682828)** [3](#_Toc37682828)

**[(III)](#_Toc37682829)****[Stricter sanctions on intellectual property crimes](#_Toc37682829)** [4](#_Toc37682829)

[II. Intensified supporting measures for judicial reform and built a more robust intellectual property justice system 10](#_Toc37682830)

**[(I)](#_Toc37682831)****[SPC IP Court off to a flying start](#_Toc37682831)** [11](#_Toc37682831)

**[(II)](#_Toc37682832)****[Steady progress in development of intellectual property courts](#_Toc37682832)** [12](#_Toc37682832)

**[(III)](#_Toc37682833)****[Continued optimisation of mechanism governing trans-regional jurisdiction](#_Toc37682833)** [13](#_Toc37682833)

**[(IV)](#_Toc37682834)****[Continued rolling-out of more measures for the “three-in-one” intellectual property adjudication system](#_Toc37682834)** [14](#_Toc37682834)

**[(V)](#_Toc37682835)****[Continued improvement of litigation procedures](#_Toc37682835)** [14](#_Toc37682835)

[III. Broadened judicial functions and continued improvement of research quality and effectiveness to guide adjudication 17](#_Toc37682836)

**[(I)](#_Toc37682837)****[More focus on providing legislative recommendations](#_Toc37682837)** [17](#_Toc37682837)

**[(II)](#_Toc37682838)****[Intensified drafting of judicial interpretation](#_Toc37682838)** [17](#_Toc37682838)

**[(III)](#_Toc37682839)****[More in-depth study of judicial policies](#_Toc37682839)** [18](#_Toc37682839)

**[(IV)](#_Toc37682840)****[Leveraged the role of case guidance](#_Toc37682840)** [18](#_Toc37682840)

**[(V)](#_Toc37682841)****[Intensified judicial researches](#_Toc37682841)** [19](#_Toc37682841)

[IV. Increased transparency of the courts to augment credibility of intellectual property adjudication 20](#_Toc37682842)

**[(I)](#_Toc37682843)****[A more open court system](#_Toc37682843)** [21](#_Toc37682843)

**[(II)](#_Toc37682844)****[Greater use of cases for public legal education](#_Toc37682844)** [21](#_Toc37682844)

**[(III)](#_Toc37682845)****[Joint outreach](#_Toc37682845)** [23](#_Toc37682845)

[V. Greater cooperation and exchange for greater impact in the intellectual property judicial landscape 24](#_Toc37682846)

**[(I)](#_Toc37682847)****[Serving the needs of international relations for the larger good](#_Toc37682847)** [24](#_Toc37682847)

**[(II)](#_Toc37682848)****[Increasing China’s impact in the world](#_Toc37682848)** [24](#_Toc37682848)

**[(III)](#_Toc37682849)****[Widened channels of foreign cooperation](#_Toc37682849)** [25](#_Toc37682849)

[VI. Capacity-building for judges as part of an incessant effort to improve adjudication capability 26](#_Toc37682850)

**[(I)](#_Toc37682851)****[Ideological and political education](#_Toc37682851)** [26](#_Toc37682851)

**[(II)](#_Toc37682852)****[Developing a sense of honour and self-discipline](#_Toc37682852)** [27](#_Toc37682852)

**[(III)](#_Toc37682853)****[Building judicial capabilities](#_Toc37682853)** [27](#_Toc37682853)

[Conclusion 28](#_Toc37682854)

**Intellectual Property Protection by Chinese Courts (2019)**

# **Introduction**

2019 was the 70th year of the founding of the People’s Republic of China. The same year saw the unfolding of the People’s Courts’ Fifth Five-Year Reform Programme (2019–2023). Guided by General-Secretary Xi Jinping’s thought on Chinese socialism for the new era, the courts implemented the decisions and essential values of the 19th National Congress of the Communist Party of China (“Party Congress”) and of the second, third and fourth plena of the 19th CCP Central Committee. They have also continued to foster the “four aspects of consciousness”, the “four matters of confidence” and the “two pillars to safeguard”, never losing sight of their original aspirations and mission. They pursued the national goal of building a complete *xiaokang* society, discharged adjudication duties based on the law and the constitution, and intensified reform of the adjudication system to improve adjudication efficiency, effectiveness and judicial credibility. They have also ensured efficacious discharge of their adjudication duties. Having dedicated significant effort to building an effective team, the courts rebooted and renewed the intellectual property adjudication regime to further elevate the credibility and impact of China’s intellectual property adjudication at the international level. By continuing to modernise the intellectual property adjudication regime and capacity, the courts have also enabled the delivery of robust judicial services and enactment of judicial safeguards to underpin the country’s innovation-driven development and creation of a pro-business environment.

1. **Leveraging the adjudication process for more effective protection**

The 19th CCP Central Committee’s fourth plenary session issued important directives to advance Chinese socialism and modernise the national governance system and governance capabilities. The session also gave instructions for the country to improve systems and mechanisms to encourage technological innovation, redouble efforts to build an innovation-based country and strengthen national strategic technologies. To elevate China’s technological and innovation capabilities, drive quality economic growth and implement our innovation-driven development strategy, we need greater protection and utilisation of intellectual property to fashion an effective incentive structure. As the courts “strive to make the people feel fairness and justice in every judicial case”—a goal that centres on the people and fair justice—intellectual property adjudication has become an important means to incentivise and protect innovation.

In 2019, the courts have accepted a total of 481,793 cases, including first instance and second instance cases and applications for extraordinary legal remedy to reopen cases. 475,853 cases (including carried forward cases) were concluded, representing a respective year-on-year increase of 44.16 % and 48.87%.

1. **More effective adjudication of civil disputes**

Given the essential role of intellectual property adjudication in protecting innovation and in levelling the competitive playing field, adjudication has focused on encouraging technological innovation, promoting cultural transmission and maintaining market order to provide clear, consistent and predictable rules to guide adjudication and instil confidence among entrepreneurs and innovators.

