

W&B Legal Newsletter

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Spotlights

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Watson & Band Receives Multiple Nominations for the "2024 ALB China Regional Law Awards: East China"

THE LATEST LEGAL DEVELOPMENTS

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INTRODUCTION

Watson & Band has flourished into a full-service law firm with more than 400 pro-fessionals around China. We provide the highest quality services for our clients and enjoy a nationwide reputation as one of the most prominent law firms in China. This excellence and breadth has made us the firm of choice for many world's leading companies and financial institutions as they seek sophisticated legal service. Based on its commitment of quality service, Watson & Band has retained a team of professionals to provide diversified service to its clients, which has won it the honor of China's Best Law Firm and Top-tier IPR Team.

Watson & Band Law Offices

Established in 1995, Watson & Band is one of the oldest law firms in China that provide foreign-related legal services. Headquartered in Shanghai, Watson & Band maintains multiple branches or offices in Beijing, Hong Kong, Harbin, Lanzhou, Yantai, Guangzhou, Zhengzhou, Chengdu, Chicago and Tokyo.

For over decades our team members have collaborated to stay on top of IP and corporate issues, helping clients improve operations, reduce costs, limit risks, enforce rights and achieve common business goals. For these reasons, the firm and its professionals are consistently recognized in client and peer-reviewed industry awards and rankings as being among the best.

These superb services derive from a spirit of dedication that has brought Watson & Band the honor of being listed among "China's Best Law Firms". In past years our firm has received numerous awards from third-party ranking agencies such as "Top 10 IP Law Firm", "Recommended Law Firm". "China's Most Dynamic Law Firm" and "Premier IP Law Firm". Watson & Band Law Offices has also been named a "Key Shanghai Enterprise in Special Services Trades (Legal Services)" by the Shanghai Municipal Commission of Commerce and the Shanghai Judicial Bureau.

Watson & Band Intellectual Property Agent Ltd.

Headquartered in Shanghai, W&B Agent Ltd. operates branch offices in Beijing and Lanzhou. Our patent agency services cover various technical fields such as chemistry, biology, medicine, mechanics, electronics, communication, optics and physics, as well as design patent, IP searches, patent validity analysis, infringement analysis, requests for patent invalidation declaration, litigation and patent consultation, etc. We have established a patent agency service department re-sponsible for special clients. Agents from various technical divisions all have rich experience and are able to work with several languages.

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Disclaimer

- ◆ This Newsletter provides case brief only instead of formal legal opinion regarding any specific case.
- ◆ This Newsletter selects and summarizes official announcements, news and other public documents released by National Intellectual Property Administration of China (CNIPA), Trademark Office of CNIPA, National Copyright Administration of China and other official institutions.
- ◆ This Newsletter has cited the source of the aforementioned official announcements, news and other public documents.

Watson & Band Wins the CBLJ – 2024 China Business Law Award in the Insolvency and Restructuring Field

On July 24, China Business Law Journal, the world well-known legal media outlet, announced the winners of its 2024 China Business Law Awards. Watson & Band has been recognized for its outstanding performance and reputation in the insolvency and restructuring field over the years, winning this year's Award in this field.



In 2007, Watson & Band was selected into the first batch of bankruptcy administrators by the Shanghai High Court, and later in 2014 was selected into the first-class bankruptcy administrators by the Shanghai High Court. Then in 2022, with high scores, Watson & Band was selected into the first-class bankruptcy administrators by the Shanghai High Court again, and Zhu Xiaosu, the lead partner of the team, was selected into the first batch of natural person administrators. The existing bankruptcy service team is composed of more than 30 full-time practicing lawyers,

and the team members all have rich experience in bankruptcy and liquidation cases. Some of them have been elected to the bankruptcy service committee of the Shanghai Bar Association and the Shanghai Bankruptcy Administrators Association, and still some of them have the qualifications of financial, accounting and/or tax agents.

With its outstanding performance in the field of insolvency and restructuring, Watson & Band was named "2015 China Insolvency and Restructuring Law Firm of the Year" by Asian Legal Business and "2016 Insolvency and Restructuring Law Firm of the Year" by Asialaw Profiles. It has been included in the list of China's top-ranked law firms in the field of "Bankruptcy Liquidation and Reorganization" by the well-known rating agency LEGALBAND for six consecutive years from 2019 to 2024.

Watson & Band Receives Multiple Nominations for the "2024 ALB China Regional Law Awards: East China"

On July 4, Asian Legal Business (ALB), a Thomson Reuters publication, announced the finalists for the 2024 ALB China Regional Legal Awards: East China. Watson & Band's professional services and good reputation were recognized by this award, and it was once again nominated for three awards – "Intellectual Property Law Firm of the Year: East China – Local", "Technology, Media and Telecommunications Law Firm of the Year: East China – Local" and "Wealth Management Law Firm of the Year: East China – Local".

