



# 北京知识产权法院

## 2024年年度案例

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# 北京知识产权法院 2024 年年度案例

## 案例一：标准必要专利侵权与使用费费率案

### ——助力通信领域知名企业达成全球和解

#### 1.案件信息

原告：某控股株式会社（简称某株式会社）

被告：某广东移动通信有限公司（简称某移动通信公司）

#### 2.基本案情

本案双方当事人均为通信领域知名企业，案件审理时双方已就 3G、4G 标准必要专利组合进行了多年许可谈判，并在全球多个法域存在多件关联平行诉讼，包括侵权之诉及费率之诉。原告某株式会社系名称为“基站装置、移动台装置和通信方法”的发明专利的权利人，主张涉案专利为 LTE 通信标准的标准必要专利，认为被告制造、销售、许诺销售涉案两型号手机的行为构成对涉案专利权的侵害，请求责令被告停止侵权行为。原告未提出损害赔偿请求，并称其诉讼目的在于推进许可谈判。被告某移动通信公司在本案中提起标准必要专利使用费纠纷的反诉，请求法院就原告拥有并有权作出许可的 3G、4G 标准必要专利针对被告制造、销售的智能终端产品在中国大陆范围内的许可条件作出判决，包括但不限于许可使用费。北京知识产权法院经审理认为，被告提出的反诉请求符合受理条件，对反诉予以受理并积极推进两

诉合并审理，最终助推双方顺利达成全球专利交叉许可协议。双方当事人于同日以达成和解为由分别申请撤回本案本诉和反诉，北京知识产权法院裁定准许双方撤回起诉。

### 3.裁判要旨

标准必要专利权人提起专利侵权之诉，请求法院责令实施人停止侵害涉案专利，实施人提出反诉，请求法院裁判包括涉案专利在内的标准必要专利组合许可条件的，考虑到反诉请求与本诉请求均需考察专利权人与实施人就涉案专利及相关标准必要专利组合的许可谈判事宜这一相同事实，反诉请求与本诉请求之间具有高度关联和因果关系，应当对反诉请求予以受理并合并审理。

### 4.典型意义

民事诉讼法理论中，反诉与本诉具有牵连关系是两诉合并审理的基础。本诉与反诉之间涉及的实体法律关系越紧密，就越有必要在同一案件中合并审理。《最高人民法院关于适用〈中华人民共和国民事诉讼法〉的解释（2022年修正）》（简称民事诉讼法司法解释）第二百三十三条规定了反诉的受理条件，指出反诉与本诉的诉讼请求基于相同法律关系、诉讼请求之间具有因果关系，或者反诉与本诉的诉讼请求基于相同事实的，人民法院应当合并审理。通常情况下，人民法院受理的反诉与本诉是基于同一法律关系或者相同事实，但标准必要专利领域存在一定的特殊性。

为实施某一技术标准而必须使用的专利称为标准必要专利。随着数字经济的蓬勃发展，标准必要专利技术在移动通信、智能网联汽车、物联网等领域广泛应用，一件智能终端产品往往富集着数以万计的标准必要专利。在市场竞争加剧和技术迭代加速的背景下，围绕标准必要专利的许可谈判和纠纷日益增多。在标准必要专利侵权案件中，权利基础通常仅涉及一件或几件专利，被控侵权产品也是特定的。但在实际的许可谈判中，双方往往围绕专利权人的整个标准必要专利组合以及实施人的全部相关产品展开谈判。这就导致标准必要专利侵权之诉与使用费之诉在所涉专利和所涉产品范围上并不一致，表面上并不符合民事诉讼法关于反诉的一般受理条件。本案即是如此，某株式会社据此主张某移动通信公司提出的反诉请求不应予以受理，并进一步主张其在本案中并未请求以许可费为基础计算并支付侵权损害赔偿金，故本诉与反诉不涉及相同事实。

针对这一主张，北京知识产权法院结合既往标准必要专利审判实践，在综合考量标准必要专利侵权之诉与使用费之诉的审理思路和裁判逻辑后认为，在涉及标准必要专利的侵权诉讼中，是否判令被告停止侵权并非仅考察被告是否未经许可实施了涉案专利，更要考察谈判双方是否违反 FRAND（即“公平、合理、无歧视”）义务。而判断专利权人是否违反 FRAND 许可义务、实施人是否违反诚信谈判义务，除了考察

双方的谈判行为，还要考察双方在谈判过程中提出的许可条件是否明显不合理。这个许可条件并非仅针对涉案专利，而是针对某株式会社有权作出许可的全部 3G、4G 标准必要专利。而要判断双方提出的许可条件是否明显不合理，就需要确定合理的许可条件范围，标准必要专利使用费之诉的审理内容正是许可条件。

基于这个特殊的审理逻辑，本案中的反诉请求与本诉请求虽然并非基于同一法律关系，但二者之间具有因果联系，且二者均与双方许可谈判这一事实密切相关。在此基础上，北京知识产权法院认为应当对反诉予以受理并合并审理。

对反诉予以受理，符合当事人利益诉求，得到了双方当事人的认可。标准必要专利纠纷的实质在于以诉讼对抗促成谈判共识，以诉讼程序谋取谈判利益。本案中，一方面，专利权人已经先行发起侵权之诉并寻求禁令救济，另一方面，专利实施人希望法院裁判许可条件。如果不接受专利实施人的反诉，其只能另行发起一个在后诉讼，而一个新的诉讼可能仍需经历涉外送达、管辖权异议等复杂、耗时的程序。这不仅不经济，而且一先一后、一快一慢，对于双方的谈判地位亦可能产生影响。事实证明，通过两诉的合并审理，最终促推双方成功达成了全球交叉许可协议和后续合作计划，解决了双方之间长期存在的专利纠纷，实现了双方合作共赢。

本案不仅在法律适用方面进行了探索，明确了标准必要

专利侵权之诉与标准必要专利使用费反诉合并审理的条件，还坚持实质解纷的司法理念，促进了纠纷的实质性解决，实现了双方当事人利益最大化，推动了产业许可新实践。本案公正、高效的审判展示了中国知识产权司法保护的高水平和专业性，体现了新时代中国法院解决国际纠纷的智慧和担当，为今后类似案件的审理提供了有益借鉴。

## 案例二：涉“一种罗库溴铵晶型”专利权无效行政纠纷案

### ——基于技术效果审查药物晶型专利创造性

#### 1. 案件信息

原告：成都新某某药业有限公司（简称新某某药业公司）

被告：国家知识产权局

第三人：王某某

#### 2. 基本案情

本专利系名称为“一种罗库溴铵晶型”的发明专利，专利权人为新某某药业公司。王某某向国家知识产权局提出了无效宣告请求，国家知识产权局作出被诉决定宣告本专利全部无效。新某某药业公司不服，向北京知识产权法院提起行政诉讼，主张本专利取得了预料不到的技术效果，原告已将本专利产品化、市场化，具有实际的产业价值。因此，本专利具备创造性，被诉决定认定结论有误。北京知识产权法院经审理认为，本专利罗库溴铵晶型 A 相比于现有技术所公开的罗库溴铵固体有更好的技术效果，故本专利权利要求 1 具备创造性。被诉决定对此认定有误，判决撤销被诉决定并判令国家知识产权局重新作出审查决定。判决作出后，各方当事人均未提起上诉，本案一审判决已生效。

#### 3. 裁判要旨

审查药物晶型专利的创造性时，即便晶型的获得本身具有显而易见性，也并不意味着其必然不具有创造性，仍需考

量其相对于现有技术的技术效果。如果该晶型取得了相对于现有技术更好的技术效果，且该技术效果与成药具有较大关联，可以认定该晶型专利具备创造性。

#### 4.典型意义

医药健康产业既是我国战略性新兴产业的核心组成部分，更是关乎民生福祉的重要领域，其可持续发展对经济社会全局具有深远影响。作为典型的技术密集型产业，医药领域具有研发投入高、周期长、风险大等特征，这使得知识产权保护在激励技术创新、提升药品可及性、促进产业升级等方面凸显重要性。

药品专利是药企最为核心的知识产权成果。药企围绕一款药品的有效活性化合物、该化合物的晶型和制剂组成等不同技术方案而申请获得的专利，形成了一整个专利体系，就像“防火墙”“护城河”，能够有效保障药企在专利独占期内充分实现该款药品的商业利益，提升其市场竞争力。本案所涉及的晶型专利，就是一类常见的药品专利。所谓晶型通常是指药物活性化合物的固体存在形式。同一种药物的活性化合物，因结晶条件、工艺的不同，可能会得到具有不同空间结构和分子排列方式的晶型。这种药物多晶型现象对药物研发非常重要，因为不同的晶型体现出不同的理化性质，不仅影响到药物的制备、加工和贮存，更会影响到药物在人体内的溶出和释放等特性，从而影响到药物的疗效和安全

性。一方面由于晶型的选择对于药品具有重要意义，另一方面也因企业对晶型的研发投入了大量的人力、财力，原研药企业通常会将晶型与化合物、组合物等发明一并纳入专利申请的范围，以形成多层次、全方位的药品专利保护体系。而仿制药企业也会加大对已知药物活性化合物的晶型研发力度，力求实现对原研药企业晶型专利的规避，从而争取参与该款药品的市场竞争。晶型专利对药企和医药产业的重要程度由此可见一斑。

北京知识产权法院作为全国范围内专利授权确权行政案件的专属管辖法院，始终高度重视涉药物晶型的专利无效宣告请求行政案件审理。本案判决通过正确适用创造性判断规则，明确了对药物晶型专利技术效果的考量因素，为此类案件的裁判提供了参考和指引。

本案中，法院充分认识到，现有技术对于已知活性化合物存在形成晶型和改变已知晶型的强烈研发需求和启示，而相对于化合物从无到有的过程，晶型的研发通常系对已知活性化合物采用不同结晶方式进行多次尝试的结果，晶型发明通常就是利用所属技术领域的技术人员所知晓的晶体所具有的一般性质以及常规的晶体制备手段来完成的，这使得该类专利的技术手段本身极难符合创造性判断中对非显而易见性的要求。如果仅因存在本领域技术人员可预期的技术效果，就给予该发明专利的独占保护，显然与发明人对现有技

术作出的贡献不相符。究竟应当如何考量晶型的技术效果在其创造性判断中所发挥的作用，实践中一直存在不同认识。本案判决提出，判断晶型相对于现有技术是否取得使其具备创造性的技术效果，可以通过考量说明书中所记载的技术效果是否与成药相关的规则。所述技术效果，应该是具体而非概括的理化性质，即纯度、熔点、吸湿性等具体理化性质，如果所记载的技术效果与成药高度相关，且上市药品采用了该晶型，则可以认为其具有有益的技术效果，相应地，该晶型专利就具备了创造性，应当受到专利法的保护。

本案系北京知识产权法院立足医药健康产业司法实践，积极贯彻创新驱动发展战略的典型案例。对于药品相关专利的创造性判断，在现行规则体系框架下，需结合考虑上市药品与技术效果之间的关联，充分保障专利权人的利益。本案具体裁判规则有助于推动医药产业不断创新发展，从而为保障人民群众用药可及性、推进健康中国战略实施提供司法支撑。

### 案例三：“抖海音”商标权无效宣告请求行政纠纷案

#### ——认定互联网平台企业核心服务商标构成驰名

##### 1.案件信息

原告：北京某网络技术有限公司（简称某网络公司）

被告：国家知识产权局

第三人：上海某科技有限公司（简称某科技公司）

##### 2.基本案情

某科技公司于2018年8月31日申请注册“抖海音”商标，核定使用在第39类“旅行预订”等服务上。某网络公司于2022年1月4日以诉争商标违反《中华人民共和国商标法》第十三条关于不得摹仿他人驰名商标的规定为由提出无效宣告请求，国家知识产权局经审查认定某网络公司主张驰名的“抖音”商标使用时间较短，不足以证明已达到驰名状态，故裁定诉争商标予以维持。

某网络公司不服向北京知识产权法院提起行政诉讼。北京知识产权法院作出一审判决，认定“抖音”商标使用距离诉争商标申请日虽然不足两年，但抖音APP自2016年9月上线以来，以短视频和社交平台为核心业务，2018年以后进入爆发式增长，6月即登顶国内短视频软件榜首、市场渗透率达到29.8%，7月月活超过5亿，9月累计总下载量已超31亿。本案中，某科技公司发布“带着抖音去打卡”等宣传文案，明显具有攀附某网络公司商誉的恶意，故应认定“抖海

音”商标系对“抖音”商标的摹仿，违反了商标法第十三条第三款的规定。北京知识产权法院作出一审判决，撤销被诉裁定并责令重作。国家知识产权局不服提起上诉，北京市高级人民法院作出终审判决，驳回上诉，维持原判。

### 3.裁判要旨

判断互联网领域商标是否达到驰名程度，应充分考量互联网行业特性，结合商标实际使用效果、市场覆盖范围、用户增长速度等多维度因素，综合判定商标是否达到“为相关公众所熟知”的驰名商标认定标准。

### 4.典型意义

平台经济已经成为推动实体经济数字化转型、激发新质生产力的重要引擎。平台企业通过技术创新和业态更新迅速积累市场声誉，特别是其知名品牌效益，更是成为促进创新发展的核心竞争力。由于企业的商标标识享有巨大的商业价值，知名程度越高越容易成为商标抢注、恶意攀附的对象。