In 2019, the Supreme People’s Court accepted 2,504 new civil intellectual property cases and concluded 1,976 cases, respectively 174.26% and 260.97% higher than the previous year. In the same year, the local courts accepted 399,031 and concluded 394,521 first instance civil cases, where the respective year-on-year increases were 40.79% and 44.02%. Among the newly accepted cases, 22,272 were patent cases (2.64% year-on-year increase); 65,209 trademark cases (25.41% year-on-year increase); 293,066 copyright cases (49.98% year-on-year increase). There were also 3,135 cases on technology contract disputes, (16.98% year-on-year increase) and 4,128 unfair competition cases, including 70 monopoly cases, (49.71% year-on-year increase). Other civil intellectual property disputes constituted 11,221 cases, or 49.71% more than last year. For second instance cases, 49,704 were accepted and 48,710 concluded, translating to a year-on-year increase of 79.95% and 85.29% respectively.

High profile civil disputes involving intellectual property heard and concluded by the courts during the year include:

French automotive parts manufacturer *Valeo Systemes D’Essuyage* (plaintiff- appellee) *vs.* *Lukasi Car Accessories (Xiamen) Co. Ltd* (respondent-appellant) *and Fuke Car Accessories (Xiamen) Co. Ltd.* (respondent-appellant) *et al.* involving a utility patent infringement dispute; *Honda Motor Company* (plaintiff-appellee- petitioner) *vs. Hengsheng Xintai (Chongqing) Trade Company* (respondent- appellant-petitionee)*, Hensim (Chongqing) Group et al.* (respondent- appellant-petitionee) involving a trademark infringement dispute; *Hemujia Medical Management Consultancy (Beijing) Co., Ltd* (plaintiff,-appellant-petitioner) vs. *Hemujia Obstetrics and Gynaecology Hospital (Fuzhou)* (respondent-appellee- petitionee) involving unfair competition; *Cai Xinguang* (plaintiff-appellant) vs. *Runping Commerce (Guangzhou) Co., Ltd* (respondent-appellee) involving infringement of new plant variety; and copyright infringement case of *Shanren Sculpture (Hebei) Co., Ltd* (plaintiff-appellant) *vs. Zhongding Garden Sculptures (Hebei) Co., Ltd* et al. (respondent-appellant) and *the People’s Government of Sanhe Township, Bozhou District, Zunyi City et al.* (respondent-appellee).

1. **More rigorous legality review of administrative actions**

The courts have strengthened legality review of intellectual property granted and validated by administrative authorities and of administrative enforcement actions. In 2019, the Supreme People’s Court accepted 1,066 intellectual property cases involving administrative disputes and concluded 884 cases. Compared to last year, the number of cases has risen by 70.83% and 52.15% respectively. The same year saw local courts accepting 16,134 first instance administrative cases (19.11% increase year-on-year), 1,661 were patent cases (8.14% increase year-on-year), 14,457 trademark cases (20.56% increase year-on-year) and 16 copyright cases. 17, 938 first instance cases were concluded (89.74% increase year-on-year). Local courts also accepted 7,304 (104.88% increase year-on-year) second instance administrative cases, and 5,942 cases were concluded (84.71% increase year-on-year), of which, decision was upheld for 4,791 cases, first instance judgement was amended for 1,026 cases; 4 cases were remanded for retrial, 613 cases withdrawn, and 132 cases overruled.

High profile intellectual property-related administrative disputes heard and concluded by the people’s courts during the year include *Huawei. Technologies, Co, Ltd* (plaintiff-appellee) *v. Samsung Electronics Co, Ltd* (Third party-appellant) and *CNIPA* (respondent) involving an administrative over the invalidation of a patent; and *Kangzhi Lesi Network Technology (Beijing) Co., Ltd* (plaintiff-appellee-petitionee) *v. Meiyou Information Technology (Xiamen) Co., Ltd* (third party-appellant-petitioner) *and CNIPA* (respondent-appellant) involving an administrative dispute over the invalidation of a trademark.

1. **Stricter sanctions on intellectual property crimes**

Intellectual property crimes were subject to more rigorous adjudication to clean up the market, therefore better defend intellectual property from criminal infringement.

In 2019, the local courts accepted 5,242 first instance intellectual property-related criminal cases, 21.37% higher than last year, including 4,982 cases relating to infringement of registered trademarks ( 21.01% increase year-on-year), and 210 on copyright infringement (34.62% increase year-on-year).

At the local level, 5,075 first instance cases were concluded during the year (24.88% increase year-on-year), including 2,134 cases involving counterfeiting of registered trademarks (15.23% increase year-on-year), 2,279 cases involved selling goods bearing counterfeit registered trademarks (32.19% increase year-on-year), 423 were cases of illegal manufacturing or sale of goods bearing illegally produced registered trademarks (38.69% increase year-on-year); 1 case involved counterfeiting patents, 191 were criminal infringement of copyright, (40.44% increase year-on-year), 8 involved selling infringing reproductions (33.33% increase year-on-year), and 39 involved trade secret infringement crime (no change from last year).

For second instance intellectual property cases involving criminal offences, the local courts accepted 808 cases (18.30% increase year-on-year), and 807 cases were concluded (23.70% increase year-on-year).

High profile criminal cases involving intellectual property heard and concluded by the people’s courts during the year include: Y*ang Fengming, Yang Maogang et al.* for counterfeiting a registered trademark; *Lin Yixiang et al.* involving infringement of trade secrets; *Xu Zhenwei et al.* involving counterfeiting of registered mark; and *Chen Li et al.* involving trademark infringement.

**Intellectual property adjudication has made steady progress in the year, and has scored higher in quality and effectiveness. The *key features* for 2019 are:**

***New highs in caseload***. With increased social awareness of intellectual property right and greater credibility of the courts in adjudicating intellectual property disputes, the courts have faced a spike in caseload. The total number of accepted and concluded cases for the year 2019 were at historic high, both recording a year-over-year increase of more than 40%.

