

W&B IP Newsletter

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Patent

The New P.R.C. Patent Law Introduces the System of Punitive Damages

On June 1, 2021, the newly amended *P.R.C. Patent Law* came into effect.

In order to strengthen protection for the legitimate rights and interests of patentees, the new amendment introduces the system of punitive damages, stipulating that where intentional infringement of patent rights is serious, the People's Court may determine the amount of damages between one and five times the amount calculated based on the losses suffered by the rights holder, the profits gained by the infringing party or the multiple of royalties of the disputed patent. The maximum of statutory damages is raised to 5,000,000 RMB, while the minimum is also raised to 30,000 RMB. Said rise in the amount of damages greatly increases the cost that the infringing party must pay for the infringement, and shows China's attitude to provide protection for IP rights strictly in accordance with the law, as well as China's resolution to crack down on infringement of IP rights.

(Source: China Intellectual Property News)

Copyright

The New P.R.C. Copyright Law Introduces the System of Punitive Damages

On June 1, 2021, the newly amended *P.R.C. Copyright Law* came into effect.

In order to solve the problems of high costs and long duration of litigation proceedings, the new amendment to the *Copyright Law* introduces the system of punitive damages, raising the maximum of statutory damages up to 5,000,000 RMB and stipulating the minimum at 500 RMB. Meanwhile, in terms of intentional and serious infringement, the amendment provides that the People's Court may impose punitive damages between one and five times the amount of damages calculated in the ordinary way, thereby greatly increasing the cost that the infringing party must pay for the infringement.

(Source: China Intellectual Property News)

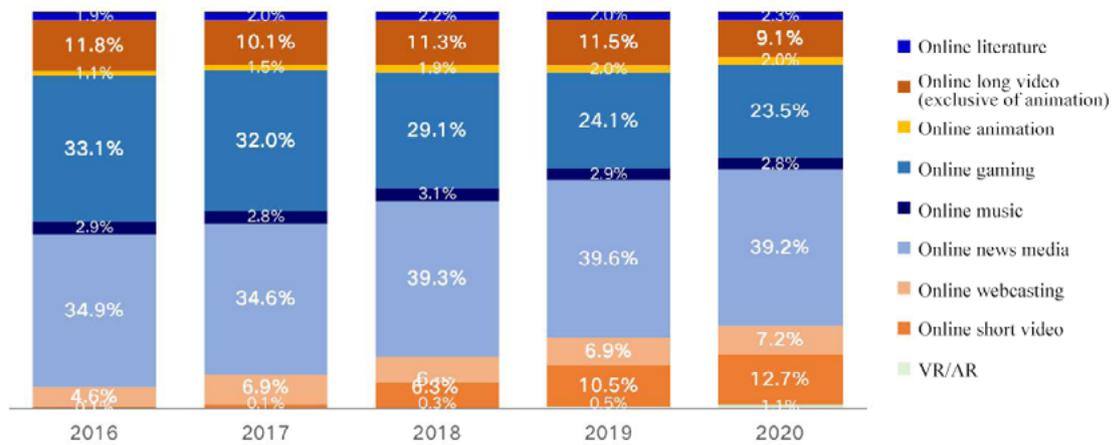
National Copyright Administration Publishes the 2020 China Online Copyright Industry Development Report

Recently the National Copyright Administration published the *2020 China Online Copyright Industry Development Report* (hereinafter the "*Report*"). According to the *Report*, in 2020 China's online copyright industry persevered in scientific innovations, activated cultural consumptions, empowered work and production resumptions, assisted in poverty alleviation and promoted the entire market scale up to 1.18473 trillion RMB, reaching a remarkable annual growth rate at 23.6%.

According to the *Report*, given the said market scale at 1.18473 trillion RMB in the past year of 2020, online news media and online gaming were still the core businesses in China's online copyright industry, accounting for a subtotal of over 60%. Among the component businesses, short video increased its market share by 2.19% with respect to 2019, reaching a proportion of 12.71%. On the other hand, long video faced a challenge of transformation – it encountered a drop by 2.4% with respect to 2019, reaching a proportion of 9.13%.

