

2020 ALB CHINA

IP RANKINGS

2020 ALB CHINA 知识产权排名

With the rapid development of science and technology, the demand for relevant intellectual property legal services is also increasing. As a result, we see law firms becoming more effective in helping companies resolve intellectual property disputes, more vigorously protect their intellectual property achievements, and more proactively help companies build and optimize their intellectual property management systems. While protecting companies, the power of these firms is also driving the advancement of intellectual property laws throughout China.

随着科技发展脚步的加快，相关知识产权法律服务的需求也不断增加。尽管挑战重重，我们还是看到一批律所更高效地帮助企业解决知识产权争议、更强有力地保护企业知识产权成果、更具前瞻性地帮助企业打造和优化知识产权管理体系。在为企业保驾护航的同时，这些律所的力量还推动了整个中国知识产权相关法律的进步。

BY KRISTEN LIU 刘诗宇 AND MARICEL ESTAVILLO

OUR RESEARCH

- The research covers the period spanning from February 2019 to February 2020. This includes both ongoing work (contentious and non-contentious) and matters that were closed during this timeframe.
- ALB will draw information from firm submissions, interviews, editorial resources and market suggestions to identify and rank the top firms for Intellectual Property in Asia. Interviews will be conducted only if needed.
- The IP rankings will be separated into two tables: "Patent" and "Trademark/Copyright". The rankings will also be divided into tiers, with the first tier identifying the strongest IP firms in each jurisdiction.
- The rankings will cover the following jurisdictions: Mainland China, Hong Kong, India, Indonesia, Japan, Malaysia, Philippines, Singapore, South Korea, Taiwan, Thailand and Vietnam. There will be no Asia-wide table.
- The rankings will feature both domestic and international firms. The following jurisdictions will have separate tables for domestic firms and international firms: China, Japan.
- Our research does not cover Australia and New Zealand.

OUR RANKINGS

Our rankings are based on the following metrics:

- The volume, complexity and size of work undertaken
- Presence across Asia and in individual jurisdictions
- Key personnel hires and growth of the practice group
- Key clients and new client wins
- Firm's visibility and profile in the region
- Year-on-year development and momentum

我们的研究

- 本次调研涵盖的时间段是从2019年2月至2020年2月，内容包括正在进行的工作以及在此期间内完结的事项。
- ALB将会根据报名表格、采访、编辑部的资源 and 市场测评来排出亚洲知识产权领域的顶尖律所。调查访问仅在需要时进行。
- 知识产权排名将会分为两个部分：“专利”和“商标/著作权”。排名将会被分成各个等级，第一级代表这个司法辖区内的最强知识产权律所。
- 排名涵盖的司法辖区有：中国大陆、香港、印度、印度尼西亚、日本、马来西亚、菲律宾、新加坡、韩国、台湾、泰国和越南。但不会有亚洲整个区域的排名。
- 排名包括本地律所和国际律所。以下司法辖区将会有本地律所和国际律所两个排名：中国、日本。
- 我们的研究不包括澳大利亚和新西兰。

我们的排名

排名基于以下标准进行：

- 律所开展工作的数量、复杂性和规模
- 在整个亚洲和各司法管辖区内的市场占有率
- 主要人员聘用和执业团队的成长
- 主要客户和赢得的新客户
- 律所在相关地区的知名度和地位
- 与去年同期相比的发展状态和发展势头

CHINA DOMESTIC FIRMS 中国本土律所

PATENTS 专利

TIER 1 一类

- CCPIT Patent & Trademark Law Office
中国国际贸易促进委员会专利商标事务所
- China Patent Agent (H.K.) Ltd.
中国专利代理(香港)有限公司
- JunHe LLP 君合律师事务所
- King & Wood Mallesons 金杜律师事务所
- Lifang & Partners 立方律师事务所
- Zhong Lun Law Firm 中伦律师事务所

TIER 2 二类

- AllBright Law Offices 锦天城律师事务所
- AnJie Law Firm 安杰律师事务所
- Beijing Dentons Law Offices, LLP
北京大成律师事务所
- Chang Tsi & Partners 铸成律师事务所
- DeHeng Law Offices 德恒律师事务所
- Global Law Office 环球律师事务所
- Long An Law Firm 隆安律师事务所
- Wanhuida Intellectual Property
万慧达知识产权
- Watson & Band Law Offices
华诚律师事务所