By geographical location, Beijing accepted 80,165 cases, Shanghai 23,580 cases, Jiangsu Province 20,249 cases, Zhejiang Province 27,706 cases and Guangdong Province 157,363 cases, totalling 309,063 cases. This constituted 64.15% of China’s total case number and the greater part of the country’s intellectual property caseload. The areas that experienced more than 50% year-on-year increase in caseload were Hebei Province (53.53%), Anhui Province (60.30%), Fujian Province (64.88%), Guangxi Autonomous Region (98.49%) and Chongqing Municipality (173.66%). Despite facing manpower shortages, the courts have managed to dispose of a large number of cases during the year, with the total disposal number reaching historic high. Other than being the most active regions, the courts in Beijing, Shanghai, Jiangsu Province, Zhejiang Province and Guangdong Province have also achieved commendable disposal rates of more than 90%.

***Continued emergence of new case genres***. As the new round of technological revolution and industrial transformation rapidly emerges, legal boundaries are increasing tested and pushed by new technologies, new products and new forms of business. New intellectual property issues involving cutting-edge technology relating to the Internet, big data, artificial intelligence, standard essential patents, biomedicine have also continued to emerge, requiring detailed examination of complex technological solutions and creative application of the law, based on the merits of each case. Some examples are:

*The Supreme People’s Court*: Heard patent cases involving mechanics, material science, electrical engineering, communications, biopharmaceuticals, and fine-tuned the adjudication rules base on the derived insights.

*Beijing Intellectual Property Court*: Heard and concluded many significant and complex cases, including the first case relating to the infringement of cloud servers, and preservation of evidence during pre-trail for a case involving the infringement of a patent relating to the production of stable lyophilised pharmaceutical composition.

*Shanghai High People’s Court*: Concluded *Nokia vs. Shanghai Huaqin Communication Technology Co., Ltd* involving the infringement of a utility patent. The case provides reference for trying communications-related SEP disputes in the future.

*Guangdong Province*: The courts have heard 63 patent cases, each involving a jurisdictional amount of more than CNY 10 million, the aggregate amount of which was approximately CNY 8.18 billion.

***Continued to augment protection***. The courts have implemented the “Opinions on Improving the System of Property Rights Protection to Protect Property Rights According to Law” to provide more timely and accessible judicial relief for intellectual property disputes, as well as to balance the damages awarded with the market value of the intellectual property in question. Some exemplary efforts include:

*Beijing*: The Haidian District People’s Court awarded damages of more than CNY 20 million based on discretionary valuation when Motion Scene (which operates UC browser) sued Sogou for using its Sogou Input Method to redirect the user to Sogou’s search website.

*Inner Mongolia Autonomous Region High People’s Court*: Increased the amount of damages from CNY 50,000 to CNY 1 million in the *Guangdong Landai Group Beijing Lanbao Beer Co., Ltd vs. Henan Honghuo Food Co., Ltd et al.* trademark infringement case to sanction infringers more severely.

*Zhejiang High People’s Court*: Ordered the respondent to pay CNY 8 million in damages for the *Aupu Electrical Appliances (Hangzhou) Co., Ltd and Aopu Home Furnishing Co., Ltd vs. Zhejiang Fashion Building Materials Co., Ltd and Zhejiang New Energy Co., Ltd* case involving trademark infringement and unfair competition. The court’s decision has protected the “AOPU” brand value.

*Fujian Province*: The courts imposed punitive damages in the “JIU MU WANG (*lit*. ‘King of Nine Herds’)” trademark dispute and the “BOLIMO” trademark and unfair competition dispute when the damages awarded were either doubled or trebled the amount for compensatory damages.

***Effects of judicial efforts were recognised***. The courts have done well in a series of complex and novel cases that attracted considerable public attention. The precedence would serve as classic cases that are demonstrative and could guide future adjudication. Exemplary efforts include:

*SPC IP Court*: Issued decision for its first case immediately after the hearing, and the determination criteria for functional features were detailed in the written judgement. The hearing was broadcasted live and was widely reported by the media. Live streaming of the hearing—a case that took only 50 days to conclude from the date it was accepted to service of judgement—attracted more than 18 million viewings. Opening up the courtroom for public scrutiny has ensured fairness, transparency and efficiency.

*Gansu High People’s Court*: Concluded a new plant variety dispute involving a foreign party, thereby protecting the lawful rights of the plant breeder.

*Shanghai Intellectual Property Court*: Concluded a series of cases, which include the utility patent dispute between Netac Technology (Shenzhen) Co., Ltd and Transcend China (Shanghai) Co., Ltd. The disputes, which involved cutting-edge technology used in mobile storage and a jurisdictional amount of more than CNY 24.7 million, has attracted widespread attention and much recognition.

*Hunan Province*: Adjudicated trademark infringement and unfair competition cases involving a wide range of service sectors such as food and beverage, creative photography and department-store sales. The decisions provided direction for the regulated and reasonable use of trademark by players in the food & beverage, department store and creative industries, which in turn supported the healthy growth of the service sector.

***Remarkable ADR outcomes***. The courts have continued to turn to non-litigious alternative dispute resolution as the primary means to settle dispute, and on promoting the new era *Fengqiao Experience*—a way of community-level social governance whereby public effort was harnessed to maintain social stability. By actively encouraging the broad use of ADR, parties were encouraged to resolve disputes through non-litigious means by working together to find mutually agreeable and beneficial ways to settle intellectual property disputes efficiently. Exemplary efforts include:

*The Supreme People’s Court*: Successfully mediated the trademark infringement case of *Henan Dukang Investment Group vs. Shaanxi Baishui Dukang Company*, and permanently resolved all cases relating to the “DUKANG” (believed to be a minister under the mythological Yellow Emperor and originator of winemaking) trademark issue. The court’s efforts have contributed to improving the stability of the local market and providing protecting local businesses. It established a nation-wide whole-of-system coordinating mechanism to explore a circuit adjudication model combining the workings of an IP court and a circuit court, and an adjudication mechanism combining onsite examination (*kanyan*) and hearing, and has since facilitated the unified settlement of 48 related cases nationwide. It also enabled the efficient resolution of 80 patent infringement cases at the pre-trial stage. The court’s efforts have made litigation easier and enabled the *Fengqiao Experience* to enrich the intellectual property sector.