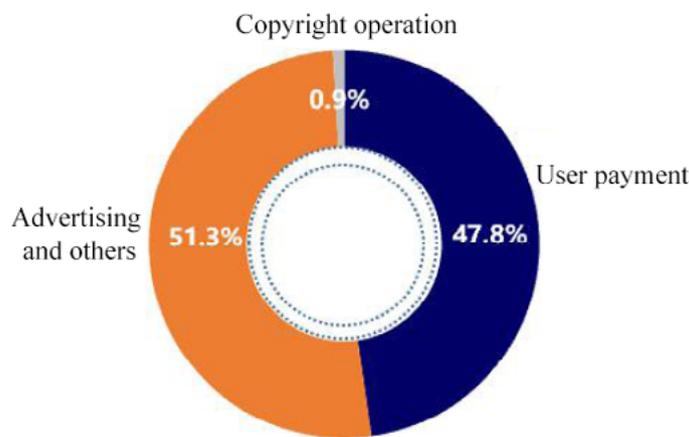
Copyright

Breakdown Structure of China’s Online Copyright Industry (2016-2020)



In terms of business revenue, user payment revenue within the online copyright industry reached 565.92 billion RMB, accounting for 47.8% of the total industry revenue; copyright operation revenue reached 10.91 billion RMB at the percentage of 0.9; besides, advertising and other revenue reached 607.9 billion RMB at the percentage of 51.3.

Business Revenue Structure of China’s Online Copyright Industry in 2020



(Source: National Copyright Administration)

Intellectual Property

China’s First IPR Customs Protection Center for High-tech Start-ups Established in Shanghai

Recently China’s first IPR Customs Protection Center for High-tech Start-ups that centers on “scientific innovations” held its opening ceremony in Shanghai.

Intellectual Property

In recent years, Shanghai Customs has kept on strengthening customs protection for IP rights and forcefully cracked down on infringement discovered during import and export. In 2020, considerable increases were witnessed in terms of both the batches and the number of infringing commodities discovered and/or seized at the customs, as shown in the table below. In this respect, Shanghai Customs has been among the Top 3 customs nationwide in the past three years.

	2019	2020	Annual Growth Rate
Batches of Infringing Commodities	13743	17000	23.7%
Number of Infringing Commodities	3510204	4300000	22.5%

The official launch of the IPR Customs Protection Center for High-tech Start-ups provides an important platform for the agglomeration effect of strengthening IPR protection services, and will greatly motivate the enterprises' vitality and passion for innovation.

(Source: Office of Shanghai Intellectual Property Joint Conference)

P.R.C. Stamp Tax Law to Take Effect from July 1, 2022: IP Rights Transfer Tax Rate to be Reduced and Stamp Tax on Patent and Trademark Certificates to be Cancelled

The 29th Session of the 13th NPC Standing Committee voted and adopted the P.R.C. Stamp Tax Law on June 10, 2021, which shall take effect from July 1, 2022 and on.

Highlights in the new Stamp Tax Law include: (1) the 5 RMB stamp tax for each IP right certificate and license certificate shall be cancelled; (2) the transfer tax rate for transfers of the “exclusive right to use registered trademarks, copyrights, patents and know-how” shall be reduced from 0.05% to 0.03%, and thus to further fulfill the reduction in taxes and fees, to support innovation development and to encourage exploitation and application of IP rights.

(Source: www.npc.gov.cn)

Effective from June 3! Supreme People's Court Makes Clear in Its Responses: Plaintiffs Abusing Rights in IP Litigation to Compensate Defendants' Reasonable Expenses

On June 3, the Supreme People's Court promulgated its *Response regarding Defendants' Petition for Compensation of Reasonable Expenses against Plaintiffs Abusing Rights in IP Litigation*. Said judicial interpretation came into effect on the same day.

Intellectual Property

It is said that the *P.R.C. Civil Code*, *P.R.C. Civil Procedure Law*, *Patent Law and Trademark Law*, among other IP laws, all stipulate that the exercise of rights must comply with the principle of good faith. Said Response of the Supreme People's Court is a significant measure to implement the central government's decision and arrangement, to actively respond to concerns from the community and to guide parties to faithfully exercise their rights of action. Implementation of said Response will help to exert the role of reasonable expenses (such as counsel fees) upon legal actions and to better regulate the abuse of rights.

(Source: Supreme People's Court)