我国商标注册制度对于注册商标的保护，以相同或类似的商品或服务类别划定基础保护范围。为制止跨商品或服务类别的恶意注册商标行为，商标权人需要证明自身商标已达到“为相关公众所熟知”的驰名程度，以此请求对驰名商标给予跨类别的强保护。驰名商标作为企业商誉的最高体现，承载着消费者对商品质量与服务品质的极度信任，并非简单的荣誉称号。司法实践中，法院通过“个案认定、被动保护、

按需认定”原则，对驰名商标认定进行动态审查，既精准打击跨类别恶意抢注等不正当行为，又避免过度扩张保护范围损害市场创新活力。本案为互联网领域驰名商标的认定与保护提出具有借鉴意义的裁判规则。

一是大幅缩短使用时间这一传统认驰标准。根据《国家工商行政管理总局驰名商标认定和保护规定》，证明注册商标驰名的，应提供证明其注册时间不少于3年或者持续使用时间不少于5年的材料。本案中，国家知识产权局对平台公司商标未予认定驰名的主要原因即在于诉争商标申请之时“抖音”商标使用时长尚短。本案判决依据商标法及司法解释指出，随着传播技术不断迭代升级，商誉积累速度与信息传播速度呈正比提升，抖音APP凭借短视频内容分发及算法推荐机制的创新优势，用户和下载量短期内呈现出指数级增长态势，迅速积累了广泛的用户基础和市场影响力，其商标知名度形成周期显著缩短。若机械适用传统认驰标准中使用时长要求，将与互联网行业的发展规律和商标影响力不符。

二是深入分析流量时代认定驰名商标的特点。随着互联网、短视频、人工智能等技术的普及，商家通过吸引公众注意力获取经济利益已成为常见商业模式。本案结合互联网“注意力经济”的特点，深入分析《中华人民共和国商标法》第十四条第一款<sup>1</sup>规定的认定驰名商标考量因素，认为应将日

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<sup>1</sup> 该条款规定：“驰名商标应当根据当事人的请求，作为处理涉及商标案件需要认定的事实进行认定。认

活、月活用户数量及平均在线时长、市场渗透率等具有互联网行业特色的重要指标作为认定“相关公众知晓程度”的依据，结合互联网环境下信息传播速度快、传播范围广，易形成爆发式增长，以及互联网行业普遍具有“免费获客”后通过广告等方式获取收入的盈利模式等特点，判断“持续使用时间”“宣传情况”等裁判要素。

三是合理划定互联网驰名商标的保护范围。本案中，某科技公司作为提供旅行信息等服务的互联网从业者，使用“抖海音”商标的行为具有明显的摹仿、攀附意图，客观上弱化了平台公司“抖音”商标的识别功能，不当攫取了他人合法积累的商誉资源，已构成对驰名商标权益的实质性损害。因此，认定平台公司商标已达到驰名状态，并进行跨类保护符合个案认定、按需认定原则。

本案为互联网领域驰名商标的认定提供了明确的司法指引，彰显了人民法院坚定支持高价值品牌健康发展的司法态度。在合理界定驰名商标保护边界，规范数字经济市场竞争秩序的同时，也有助于指引平台企业等科技创新型企业提升商标布局及保护意识，为平台经济等新质生产力的高质量发展提供了切实的司法保障。

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定驰名商标应当考虑下列因素：

- （一）相关公众对该商标的知晓程度；
- （二）该商标使用的持续时间；
- （三）该商标的任何宣传工作的持续时间、程度和地理范围；
- （四）该商标作为驰名商标受保护的记录；
- （五）该商标驰名的其他因素。”

## 案例四：侵害“老板”商标专用权及不正当竞争纠纷案

### ——严厉打击全链条假冒商标侵权行为

#### 1. 案件信息

原告：杭州某电器股份有限公司（简称某电器公司）

被告：潮州市某陶瓷厂（简称某陶瓷厂）、潮州市某智能科技有限公司（简称某科技公司）、吕某某、陈某某、吴某某

#### 2. 基本案情

原告某电器公司系“老板”商标专用权人，该商标核定使用商品为第 11 类厨房用排油烟机等。涉案五被告通过某陶瓷厂（陈某某经营的个体工商户）、某科技公司（股东为吕某某和吴某某夫妻二人）及其个人名义，以及诉讼中被陈某某和吕某某建议注销的广东某厨卫公司、吕某某作为唯一董事在香港注册的香港某厨卫公司等名义，在生产、销售的坐便器、花洒、水槽等卫浴产品上使用“老板”“老板卫浴”

“www.老板卫浴.net”等标志，同时在企业名称、个人或公司账号名称、店铺名称中使用“老板”字样。原告某电器公司认为五被告的行为共同侵犯了其对“老板”商标享有的专用权，并构成不正当竞争，故起诉要求五被告停止侵权及不正当竞争行为，连带赔偿其经济损失 500 万元及合理支出 29 万元。北京知识产权法院经审理认为，五被告的行为构成商标侵权及不正当竞争，判令其停止侵权及不正当竞争行为，

并连带赔偿原告某电器公司经济损失500万元及合理支出15万元。五被告不服提起上诉，北京市高级人民法院作出终审判决，驳回上诉，维持原判。

### 3.裁判要旨

公司股东在诉讼期间未经依法清算即注销公司，且在注销时作出相应承诺的，对于注销前公司的侵权行为，作出承诺的股东应承担相应法律责任。

夫妻二人在婚姻关系存续期间共同出资成立的公司实施侵权行为，在夫妻之间没有财产分割证明或协议的情况下，可以视为公司股权主体具有实质单一性，进而按照一人有限责任公司的相关规定，由具有夫妻关系的股东对侵权之债与公司承担连带责任。

### 4.典型意义

作为企业的核心知识产权，商标既是企业市场竞争力的象征，更是区分商品和服务来源、积累商业信誉并在消费者中建立品牌认知的重要手段、载体和工具。保护商标权，是我国商标法的核心价值，也是知识产权保护的重要内容，对优化营商环境和维护公平竞争秩序具有重大意义。北京知识产权法院管辖北京市域内涉及驰名商标认定的一审民事案件以及其他二审商标民事案件。建院以来，共审理一、二审商标侵权案件3200余件。在此类案件的审判中，北京知识产权法院严格正确适用商标法律法规及司法解释，在个

案中总结司法规则、统一裁判标准，始终坚持“严保护”的司法导向，不断加大对商标权的司法保护力度，有力打击了损害商标权人合法权益、危害市场公平竞争的各类商标侵权行为。

新技术、新业态的发展对商标权保护法律制度形成冲击。特别是在数字经济与商事主体形态多元化的时代背景下，商标侵权主体的隐蔽化、关联化特征日趋突出，如何正确理解立法本意和法律规定，准确认定形态翻新、关联复杂的商标侵权行为，使侵权链条上恶意实施侵权行为的各类主体均承担应有法律责任，对商标侵权行为形成有效震慑，是此类案件的审判中非常值得关注和研究的问题，本案在此方面作出有益探索，为商标侵权纠纷中共同侵权认定和侵权责任追究等司法疑难问题提供有效解决方案。

本案判决在正确认定商标侵权行为的基础上，通过穿透式裁判思维，通过股东责任穿透、连带责任扩张等制度“组合拳”，大幅提高商标侵权违法成本，有效遏制侵权主体不当利用法律制度设置侵权责任“防火墙”的隐蔽性、逃遁性全链条侵权行为。

一是通过股东责任穿透机制，破解“借壳侵权”的责任追究难题。公司法的基本理论认为，股东以其认缴的出资额为限对公司债务承担有限责任。在包括商标侵权在内的知识产权侵权诉讼中，越来越多的侵权主体将公司法的上述基本

理论作为规避侵权责任承担的盾牌，通过成立公司，甚至通过跨境、跨域成立公司的形式，为实际侵权人免除侵权责任提供“合法外壳”。本案判决适用《最高人民法院关于适用〈中华人民共和国公司法〉若干问题的规定（二）》第二十条的规定，明确股东在诉讼期间未经清算简易注销公司后的责任承担边界。广东某厨卫公司的股东陈某某、吕某某在本案诉讼期间实施简易注销，虽在形式上消灭了公司的主体资格，但判决通过上述二股东承诺书签署行为与债务承担承诺的关联性，穿透公司面纱，追究股东责任，有效遏制了实际侵权人通过恶意注销公司逃避债务的行业乱象，有效惩治利用设立公司并违法违规注销公司后实现“金蝉脱壳”的侵权行为。

二是明确夫妻公司视为一人公司的认定标准，完善财产混同的举证规则。在认定某科技公司的责任时，突破《中华人民共和国公司法》（2018年修正）第六十三条的字面解释，基于夫妻共同持股，且夫妻双方并不存在财产分割事实的基础上，认定该公司的全部股权实质来源于同一财产权，并为一个所有权共同享有和支配，该股权主体具有利益的一致性和实质的单一性，进而将该公司视为一人有限责任公司，并根据财产混同原则判令夫妻关系的二股东就涉案侵权行为与公司承担连带责任。判决所体现的通过股权同源推定财产混同的司法审查标准，能够有效打击通过复杂股权架构逃避

责任承担的侵权行为。

三是构建关联主体共同侵权判定体系，精准打击产业化侵权链条。针对五被告跨地域、跨主体的协同侵权行为，该案采用“行为关联性+意思联络”的综合认定方法，既考察涉案公司之间的股权交叉、商标共用等事实，又通过被告之间的商标许可关系、线上线下联动销售等证据链条锁定共同侵权故意，判决思路对有效破解“生产—销售—品牌运营”全链条、分离式的共同侵权认定难题具有指引作用。

本案判决通过体系化运用公司法、商标法、民法典等多维制度工具，在商标侵权主体认定领域实现三大突破，即从单一主体向关联主体审查转变、从形式合规向实质违法判断升级、从独立责任向连带责任规制演进。这种裁判理念的革新，不仅强化了商标权的司法保护力度，更对构建知识产权严保护工作格局具有示范意义。

## 案例五：涉抄袭《落叶》等百余幅美术作品侵害著作权纠纷案

### ——侵害美术作品著作权行为的认定

#### 1. 案件信息

上诉人（原审被告）：叶某某

被上诉人（原审原告）：西某某

#### 2. 基本案情

原告西某某系比利时画家，其主张被告叶某某自 1993 年起，持续 25 年创作的百余幅画作抄袭其享有著作权的《落叶》等画作。北京知识产权法院经对被诉侵权画作与涉案 13 幅权利画作进行整体比对、局部元素组合比对以及局部单一元素比对后，认为从美术作品的视觉效果等角度，被诉 122 幅侵权画作与涉案 13 幅权利画作整体上构成实质性相似，进而认定叶某某创作相关画作并进行出版、拍卖等的行为，侵害了西某某涉案 13 幅权利画作的复制权、修改权、署名权、发行权。据此，判令叶某某停止侵权、赔礼道歉、消除影响、赔偿经济损失 500 万元。叶某某不服提起上诉，北京市高级人民法院判决驳回上诉，维持原判。

#### 3. 裁判要旨

判断美术作品是否构成实质性相似，通常是从作品的视觉形象特征，例如构成要素、表现形式、整体视觉效果等方面，对美术作品所体现的艺术造型表达进行整体认定和综合

判断。如果二者在整体上仅存在细微差异，以致于出现普通观察者除非刻意寻找差异，否则会倾向于忽略这些差异的情形，则可以认定二者构成实质性相似。在进行比对的权利画作与侵权画作均数量较多的情况下，可将全部涉案画作进行整体考量，同时结合作者的创作经历、创作方法、创作风格等因素予以综合判断，认定侵权程度，从而确定损害赔偿标准。

#### 4. 典型意义

美术作品承载着特定的时代文化内涵和艺术风格，是文化产业的重要组成部分。保护美术作品著作权，不仅是对创作者的保护与激励，也对促进文化艺术行业规范发展、提升国家文化软实力具有重要意义。本案系抄袭美术作品构成侵害著作权的典型案例，通过生效判决明确了两方面裁判规则：应根据创作规律和特性区分美术作品的思想与表达，应考虑美术作品的视觉形象特征进行实质性相似判断。

一是关于裁判美术作品思想与表达的考量因素。

首先应当考量美术作品的创作规律。美术作品的创作过程是一个将思想转化为表达的渐进过程。在作品最终创作完成之前，作者通常会进行素材搜集、创作构思等思想层面的活动，这一思想活动一般会从创作行为开始之前持续到整个创作过程之中，具体的内容涉及作者对具体事物、社会现象和个人生活经历等的主体观察和个性体验，最后呈现出来的

结果还与作者的艺术造诣和审美意趣等紧密相关。通过一定形式的外在表达，作者将处于意识领域中的审美意象进行了最终确认并公之于众，使他人能够借助美术作品这一载体欣赏、评鉴和理解其艺术造诣和审美意趣，同时也在客观上形成了著作权所保护的表达的范围。

其次应当考量美术作品的特性。根据著作权法实施条例的定义，美术作品的表达主要在于构图、线条、色彩、形体等美学因素的有机融合所客观呈现的艺术造型。美术作品的艺术形象体现为视觉形象，具有形象直观性、确定性与可视性的特点。美术作品的著作权保护更加关注外部表现形态，而非具体所绘内容，这与文字作品保护更关注具体写作内容存在显著不同。