*Beijing*: Continued to drive reform of the “ADR + expedited procedure” as part of the city’s effort to modernise the capital city’s social governance system and governance approach.

*Jilin Province*: The courts focused on using mediation to resolve disputes. Total mediation rate for intellectual property disputes was 75%.

*Anhui High People’s Court*: Succeeded in mediating the dispute between China Broadcasting Satellite TV and China Telecom Anhui Branch concerning the infringement of broadcasting right, with a jurisdictional amount exceeding CNY 100 million.

*Shandong Province*: The courts implemented the “Regulations to Promote Use of Alternative Dispute Resolution for Shandong Province” and worked at developing a platform to align litigation with mediation.

*Hubei Province*: The courts coordinated resources and established mediation platforms comprising administrative organs, lessors of the site where infringement occurred, industry associations, attorney-mediation organisations to facilitate mediated settlement of disputes.

*Sichuan Province*: The courts entered into a cooperation agreement with the China (Sichuan) Intellectual Property Protection Centre to develop a mechanism to provide coordinated protection of intellectual property. Under the agreement, the centre was appointed to mediate intellectual property-related disputes.

*Yunnan Province*: The courts established a pre-trial mediation system for intellectual property cases to enable the prompt resolution of a certain proportion of intellectual property disputes.

*Liaoning Province*: The courts beefed up existing ADR mechanism by using pre-trial mediation for copyright, trademark and unfair competition cases if the facts are clear and minimally disputed. The mechanism has enabled the courts to align litigation with mediation.

*Xinjiang Autonomous Region*: The courts focused on using mediation to settle dispute, translating to a rather high percentage of post-mediation withdrawal rate.

1. **Intensified supporting measures for judicial reform and built a more robust intellectual property justice system**

In 2019, the courts leveraged the “Opinions on Several Issues on Reform and Innovation Relating to Intellectual Property Adjudication” to develop more innovative theories and institutions and adopt more innovative practices. A suite of relevant reforms was also instituted as part of the courts’ effort to continue building better systems and mechanisms for intellectual property.

1. **SPC IP Court off to a flying start**

Creating the Intellectual Property Court (SPC IP Court) within the Supreme People’s Court was an important move by the Party Central Committee, with Xi Jinping as the core, based on the strategic vision of building an intellectual property powerhouse and a high-tech global superpower. It was an important milestone marking a major breakthrough and innovative step in our intellectual property adjudication system.

2019 is the SPC IP Court’s first year of operation. As an agency tasked to hear all appeal cases of technology-related intellectual property disputes, the SPC IP Court has overcome the early difficulties to drive comprehensive progress by launching copious reform initiatives that have scored preliminary successes.

**First, it unified adjudication standards** . Unification of adjudication standards was the primary objective of creating the SPC IP Court. The “Rules of Implementation of a Unified Adjudication Standard for the Intellectual Property Court of the Supreme People's court”, among others, was developed to ensure that the entire process, from preliminary analysis to mid-process control, final review and approval and stringent management of important cases, were well- administered. Also, the “Minutes of the Conferences of Judges” were compiled and “Guidelines on Case Operations” prepared and distributed to unify adjudicative standards and methods for handling similar cases.

**Second, it explored combining the hearing of administrative and civil disputes.** Disputes relating to civil infringement and administrative validation involving the same patent was heard by the same adjudication panel to ensure alignment of the civil and administrative procedures and consistency of adjudicative standards.

**Third, it optimised the mechanism for adjudicating technology-related intellectual property disputes**. Living by its motto of people-centredness and being dedicated to delivering optimal adjudication management, the court leveraged its advantage as the central coordinating authority and the “1+76” hierarchical structure to resolve linked disputes within the country.

**Fourth, it continued to develop the multiprong technical fact-finding mechanism.** By coordinating technical investigation resources in the country, including more than 360 technical investigators from more than 30 technical fields, the SPC IP Court worked at alleviating the problems faced by the courts, including inadequacies in technical investigation for the less-developed regions and the lack of specific technical expertise in developed regions.

**Fifth, it strengthened informatisation and adoption of smart technology.** The court has built case and adjudication rules databases, and created smart platforms such as the "Big Data Intellectual Property Analysis Platform". It also explored the creation of an "IP Court Cloud". These were endeavours to meet the demands of parties for online submission of evidence and online reading of case files, and would become the technological bedrock for adjudicating technology-related intellectual property disputes.

1. **Steady progress in development of intellectual property courts**

To implement the National People's Congress (NPC) Standing Committee’s review opinions on the progress of local intellectual property courts, the Supreme People's court continued to provide more guidance for the Beijing, Shanghai and Guangzhou intellectual property courts, which have continued to make smooth progress and achieve remarkable outcomes.

Since their establishment at the end of 2014, the intellectual property courts have accepted more than 100,000 cases and heard intellectual property cases of international impact and which are important basis for crafting adjudication rules. They were also instrumental for improving the quality and efficiency of hearings, ensuring consistency in decisions, and facilitating innovation-driven development. The courts have also leveraged their functional positioning to explore bold and innovative initiatives to drive judicial reform that engendered a new intellectual property adjudication landscape. The reforms also enabled specialisation, an important feature that has helped buttress judicial protection for intellectual property.