ASIAN LEGAL BUSINESS

The Asian Legal Journal (ALB) is Thomson Reuters' leading legal magazine and one of the world's most influential legal media outlets. The influence of its rankings covers many jurisdictions around the world, and it is also regarded as one of the authoritative benchmarks in the legal industry.

"ALB China Regional Law Award: East China" aims to recognize and promote the top law firms, in-house teams and individuals with strong capabilities and outstanding performance in the legal services market in East China, and is committed to encouraging more legal teams and practitioners to make outstanding contributions in this field. The awards focus on five provinces and one city in East China, namely Shandong, Jiangsu, Anhui, Zhejiang, Jiangxi and Shanghai. The 2024 Awards attracted more than 920 nominations from more than 100 law firms and in-house teams that have made prominent achievements in the legal services market in East China, covering 30 awards in various legal practice fields.



GAC Releases Risk Management Measures of the Customs of the People's Republic of China

On July 31, the General Administration of Customs (GAC) issued the *Risk Management Measures of the Customs of the People's Republic of China* (the “Measures”), with effect on December 1, 2024.

The *Measures* specify that, the customs may, as needed for risk management, collect risk information by such channels as “implementing risk monitoring”. The customs shall establish a risk assessment indicator system based on the collected information and other information obtained during the entry and exit supervision and management process, so as to identify the hazard factors and their causes, assess the degree of risk, possibility of occurrence, and trend, and make an assessment conclusion on the risk level. The *Measures* stipulate that the customs shall make management decisions on risk handling based on the risk assessment conclusions and in light of such factors as the credit status of organizations and individuals, and industries and characteristics of entry and exit activities, adopt handling measures that match the risk level, implement graded and classified handling, and adopt one or more risk handling measures that match the risk level pursuant to the law.

(Source: General Administration of Customs)

Three Authorities Introduce Opinions on Application of Law in the Handling of Cross-border Telecom and Online Fraud and Other Criminal Cases

On July 26, the Supreme People's Court (SPC) and two other departments released the *Opinions on Several Issues Concerning the Application of Law in the Handling of Cross-border Telecom and Online Fraud and Other Criminal Cases* (the “Opinions”).

The *Opinions* stipulate the overall requirements, application of laws, and procedural regulations, among others, with highlights in four areas: (1) adhering to an overall strict approach to demonstrate a stance of severe punishment; (2) maintaining a problem-oriented approach to address practical needs; (3) ensuring lawful crackdowns to prevent wrongful accusations and leniency; and (4) strengthening the recovery of illicit gains and the protection of property rights. The *Opinions* identify four key areas where punishment shall be imposed: legally targeting criminal groups and their organizers, planners, leaders, and key members; launching a crackdown on organizations that shelter cross-border telecom and online fraud and other criminal activities; focusing on the crimes committed by criminal groups such as intentional homicide, intentional injury, kidnapping, rape, forced prostitution, and illegal detention; and combating the criminal activities of organizing and transporting individuals to illegally cross borders (frontiers) for the recruitment of criminal groups involved in cross-border telecom and online fraud.

(Source: Supreme People's Procuratorate)

CNIPA Unveils Measures for Mediation of Disputes Arising from Implementation of Patent Open Licensing

On July 18, the China National Intellectual Property Administration (CNIPA) formulated and released the *Measures for Mediation of Disputes Arising from Implementation of Patent Open Licensing (for Trial Implementation)* (the “Measures”), effective from the date of release.

The *Measures*, consisting of 30 articles in five chapters, clarify matters related to the mediation of disputes arising from implementation of patent open licensing, including case acceptance, case mediation, and case closure. Specifically, in terms of case acceptance, the *Measures* delineate the criteria for accepting applications for mediation of disputes arising from implementation of patent open licensing, the documents and materials that parties should submit, the conditions for making acceptance decisions, circumstances for non-acceptance, and registration of acceptance. Regarding case mediation, the *Measures* specify the mediator appointment procedures, the number of mediators, grounds for mediator recusal, conduct standards for mediators during the mediation process, the rights and obligations of the parties, penalties for the parties’ misconduct, steps and timelines for conducting mediation, circumstances triggering suspension, and conditions for resumption after suspension.

(Source: China National Intellectual Property Administration)



Two Authorities Clarify Annual Fee Standards for Patent Right Compensation Period and Other Matters

On August 6, the National Development and Reform Commission (NDRC) and the Ministry of Finance (MOF) jointly issued the *Circular on Relevant Matters Including the Annual Fee Standards for Patent Right Compensation Period* (the “Circular”).