二是关于美术作品之间实质性相似的判断标准。

在涉及美术作品的著作权侵权纠纷中，判断被诉侵权画作与权利画作是否构成实质性近似，应比较作者在美术作品表达中所作出的选择、取舍、安排、设计等是否相同或相似。如前所述，美术作品是一种视觉艺术形式，故其呈现的外部表现形态是作品价值所在。不同类型的美术作品受众存在不同特点和欣赏水准，但是美术作品一旦公开发表，其主要面向普通公众，接受普通公众的欣赏和评价，故应当从普通公众的观察角度来考量权利画作与被诉侵权画作各自的视觉形象特征，从而对两件美术作品之间是否构成实质性相似进

行整体认定和综合判断。如果二者仅存在细节上的少许差异，从普通公众的角度观察需要刻意寻找、比较才会发觉，则可以认定二者构成实质性相似。

本案判决生效后，被告在《法治日报》上主动发布道歉声明，标志着一场历时五年、跨越国界的美术作品维权纠纷终于落下帷幕。本案判决从作品元素、表现形式、整体效果等多个层面，对百余幅被诉侵权画作与权利画作进行了共计303次比对，确保不遗漏每一个细节，在此基础上，结合作者的创作经历、创作方法、创作风格等因素对是否构成侵权进行综合判断，细致厘清了美术作品借鉴与抄袭的边界，最终依法保护了比利时画家的著作权。本判决在为类案审理提供有益参考的同时，亦展现出平等保护外国主体合法权益的司法态度，传递了公正、透明、开放的法治精神。

## 案例六：全国首例经营者集中审查反垄断其他行政行为纠纷案

### ——司法首次明确经营者集中审查标准

#### 1. 案件信息

原告：北京托某某药业有限公司（简称托某某公司）

被告：国家市场监督管理总局（简称市监总局）

第三人：先某药业有限公司（简称先某公司）

#### 2. 基本案情

市监总局先后收到托某某公司、先某公司自主提交的先某公司收购托某某公司股权案经营者集中申报材料。市监总局审查评估后认为，涉案集中未达到申报标准，但对中国境内巴曲酶注射液市场可能具有排除、限制竞争效果，鉴于先某公司提交的附加限制性条件承诺方案可以有效减少涉案集中对竞争的不利影响，符合我国反垄断法等相关法律法规关于附条件批准经营者集中的情形，故决定附加限制性条件批准涉案集中。托某某公司不服该决定，申请行政复议。市监总局作出复议决定，维持前述决定。托某某公司仍不服，向北京知识产权法院提起行政诉讼。北京知识产权法院审理后认为，经评估，涉案承诺方案具备有效性、可行性、及时性，能够有效减少涉案集中对竞争产生的不利影响，被诉决定及复议决定正确。故作出一审判决：驳回托某某公司的诉讼请求。宣判后，各方当事人均未上诉，一审判决已生效。

### 3.裁判要旨

国务院反垄断执法机构针对经营者集中申报作出的具体行政行为的性质为行政许可。在此基础上，如果针对经营者集中申报作出的是无条件批准的决定，由于该具体行政行为对于各申报人而言均未变更或增加其基于集中协议而产生的权利义务关系，即未影响其合法权益，各申报人均无提起行政诉讼的诉的利益。如果作出的是禁止的决定或附加限制性条件批准的决定，由于该具体行政行为否定了各申报人基于集中协议而产生的权利义务关系，或对集中后的申报人施加了法定义务，即影响到相应申报人的合法权益，故相应申报人具有提起行政诉讼的诉的利益。

经营者集中审查主要关注集中本身带来的竞争问题，而非集中前已经存在的竞争问题。

反垄断法对于具有排除、限制竞争效果的经营者集中并非以禁止为首选的救济手段。参与集中的经营者提出附加限制性条件承诺方案，应当判断该承诺方案是否能够有效减少集中对竞争产生的不利影响，即评估该方案是否具备有效性、可行性、及时性。

### 4.典型意义

作为社会主义市场经济的基础性法律制度，反垄断法通过规制垄断行为、维护公平竞争秩序，为市场资源高效配置和消费者权益保护提供制度支撑。其中，经营者集中审查制

度以“事前预防”为核心，通过对企业合并、收购等行为的合法性评估，防止市场过度集中导致的竞争抑制，既保障市场竞争活力，又维护社会公共利益。北京知识产权法院在全国范围内集中管辖不服国务院反垄断行政执法机构所作行政裁决而提起的垄断行政案件，通过构建垄断案件的专审机制，为复杂垄断行政纠纷的审理提供了专业化司法保障。

本案作为 2008 年《中华人民共和国反垄断法》实施以来首例经营者集中反垄断审查行政诉讼，其特殊性在于，案涉股权收购未达国务院规定的申报标准，却因经营者自愿申报进入审查程序。这种非典型的情形在世界范围内都十分罕见，对司法审查的专业性提出极高要求。北京知识产权法院判决通过精准分析附加限制性承诺效果等前沿法律问题，有力支持并促进反垄断执法机构准确适用反垄断法，充分展现了我国反垄断法律程序与国际公认正当程序标准的衔接一致。

一是明确适格原告的判断标准。判决根据审查决定对申报人权利义务的影响，区分“不予禁止决定”与“禁止/附条件批准决定”的不同诉权要件，填补了行政诉讼原告资格在反垄断领域的适用空白。

二是夯实审查对象的法律边界。判决明确经营者集中审查仅针对“集中本身引发的竞争问题”，排除对集中前既有垄断行为的重复评价，统一了执法司法对审查范围的认识，

同时与欧盟等主要司法辖区的通行做法接轨，极大提升了我国反垄断审判的国际化水平，有效降低跨国企业在华投资的制度成本，对构建统一开放、竞争有序的市场体系具有深远示范效应。

三是判决认可执法机关在附加限制性条件与禁止集中之间的裁量逻辑，即优先通过限制性条件消除竞争风险而非直接禁止，体现了我国反垄断法“鼓励合法集中、例外干预限制”的先进治理理念，为企业合规经营和执法机关精准监管提供了明确预期。

本案的典型意义还可从以下三方面归纳。从制度建构看，本案判决细化了经营者集中审查的程序规则与实体要件，明确了“自愿申报”等非典型情形的法律适用，夯实了反垄断法实施的司法基础；从实践效果看，北京知识产权法院为提升垄断案件审理质效而建立的专业化审判机制，有效应对了案件涉及的复杂法律与经济问题，充分展现了司法对竞争政策的精准理解，为市场主体提供了可预期的行为指引；从国际视野看，判决对“聚焦集中本身引发的竞争问题”原则的确认，推动我国反垄断规则与国际通行标准接轨，增强了外资对我国营商环境法治化、透明化的信心。

本案判决促进了司法审查与行政执法在专业标准上的深度衔接，有助于推动形成“执法有依据、司法有标杆、市场有预期”的反垄断良性治理格局，为新时代反垄断法治建

设向更高水平迈进奠定了坚实基础。

## 案例七：全国首例涉及确认数据知识产权登记证书效力不正当竞争纠纷案

### ——司法首次确认数据知识产权登记证证据效力

#### 1. 案件信息

上诉人（原审被告）：隐某（上海）科技有限公司（简称隐某公司）

被上诉人（原审原告）：数某（北京）科技股份有限公司（简称数某公司）

#### 2. 基本案情

数某公司经合法授权收集涉案 1505 小时中文普通话语音数据集，并登记取得《数据知识产权登记证》。数某公司起诉隐某公司未经许可提供其子集 200 小时语音数据集，主张对方侵害数据财产权、著作权、商业秘密并构成不正当竞争，索赔 70 余万元。一审法院认定涉案数据集构成商业秘密，隐某公司披露、使用行为侵害数某公司商业秘密，判决其赔偿经济损失 102 300 元。

隐某公司上诉称，涉案数据集已于被诉行为实施前开源，不具备商业秘密的秘密性，且无独创性不构成汇编作品，被诉行为亦不构成不正当竞争。北京知识产权法院二审经审理认为，《数据知识产权登记证》可以作为数某公司享有财产性利益及数据来源合法的初步证据，但涉案数据集因公开不符合商业秘密要件，且数据内容选择、编排无独创性，不

构成汇编作品。然而，数某公司在数据收集整理中投入大量技术、资金和劳动，形成具有商业价值的数据条目，能带来交易机会和竞争优势，其合法权益受到反不正当竞争法保护。数据需求方使用开源数据需遵循开源协议，隐某公司未遵守协议，违背商业道德，损害数某公司权益及市场竞争秩序，构成反不正当竞争法第二条规定的不正当竞争行为。二审判决依法纠正了一审法院关于构成商业秘密的错误认定，但认为一审判决所确定赔偿责任适当，对判决结论予以维持，故驳回上诉，维持原判。

### 3.裁判要旨

《数据知识产权登记证》可作为证明数据集合持有者享有涉案数据集相关财产性利益的初步证据，亦可作为涉案数据集收集行为或数据来源合法的初步证据。在未获得数据集合持有者的许可前，任何人均不得公开传播数据集合持有者付出实质性投入合法收集整理的数据集合。当数据集合持有者对数据集合开源时，数据需求方的获取、使用行为是否遵循开源协议是衡量该行为是否违反数据服务领域商业道德的重要考量因素。

如数据集合处于公开状态，并对数据内容的选择和编排具有独创性贡献时，优先通过汇编作品保护；如数据集合不为相关领域人员所容易获取，则可作为商业秘密保护；如数据集合处于公开状态且数据内容的选择或编排不具有独创

性的，因缺乏知识产权专有权和商业秘密保护的基础，故可视情况通过反不正当竞争法第二条进行保护。

#### 4.典型意义

在数字经济深度融入生产生活的时代背景下，数据作为新型生产要素的核心价值日益凸显。数据的高效流通与安全保障成为激活市场创新活力的关键命题。数据登记制度通过对数据资源持有、加工使用、产品经营等权益的规范化登记，构建了数据要素市场化配置的基础性规则。一方面，它以公示公信机制明晰数据流通中的权益边界，降低市场主体在数据交易中的权属核验成本与法律风险，为数据跨行业、跨区域流转提供“资源底图”；另一方面，通过对数据处理者合法投入的认可与保护，激励企业在数据采集、清洗、标注等环节的实质性创新，推动数据从“资源”向“资产”转化。本案作为全国首例涉及数据知识产权登记证效力认定的案件，二审判决在中共中央、国务院《关于构建数据基础制度更好发挥数据要素作用的意见》（以下简称《数据二十条》）提出“研究数据产权登记新方式”的基础政策指引下，以司法创新实践回应数据登记制度的规则需求，为数据要素市场的健康发展奠定法治基础。

北京知识产权法院近年来受理的涉数据权益保护案件呈现出“类型多元、技术复杂”的显著特征，其中反不正当竞争纠纷占比达 95%，纠纷涵盖数据爬取、商业秘密保护、

开源数据等新型争议和前沿领域，涉及人工智能训练数据、语音数据集等新型数据形态。本案二审判决为数据权益司法保护确立了裁判规则，核心体现在对数据登记证书法律效力的精准界定与企业数据保护路径的明确指引。

一是明确数据知识产权登记证的初步证据效力。二审判决指出，数据知识产权登记证可作为证明数据处理者合法持有数据产品及数据来源合法的初步证据，在无相反证据推翻的情况下，司法程序中可据此初步认定权益归属及收集合法性。对此规则应结合以下三方面理解。首先，经形式审查的数据登记证书仅具有个案性初步证据效力，相反证据可予推翻；其次，数据登记证书效力认定需综合考量登记机构资质、审查方式与登记内容；再次，未选择登记的主体仍可通过其他证据主张数据权益。所述规则既认可登记制度对数据权益归属公示的积极作用，又保持司法审查的谦抑性，即登记证书效力并非绝对化，允许利害关系人通过反证质疑，体现了形式审查与实质权益保护的平衡，也为登记机构提升审查标准提供了司法指引。

二是构建企业数据权益的分层保护路径。针对数据集合的不同法律属性，二审判决明确了“分类保护、阶梯适用”的规则。对选择编排具有独创性的数据集合，优先通过著作权法保护；对未公开且符合商业秘密要件的数据集合，适用反不正当竞争法商业秘密条款；对已公开但数据处理者投入

实质性劳动的数据集合，可依据反不正当竞争法第二条认定构成竞争性权益。本案中，涉案数据集合虽因公开不构成商业秘密，但法院认定数某公司通过登记证书证明其合法持有及投入，结合隐某公司违反开源协议的行为，适用反不正当竞争法规制，为公开数据的合理利用划定了“遵循商业道德、尊重在先投入”的边界。

三是强化开源数据流通中的规则约束。二审判决首次明确，数据集合持有者开源数据时，数据需求方需严格遵循开源协议约定的使用范围与目的，未经许可的商业性使用构成不正当竞争。这一规则既回应了数据开源场景下“免费使用与权益保护”的平衡难题，也为企业通过开源协议释放数据价值提供了预期，即合法开源不意味着权益放弃，违反协议的商业利用仍需承担法律责任。

本案标志着我国数据权益保护进入权益登记与司法保护协同治理阶段，不仅为数据处理者提供了清晰的行为指引，更向市场传递出明确信号——数据要素的开发利用必须在法治框架内进行，合法权益受保护、违规行为必担责。随着此类裁判规则的持续积累，我国数据要素市场必将逐步形成“登记有标准、交易有依据、争议有解法”的法治化发展环境，为数字经济的高质量发展奠定坚实基础。