1. **Continued optimisation of mechanism governing trans-regional jurisdiction**

Since 2017, specialised judicial organs (IP divisions) were established within 21 intermediate courts, such as the Nanjing Intermediate People’s Court, to facilitate centralised jurisdiction over certain categories of trans-regional first instance intellectual property cases and enable specialised intellectual property judicial organs to be rationally distributed. The IP divisions have dedicated themselves to exploring innovative initiatives and to improving the level of specialisation, an important effort that would drive the co-ordinated development of the Beijing-Tianjin-Heibei (*Jing-Jin-Ji*) region, and the development of the Yangtze River Economic Belt and the Guangdong-Hong Kong-Macao Greater Bay Area (Greater Bay Area). Exemplary work by several local IP divisions include:

*Nanjing*: Conducted circuit trials, implemented specialised and centralised adjudication, and responded to the demands of high-tech industrial parks to protect the intellectual property of business innovations.

*Hangzhou*: Leveraged internet technology and established a trans-regional cooperation mechanism to facilitate access to online hearing and standardised application of the law.

*Zhengzhou*: Digitised processes such as introduction of online filing and acceptance of cases, electronic service of documents and WeChat mediation to overcome time and spatial constraints, as part of its effort to provide easy access and to increase the level of informatisation.

*Shenzhen*: Capitalised on the city’s geographical advantage to strengthen judicial protection of intellectual property by participating in the development of the Guangzhou-Shenzhen Science and Technology Innovation Corridor and the Pearl River Delta National Demonstration Zone for Home-Grown Innovation.

*Haikou*: Took the initiative to protect intellectual property by establishing circuit-court stations and contact points for judicial services within different parts of the province.

1. **Continued rolling-out of more measures for the “three-in-one” intellectual property adjudication system**

In 2019, the courts implemented the “Supreme People's ‘s Opinions on Promoting ‘Three-in-One’ Adjudication of Intellectual Property-Related Civil, Administrative and Criminal Cases” to further consolidate the results of the "three-in-one" reform.

*Supreme People's Court*: Reviewed case files relating to intellectual property crime to distil first-hand information on criminal adjudication. This will allow more in-depth examination of the norms of adjudicating intellectual property criminal offences, based on which, the relevant judicial interpretations could be revised and improved.

*Jiangsu High People’s Court*: Initiated a study relating to the sentencing of intellectual property crimes to provide reference for standardising the use of sanction discretion and in sentencing.

*Zhejiang Provinc*e: Since 1 November 2019, all the courts in Zhejiang Province have implemented the “three-in-one” adjudication procedure. 260 criminal offences and 41 administrative disputes were heard during the year.

*Hainan High People’s Court*: Initiated research studies on using designated jurisdiction for intellectual property criminal offences, and clarified the jurisdiction mechanism for "three-in-one" adjudication for intellectual property cases.

1. **Continued improvement of litigation procedures**

The People’s Courts worked on improving the rules of procedure based on the merits of individual intellectual property cases and on developing an optimal adjudication approach to overcome institutional obstacles.

**First, giving reasonable guidance in evidence production.** The courts have developed innovative measures to strengthen the burden of proof by enabling ex-officio investigation and collection of evidence to effectively reduce the costs borne by right-holders.

*Shanghai High People’s Court*: Explored the use of an evidence production order such that any behaviour that obstructed the production of evidence would be punished under the law.

*Hunan High People’s Court*: Regulated policies and procedures relating to investigation orders for lawyers.

*Hainan High People’s Court*: Parties were encouraged to make full use of third-party means such as notarisation and electronic data platforms to collect and preserve evidence.

**Second, building a more robust fact-finding mechanism.** The courts have elaborated the ways which different personnel could participate in the investigation of technical facts, and have mobilised manpower and resources to develop a dynamic and coordinated system for fact-finding.

*Supreme People's Court*: Created a pool of experts comprising technical investigators and technical advisory experts employed and appointed by the courts, and established a national mechanism for sharing of technical-investigation resources among the courts. It also launched the "Work Manual for Technical Investigators (2019)" to guide the courts in technical fact-finding and regulate their technical fact-finding activities.

*Beijing Intellectual Property Court*: Established a "four-in-one" technical fact-finding mechanism, comprising specialised people's assessors, technical investigators, expert assessors and forensic institutes.

*Jiangsu High People’s Court*: Entered into a framework agreement with the Jiangsu Province Collaborative Innovation Centre for Biomedical Functional Materials, where the parties would cooperate on intellectual property-related technical fact-finding. The cooperation enabled the court to engage technical experts to assist in intellectual property cases.

*Production and Construction Corps Branch of the Higher People's Court of Xinjiang Uygur Autonomous Region*: When preserving evidence, professionals were engaged to survey the location and the planting area of infringing seeds, and to collect samples of infringing plants .

*Hubei, Hunan, Sichuan and Shaanxi High People’s Courts*: Formed expert pools to tap professional expertise and improve the accuracy of technical fact-finding.

**Third, optimisation of adjudication approach.** Given the diverse judicial needs, the different levels of courts have sought to optimise their adjudication approaches through a diversion mechanism that separates the complicated cases from simple ones, and that applies a unified standard when applying the law.

*Beijing Intellectual Property Court*: Implemented the speedy trial mechanism, and introduced a pilot that judges would issue "abridged written judgments" for trademark review cases. Average disposal time was reduced by 30%.

*Xi'an IP Division*: Formed an adjudication team to conduct speedy trial, an approached that required only 20% of the manpower to hear 70% of the cases.

*Chengdu IP Division*: Explored the use of speedy trial mechanism for intellectual property disputes to better allocate adjudication resources. The outcomes were encouraging.

*Haikou IP Division*: Implemented an integrated model of operations that combined case acceptance, adjudication and enforcement under one operational framework to improve adjudication quality and effectiveness.

