

What is Intellectual Property

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Abstract: Just as China Copyright Protection Center wrote in the introduction: “Copyright is the core of culture, and copyright is the embodiment of creativity.” It’s apparent that intellectual property right is one of the forms of copyright, which is of great significance. So what is intellectual property? What should we absorb about it?

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1. Phenomena of IP infringement

As CCTV NEWS reported: Xinmoulu Automatic Identification Co., Ltd. (hereinafter referred to as Xinmoulu Company) is mainly engaged in research, development, manufacturing, sales of barcode equipment, automatic identification equipment, research, development and sales of high-tech products and other businesses. You and You Qi, originally employees of Xinmoulu Company and its affiliates, left in 2005 and 2011 respectively, and subsequently founded Shanghai Yingmou Intelligent Technology Co., Ltd. (hereinafter referred to as Yingmou Company), mainly engaged in the production and sales of barcode scanning equipment similar to Xinmoulu Company. You is the shareholder and legal representative of a company in Ying, and You is a shareholder and chairman of a company in Ying. From June 2016 to July 2020, You and You Mouqi knew that others illegally obtained the UIMG decoding library of Xinmoulu Company, but still used the UIMG decoding library provided by others to produce barcode scanning equipment products similar to Xinmoulu Company, and sold them all over the country, causing a total loss of more than 6.14 million yuan to Xinmoulu Company. It has been determined that the UIMG decoding library of Xinmoulu Company belongs to technical information that is not known to the public, and Xinmoulu Company has taken corresponding confidentiality measures against it, which belongs to the trade secret of Xinmoulu Company. On January 6, 2021, You and You surrendered to the public security organs.

The news above was indeed talking about one important matter: IP. You must be exposed to it, but you are not necessarily aware of it all the time. Just like you may have listened to the song *The Red High Heels*, but you may have not listened to the genuine one *Take It From Me*. You may have watched the movie *Better Days*, but maybe you don’t know that it plagiarized books such as *Line White Night*. You might be amazed by the AI animation emerging on the Internet recently, but do you know it actually involves infringing on the rights of many real painters?

IP is such a universal and important thing in our life, and in this creative era, it’ll only become more and more significant. But according to the phenomenon I mentioned above, it seems that the public don’t really have a deep understanding of intellectual property.....

Here comes other typical cases announced by the Supreme People’s Court :

(1) Pursuant to the first paragraph of Article 76 of the Patent Law, Sino-foreign Pharmaceutical Co., Ltd. filed a pharmaceutical patent linkage lawsuit with the Beijing Intellectual Property Court, requesting confirmation that Wenzhou Haihe’s generic drug solution of “Idecalcidol Softgel” fell within the scope of protection of the patent claims involved in the case. The court of first instance ruled to dismiss Sino-foreign Co., Ltd.’s claim. Sino-foreign Pharmaceutical Co., Ltd. was not satisfied and filed an appeal. The Supreme People’s Court held in the second instance that Wenzhou Haihe Company failed to make a declaration on the claims with the largest scope of protection, and failed to promptly notify the marketing authorization holder, Sino-foreign Pharmaceutical Co., Ltd., of the declaration and the basis of the declaration, and its conduct was improper and should be criticized; as to whether the generic drug technical solution falls within the scope of patent claim protection, in principle, the judgment should be based on the declaration materials of the generic drug applicant; after comparison, the generic drug technical solution involved did not fall within the scope of

patent claim protection. The appeal was dismissed and the judgment affirmed.

(2) Jinxiang Company and Yejing Company filed a lawsuit with the Guangzhou Intellectual Property Court against Hualu Hengsheng Company and other four defendants for infringement of the patent rights involved in the case. Jinxiang also filed a lawsuit with the Chengdu Intermediate People's Court of Sichuan Province against the above-mentioned four defendants' infringement of technical secrets. The two courts separately found in the first instance that the four defendants had jointly committed patent infringement and technical secret infringement, and both ruled to stop the infringement, and partially sustained the relevant claim for damages. Both parties appealed against both cases. The Supreme People's Court held in the second instance that the accused infringers had the intention to infringe and were subjectively aware of each other, and successively committed the corresponding infringing acts to constitute a completed chain of infringing acts, objectively divided labors and cooperated, and were jointly and intentionally committing infringing acts, and should bear joint and liability for all infringing damages. The judgment was amended to support all the claims of the right holder, and the infringer was ordered to destroy the infringing production system and the relevant technology secret carrier by means including but not limited to dismantling, and jointly and severally compensate the right holder for economic losses totaling 218 million yuan (including 120 million yuan in invention patent infringement cases and 98 million yuan in technical secret infringement cases).

2. What is intellectual property

Such cases truly make us apprehensive about the protection of intellectual property rights. So about the intellectual property, how much do you really know? In our general impression, it protects people's ideas and creations, It's everyone's due right, It's sacred and inviolable..... Well, legally speaking, it refers to the exclusive right of citizens and legal persons to their creative intellectual achievements in the fields of science, technology, culture and other knowledge as stipulated by law. To interpret from a practical point of view, a house has its property certificate, so does the intelligence, and the property certificate of intelligence——intellectual property, can be transformed into wealth in some cases, this is so-called "intangible assets".

