



Criminal Procedure Law (Draft Amendment) seeking Public Opinions

The Criminal Procedure Law of the People's Republic of China (Draft Amendment) (the "Draft Amendment") has been recently deliberated at the Second Session of the Standing Committee of the 13th National People's Congress and released for public consultation by June 7, 2018.

The Draft Amendment mainly contains following revisions:

1. To make criminal procedure more aligned with the Supervision law, it adjusts the investigation functions and powers of people's procuratorates, removing the corruption and bribery case from its authority and updating the relevant procedural rules.
2. It sets up judgement by default mechanism for criminal cases, such as the case where criminal suspects and defendants escape abroad.
3. Leniency policy is more improved for suspicious who plead guilty and accept punishments, and rapid adjudication procedures are newly introduced to cases under the grass-roots court's jurisdiction in which defendant may be sentenced to no more than 3-year-inprisonment and plead guilty and accept punishments while the civil compensation dispute has been settled.

http://www.npc.gov.cn/npc/flcazqyj/2018-05/09/content_2054535.htm

State Council Announces a Policy to Shorten the Time for Starting a Business to 8.5 Days (May 17, 2018)

The Opinions state, the length of time required to start a business shall be shortened from 20 to 8.5 working day in all municipalities directly under the Central Government, cities separately listed in the State plan, sub-provincial cities and provincial capitals by the end of 2018. This goal shall be achieved nationwide within the first half of 2019.

Further, the Opinions clarifies the following tasks and measures to realize such objective:

1. to promote one window for multiagency service;
2. to simplify corporate registration procedure, reducing the time required into 5 working days;
3. to incorporate producing official seals into the reform of "consolidating multiple certificates into one business license";
4. to optimize procedure to obtain invoice, and shorten the time required for newly-established enterprise to initially claim for invoices within 2 working days;

http://www.gov.cn/zhengce/content/2018-05/17/content_5291643.htm

CCTAA Issues the Latest Measures for the Accreditation of Ratings of Tax Agent Firms(May 15, 2018)

The China Certified Tax Agents Association ("CCTAA") has recently issued the Measures for the Accreditation of Ratings of Tax Agent Firms (Revised in 2018) (the "Measures"), with effect from April 17, 2018.

The Measures state that, a tax agent firm may voluntarily file an application for accrediting its rating at five classes, namely the Class A, Class AA, Class AAA, Class AAAA and Class AAAAA. CCTAA will in charge of examining and rating application of Class AAAA and Class AAAAA, while its local branches are responsible for the rest.

Furthermore, it distributes the Criteria on the Accreditation of Ratings of Tax Agent Firms at the same time, which is accounted by the practicing qualifications, business scale and performance, practicing standards, social credibility, internal management, and other assessment items.

<http://www.cctaa.cn/zczd/zxwj/2018-05-15/CCON17900000017519.html>

Case: Winemaker Lafite wins trademark infringement cases in China

French winemaker Chateau Lafite Rothschild firstly registered Lafite as trademark in France and was granted the trademark in China in 1997, while the company did not file an application for the Chinese version of Lafite until 2006.

Mellowines, a shanghai-based wine seller was found selling imported wine online under the name of Chateau Moron Lafite in May 2015, when the Chateau Lafite Rothschild's application for Chinese version of Lafite"拉菲" was under review as another Chinese company raised an opposition. Also, Mellowines used an expression on the packaging of its wine to identify its origin which looked similar to the Chinese trademark that the French company had yet to obtain. The French winemaker thus filed a complaint against Mellowines to the Shanghai Intellectual Property Court, claiming 5 million yuan for damages.

Under the current Chinese legislation on trademark, according to the court, the merit at issue is whether Chinese version of Lafite"拉菲" can be recognized as an unregistered well-known trademark thus, the plaintiff, the grant to whom is pending though, is still entitled to claim damages from users of ill will.

The court found the Lafite registered trademark enjoys high reputation in China. Its Chinese version"拉菲" had also established a concrete corresponding bond with Lafite and won huge popularity among Chinese consumers before the infringement in dispute.

While the defendant, as a professional wine importer and distributor, also trading the plaintiff's products – Carruades de Lafite and Chateau Lafite Rothschild – should be in a better position to be aware of the correspondence between the Lafite and its Chinese version"拉菲" but failed to take reasonable effort to avoid such infringement.

In light of foregoing the court ruled that the wine seller has violated the right to the unregistered well-known trademark of Lafite's Chinese version and shall pay Chateau Lafite Rothschild 2 million yuan.

This is not the first time Chateau Lafite Rothschild won in a trademark infringement case. It has been favored in lawsuits against defendants who registered trademark *Lafite Family* or registered domain name *szlafite.cn* and *dbr-lafite.com*.

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