*Changchun IP Division*: Introduced speedy and simplified trials for copyright and trademark disputes. 84.8% of the cases were concluded within five months, and the adjudication cycle was substantially shortened.

1. **Broadened judicial functions and continued improvement of research quality and effectiveness to guide adjudication**

Always vigilant of hot button issues, the People’s Courts have leveraged the Supreme People’s Court’s Intellectual Property Judicial Protection Research Centre and its theoretical research base to strengthen development of intellectual property protection-related innovative theories and research of the relevant judicial policies. They have also actively participated in the revision of intellectual property-related laws and provided effective judicial supervision and guidance.

1. **More focus on providing legislative recommendations**

The courts have actively participated in the revision of laws and regulations such as the Civil Code, Patent Law, Trademark Law, Anti-Unfair Competition Law, Copyright law, Regulations on the Implementation of the Trademark Law, and Regulations on the Protection of New Plant Varieties.

Other legislative endeavours include participating in the fourth forum on Patent Law amendment, and CPPCC’s meeting on folk literature and artistic works relating to the drafting of the amendments to the Copyright Law. The courts also initiated researches on a special procedure law for intellectual property litigation, established the general direction, basic framework and key content of the research.

1. **Intensified drafting of judicial interpretation**

The Supreme People's Court issue the “Provisions on the Participation of Technical Investigators in Intellectual Property Litigation” setting forth the procedure, responsibility, validity, liability relating to the participation of technical investigators in intellectual property litigation. It also researched on topics such allocation of the burden of proof, investigation and collection of evidence, exchange of evidence, and examination and determination of electronic evidence. The court also organised various seminars on the drafting of judicial interpretation for punitive damages for intellectual property infringement, application of the Trademark Law and Law Against Unfair Competition, trade secrets, and national defence patent disputes.

1. **More in-depth study of judicial policies**

The courts participated in the drafting of the “Opinions on Strengthening the Protection of Intellectual Property”, allowing specialised intellectual property adjudication organs such the Guangzhou Intellectual Property Court and the Shenzhen Intellectual Property Division to play bigger roles, and stepped up cooperation in GBA-related intellectual property protection and professional training. For Guangzhou Knowledge City (GKC), the courts also pressed ahead with the national comprehensive reform pilot programme to better utilise and protect intellectual property.

To better serve the free trade zones, special studies on the protection of intellectual property were conducted, based on which, 38 initiatives relating to the judicial protection of intellectual property for the development of free trade zones and free trade ports were proposed.

1. **Leveraged the role of case guidance**

As part of its annual activities, the Supreme People’s Court published the “Annual Report on Intellectual Property Cases (2018)’” and the “Top Ten Intellectual Property Cases Decided by Chinese Courts and Fifty Typical Intellectual Property Cases”. The publications indicate Supreme People’s Court’s priority in distilling universally applicable adjudication standards to guide judges. The court also organised a “Judgement Week” during which the decisions of benchmark cases were issued in an open courtroom so as to use new genre, difficult and complex cases to shape rules and regulations. The endeavours of other courts include:

*Shenzhen IP Division*: Reviewed its experience from the reform for speedy hearing of design patent disputes and selected 19 typical cases for analysis.

*Inner Mongolia Autonomous Region High People’s Court*: Held a briefing to update on intellectual property adjudication and to launch the compilation of typical cases heard by the court to regulate and guide market players. The court hoped to influence market players to operate in good faith and ensure that the economic order of the market respects fair competition.

*Henan High People’s Court*: Published typical cases relating to trademark and brand protection .

*Sichuan High People’s Court*: Published for the first time a white paper on the judicial protection of the intellectual property of non-state enterprises (*minying qiye*) and typical cases. The paper expounded the problems with intellectual property protection that non-state enterprises have faced, the underlying causes, and provided recommendations.

1. **Intensified judicial researches**

**Diverse research methods.** The Supreme People's Court collated big data relating to trademarks registered and used during the past five years, studied the measures regulating trademark squatting, and gave recommendations. It also convened discussions on image copyright infringement to examine the pronounced issues and addressed social concerns by providing clear adjudication standards.

*Liaoning Province*: The courts conducted intellectual property-related studies on topics such as the Belt & Road Initiative and pilot free trade zones to find out what companies need in terms of judicial protection.

*Zhejiang High People’s Court*: Surveyed more than 20 companies within the province to effectively address the judicial protection needs of innovation-based businesses.

*Heilongjiang Province*: The courts conducted in-depth studies on non-state enterprises and developed manuals to educate the public to better protect the intellectual property of private enterprises and drive the development of the private economy.

*Hunan Province*: The courts took the initiative to meet the judicial needs of enterprises and tech parks, and enhanced awareness among businesses in innovation-based development.

**Productive research studies**. The Supreme People's Court initiated surveys relating to revision of the Patent law, patent linkage, and business model innovation. The surveys culminated in research outcomes such as the “Recommendations on Reforming and Improving Legislation for Patent Invalidation Procedure”, “Recommendations on Legislating for Patent Linkage”, and “A Study on the Judicial Protection of Business Model Innovations”. Other research efforts include:

*Beijing High People’s Court*: Reviewed the guidelines for adjudicating administrative disputes relating to the granting and validation of trademarks to guide litigation behaviour.

*Zhejiang High People’s Court*: Conducted studies on adjudication rules for intellectual property disputes involving e-commerce platforms to share judicial experiences relating to e-commerce business.

*Fujian High People’s Court*: Provided opinions on how the courts could improve judicial protection of intellectual property to better serve and foster innovation, entrepreneurship and creation.

*Jiangsu High People’s Court*: Proposed more rigorous judicial protection of intellectual property to underpin the province’s innovation-driven economic development.

1. **Increased transparency of the courts to augment credibility of intellectual property adjudication**

The courts are fully aware of the need for transparency, and have made remarkable progress in developing a judicial mechanism that upholds justice through enhanced transparency and that champions credibility, openness, dynamism, transparency and accessibility.