3. Infringement is close to us

Do you feel like those seem to be far away from us? However, the truth is not! The acts such as copying homework, cheating exams by peeking others' answers are close to us. Furthermore, today, more and more similar plots appear in different films, which makes us aesthetically fatigued; More and more plagiarisms appear in the competitions, which dampens contestants' enthusiasm; More and more scientific research achievements are stolen, which files down the passion of researchers to devote themselves to science research.

4. Why IP is infringed frequently

Evidently, the current egregious phenomena are triggered by the lack of the protection of intellectual property, which is disappointing. As an editor named "Classmate Zhao" of TECH TIME recorded in his article: On the evening of June 30, 2016, a photo of the launch ceremony of the live-action version of the "Return of the Great Saint" project made waves. Liu Zhijiang, chairman of Zhejiang Hengdian Film and Television, the producer of the animated version of "The Return of the Great Sage", "chasing the sun and chasing the river" immediately expressed his position on social media, posting the filing announcement of the Hengdian version of "The Return of the Great Sage", believing that the live-action movie with the same name as "The Return of the Great Sage" in the photo is suspected of plagiarism: "I have seen faceless, but I have never seen such a faceless one, even the font and handwriting of "The Return of the Great Sage" are exactly the same as ours.

This shows how surging the infringement of intellectual property right is, and the awareness of protecting intellectual property is still too weak.

5. China is making efforts to protect IP rights

Nevertheless, as it happens, the outline for building a strong intellectual property country issued by the CPC Central Committee and the State Council was released, clarifying the key significance of intellectual property rights. According to the official WeChat message of the Supreme People's Procuratorate, the Supreme People's Procuratorate released a typical case of procuratorial organs protecting intellectual property rights and ensuring innovation-driven development on the morning of April 25, 2022. There were 11 cases in this batch, including 5 criminal cases of trademark infringement, 2 criminal cases of trade secret infringement, 1 criminal case of copyright infringement, and 3 cases of civil supervision of intellectual property rights.

Also, in recent years, on the basis of optimizing and improving the core business of copyright registration, the China Copyright Protection Center has adhered to integrity and innovation, continuously improved the level of copyright rights protection and

legal services, promoted copyright trade and copyright value mining, and carried out copyright work for the clean governance of Internet space in the digital era. Promote copyright history, culture and academic research, take the initiative to set topics to carry out international exchanges on copyright, and actively participate in global governance in the field of copyright; focusing on the logic of “three products” of works, products and derivatives, build a theoretical framework of “five rights” of automatic empowerment, registration and confirmation, transaction authorization, dispute rights protection, and rule protection, form a theoretical framework of “three products and five rights” for copyright protection in China, and actively play the crucial role of copyright in serving the people, serving society and serving the development of the industry.

As can be seen from above, it's the civic duty for each one of us to protect the intellectual property right.

6. Ways to protect the IP by ourselves

Now we know the vitalness of treating IP seriously, what's more essential is how to put it into practice. The following are my suggestions for you to become a qualified IP defender by little actions.

First, the implementation of the awareness should be on the top of the catalog. The more folks get conscious of the IP importance, the better the IP will be protected. For example, we can make some videos about intellectual property and share them through social media like YouTube, TikTok, or Instagram, which, at least, can let hundreds of thousands netizens come to know such a thing.

Second, guard your own right. When someone steals your ideas and invades your legitimate right, you ought to maintain your rights through legal procedures without any doubt. You can consult a lawyer or look for a relevant litigation agent for legal proceedings, anyway, you must deal with such infringements seriously, or the infringer will become more and more rampant. Only if everyone treats their own right seriously and protects their right earnestly would it be hard for infringers to exploit loopholes.

Third, respect the IP owners as well as the IP protectors. When faced with the plagiarisms, actually the majority of people are unable to help. It's okay, there is no one forcing you to stand out, but I simply hope that those who are brave to stand out and speak for the justice should not be slandered or ridiculed because the light they have won may shine on you someday.

7. We need your support

Just as President Xi said: “Innovation is the primary driving force for development, and protecting intellectual property rights is protecting innovation. To establish a modern socialist country in an all-round way, we must better promote the protection of intellectual property rights. Only by strictly protecting intellectual property rights can we upgrade the modern property rights system, deepen the market-oriented reform of factors, promote the market to play a decisive role in the allocation of resources, and better play the role of the government. Only by strictly protecting intellectual property rights and severely cracking down on infringing and counterfeiting market entities and lawbreakers in accordance with the law can we improve the quality of the supply system and effectively promote high-quality development. Only by strictly protecting intellectual property rights, purifying the consumer market, and safeguarding the rights and interests of consumers can we achieve the individuals' peace of mind, eat and use comfortably. The protection of intellectual property rights is related to the overall situation of the country's opening up, and only by strictly protecting intellectual property rights can we optimize the business environment and build a new system of a higher-level open economy. Intellectual property protection is related to national security, and only by strictly protecting intellectual property rights can we effectively protect the key core technologies independently developed by China and resolve major risks.”

Dear reader, I firmly believe that with more and more attention being paid as well as more and more efforts being put, IP right will undoubtedly be highly valued one day. But this ideal result needs your support. Provided that you are willing to make a contribution, the world's development of intelligence can exuberantly step into a higher state.

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