## 案例八：涉“FL218”玉米植物新品种权无效行政纠纷案

### ——明晰新颖性、特异性认定标准和品种权无效程序中举证责任分配

#### 1. 案件信息

原告：贵州省遵义市辉某种业有限公司（简称辉某种业公司）

被告：农业农村部植物新品种复审委员会（简称植物新品种复审委员会）

第三人：湖北康某种业股份有限公司（简称康某种业公司）

#### 2. 基本案情

涉案品种是名称为“FL218”的玉米植物新品种，康某种业公司是涉案品种的品种权人。辉某种业公司向植物新品种复审委员会提出无效请求，该委员会作出被诉决定维持涉案品种权有效。辉某种业公司不服，向北京知识产权法院提起行政诉讼，主张涉案品种与“鄂玉16”等多种经审定玉米品种的亲本是同一品种，且在申请日前涉案品种已大量生产销售，并作为亲本培育玉米品种，培育出的其他品种也已大量生产销售，故涉案品种丧失特异性和新颖性，被诉决定认定结论有误。此外，被诉决定未同意辉某种业公司所提鉴定涉案品种与其他品种亲本为同一品种的申请，程序违法。北京知识产权法院经审理认为，被诉决定作出程序并无不当，

认定结论正确，判决驳回辉某种业公司的诉讼请求。辉某种业公司不服提起上诉，最高人民法院作出终审判决，驳回上诉，维持原判。

### 3.裁判要旨

审查植物新品种的新颖性，判断的是申请日前该品种是否被销售、推广。作为亲本培育杂交种的行为并非销售、推广行为，且销售、推广行为指向授权保护的品种，而非以该品种作为亲本培育的杂交种，杂交种的销售原则上不能视为亲本品种的销售。

审查植物新品种的特异性，判断的是该品种是否明显区别于已知品种。品种权无效程序中无效请求人就存在明显区别承担举证责任，植物新品种复审委员会不负有调查义务。

### 4.典型意义

种子是农业的“芯片”，种业是国家基础性核心产业，对农业稳定发展和国家粮食安全具有至关重要的作用。种业知识产权保护是种业振兴和繁荣的保障，也是知识产权保护体系中不可缺少的一部分。植物新品种权作为种业知识产权的主要内容，权利保护的核心是繁殖材料，也就是种子。实践证明，为与其他已知品种种子有明显区别，并且在申请日前未销售、推广，即具备《中华人民共和国种子法》所规定的特异性和新颖性等特性的种子，赋予植物新品种权这种排他的独占权，加大对其知识产权保护力度，为育种者提供与其

创新贡献相当的经济回报，能够有效提高育种积极性，激励育种创新。

在植物新品种权法律制度中，植物新品种权的授权与无效审查是关键环节，农业农村部植物新品种复审委员会是承担审查职责的行政机关。无论是品种申请人、品种权人还是针对植物新品种权提起无效的无效请求人，不服该行政机关作出的授权和无效审查决定，均可依法向北京知识产权法院提起行政诉讼。

北京知识产权法院作为全国范围内这一类特殊且“小众”的知识产权行政诉讼的专属管辖法院，应审判实践需要，已建立起由农科院院士领衔的多元技术案件事实查明和种业案件专审机制，发挥专门法院特色优势，积极探索符合种业特色的知识产权司法保护模式，审理了一批具有规则意义的植物新品种授权确权行政案件，本案便是其中典型一例，判决对植物新品种新颖性和特异性的审查标准和举证责任提供明确指引。

与专利的新颖性不同，破坏植物新品种的新颖性仅有一条途径，即在市场上公开销售、推广。本案判决从植物新品种的新颖性这一特性的内涵出发，严格依据《中华人民共和国种子法》及《中华人民共和国植物新品种保护条例》规定，明确销售、推广行为应作准确理解，即能够使相关技术人员在市场上获得繁殖材料的行为，将繁殖材料作为亲本培育其

他杂交种的行为不能被扩大解释为销售、推广行为；同时破坏新颖性的销售、推广行为仅指向授权保护的品种本身，而非以该品种作为亲本培育的杂交种。

植物新品种与已知品种的“明显区别”使其具备特异性。特异性应当通过田间种植结果得以科学证明。本案判决充分考量特异性的证明方式，以及品种权申请时应当提交田间种植测试报告等审查要求，明确在品种权无效程序中，无效请求人对涉案植物新品种不具备特异性负有举证责任，行政机关对此不负有调查的义务。无效请求人仅向植物新品种复审委员会提出田间种植鉴定申请，并非履行举证责任。明确举证责任分配，有助于规范品种权无效审查程序。

本案判决也提示行业市场主体，应当准确理解植物新品种相关法律制度，在依法保护自身的创新作物等商业成果的同时，也要正确规范利用品种权无效行政程序，积极履行举证义务，依法承担证明责任，从而妥善处理纠纷、解决争议，共同维护植物新品种保护制度的有效运行。既促进我国种业的高质量发展，也让中国人始终将“饭碗”牢牢端在自己的手中。

# **2024 Annual Cases of Beijing Intellectual Property Court Announcement**

**Friends from the media, ladies and gentlemen,**

Good morning. Thank you for attending today's press conference, and thank you, old and new, for your great concern and support for the work of the Beijing Intellectual Property Court over the years.

President Xi Jinping has emphasized that the development of new quality productive forces is an inherent requirement and an important focus point for promoting high-quality development. As the first specialized intellectual property court in China, the Beijing Intellectual Property Court has always adhered to the guidance of Xi Jinping's Thought on Socialism with Chinese Characteristics for a New Era, thoroughly implemented Xi Jinping's Thought on the Rule of Law, carefully implemented the relevant deployment requirements of the central government on intellectual property protection and the establishment of specialized courts, adhered to the court development based on professionalism, adhered to the professionalism of the court, continuously improved the level of intellectual property adjudication. By adjudicating various intellectual property disputes in accordance with the law, properly applying legal interpretation principles and adjudicative methodologies, conducting high-quality judicial reviews of intellectual property rights authorization and confirmation and providing strict judicial protection of intellectual property rights, the Beijing Intellectual Property Court has provided strong judicial services and safeguards for the development of new quality productive forces and the promotion of high-quality economic and social development.

The year 2024 marks the tenth anniversary of the Beijing IP Court's full and effective discharge of its duties, a total of 32,616 cases were closed in the year.

The Court adjudicated a series of typical cases with guiding significance and profound social impact, ensuring that “genuine innovation” receives “genuine protection” and “high-quality innovation” is safeguarded under “stringent protection”.

To systematically summarize typical cases and adjudication rules, widely publicize intellectual property concept and knowledge, enhance public awareness of intellectual property protection, and foster a favorable intellectual property protection ecosystem, the Beijing Intellectual Property Court will annually release the typical cases of the previous year in April, to comprehensively demonstrate judicial works and achievements of the past year.

The eight cases released today are the most representative typical cases selected from cases concluded and legally effective by the Beijing IP Court in 2024, covering four major IP domains: patents, trademarks, copyrights, and competition and monopoly, and involving innovations in cutting-edge industries such as pharmaceutical, telecommunication, plant variety industry, platform economy and data. In addition to common civil cases, there are also administrative cases of intellectual property rights authorization and confirmation under our exclusive jurisdiction, as well as novel cases related to standard essential patents (SEPs) and anti-monopoly, many of which are China’s first cases. The cases released today reflect the following five key characteristics:

### **1. Advancing with Innovation: Focusing on the Development of New Quality Productive Forces and Escorting Industrial Innovation in Key Fields**

The pharmaceutical industry, vital to public health, is a key field driven by new quality productive forces. In **the administrative litigation concerning the invalidation of the patent for "a crystalline form of rocuronium bromide,"** the disputed pharmaceutical polymorph patent was invalidated by the China National Intellectual Property Administration (CNIPA) for lacking inventive step. The plaintiff-patentee contended that the patented technology had achieved

unexpected technical effects, attained commercialization, demonstrated practical industrial value, and thus satisfied the inventive step requirement under China's Patent Law. the court holds that, as documented in the patent specification, the specific physicochemical properties of the crystalline form in question are critically relevant to drug manufacturability. Given that this polymorph has been successfully incorporated into marketed pharmaceutical products, it has manifestly produced tangible technical effects and therefore meets the inventive step criterion. This adjudication appropriately accounts for the industrial application objectives inherent in pharmaceutical polymorph research, while realistically assessing beneficial technical effects in the context of actual drug commercialization. Such jurisprudence serves to incentivize pharmaceutical innovation and foster advancement in the pharmaceutical industry.

In the era of big data, data's value as a core element of new quality productive forces continues to rise. In **China's first unfair competition case involving the confirmation of a Data Intellectual Property Registration Certificate's legal validity**, the plaintiff argued that its collected dataset for AI training, which had obtained the Data Intellectual Property Registration Certificate, constituted legitimate rights and interests that should be protected under the Anti-Unfair Competition Law. The legally effective judgment rendered by the court established for the first time that the Data Intellectual Property Registration Certificate may serve as prima facie evidence to demonstrate both the data processor's lawful possession of the data product and the legitimacy of its data sources. This judicial rule not only delineates appropriate boundaries for the utilization of publicly available data, but more importantly establishes actionable legal standards for translating data registration policies into practice. By encouraging data registration, it reduces data circulation costs, activates a virtuous cycle in the data factor market, and lays a solid legal foundation for high-quality development of the digital economy.

## **2. Upholding Justice with Stringency: Intensifying Judicial Protection and Combating IP Infringement**

In the case of trademark infringement and unfair competition concerning “Lao Ban” trademark, the Beijing Intellectual Property Court pays keen attention to evolving trademark infringements in the digital economy, where infringers operate covertly through affiliated entities. The court correctly identifies joint infringement, and applies shareholder liability piercing mechanism and expanding joint and several liability mechanism, dismantling the entire infringement chain, holding all offline and online counterfeiters accountable. This innovative adjudication approach reinforces trademark protection and purifies the market environment.

## **3. Promoting Quality Through Competition: Regulating Market Order and Building a High-Standard Socialist Market Economy**

The platform economy plays a pivotal role in expanding domestic demand, stabilizing employment, and improving livelihoods. The rampant practice of trademark squatting on platform names jeopardizes the healthy development of this sector and must be legally curbed. In the administrative litigation case concerning the invalidation of the “Dou Hai Yin” trademark, the third party's registered trademark constituted cross-category reproduction and imitation of the platform company's core trademark used on its APP software. However, the China National Intellectual Property Administration (CNIPA) maintained the validity of the third party's trademark, reasoning that the platform company's trademark had been in use for too short a period to be recognized as well-known. the court held that in determining whether an internet-related trademark has achieved well-known status, full consideration must be given to the distinctive characteristics of the online industry - rapid dissemination and extensive reach - avoiding the oversight of the accelerated influence-building pattern specific to internet trademarks by rigidly adhering to traditional criteria. By correctly

recognizing the platform company's trademark as well-known, this case effectively restrained trademark free-riding and cross-category squatting, thereby protecting the platform's core brand while safeguarding healthy market order in the platform economy sector.

As a fundamental legal system of the socialist market economy, the Anti-monopoly Law regulates monopoly acts and maintains fair competition order. In **China's first antitrust administrative litigation case concerning the review of a concentration of undertakings**, the court refined both the procedural rules and substantive requirements for the review of concentrations of undertakings, clarifies the application of Anti-monopoly Law to voluntary filings, focuses on the competition issues raised by the concentration itself, promotes deep alignment between judicial review and administrative law enforcement in terms of professional standards, provides predictable guidelines for market players, promotes the connection of China's anti-monopoly rules with common international standards, and further improves the law-based level of China's business environment. This case has achieved notable societal impact. After the conditional implementation of business operator's concentration involved in the case, the Batroxobin injection for hearing loss treatment produced thereby entered into the medical insurance at a reduced price of over 40%, benefiting the public welfare.

#### **4. Interpreting Law as the Foundation: Filling the Law Application Gaps and Effectively Propeling IP Legal Process**

Artworks carry the cultural connotations and artistic styles of a specific era, serving as an important component of the cultural industry. Protecting the copyright of artworks is not only a means to safeguard and inspire creators, but also of significant importance for promoting the standardized development of the cultural and artistic sector and enhancing a nation's cultural soft power. In **the copyright infringement dispute involving over a hundred paintings that**

**allegedly plagiarized works including *Fallen Leaves***, the Beijing Intellectual Property Court conducted a detailed comparison between the involved works and the copyrighted works from multiple dimensions, such as compositional elements, forms of expression, and overall artistic effect. This process clarified the boundaries between legitimate reference and plagiarism in artworks, providing valuable guidance for similar cases while demonstrating the court's commitment to ensuring equal protection of the lawful rights and interests of Chinese and foreign parties in accordance with the law.

New plant varieties constitute an indispensable component of the intellectual property protection system. However, due to the specialized nature of this field, the relevant legal framework remains unfamiliar to the general public, and judicial practice continues to evolve through gradual exploration. In **the "FL218" corn plant variety right invalidity administrative dispute**, the court - proceeding from the essential meaning of novelty in plant varieties - clarified that sales and promotional activities that would undermine novelty apply solely to the protected variety itself, and do not extend to hybrid varieties bred using it as a parent. Furthermore, based on the methods for proving distinctness and examination requirements for plant varieties, the court established that in invalidation proceedings, the burden of proving the disputed variety's lack of distinctness rests with the party seeking invalidation. This case provides clear guidance for the application of the Seed Law and related regulations, contributes to standardizing the operation of plant variety rights invalidation review systems, and was recognized by the Supreme People's Court as a landmark case in seed industry intellectual property protection.