1. **A more open court system**

The courts have opened up further to allow public access to court hearings. This is in line with the directive that open courts should be the rule and closed courts the exception. They have also found innovative ways for the public to access court hearings and expanded the types of hearing permitted for public observation. Some exemplary practices are:

*Guangdong High People’s Court*: Held a public hearing on the dispute between Shenzhen-based Jiedian Technology Co., Ltd and Laidian Technology Co., Ltd over the infringement of utility models. About 100 people attended the hearing. Live streaming over the internet was also accessed by nearly 10,000 viewers.

*Sichuan High People’s Court*: Heard a trademark infringement dispute and issued decision within the same hearing session. People’s Congress deputies and members of the People’s Political Consultative Conference were invited to the observe hearing.

*Inner Mongolia Autonomous Region High People’s Court*: Launched "On-Campus Hearing" where approximately 300 teachers and students attended the hearing for a dispute over copyright infringement.

1. **Greater use of cases for public legal education**

The Supreme People’s Court participated in a production by the China Central Television’s (CCTV) entitled “Judge Talk (*Dafaguan Shuo*)” in the third season of “China Rule of Law (*Fazhi Zhongguo Shuo*)”. It was involved in the planning, scriptwriting, production and recording, and broadcasting of the programme. This was an important joint-publicity effort by the Supreme People’s Court and CCTV-12 in celebration of the 70th anniversary of the founding of the People’s Republic of China. Vice President of the Supreme People’s Court Justice Tao Kaiyuan gave a talk in one episode. According to statistics, nearly 50 million viewers watched the live telecast of the programme. There were also 1,357 online news articles relating to the programme, 78 news articles published in newspapers and magazines, 151 microblog comments, 99 blog articles, 2,238 WeChat articles, and 294 app articles. The public applauded the court for its outstanding work in intellectual property protection.

The “WIPO Collection of Leading Judgments on Intellectual Property Rights: People’s Republic of China (2011–2018)” was launched at the Second Annual WIPO Intellectual Property Judges Forum. WIPO's legal counsel Frits Bontekoe spoke at the launch event. The forewords of the volume were written by WIPO Director General Francis Gurry and Justice Tao Kaiyuan. This casebook of judgments gives the global intellectual property community access to landmark judgments from China and allows China’s leading cases to play their demonstrative role and Chinese judgements to create greater impact. Other key endeavours include:

*The Supreme People’s Court*: Organised a series of activities, including a Judgement Week and a “Judges Go on Campus” to make better use of cases to educate the public on the law, and instil greater respect for knowledge and awareness of protecting intellectual property. When hearing important cases, the court also ensured that it invited NPC deputies, CPPCC members, and SPC’s special supervisors and advisors as well as fellows of the Chinese Academy of Sciences, lawyers and representatives of industry associations to observe the proceedings and share their insights.

*Beijing Xiong’an New Area Intermediate People’s Court*: Organised the “Protect Intellectual Property Outreach Event” to educate businesses newly established in the area, such as Baidu, Tencent, JD and Huawei, on intellectual property laws and regulation.

*Zhejiang High People’s Court*: Established the “Zhejiang Balance (*Zhejiang Tianping*)” WeChat Official Account, the “IP Converge (*Zhi Zhi Hui*)” website, and the “Zhejiang IP Law Connect (*Zhe Zhi Xi Fa*)” column to lay the ground for regular outreach activities. During the year, the court published 85 articles, and made available live streaming of 26 hearings which boast of 900,000 visits.

*Jiangsu High People’s Court*: Organised a walkabout for the People’s Congress deputies and members of the CPPCC committee cum media event. The effort was effective and well-received.

1. **Joint outreach**

The Supreme People’s Court organised the “IP Judicial Protection-Anhui Expedition”, for which selected NPC deputies, SPC’s special supervisors and Anhui Province’s leaders, together with the central government's media agencies, visited some Anhui courts and key hi-tech companies. During their visits, the delegation learnt about the state of intellectual protection in Anhui Province, innovative outcomes, and focused on discovering the judicial needs of commercial entities to better serve the development of innovation-based businesses. Other outreach activities include the “IP Courtroom Open Day” and “IP Protection Judgement Week” during which many major cases involving advanced technology such as medical equipment, internet data mining and optical technology were heard. The court also launched the “Faxin-IP” online project to create a unified big data intellectual property service platform by integrating and upgrading the existing intellectual property case guidance platform and through research and development. The platform aims to provide free retrieval and consulting services for intellectual property judges nationwide. Other endeavours include:

*Hebei High People’s Court*: Combined 26-April outreach activities with the publicity campaign to promote the “Regulations on the Protection of Olympic Symbols” to publicise extensively the relevant laws and regulations. It was a successful event.

*Shanxi High People’s Court*: Visited the province’s Comprehensive Reform Pilot Zone to find out the needs of businesses and set forth requirements on how the courts should provide innovative services to better serve businesses and create an environment that conduces to innovation.

*Tibet Autonomous Region High People’s Court*: Organised legal outreach activities in the Chinese and Tibetan languages based on local folk customs and religious beliefs in interesting formats.

*Ningxia Autonomous Region High People’s Court*: Organised outreach activities and consultations, including providing on-site legal advice.

1. **Greater cooperation and exchange for greater impact in the intellectual property judicial landscape**

 Given the increasingly open and inclusive world, intellectual property adjudication should be based on China's national circumstances, a global mindset, and an international vision. It should also promote the sharing of China’s experience and wisdom.

1. **Serving the needs of international relations for the larger good**

The Supreme People’s Courts has intensified the study of intellectual property issues emerging from foreign trade and economic negotiations, and strengthened its adjudication guidance and supervision of the lower courts according to law.