The *Circular* stipulates that the annual fee standard for patent right compensation period should be CNY8,000 per item, with no charge for a period less than one year; the fee standard for a compensation request for patent right duration should be CNY200 per item. The *Circular* further clarifies that, according to international practices and the principle of reciprocity, the notes in Appendix 2 of the *Circular of the National Development and Reform Commission and the Ministry of Finance on Relevant Issues concerning the Reissue of Administrative and Institutional Fee Standards for the China National Intellectual Property Administration* will be revised as follows: the international patent applications (PCT applications) received and searched internationally by the China National Intellectual Property Administration (CNIPA) will be exempt from application fees and application surcharges when entering the national phase in China. PCT applications for which the CNIPA has issued an international search report or an international preliminary report on patentability will be exempt from the substantive examination fee when entering the national phase in China and requesting substantive examination. Other fee standards for PCT applications entering the national phase in China will be subject to the domestic standards.

(Source: National Development and Reform Commission)

CNIPA Seeks Public Comments on Measures for Administrative Adjudication and Mediation of Patent Disputes

On July 19, the China National Intellectual Property Administration (CNIPA) formulated and released the *Measures for Administrative Adjudication and Mediation of Patent Disputes (Draft for Comment)* (the “Draft”) and its drafting notes. The Draft is now open for public comments until September 2, 2024.

Compared with the previous version, the *Draft* has made improvements in three aspects: the implementation of new systems, the refinement of case handling norms, and the optimization of case handling procedures. Specifically, regarding the refinement of case handling norms, firstly, it addresses the demands of case-handling authorities and parties involved; secondly, it clarifies the substantive standards for determining patent infringement; and thirdly, it further refines other procedural norms. The *Draft* has made provisions on the scope of protection for patents, how to specifically apply the principle of comprehensive coverage, doctrine of estoppel, and dedication rule, as well as the standards for identical and equivalent infringement in determining infringement. It also explains the relevant contents regarding the early resolution mechanism for drug patent disputes.

(Source: China National Intellectual Property Administration)

Cyber-security and Data Protection

TC260 Seeks Comments on the Data Security Technology — Data Interface Security Risk Monitoring Methods

On August 6, the National Technical Committee 260 on Cyber-security Standardization Administration of China (TC260) released the *national standard “Data Security Technology — Data Interface Security Risk Monitoring Methods (Draft for Comment)”* (the “*Draft*”) for public comments until October 1, 2024.

The *Draft* provides methods for data interface security risk monitoring, including approaches, content, processes, etc., and specifies key monitoring points for each stage of data interface security risk monitoring. This standard is applicable to guiding data interface security risk monitoring activities carried out by various organizations. The *Draft* first clarifies the definition of data interface and abstracts the basic elements of a data interface from the roles and relationships of the parties involved in the data interface. Based on these basic elements, it proposes an overall framework for data interface risk monitoring methods, and further describes the monitoring approaches, principles, and processes within this framework.

(Source: National Technical Committee 260 on Cyber-security Standardization Administration of China (TC260))



TC260 Seeks Comments on the Data Security Technology — Personal Information Protection Compliance Audit Requirements

On July 15, the National Technical Committee 260 on Cyber-security Standardization Administration of China (TC260) released the *Data Security Technology — Personal Information Protection Compliance Audit Requirements (Draft for Comment)* (the “*Draft*”) for public comments, and the cut-off date for submitting comments is September 11, 2024.

The *Draft* sets out the audit principles and general audit requirements for personal information protection compliance audits, putting forward overall requirements for personal information processors as well as auditors that conduct personal information protection compliance audits. The *Draft* is designed to implement Article 54 of the *Personal Information Protection Law of the People’s Republic of China*, which states that “personal information processors shall have the compliance of their activities of processing of personal information with laws and administrative regulations audited on a regular basis.” In addition, the schedules of the *Draft* specify reference documents including the personal information protection compliance audit process, audit evidence, audit content and methods, audit working paper templates, and audit report templates.

(Source: National Technical Committee 260 on Cyber-security Standardization Administration of China (TC260))

MCA Seeks Comments on Revision to the Regulations on Marriage Registration

On August 13, the Ministry of Civil Affairs (MCA) drafted the *Regulations on Marriage Registration (Draft Revision for Comment)* (the “*Draft*”) to seek public opinions by September 11, 2024.

The *Draft* stipulates that China will strengthen the informatization of marriage management. The civil affairs department under the State Council shall coordinate the planning, building, and improvement of a national marriage information database, establish an information-sharing mechanism in collaboration with the courts, the foreign affairs departments, the public security departments, and other relevant departments to ensure that marriage information is timely, accurate, complete, and secure. The *Draft* introduces several provisions, including those reading “within 30 days from the date when the marriage registration authority receives the divorce registration application, either party may apply for withdrawing the application for divorce registration to the original marriage registration authority receiving the said application if he or she is unwilling to proceed with the divorce, and the marriage registration authority shall terminate the divorce registration procedure.” The *Draft* also clarifies that, for voluntary divorce, the divorce agreement shall specify the mutual intent to divorce and include the opinions regarding child support, property, debt handling, and other matters as agreed through negotiation.



(Source: Ministry of Civil Affairs)