



I. Legal News

SPC Releases Rules on Examining Cases Related to Taking Preservation Measures in IP Disputes

The Supreme People's Court ("SPC") has issued the Provisions on Several Issues Concerning the Application of Law in Examining Cases Involving Taking Preservation Measures in Intellectual Property Disputes (the "Provisions") on December 12, 2018, which will come into force as of January 1, 2019.

The Provisions confirms that before the judgment, ruling, or arbitral award takes effect, if a party concerned in an IP disputes applies the court to take preservation measures due to certain reasons mentioned in PRC Civil Procedure Law (e.g. without taking preservation measures, judgment to be issued in the future may become impossible to enforce; or if no immediate preservation measures are taken, the party shall suffer irreparable damage), the court shall accept such application, ordering the other party to perform certain acts or to prohibit the other party from committing certain acts. Also, in case of "Emergency", the court shall make a ruling within 48 hours.

Previously, it is not easy to define what concretely the aforementioned "Emergency" under the PRC Civil Procedure Law. The most eye-catching clause in the Provisions is that certain circumstances are clearly defined as "Emergency", which are:

- (1) trade secrets of the applicant are to be illegally disclosed;
- (2) the applicant's right of publication, privacy or other personal rights are to be infringed;
- (3) the IP in dispute is to be illegally disposed of;
- (4) the applicant's IP is being or will be infringed during a time-sensitive occasion such as a trade exhibition; and
- (5) a time-sensitive popular show is being or will be infringed.

(<http://www.court.gov.cn/fabu-xiangqing-135341.html>)

MCA Provides Clarity on Jurisdiction over Cases Involving Violations in Public Fundraising

The Ministry of Civil Affairs ("MCA") has issued the Provisions on the Jurisdiction over Cases Involving Violations in Public Fundraising (for Trial Implementation) on December 13, 2018 (the "Provisions"), immediately effectively from the date of issuance.

In respect of the jurisdiction over cases involving violations in public fundraising activities, the Provisions clarifies that the governmental bureau in charge shall be Authorities of Civil Affairs ("ACA") in various level and localities.

Specifically, the following cases are under the jurisdiction of ACA where the organizations or other social group are registered:

- (1) Charitable organizations qualified for public fundraising activities conducting violations during the public fundraising activities; and
- (2) Charitable organizations or other social group unqualified for public fundraising conducting illegal public fundraising activities.

In addition, the following cases are under the jurisdiction of ACA of the county-level people's governments at the place where the violations take place:

- (1) Organizations rather than social groups carrying out illegal public fundraising activities; and
- (2) Individuals conducting illegal public fundraising activities.

(<http://www.mca.gov.cn/article/xw/tzgg/201812/20181200013683.shtml>)

II. Hot Topic

MOFCOM Reports on Foreign Investment in China During the First 11 Months of 2018

On December 13, the Ministry of Commerce of the People's Republic of China ("MOFCOM") held the regular press conference, where spokesman Gao Feng ("Gao") made a report on foreign investment in China during the first 11 months of 2018 and responded to journalists' questions.

Gao firstly introduced four features in China's absorption of foreign investments in January – November 2018, which are as follows:

- (1) Inbound foreign investment maintained a steady growth. Specifically, 54,703 foreign invested companies were newly incorporated (with a rise of 77.5%) and 793.27 billion yuan of investment capital were received (with a slightly decrease of 1.3%) during the 11 months' period;
- (2) The high-tech manufacturing industry maintained a rapid growth. To be specific, capital increasingly channeled into high-tech manufacturing industry, 78.13 billion yuan received in high-tech manufacturing industry with a sharp increase of 30.2% compared to the same period last year;
- (3) The middle and western regions see a great increase in foreign investment, and the growth rate of the pilot free trade zones surpassed the rest of the country; and
- (4) Major investors, such as Singapore, South Korea, Britain, Japan, the US, Germany, EU, ASEAN and countries along the Belt and Road routes maintained the growth trend; while among them, British investments is quite outstanding with a 198.9% growth rate year on year.

Regarding China's foreign trade operation in January- November this year, Gao presented that "China's import and export maintained a rapid growth, with imports and exports totaled 27.88 trillion yuan (up 11.1%) among which, exports rose 8.2% to 14.92 trillion yuan while imports grow 14.6% to 12.96 trillion yuan, narrowing the trade surplus by 21.1% to be 1.96 trillion yuan.

The following points were also emphasized:

- (1) In terms of business entities, the exports of foreign-invested enterprises were RMB 6.22 trillion (up 4.4%);
- (2) In terms of commodity structure, the exports of mechanical and electrical products reached 8.76 trillion yuan (up 9.2%), among which the added value of ships, integrated circuits, motors and generators and computers and accessories increased 17.2%, 17.1%, 10.4% and 9.7% respectively. By comparison, the exports of seven major labor-intensive products such as clothing and toys reached 2.85 trillion yuan, (up 1.5%); and
- (3) In terms of imports, in January-November, the imports of mechanical and electrical products reached 5.88 trillion yuan (up 12.7%), driving the total import volume by 5.1 percentage points. In terms of bulk commodity imports, 10 categories of bulk commodities such as crude oil, natural gas and coal altogether drove imports by 4.2 percentage points.

(<http://www.mofcom.gov.cn/xwfbh/20181213.shtml>)

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