Judges from the Supreme People’s Courts participated in bilateral and multilateral dialogues and exchanges, including negotiations on the “Convention on the Recognition and Enforcement of Foreign Judgments in Civil or Commercial Matters” adopted by the Hague Conference on Private International Law (HCCH). SPC has made important contributions to the satisfactory resolution of intellectual property issues relating to the Convention.

1. **Increasing China’s impact in the world**

In June 2019, the Supreme People’s Court and WIPO co-organised the Seminar on Application of WIPO Mediations Service in Intellectual Property Litigation, during which participants from WIPO, Singapore, the Supreme People’s Courts and our local courts shared their insights on WIPO’s alternative dispute resolution mechanism. Director of the WIPO Arbitration and Mediation Centre Erik Wilbers commended China for being the organisation’s close partner. SPC also participated in the International Cooperation in Fighting against Intellectual Property Right Infringement at the second China International Import Expo in Shanghai, during which it shared the importance of using punitive damages to deter and prevent repeat and malicious infringing behaviour, as part of an effort to engender a legal environment that fosters protection of intellectual property, that makes the infringer pay for its wrongdoing, and that sanctions offences.

 Justice Luo Dongchuan, Vice President of the Supreme People’s Court, held more than 20 constructive meetings and discussions with representatives from WIPO, AIPPI, AIPLA, ICJ, the Supreme Court of Cuba and High Court of Justice in London. Francis Gurry, director-general of the WIPO, spoken favourably of the establishment of the SPC IP Court, and said that the court embodies China’s commitment to protecting intellectual property and its determination to provide fairer and more efficient protection for intellectual property. Abdulqawi Ahmed Yusuf, President of the International Court of Justice, commended that China’s achievements in the legal sector was not only reflected in the country’s overall effort to develop a robust legal system, its achievements in specific areas in field of intellectual property also deserves admiration.

1. **Widened channels of foreign cooperation**

In response to the global interest in how judicial protection of intellectual property works in China, the People’s Courts have actively engaged in dialogues through different platforms to build understanding of China’s situation and create greater impact at the international level.

 To support WIPO’s collaborative programmes, our judges participated in the Roundtable on WIPO-China Cooperation and Major Intellectual Property Developments in China. We have also send representatives to participate in WIPO's Master Dialogue on IP Adjudication. A delegation of patent judges visited the European Union. These were occasions at which our judges shared China’s latest development and historic achievements in intellectual property adjudication. Other international activities in the year include participating in the Second Annual WIPO Intellectual Property Judges Forum, 9th OECD/ Korea Policy Centre (KPC) Competition Law Seminar for Asia-Pacific Judges, AIPPI Annual World Congress, 2019 Annual Meeting of the International Trademark Association (INTA), and the European Communities Trade Mark Association (ECTA) Annual Conference, and the Japan-China-Korea IP Symposium.

1. **Capacity-building for judges as part of an incessant effort to improve adjudication capability**

Political cultivation has always been the guiding light for the People’s Courts. By continuing to develop the judges’ political awareness and by taking big strides to revolutionise the judiciary and putting together a team of full-time, professional and specialised judges, the courts have been working at building a team of intellectual property judges that have a firm political stand, a holistic view and international perspective, and extensive legal expertise and technical know-how. Organisational- and people-building are key to standing the courts in good stead for intellectual property adjudication in the new era.

1. **Ideological and political education**

Given that political cultivation is our priority, the courts have organised educational activities to remind everyone of the motto: “Do not lose sight of our original aspirations; be mindful of our mission (*buwang chuxin, laoji shiming*)”. Various institutions governing intraparty political activities were also harnessed to awaken judges to the need to guard their original aspirations and to buttress their ability to fulfil their mission. Platforms such as the "New Knowledge Forum" and "Forum on Intellectual Property Court" were established to enable online and offline education and management for party-development. The courts have also adopted a party-development approach for round-the-clock online and offline education and management. The SPC IP Court’s party branch has also won the “100 Model of Excellence” accolade presented by *Banner* (“*qizhi*”), a magazine published by the State Organs Work Committee of CPC Central Committee, for the second Party-building Innovative Outcomes Award. It was the sole recipient of the award within the court system.

1. **Developing a sense of honour and self-discipline**

The courts have managed court and party operations based on rigorous standards, having implemented the “Eight-Point Frugality Code (‘*ba-xiang gui-ding*’)” and its rules of implementation. They have also stamped out "the four forms of decadence" (i.e. formalism, bureaucratism, hedonism and extravagance) or *si feng*, and have deepened the development of party ethics and clean governance and their fight against corruption.

1. **Building judicial capabilities**

By focusing on the overall requirements of the "five excellences (*wuge guoying*)", i.e. excellence in belief, political stance, sense of responsibility, ability and behaviour, the courts have strengthened people development at every turn. They have focused efforts at building a quality team of effective, loyal, incorrupt and responsible individuals to helm the courts of the new era and drive new developments. The Supreme People's court has also increased its involvement in coordinating and guiding the lower courts, and encouraged the courts to plan for the training and creation of a pool of professional intellectual property judges, and the establishment of different of personnel exchange mechanisms. To elevate judicial capabilities, the courts have also adopted many different approaches, including special training, thematic seminars, on-the-job training, exchanges and secondment, and observation of court proceedings. These efforts will help build an adjudication team that believes in perpetual learning, which will in turn enable the courts to adapt to new circumstances and the demands of intellectual property adjudication, and judges to continue building their professional capabilities.

# **Conclusion**

Today’s world is defined by unprecedented changes which quicken the pace of reform of the global governance system and the international order. As the next wave of technological revolution and industrial reform arrives with astonishing force, protection of intellectual property is confronted with new issues, new tasks and new challenges. As the People’s Courts discharge their duties and responsibilities, they will discern new trends and circumstances, and will leverage their judicial powers to protect intellectual property. They will also strive to provide effective judicial service and safeguards to achieve sustained and robust economic development and social stability, build a comprehensive *xiaokang* society, and bring the 13th five-year plan to a successful completion.