## **5. Harmonizing Governance: Resolving Complex International Disputes and Contributing Chinese Wisdom to Global IP Governance**

Standard-essential patents (SEPs) have emerged as strategic innovation resources, with SEP-related disputes becoming increasingly frequent. Such

disputes often involve transnational parallel litigation and have attracted global attention. In **the case concerning SEPs infringement and royalty rate**, the Beijing Intellectual Property Court aligned with cutting-edge international judicial practices, making pioneering explorations in the legal application of counterclaim acceptance and establishing for the first time the legal conditions for consolidating SEPs infringement claims and royalty rate claims. Adhering to the judicial philosophy of “promoting negotiations through adjudication and achieving substantive dispute resolution”, the Court effectively facilitated the substantive resolution of a global licensing dispute between two renowned telecommunications enterprises, maximizing the interests for both parties and advancing new practices in industry licensing. This case fully demonstrates the high caliber and professionalism of China’s IP judicial protection, showcases Chinese courts’ capability and responsibility in resolving international disputes in the new era, and stands as a paradigmatic example of the court’s active contribution of Chinese judicial wisdom to global IP governance.

The eight cases released today are the first batch of annual cases published by the Beijing Intellectual Property Court. Moving forward, we will continue to uphold the principles of fair justice and justice for the people, further leverage the role of a specialized intellectual property court, continuously refine and summarize the rules and experiences of intellectual property judicial protection, and consistently release annual cases. Through these efforts, we aim to promote the law-based concept of intellectual property protection, enhance public awareness of intellectual property protection, jointly foster a social environment that respects knowledge and protects innovation. We will provide stronger and higher-quality judicial support and safeguards for the creation, utilization, protection, and management of intellectual property.

The detailed content of these cases has been compiled and distributed to you and will be simultaneously released on the court’s official new media platforms. We welcome journalists to explore more valuable and newsworthy information

from these cases for wider dissemination and promotion.

Thank you once again!

## **2024 Annual Cases**

### **of Beijing Intellectual Property Court**

#### **Case I : Standard-Essential Patent Infringement and Royalty Rate Dispute ——Assisting a Renowned Enterprise in the Communications Field to Reach a Global Settlement**

##### **1. Case Information**

Plaintiff: X Company

Defendant: X Guangdong Mobile Communications Company.

##### **2. Basic Facts**

Both parties to this case are renowned enterprises in the field of communications. At the time of this trial, the two parties had been engaged in licensing negotiations for many years over the 3G and 4G standard - essential patent portfolios, and there were numerous related parallel litigations in various jurisdictions globally, including infringement claims and tariff claims. The plaintiff is the holder of the invention patent titled 'Base Station Device, Mobile Station Device and Communication Method'. It claims that the patent involved is a standard - essential patent of the LTE communication standard, and believes that the defendant's acts of manufacturing, selling and offering for sale the two models of mobile phones involved constitute an infringement of the patent right involved, and requests the court to order the defendant to stop the infringing acts. The plaintiff did not file a claim for damages and stated that the purpose of its lawsuit was to advance the licensing negotiations. The defendant filed a counterclaim in the dispute over the royalties of the standard essential patents in this case, requesting the court to make a judgment on the licensing conditions, including but not limited to the licensing royalties, within the scope of mainland China for the 3G and 4G standard essential patents which the plaintiff owns and has the right to license for the intelligent terminal products manufactured and

sold by the defendant. After trial, the Beijing Intellectual Property Court held that the counterclaim filed by the defendant met the acceptance conditions, thereby accepted the defendant's counterclaim and actively promoted the joint trial of the two lawsuits, and finally facilitated the two parties to successfully reach a global patent cross - licensing agreement. On the same day, the parties applied for the withdrawal of this case and the counterclaim respectively on the grounds of reaching a settlement, and the Beijing Intellectual Property Court ruled to approve the withdrawal of the lawsuit by both parties.

### **3. Judgment Gist**

When a standard-essential patent holder files a patent infringement lawsuit, requesting the court to order the implementer to stop infringing the patent involved, and the implementer files a counterclaim, requesting the court to rule on the licensing conditions of the standard - essential patent portfolio including the patent involved, the court may take into account the fact that both the counterclaim and the original claim need to examine the same fact, that is, the licensing negotiation matters between the patent holder and the implementer regarding the patent involved and the related standard - essential patent portfolio. The counterclaim should be accepted and jointly tried, in a situation where there is a high degree of correlation between the counterclaim and the original claim.

### **4. Typical Significance**

Under civil procedure law theory, the relationship between the counterclaim and the original claim serves as the basis for their joint trial. The closer the substantive legal relationship between the original claim and the counterclaim, the more necessary it is to jointly try them in the same case. Article 233 of the "Interpretation of the Supreme People's Court Concerning the Application of the Civil Procedure Law of the People's Republic of China (Amended in 2022)" (referred to as the Judicial Interpretation Concerning the Civil Procedure Law) stipulates the acceptance conditions for counterclaims, stating that if the counterclaim and the original claim are based on the same legal relationship, there is a causal relationship between the claims, or the counterclaim and the

original claim are based on the same fact, the people's court should jointly try them. Generally, the counterclaims and original claims accepted by the people's court are based on the same legal relationship or the same fact, but there are certain particularities in the field of standard - essential patents.

A patent that must be used to implement a certain technical standard is called a standard-essential patent. With the vigorous development of the digital economy, standard-essential patent technologies are widely applied in fields such as mobile communication, intelligent connected vehicles, and the Internet of Things. A smart terminal product often contains thousands of standard - essential patents. Against the backdrop of intensified market competition and accelerated technological iteration, licensing negotiations and disputes surrounding standard-essential patents are increasing day by day. In a standard-essential patent infringement case, the right basis usually only involves one or several patents, and the alleged infringing product is also specific. However, in actual licensing negotiations, the two parties often conduct negotiations concerning the entire standard - essential patent portfolio of the patent holder and all related products of the implementer. This leads to a situation where a standard - essential patent infringement lawsuit and a royalty rate lawsuit are not consistent in the scope of patents and products involved. So, on the surface, it does not meet the general acceptance conditions for counterclaims in the civil procedure law. This is exactly the case in this lawsuit. Based on this, the Company claimed that the counterclaim filed by the Mobile Communications Company should not be accepted, and further claimed that the original claim and the counterclaim did not involve the same fact because it did not request the calculation and payment of infringement damages based on the licensing fees in this case.

In response to this claim, the court referred to the previous judicial practice of standard - essential patent trials, comprehensively considered the trial ideas and judgment logic of standard - essential patent infringement lawsuits and royalty rate lawsuits, and held that in an infringement lawsuit involving standard-essential patents, whether to order the defendant to stop the

infringement is not only determined by whether the defendant has implemented the patent involved without permission, but also by whether the negotiating parties have violated the FRAND obligation. To determine whether the patent holder has violated the FRAND licensing obligation and whether the implementer has violated the obligation of good faith negotiation, in addition to examining the negotiating behaviors of both parties, it is also necessary to examine whether the licensing conditions proposed by both parties during the negotiation process are obviously unreasonable. These licensing conditions are not only for the patent involved, but for all 3G and 4G standard-essential patents for which the X Company has the right to grant licenses. To determine whether the licensing conditions proposed by both parties are obviously unreasonable, it is necessary to determine the reasonable range of licensing conditions, and the trial content of the royalty rate lawsuit for standard-essential patents is exactly the licensing conditions.

Based on this special trial logic, although the counterclaim and the original claim in this case are not based on the same legal relationship, there is a causal connection between them, and both are closely related to the fact of the licensing negotiation between the two parties. On this basis, the Beijing Intellectual Property Court held that the counterclaim should be accepted and jointly tried.

The acceptance of the counterclaim aligns with the interests of the parties, which was mutually acknowledged by both sides. The essence of standard-essential patent disputes is to promote negotiation consensus through litigation confrontation, and seek negotiation benefits through litigation procedures. In this case, on the one hand, the patent holder has already initiated an infringement lawsuit and sought injunctive relief in advance, on the other hand, the patent implementer hopes that the court will rule on the licensing conditions. If the counterclaim of the patent implementer is not accepted, it can only initiate another subsequent lawsuit, and a new lawsuit may still need to go through complex and time-consuming procedures such as service of process in

foreign-related cases and objections to jurisdiction. This is not only inefficient, but also the sequence and speed of the two lawsuits may affect the negotiating positions of the two parties. Facts have proved that the joint trial of the two lawsuits promoted the two parties to successfully reach a global cross-licensing agreement and subsequent cooperation plan, which resolved the long-standing patent disputes between the two parties and achieved a win-win cooperation between the two parties.

This case not only delves deep into the application of the law and clarifies the conditions for the joint trial of a standard-essential patent infringement lawsuit and a counterclaim for standard-essential patent royalties, but also adheres to the judicial concept of "promoting negotiation through trial and substantially resolving disputes", promoting the substantial resolution of disputes, maximizing the interests of both parties, and promoting industrial licensing. The fair and efficient trial of this case demonstrates the high level and professionalism of China's judicial protection of intellectual property rights, and reflects the wisdom and responsibility of Chinese courts in the new era in resolving international disputes, as a useful reference for the trial of similar cases in the future.

## **Case II : Administrative Litigation Case Regarding the Invalidation of the Patent Right for “A Crystalline Form of Rocuronium Bromide”**

### **—— Assessing the Inventiveness of a Pharmaceutical crystalline form Patent Based on Technical Effects**

#### **1. Case Information**

Plaintiff: Chengdu Xin X pharmaceutical company

Defendant: National Intellectual Property Administration

Third Party: Wang XX

#### **2. Basic Facts**

The plaintiff is the patentee of an invention patent titled "A Crystalline Form of Rocuronium Bromide". The third party filed a request with the National Intellectual Property Administration to declare the patent invalid. The National Intellectual Property Administration issued a decision under appeal declaring the entire patent invalid. Then the patentee filed an administrative lawsuit with the Beijing Intellectual Property Court, claiming that this patent achieved unexpected technical effects and had been commercialized and marketed with actual industrial value, and that the Claim 1 of this patent is inventive and the decision under appeal is incorrect. After the trial, the Beijing Intellectual Property Court held that crystalline form A of rocuronium bromide in this patent had better technical effects compared to the rocuronium bromide solid disclosed in the prior art.,and that this patent is inventive and the decision under appeal was incorrect in this regard. Accordingly the court ruled to revoke the decision under appeal and ordered the National Intellectual Property Administration to make a new examination decision. After the judgment was pronounced, none of the parties appealed, and the first-instance judgment of this case has taken effect.

#### **3. Judgment Gist**

When assessing the inventiveness of a pharmaceutical crystalline form patent, even if obtaining the crystalline form itself is obvious, it doesn't necessarily mean it lacks inventiveness. It's still necessary to consider its

technical effects compared to the prior art. If the crystalline form achieves better technical effects than the prior art, and these effects are closely related to the formation of the medicine, it can be determined that the crystalline form patent is inventive.

#### **4. Typical Significance**

The pharmaceutical and healthcare industry is not only a core component of China's strategic emerging industries but also an important area related to people's livelihood and well-being. Its sustainable development has a profound impact on the overall economic and social situation. As a typical technology-intensive industry, the pharmaceutical field is characterized by high investment in research and development, long cycles, and high risks. Therefore, intellectual property protection plays a prominent role in stimulating technological innovation, improving drug accessibility, and promoting industrial upgrading.

Pharmaceutical patents are the most core intellectual property achievements of pharmaceutical enterprises. Regarding a certain drug, the patents obtained by pharmaceutical enterprises for different technical solutions form a complete patent system, including the effective active compound as well as the corresponding crystalline form and the composition. This system is like a "firewall" or a "moat", and it effectively ensures that pharmaceutical enterprises can fully realize the commercial interests of the drug during the patent exclusivity period, enhancing their market competitiveness. The crystalline form patent in question in this case is a common type of pharmaceutical patent. The crystalline form usually refers to the solid existence form of the drug's active compound. Due to different crystallization conditions and processes, the active compound of the same drug may yield crystalline forms with different spatial structures and molecular arrangements. This phenomenon of polymorphism in drugs is very important for drug research and development, because different crystalline forms exhibit different physical and chemical properties. This not only affects the preparation, processing, and storage of the drug, but also affects the dissolution and release characteristics of the drug in the human body, thus

affecting the efficacy and safety of the drug. On the one hand, the selection of the crystalline form is of great significance for drugs. On the other hand, enterprises have invested a large amount of manpower and financial resources in the research and development of crystalline forms. Therefore, original research pharmaceutical companies usually include the crystalline form, compound, composition, and other inventions in the scope of patent applications together to form a multi-level and all-round pharmaceutical patent protection system. Generic pharmaceutical companies will also increase their efforts in researching the crystalline forms of known active compounds of drugs, and strive to avoid the crystalline form patents of original research pharmaceutical companies, in order to compete in the market for this drug. It can be seen how important crystalline form patents are for pharmaceutical enterprises and the pharmaceutical industry.

As the exclusive jurisdiction court for administrative cases regarding patent authorization and confirmation across the country, the Beijing Intellectual Property Court has always attached great importance to the trial of administrative cases of requests for invalidation of patents related to pharmaceutical crystalline forms. By applying the rules of inventiveness judgement correctly, the judgment of this case clarifies the factors to be considered for the technical effects of pharmaceutical crystalline form patents, providing a reference and guidance for the decision of such cases.

In this case, it is fully recognized by the court that the prior art has a strong demand as well as provide inspiration on forming crystalline forms of known active compounds and changing known crystalline forms. Compared with the process of creating a compound from scratch, the development of crystalline forms usually results from multiple attempts to use different crystallization methods for known active compounds. crystalline form inventions usually use the general properties of crystals known to those skilled in the art and conventional crystal preparation methods, which makes it extremely difficult for the technical means of such patents themselves to meet the requirement of non-obviousness in the inventiveness judgment. If the exclusive protection of an invention patent is

granted merely because there are technical effects predictable by those skilled in the art, it is obviously inconsistent with the contribution made by the inventor to the prior art. There have always been different understandings in practice on how to consider the role played by the technical effects of crystalline forms in the inventiveness judgment. The judgment of this case proposes the rule that to determine whether a crystalline form has achieved technical effects that make it inventive compared with the prior art, it is possible to consider whether the technical effects recorded in the specification are related to the finished medicine. The technical effects described should be specific rather than general physical and chemical properties, such as purity, melting point, and hygroscopicity. If the recorded technical effects are highly related to the finished medicine and the marketed drug uses this crystalline form, it can be considered that it has beneficial technical effects. Correspondingly, the crystalline form patent is inventive and should be protected by the Patent Law.

This case is a typical example of Beijing Intellectual Property Court's active implementation of the innovation-driven development strategy based on the judicial practice of the pharmaceutical and healthcare industry. For the inventiveness judgment of drug-related patents, within the framework of the current rules system, it is necessary to comprehensively consider the relationship between marketed drugs and technical effects, fully protecting the interests of patent holders. The specific judicial rules of this case are helpful to promote the continuous innovation and development of the pharmaceutical industry, thus providing judicial support for ensuring the accessibility of medicines for the people and promoting the implementation of the Healthy China Strategy.

**Case III: Administrative Litigation Case Involving Invalidation of the “Dou Hai Yin” Trademark Right**  
**——Recognizing the Core Service Trademark of XX Internet Platform Enterprise as Well-Known**

**1. Case Information**

Plaintiff: Beijing XX Network Technology Co., Ltd. (hereinafter referred to as “XX Network Company”)

Defendant: National Intellectual Property Administration

Third Party: Shanghai XX Technology Co., Ltd. (hereinafter referred to as “XX Technology Company”)

**2. Basic Facts**

XX Technology Company applied for registration of the trademark “Dou Hai Yin” on August 31, 2018, which was approved for use in Class 39 services including “travel reservations.” On January 4, 2022, XX Network Company filed an invalidation request on the grounds that the disputed trademark violated

Article 13 of the Trademark Law of the People’s Republic of China (prohibition against imitation of well-known trademarks). The National Intellectual Property Administration reviewed the case and determined that the “Dou Yin” trademark claimed by XX Network Company has a short period of use and insufficient evidence to prove it had achieved well-known status. It thus ruled to maintain the disputed trademark. XX Network Company refused to accept the ruling and filed an administrative lawsuit with the Beijing Intellectual Property Court. The court held in its first-instance judgment that although the “Dou Yin” trademark had been used for less than two years before the application date of the disputed trademark, the Dou Yin App had experienced explosive growth with short videos and social platforms as the core business since its launch in September 2016. By June 2018, it had become the top domestic short-video platform with a market penetration rate of 29.8%, reached over 500 million monthly active users (MAU) by July 2018, and accumulated

over 3.1 billion total downloads by September 2018. In this case, XX Technology Company used promotional slogans such as “Check-in with Dou Yin,” demonstrating obviously malicious intent to free-ride on XX Network Company’s goodwill. So the “Dou Hai Yin” trademark should be deemed an imitation of “Dou Yin,” violating paragraph 3 of Article 13 of the Trademark Law. The Beijing Intellectual Property Court revoked the administrative ruling. The National Intellectual Property Administration filed an appeal against the decision, and the Beijing High People’s Court issued a final judgment rejecting the appeal and upholding the original judgment.

### **3. Judgment Gist**

When determining whether a trademark in the internet sector has achieved well-known status, courts must fully consider the internet industry’s unique characteristics and comprehensively assess factors such as the actual use effects of the trademark, market coverage, user growth rate, and other multidimensional criteria to evaluate whether the trademark meets the standard of being “widely recognized by the relevant public.”

### **4. Typical Significance**

The platform economy has emerged as a pivotal engine driving the digital transformation of the real economy and unleashing new-quality productive forces. Platform enterprises rapidly accumulate market reputation through technological innovation and business model updates, with their highly influential brand value in particular becoming a core competitiveness driving innovative development. As the trademark of these enterprises hold enormous commercial value, the more well-known a trademark becomes, the more likely it is to be targeted for malicious registration or free-riding.

In China’s trademark registration system, protection for registered trademarks is confined to identical or similar goods/services. To combat cross-class malicious registrations, rights holders must prove their trademark has achieved “wide recognition by the relevant public” to obtain cross-class protection for a well-known trademark. A well-known trademark, as the highest

embodiment of corporate goodwill, represents consumers' utmost trust in product quality and service standards—it is not merely an honorary title. In judicial practice, courts apply the principles of “case-by-case determination” “passive protection” and “protection as needed” to dynamically examine well-known trademark recognition. This approach balances precise strikes against cross-class bad-faith registrations with avoiding over-expansion of protection that could stifle market innovation. This case establishes adjudication rules for the recognition and protection of well-known trademarks in the internet sector:

First, Significantly Shortening the Traditional Time-in-Use Requirement for Well-Known Status. Under the Provisions on the Recognition and Protection of Well-Known Trademarks issued by the former State Administration for Industry and Commerce, evidence proving a registered trademark's well-known status must demonstrate at least three years of registration or five years of continuous use. In this case, the National Intellectual Property Administration initially denied recognition primarily because the “Dou Yin” trademark had been in use for a short period before the disputed trademark's application. The judgment of this case which is based on the trademark law and judicial interpretations pointed out that with the innovative advantages of short video content distribution and algorithmic recommendation mechanism, Dou Yin APP has shown exponential growth in users and downloads in a short period of time, and rapidly accumulated a wide user base and market influence, and the cycle of its trademark popularity formation has been significantly shortened. If the traditional length-of-use requirement of the recognition standard is applied mechanically, it will be inconsistent with the development law of the Internet industry and the actual influence of the trademark.

Second, Deepening Analysis of Well-Known Status Recognition in the Traffic Era. With the popularization of the Internet, short videos, artificial intelligence and other technologies, it has become a common business model for merchants to obtain economic benefits by attracting public attention. This case combines the characteristics of the “attention economy” of the Internet with an

in-depth analysis of the considerations for the determination of well-known trademarks as stipulated in Article 14, Paragraph 1 of the Trademark Law of the People's Republic of China. Beijing Intellectual Property Court holds that important indicators with the characteristics of the internet industry, such as the number of daily and monthly active users, average online duration, and market penetration rate, should be used as the basis for determining "the degree of recognition among relevant public." Taking into account the characteristics of the internet environment, such as fast information dissemination, wide reach, tendency for explosive growth, and the common revenue model in the internet industry where users are acquired for free and income is generated through advertising and other means, the Court will assess adjudication factors such as "duration of continuous use" and "promotional efforts."

Third, Reasonably Defining the Scope of Protection for Internet Well-Known Trademarks. In this case, XX technology company, as an Internet practitioner providing travel information and other services through the Internet platform, used the trademark "Dou Hai Yin" with obvious intention of imitating and climbing, objectively weakened the identification function of the company's trademark "Dou Yin", improperly seized the goodwill resources legally accumulated by others, and constituted a substantial damage to the rights and interests of well-known trademarks. Therefore, it was determined that the trademark of the platform Company has reached the status of well-known, and the cross-class protection was in line with the principle of case-by-case and on-demand determination.

This case provides clear judicial guidance for recognizing well-known trademarks in the internet sector, demonstrating courts' firm support for the healthy development of high-value brands. By reasonably defining the boundaries of well-known trademark protection and regulating competition in the digital economy, it also guides platform enterprises and tech innovators to enhance trademark strategy and protection awareness, offering tangible judicial safeguards for high-quality development of new productive forces.

**Case IV: Trademark Infringement and Unfair Competition Dispute  
Involving the "Lao Ban" Mark  
— Crackdown on Full-Chain Counterfeit Trademark Infringement**

**1.Case Information**

Plaintiff: Hangzhou X Electric Co., Ltd. (hereinafter referred to as “X Electric Company”)

Defendants: Chaozhou X Ceramics Factory (hereinafter referred to as “X Ceramics Factory”), Chaozhou X Intelligent Technology Co., Ltd. (hereinafter referred to as “X Tech Company”), Lü X, Chen X, and Wu X

**2.Basic Facts**

The plaintiff, X Electric Company, is the exclusive owner of the registered trademark "Lao Ban", which is approved for use on Class 11 goods including kitchen range hoods. The five defendants, via multiple business entities including X Ceramics Factory (a sole proprietorship operated by Chen X), X Tech Company (jointly held by the married couple Lü X and Wu X), with other entities such as a Guangdong-based kitchen and bath company (which was suggested to be deregistered during litigation) and a Hong Kong-registered company solely directed by Lü X and in their individual capacities, used the marks "Lao Ban" “LAOBAN WEIYU” and “www.LAOBAN WEIYU.net” on sanitary ware products such as toilets, showers, and sinks. Meanwhile, the Defendants repeatedly used the term "Lao Ban" in their company names, personal or corporate account names, and store names. The plaintiff alleged that the collective actions of the five defendants infringed its exclusive trademark rights and constituted acts of unfair competition. Accordingly, it sought injunctive relief and joint compensation of RMB 5 million for economic losses and RMB 290,000 for reasonable expenses. Upon trial, Beijing Intellectual Property Court found that the five defendants had engaged in trademark infringement and unfair competition, and ordered them to cease the infringing activities and jointly pay the plaintiff RMB 5 million in damages and RMB 150,000 in reasonable costs. The defendants appealed, but Beijing High People’s Court dismissed the appeal

and upheld the original judgment.

### **3.Judgment Gist**

Where a company shareholder deregisters a company during litigation without legally liquidating it and has made relevant commitments at the time of deregistration, the shareholder shall bear corresponding legal liability for the company's pre-deregistration acts of infringement.

If a company committing the infringement was jointly funded by a married couple during their marriage, and no proof or agreement of property division exists between them, the company's ownership may be deemed substantively unified. Accordingly, in line with rules applicable to single-member limited liability companies, the shareholder couple may be held jointly liable with the company for the infringement-related debts.

### **4.Typical Significance**

As a core intellectual property asset of a business, a trademark symbolizes its market competitiveness and serves as a vital tool for distinguishing the source of goods and services, building commercial reputation, and establishing brand recognition among consumers. The protection of trademark rights lies at the heart of China's Trademark Law and is a key aspect of intellectual property protection. It plays a critical role in fostering a sound business environment and safeguarding fair market competition. Beijing Intellectual Property Court has jurisdiction over first-instance civil cases involving the recognition of well-known trademarks within Beijing, as well as other second-instance civil trademark cases. Since its establishment, the court has adjudicated over 3,200 first- and second-instance trademark infringement cases. In adjudicating such cases, the Court has consistently applied trademark laws and judicial interpretations with rigor and accuracy, distilled judicial principles from individual cases and unified standards of adjudication, adhering firmly to the principle of "strict protection" and continuously strengthening judicial safeguards for trademark rights.

The development of new technologies and new business models has posed

challenges to the legal system for trademark protection. Especially in the context of the digital economy and the diversification of commercial entities, the hidden and interconnected characteristics of trademark infringement subjects have become increasingly prominent. How to correctly understand the legislative intent and legal provisions, accurately identify trademark infringement behaviors that involve novel forms and complex associations, and ensure that all types of entities maliciously engaging in infringement along the entire chain bear corresponding legal liabilities—so as to create an effective deterrent against trademark infringement—is a critical issue worthy of attention and study in the adjudication of such cases. In this respect, the present case has made a valuable exploration and provides effective solutions to difficult judicial issues such as the determination of joint infringement and the attribution of infringement liability in trademark disputes.

Based on the correct identification of the trademark infringement act, the judgment in this case adopts a penetrating adjudication approach, and employs a combination of institutional measures such as piercing the veil of shareholder liability and expanding joint and several liability. These measures significantly increase the cost of trademark infringement and effectively curb full-chain infringement behaviors that exploit legal loopholes to construct "firewalls" of liability, thus preventing infringers from concealing their identity and escaping responsibility.

This case made meaningful breakthroughs in the following aspects and provided substantive guidance for resolving complex issues in trademark infringement disputes.

Firstly, Piercing the Corporate Veil to Address "Shell Company" Infringement. According to the basic theory of company law, each shareholder of a limited liability company shall be liable for the company to the extent of the capital contribution subscribed for by it. In intellectual property infringement lawsuits, including those involving trademark infringement, an increasing number of infringing parties have used this fundamental principle of company

law as a shield to evade liability by establishing companies—sometimes even cross-border or across different jurisdictions—they provide a “legal shell” for actual infringers to escape liability. The judgment in this case creatively applies Article 20 of the Provisions of the Supreme People’s Court on Several Issues Concerning the Application of the Company Law of the People's Republic of China (II) to clearly define the scope of liability borne by shareholders who carry out simplified deregistration of a company without liquidation during the course of litigation. During the proceedings of this case, Chen X and Wu X, the shareholders of a Guangdong-based kitchen and bath company, implemented a simplified deregistration. Although formally extinguished the company's legal status, the judgment pierced the corporate veil by examining the correlation between the shareholders' signed commitment letters and their undertakings to assume debt liability, thereby holding the shareholders accountable. This effectively curbed the malpractice of actual infringers maliciously deregistering companies to avoid debts, and imposed punishment on infringing acts that exploit the formation and unlawful deregistration of companies to achieve a “getaway” from liability.

Secondly, establishing a judicial standard of recognizing spouse-owned companies as sole proprietorships and refining the evidentiary rules for asset commingling. When determining the liability of the defendant, the Tech Company, the court went beyond the literal interpretation of Article 63 of the Company Law of the People’s Republic of China(2018 Amendment), and, in light of the joint shareholding by the spouses and the absence of any property division, held that the entirety of the company’s equity essentially derived from a single property interest, which was jointly owned and exercised as a single property right, with the equity interest exhibiting substantive unity and alignment of economic interests, thereby construing the company as a de facto single-shareholder limited liability company, and, pursuant to the principle of asset commingling, imposed joint and several liability on both spouses—the two shareholders—for the infringing acts committed by the company. This judgment

established a judicial review standard that infers asset commingling from the common origin of shareholding, thereby effectively curbing infringing conduct that seeks to evade legal liability through intricate equity structures.

Thirdly, establishing a framework for joint liability among related entities to crack down on industrial-scale infringement. In response to the coordinated infringing acts conducted by five defendants across different regions and legal entities, the case adopted a comprehensive adjudicative approach combining “behavioral relevance” and “concerted intention,” which involved examining factual elements such as cross-shareholding among the entities and shared trademark usage, and further relied on evidentiary chains including trademark licensing arrangements and coordinated online-offline sales activities among the defendants, to ascertain their shared intent to commit joint infringement. The adjudicative reasoning provides valuable guidance in resolving the complex issue of establishing joint infringement across a fragmented chain of “manufacturing–sales–brand operation.”

This judgment systematically applied a multi-dimensional set of legal instruments, including the Company Law, Trademark Law, and the Civil Code, and achieved three major breakthroughs in the judicial determination of trademark infringement subjects: a shift from reviewing individual entities to examining related parties, an elevation from formal compliance assessment to substantive illegality determination, and an evolution from imposing individual liability to regulating joint and several liability. This innovation in adjudicative philosophy not only enhances the judicial protection of trademark rights, but also serves as a paradigm for establishing a robust regime of strict intellectual property protection.

**Case V : Copyright Infringement Dispute involving over a hundred paintings that allegedly plagiarized works including *Fallen Leaves*.**

**——Determination of Copyright Infringement of Artworks**

**1. Case Information**

Appellant (the defendant in the first instance): Ye XX

Appellee (the plaintiff in the first instance): Xi XX

**2. Basic Facts**

The Plaintiff Xi XX, a Belgian painter, alleged that the Defendant Ye XX had plagiarized over a hundred paintings created since 1993 over a span of 25 years, including artworks such as *Fallen Leaves* to which the Plaintiff held copyright. The Beijing Intellectual Property Court, after conducting a holistic comparison of the accused infringing paintings with the 13 copyrighted artworks involved in the case, along with comparative analyses of partial element combinations and individual element analyses, concluded that the 122 accused infringing paintings exhibited substantial similarity to the 13 copyrighted artworks in terms of visual artistic effects. Consequently, the court ruled that Ye XX's acts of creating, publishing, and auctioning the disputed paintings infringed Xi XX's exclusive rights to the 13 copyrighted artworks, including reproduction rights, modification rights, attribution rights, and distribution rights. Accordingly, the Beijing Intellectual Property Court ordered Ye XX to cease the infringement, make a public apology, rectify adverse effects, and compensate for economic losses amounting to 5 million RMB yuan. Ye XX filed an appeal, but the Beijing High People's Court dismissed the appeal and upheld the original judgement.

**3. Judgment Gist**

To determine whether a work of art constitutes substantial similarity, it is generally assessed through a holistic examination and comprehensive evaluation of the artistic expression embodied in the work. This process focuses on visual characteristics such as constituent elements, specific expressions and the overall visual effect, which collectively define the work's creative manifestation. If the

differences between two artworks are merely minor in their entirety to the extent that an ordinary observer would tend to overlook such distinctions unless intentionally searching for them, such works may be deemed substantially similar. When a large number of copyrighted works and allegedly infringing works are involved in the comparison, all works under dispute should be considered holistically. Meanwhile, factors such as the author's creative history, methods, and style should be comprehensively evaluated to determine of the extent of infringement, which serves as the basis for establishing the standards for damages compensation.

#### **4. Typical Significance**

Artworks carry the cultural connotations and artistic styles of a specific era and are an important component of the cultural industry. Protecting the copyright of artworks not only safeguards and inspires creators but also is of significant importance for promoting the standardized development of the cultural and artistic sector and enhancing a nation's cultural soft power. This case is a typical copyright infringement case which clarifies two aspects of judicial rules: Ideas and expressions in artworks should be distinguished based on creative principles and characteristics, and judgment of substantial similarity should take into account the visual imagery characteristics of artworks.

First, considerations regarding the differentiation between ideas and expressions in artworks.

The first consideration is the creative principles of artworks. The creative process of artworks is a gradual process of transforming ideas into expressions. Before the final completion of artworks, authors typically engage in ideational activities such as material collection and creative conceptualization. These mental processes generally extend from before the initiation of the creative act through the entire creative journey, encompassing the author's subjective observations of specific objects, social phenomena, and personal life experiences, as well as their individual perspectives and emotional insights. Additionally, the final artistic outcome is closely intertwined with the author's technical proficiency, artistic

vision, and aesthetic sensibilities. Through external expressions in specific forms, the author finalizes and publicizes the aesthetic imagery within their consciousness, enabling others to appreciate, evaluate, and understand their artistic attainments and aesthetic preferences through the medium of the artwork. Objectively, this process also defines the scope of expressions protected by copyright.

The characteristics of artworks should also be considered. According to the definition in *the Implementing Regulations of the Copyright Law*, the expression of an artwork primarily lies in the artistic representation objectively presented through the organic integration of aesthetic elements such as composition, lines, colors, and forms. The artistic image of an artwork is manifested as a visual image, characterized by visual immediacy, definiteness, and visibility. Copyright protection for artistic works focuses more on the external form of expression rather than the specific depicted content, which distinguishes it significantly from the protection of literary works that places greater emphasis on the substantive written content.

Second, the criteria for determining substantial similarity between artworks.

In copyright infringement disputes involving artworks, determining whether there is substantial similarity between the allegedly infringing works and the copyrighted works should involve comparing whether the choices, selections, arrangements, and designs made by the author in the expression of the artworks are the same or similar. As previously mentioned, artistic works are a form of visual art, and thus the external form of expression they embody constitutes the essence of their value. While different types of artistic works may cater to audiences with varying characteristics and levels of appreciation, once an artwork is publicly disclosed, it primarily targets the general public for appreciation and evaluation. Therefore, the determination of whether two artistic works constitute substantial similarity should be based on the perspective of ordinary observers. This involves a holistic assessment and comprehensive judgment of the visual characteristics of both the copyrighted artwork and the allegedly infringing artwork. If the two works only exhibit minor differences in details that would only be noticeable to ordinary

observers through deliberate searching and comparison, then it can be concluded that the works constitute substantial similarity.

After the judgment took effect, the defendant voluntarily issued a public apology in *Legal Daily*, a Chinese newspaper, marking the resolution of a five-year, cross-border copyright dispute over artistic works. The judgment undertook a total of 303 comparative analyses between over 100 allegedly infringing artworks and the copyrighted works, examining them across multiple dimensions including compositional elements, modes of expression, and overall aesthetic effect, ensuring no detail was overlooked. On this foundation, the court conducted a comprehensive assessment of potential infringement by integrating factors such as the author's creative history, methodologies, and stylistic idiosyncrasies. Through this process, it fastidiously demarcated the boundary between permissible artistic reference and infringing plagiarism in artworks. The judgment ultimately safeguarded the copyright rights of the Belgian artist in strict accordance with legal provisions. While providing valuable guidance for the adjudication of similar cases, the judgment also demonstrates a judicial stance of equal protection for the lawful rights and interests of foreign entities, thereby conveying the spirit of justice, transparency, and openness inherent in the rule of law.

**Case VI: The First Case on Administrative litigation Involving  
Anti-Monopoly Review of Concentrations Between Undertakings  
——First Judicial Clarification of Concentrations Between Undertakings  
Review Standards**

**1. Case Information**

Plaintiff: Beijing Tuo X Pharmaceutical Co., Ltd. (hereinafter referred to as Tuo X Company)

Defendant: State Administration for Market Regulation (hereinafter referred to as SAMR)

Third Party: Xian X Pharmaceutical Co., Ltd. (hereinafter referred to as Xian X Company)

**2. Basic fact**

SAMR received the market concentration declaration materials submitted by both Tuo X Company and Xian X Company regarding Xian X Company's acquisition of equity in Tuo X Company. After reviewing and evaluating the materials, SAMR concluded that the concentration did not meet the notification threshold but might have the effect of excluding or restricting competition in the Chinese market for batroxobin injection. Xian X Company proposed commitments to impose restrictive conditions on the concentration. Considering that these commitments could effectively mitigate the adverse effects on competition and in accordance with China's anti-monopoly law and other relevant regulations, SAMR approved the concentration subject to these conditions. Tuo X Company disagreed and filed for administrative reconsideration, but SAMR upheld its original decision. Tuo X Company then filed an administrative lawsuit with the Beijing Intellectual Property Court. During the judicial procedure, the court evaluated the proposed restrictive conditions' effectiveness, feasibility, and timeliness, concluding that they could effectively mitigate the concentration's negative impact on competition. The court therefore ruled that the decisions were lawful and dismissed Tuo X

Company's claims. No appeals were filed, and the first-instance judgment became final.

### **3. Judgment Gist**

The specific administrative action taken by the State Council's anti-monopoly regulatory authority regarding concentrations between undertakings declarations is classified as an administrative license. On this basis, if the decision is an unconditional approval, it does not alter or impose additional rights or obligations on the notifying parties beyond those stipulated in their merger agreement, meaning it does not affect their legitimate interests. Therefore, none of the notifying parties would have standing to file an administrative lawsuit. However, if the decision is a prohibition or conditional approval, as it either negates the rights and obligations arising from the concentration agreements or imposes legal obligations on the post-merger entity, thereby affecting the legitimate interests of the relevant notifying parties. In such cases, the affected notifying parties do have the standing to sue.

The review of concentration focuses primarily on the competition issues caused by the concentration itself, not the pre-existing competition issues.

The anti-monopoly law does not prefer prohibition as the first remedy for concentrations with exclusionary or restrictive effects. If the parties involved propose restrictive commitments, the authority must evaluate whether the proposed commitments can effectively mitigate the adverse effects of the concentrations on competition specifically, whether they are effective, feasible, and timely.

### **4. Typical Significance**

As a fundamental legal system for the socialist market economy, the anti-monopoly law regulates monopolistic behaviors and maintains fair competition, providing institutional support for efficient market resource allocation and consumer rights protection. The concentrations between undertakings review system, based on "preventive measures", evaluates the legality of mergers and acquisitions to prevent excessive concentration from

restricting competition, thus safeguarding market vitality and public interests. The Beijing Intellectual Property Court, with exclusive jurisdiction over antitrust administrative cases arising from administrative decisions made by the State Council ' s anti-monopoly regulatory authority, has established a specialized adjudication system for monopoly-related cases, providing professional judicial protection for complex anti-monopoly administrative disputes.

This case is significant for being the first administrative lawsuit involving market concentration anti-monopoly review since the implementation of the *Anti-Monopoly Law of the People's Republic of China* in 2008. The uniqueness of this case lies in the fact that the equity acquisition involved did not meet the notification threshold set by the State Council but was voluntarily notified, which is rare worldwide and demands a high level of expertise in judicial review. The Beijing Intellectual Property Court ' s ruling, through its precise analysis of the effects of restrictive commitments, strongly supports the accurate application of anti-monopoly law by the regulatory authority and demonstrates the alignment between China ' s anti-monopoly legal procedures and internationally recognized fair procedures.

First, clarifying the criteria of the Plaintiff ' s Standing: The judgment clarifies that if the decision is an unconditional approval, it does not alter the rights and obligations of the parties involved and thus they do not have the standing to file an administrative lawsuit. However, if the decision is a prohibition or conditional approval, it does affect the rights and obligations under the concentration agreement and thus the parties have the standing to sue. This addressed a previous gap about plaintiff ' s standing in the application of administrative litigation within the anti-monopoly domain.

Second, solidifying the legal boundaries of review: The judgment clarifies that the concentration review only focuses on the "competition issues arising from the concentration itself" and does not reassess pre-existing monopolistic behaviors, unifying the understanding of the review ' s scope between the regulatory authority and the judicial bodies. This is consistent with the practice in

the European Union and other major judicial jurisdictions, which elevates the international credibility of China's anti-monopoly adjudication and reduces the institutional costs for multinational companies investing in China. It established a landmark precedent for building a unified, open, and competitively orderly market system.

Third, the judgment affirms the regulatory authority's discretionary logic in balancing between imposing restrictive conditions and prohibiting the concentration, that is, the priority is given to eliminating competitive risks through restrictive conditions rather than directly prohibiting, which reflects China's advanced governance concept in anti-monopoly law of "encouraging lawful concentration and limiting intervention as an exception," providing clear expectations for both companies' compliance operations and enforcement agencies' precise supervision.

The typical significance of this case can also be summarized from the following three aspects: From an institutional construction perspective, the judgment refines the procedural rules and substantive elements of the market concentration review, clarifies the legal application of non-typical situations such as "voluntary notification" and solidifies the judicial foundation for the implementation of anti-monopoly law; From a practical effect perspective, the Beijing Intellectual Property Court has established a specialized trial mechanism to improve the quality and efficiency of monopoly case trials, effectively addressing the complex legal and economic issues involved, and fully demonstrating the judiciary's precise understanding of competition policy, providing market entities with predictable behavioral guidance; From an international perspective, the judgment's confirmation of the principle of "focusing on the competition issues arising from the concentration itself" promotes the alignment of China's anti-monopoly rules with internationally accepted standards and strengthens foreign investors' confidence in the rule of law and transparency of China's business environment.

The judgment in this case promotes a deep connection between judicial

review and administrative enforcement in terms of professional standards, helping to form a healthy anti-monopoly governance model where ‘enforcement is based on the law, judicial rulings set precedents, and the market has clear expectations,’ laying a solid foundation for advancing anti-monopoly rule of law in the new era to higher levels.

## **Case VII: The First Case Involving Validity Confirmation of Data Intellectual Property Registration Certificates in an Anti-Unfair Competition Dispute**

### **——First Judicial Recognition of the Legal Effect of a Data Intellectual Property Registration Certificate**

#### **1. Case Information**

Appellant (Defendant in the First Instance): Yin X (Shanghai) Technology Co., Ltd. (hereinafter referred to as Yin X Company)

Appellee (Plaintiff in the First Instance): Shu X (Beijing) Technology Co., Ltd. (hereinafter referred to as Shu X Company)

#### **2. Basic Facts**

Shu X Company, having lawfully obtained authorization, collected a Mandarin Chinese speech dataset totaling 1,505 hours and registered it with a Data Intellectual Property Registration Certificate. Shu X Company sued Yin X Company for providing a 200-hour subset of this dataset without permission, alleging infringement of data property rights, copyright, trade secrets, and unfair competition, and sought damages of over RMB 700,000 yuan. The court of first instance ruled that the dataset constituted a trade secret and found Yin X Company liable for disclosing and using it unlawfully, ordering compensation of RMB 102,300 yuan.

Yin X Company appealed, arguing that the dataset had been open-sourced before the alleged conduct occurred and therefore lacked secrecy, which did not qualify as a compilation due to lack of originality, and the alleged conduct did not constitute unfair competition. The Beijing Intellectual Property Court, on appeal, held that the Data Intellectual Property Registration Certificate could serve as preliminary evidence of Shu X Company's lawful acquisition and property interest in the dataset. However, since the dataset was publicly available, it did not meet the criteria for trade secret protection. Furthermore, the dataset's selection and arrangement lacked originality and did not constitute a compilation.

Nonetheless, Shu X Hui X Companyad invested significant technology, capital, and labor in collecting and organizing the data, resulting in commercially valuable entries that conferred competitive advantages and business opportunities. These interests deserved protection under the Anti-Unfair Competition Law.Yin X Company failed to follow the terms of the open-source license, violated commercial ethics, harmed Shu X Company ’ s interests and the competitive market order, and thereby committed an act of unfair competition under Article 2 of the *Anti-Unfair Competition Law*.The appellate court corrected the erroneous finding on trade secrets but upheld the lower court ’ s compensation ruling and dismissed the appeal.

### **3.Judgement Gist**

The Data Intellectual Property Registration Certificate may serve as preliminary evidence of a data holder’s proprietary interest in the dataset and of the dataset’s lawful origin and collection. Without the data holder’s consent, no party may publicly disseminate a dataset lawfully and substantially collected by the holder.Where a data holder has open-sourced a dataset, whether a user complies with the license terms is a critical factor in assessing whether the use violates commercial ethics in the data services field.

If the dataset is publicly available and features original selection or arrangement of content, it is preferably protected as a compilation under copyright law.If the dataset is not readily accessible to those in the relevant field, it may be protected as a trade secret.If the dataset is public and lacks originality in its selection or arrangement, it does not qualify for copyright or trade secret protection, but may be protected under Article 2 of the *Anti-Unfair Competition Law* depending on the circumstances.

### **4.Typical Significance**

As the digital economy becomes deeply integrated into production and daily life, data is increasingly recognized as a core production factor. Efficient circulation and secure protection of data are crucial for stimulating market innovation.The data registration system, by standardizing the registration of

rights related to data ownership, processing, and commercialization, lays the groundwork for the market-based allocation of data resources. On one hand, it uses public disclosure and credibility mechanisms to clarify rights boundaries, reduce verification costs and legal risks in data transactions, and provide a “base map ” for cross-industry and cross-regional data flows. On the other, it recognizes and protects legitimate input by data processors, incentivizing real innovation in data collection, cleaning, and labeling, thereby promoting the transformation of data from a “resource” into an “asset.” This case is the first in China to examine the legal effect of a Data Intellectual Property Registration Certificate. The appellate judgment, guided by the policy directive in the “Opinions of the CPC Central Committee and the State Council on Establishing a Data Infrastructure System to Better Leverage the Role of Data as a Production Factor ” (the “ 20 Measures on Data ”), which calls for “exploring new approaches to data property rights registration,” responds to the regulatory needs of the data registration regime through judicial innovation, establishing a legal foundation for the healthy development of the data element market.

In recent years, the Beijing Intellectual Property Court has handled a diverse and technically complex range of data rights cases, 95% of which involved unfair competition, covering emerging disputes like data scraping, trade secret protection, and open-source data and involving AI training datasets and speech datasets. The appellate ruling in this case establishes rules for judicial protection of data rights, especially in clearly defining the legal effect of registration certificates and guiding corporate data protection strategies.

First, it affirms the preliminary evidentiary effect of Data Intellectual Property Registration Certificates. Such certificates can initially prove lawful possession and source legitimacy, unless rebutted by contrary evidence. However, this recognition must be understood in three ways: (1) the certificate’s effect is case-specific and rebuttable; (2) its weight depends on the registration agency’s qualifications, review standards, and content; and (3) data holders may assert rights by other means even without registration. This balanced approach both

affirms the role of registration and preserves judicial restraint.

Second, it establishes a tiered path for protecting enterprise data rights based on the dataset's legal nature. Datasets with original selection or arrangement are protected by copyright law; non-public datasets meeting trade secret criteria fall under relevant unfair competition provisions; and public datasets lacking originality but involving substantial input may be protected under Article 2 of the Anti-Unfair Competition Law. In this case, although the dataset did not qualify as a trade secret due to its public nature, the court recognized Shu X Company's lawful investment and certificate-based proof, and penalized Yin X Company's breach of the open-source license under the unfair competition framework, establishing boundaries for "ethical use and respect for prior investment" in the use of public data.

Third, it strengthens regulatory constraints on the circulation of open-source data. The ruling explicitly states for the first time that users must strictly comply with open-source license terms, and unlicensed commercial use constitutes unfair competition. This rule addresses the tension between free use and rights protection in an open-source context and establishes clear expectations for enterprises to unlock data value through open-source licenses by affirming that legitimate open-sourcing does not equate to relinquishing rights, while emphasizing that unauthorized commercial exploitation in violation of the agreement terms will still incur legal liability.

This case marks a transition in China toward coordinated governance through data rights registration and judicial protection. It provides clear behavioral guidance for data processors and signals to the market that the development and utilization of data must occur within the rule of law. Legitimate rights are protected, and violations carry consequences. With continued accumulation of such judicial principles, China's data element market is poised to develop into a legally regulated environment where "registration has standards, transactions have legal grounds, and disputes have solutions," laying a strong foundation for high-quality growth in the digital economy.

## **Case VIII: "FL218" Corn Plant Variety Right Invalidity Administrative Dispute**

### **——Clarifying Novelty, Specificity Standards and Burden of Proof in Plant Variety Invalidity Procedures**

#### **1. Case Information**

Plaintiff: Hui X Seed Industry Co., Ltd. Of ZunYi city, GuiZhou Province.  
(hereinafter referred to as Hui X Company)

Defendant: The Reexamination Board for New Varieties of Plants, Ministry of Agriculture and Rural Affairs (hereinafter referred to as The Reexamination Board for New Varieties of Plants)

Third Party: Hubei Kang X Seed Industry Co., Ltd.

#### **2. Basic Facts**

The disputed variety in this case is a new corn variety named “FL218” for which Company K holds the plant variety rights. Hui X Company filed a request for invalidation with the Reexamination Board for New Varieties of Plants, which made the decision to maintain the validity of the disputed plant variety right. Hui X Company disagreed and filed an administrative lawsuit with the Beijing Intellectual Property Court, arguing that the disputed variety is the same as the parent varieties of several approved corn varieties, such as “Eyu 16” and that prior to the application date, the disputed variety had already been widely produced and sold, and was used as a parent to breed other corn varieties. The other varieties bred from it were also widely produced and sold, thus the involved variety had lost its distinctness and novelty, therefore the decision was incorrect. Furthermore, the Reexamination Board for New Varieties of Plants did not accept Hui X Company’s application to identify that the disputed variety and other varieties’ parent plants were the same variety, claiming procedural violations. After hearing the case, the Beijing Intellectual Property Court found that the procedures were not improper, and the conclusion of the decision was correct,

thus dismissing Hui X Company's claim. Hui X Company appealed, and the Supreme People's Court made a final ruling, dismissed the appeal and upheld the original judgment.

### **3. Judgement Gist**

The examination of the novelty of a new plant variety involves determining whether the variety was sold or promoted prior to the application date. The act of using a variety as a parent to breed hybrids does not constitute commercialization. Furthermore, commercialization activities pertain to the protected variety itself, not to hybrids bred using that variety as a parent. Therefore, the sale of hybrids, in principle, cannot be regarded as the sale of the parent variety.

The examination of distinctness for a new plant variety determines whether the variety is clearly distinguishable from known varieties. In invalidation proceedings for plant variety rights, the invalidation petitioner bears the burden of proof regarding the existence of clear distinctness, and the Reexamination Board for New Varieties of Plants is not obligated to conduct investigations.

### **4. Typical Significance**

Seeds are the “chips” of agriculture, and the seed industry is a core national industry that plays a crucial role in agricultural stability and national food security. Intellectual property protection in the seed industry is vital for its revitalization and prosperity, and it is an indispensable part of the intellectual property protection system. Plant variety rights, as a major component of intellectual property rights in the seed industry, focus on the protection of reproductive materials, namely seeds. It has been proven that granting exclusive rights to seeds that are clearly distinguishable from other known varieties and have not been sold or promoted before the application date—thus possessing the characteristics of specificity and novelty as stipulated in the *Seed Law of the People's Republic of China*—strengthens intellectual property protection for plant varieties, providing breeders with a fair economic return for their innovative contributions. This, in turn, effectively increases breeding activity and encourages breeding innovation.

In the legal system governing plant variety rights, the authorization and invalidity review of plant variety rights are key procedures. The Reexamination Board for New Varieties of Plants is the administrative authority responsible for conducting these reviews. Whether the variety applicant, the variety right holder, or the party petitioning for invalidation of the plant variety right, all may file an administrative lawsuit with the Beijing Intellectual Property Court if they are dissatisfied with the decisions made by the Reexamination Board for New Varieties of Plants.

The Beijing Intellectual Property Court, as the exclusive court with nationwide jurisdiction over this type of special and “niche” intellectual property administrative dispute, has established a multi-disciplinary technical fact-finding mechanism led by academicians from agricultural science institutions, and a specialized review system for seed industry cases. By leveraging the advantages of a specialized court, the court actively explores a judicial protection model for intellectual property in the seed industry that aligns with its unique characteristics, having heard a number of landmark administrative cases regarding plant variety right authorization and confirmation. This case is a typical example, and the judgment provides clear guidance on the standards for assessing novelty and specificity of plant varieties and the burden of proof in the plant variety invalidity process.

Unlike the novelty requirement for patents, there is only one way to destroy the novelty of a new plant variety, namely through public sale or promotion in the market. This judgment starts from the intrinsic meaning of the novelty characteristic of new plant varieties and strictly adheres to the provisions of the *Seed Law of the People's Republic of China* and the *Regulations on the Protection of New Plant Varieties of the People's Republic of China*. It clarifies that sales and promotional activities should be accurately understood as actions that enable relevant technicians to obtain propagating materials in the market. The act of using propagating materials as parent plants to breed other hybrid varieties should not be broadly interpreted as sales or promotional activities.

Furthermore, the sales or promotional activities that undermine novelty only apply to the protected variety itself, not to hybrid varieties bred using it as a parent.

The "clear distinction" of a new plant variety from known varieties constitutes its distinctness. This distinctness must be scientifically demonstrated through field trial results. In this ruling, the court carefully examined the methods for proving distinctness, including the requirement to submit field test reports when applying for variety rights. It clarified that in invalidation proceedings, the party seeking invalidation bears the burden of proving that the disputed plant variety lacks distinctness, while the administrative authority is not obligated to conduct its own investigations. Simply requesting a field examination from the Plant Variety Review Board does not fulfill this burden of proof. By clarifying the allocation of the burden of proof, this decision helps standardize the review process for plant variety right invalidations.

This judgment also serves as a reminder to industry participants that they must accurately understand the legal system surrounding plant variety protection. While legally protecting their innovative crops and commercial outcomes, they must also properly utilize the plant variety invalidity procedure, actively fulfilling their burden of proof, and discharging their evidentiary obligations in accordance with the law. This will help resolve disputes amicably and maintain the effective operation of the plant variety protection system, promoting the high-quality development of China's seed industry and ensuring that the Chinese people always keep our food security firmly in our own hands.