TIER 3 三类

- Co-effort Law Firm 协力律师事务所
- East & Concord Partners
天达共和律师事务所
- Guantao Law Firm 观韬中茂律师事务所
- Haiwen & Partners 海问律师事务所
- Han Kun Law Offices 汉坤律师事务所
- Hiways Law Firm 海华永泰律师事务所
- Hui Ye Law Firm 汇业律师事务所
- Jincheng Tongda & Neal
北京金诚同达律师事务所
- Tian Yuan Law Firm 天元律师事务所

TIER 4 四类

- An, Tian, Zhang & Partners
安伦律师事务所
- Beijing DHH Law Firm
北京德和衡律师事务所
- Dare & Sure Law Firm 达晓律师事务所
- Duan & Duan 段和段律师事务所
- FenXun Partners 奋迅律师事务所
- Tahota Law Firm 泰和泰律师事务所
- Twelve Tables Law Firm 铜表律师事务所

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北京大成律师事务所
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- Co-effort Law Firm 协力律师事务所
- DeHeng Law Offices 德恒律师事务所
- Global Law Office 环球律师事务所
- Hiways Law Firm 海华永泰律师事务所
- Hylands Law Firm 浩天信和律师事务所
- Jincheng Tongda & Neal
北京金诚同达律师事务所
- Long An Law Firm 隆安律师事务所
- Lusheng Law Firm 路盛律师事务所
- Tian Yuan Law Firm 天元律师事务所
- Tiantai Law Firm 天驰君泰律师事务所
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- Anli Partners 安理律师事务所
- Beijing TA Law Firm 韬安律师事务所
- East & Concord Partners
天达共和律师事务所
- Globe-Law Law Firm 高文律师事务所
- Guantao Law Firm 观韬中茂律师事务所
- Han Kun Law Offices 汉坤律师事务所
- Hui Ye Law Firm 汇业律师事务所
- Jingtian & Gongcheng
竞天公诚律师事务所
- JunZejun Law Offices 君泽君律师事务所
- Llinks Law Offices 通力律师事务所
- Merits & Tree Law Firm 植德律师事务所
- Ronly & Tenwen Partners
融力天闻律师事务所
- Tahota Law Firm 泰和泰律师事务所

CHINA INTERNATIONAL FIRMS 中国的国际律所

PATENTS 专利

TIER 1 一类

- Allen & Overy 安理国际律师事务所
- Baker McKenzie/Baker McKenzie FenXun
(FTZ) Joint Operation Office
贝克·麦坚时国际律师事务所/奋迅·贝克
麦坚时联合办公室
- Bird & Bird 鸿鹄律师事务所
- CMS CMS中国
- Deacons 的近律师事务所
- Finnegan, Henderson, Farabow,
Garrett & Dunner 美国飞翰律师事务所
- Hogan Lovells 霍金路伟国际律师事务所
- Jones Day 美国众达律师事务所
- Mayer Brown 孖士打律师事务所
- Morgan, Lewis & Bockius
摩根路易斯斯律师事务所
- Morrison & Foerster 美富律师事务所
- Norton Rose Fulbright 英国诺顿罗氏律
师事务所
- Orrick, Herrington & Sutcliffe
美国奥睿律师事务所

- Perkins Coie 博钦律师事务所
- Ropes & Gray 美国瑞格律师事务所
- Rouse China 罗思(中国)

TIER 2 二类

- DLA Piper 欧华律师事务所
- Freshfields Bruckhaus Deringer
富而德律师事务所
- MMLC Group MMLC集团
- Stephenson Harwood 罗夏信律师事务所
- Skadden, Arps, Slate, Meagher & Flom
世达国际律师事务所
- Spruson & Ferguson
- Quinn Emanuel Urquhart & Sullivan
昆毅律师事务所
- Vivien Chan & Co 陈韵云律师行

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- Finnegan, Henderson, Farabow,
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- Freshfields Bruckhaus Deringer
富而德律师事务所
- Hogan Lovells 霍金路伟国际律师事务所
- Mayer Brown 孖士打律师事务所
- Morgan, Lewis & Bockius
摩根路易斯斯律师事务所
- Orrick, Herrington & Sutcliffe
美国奥睿律师事务所
- Perkins Coie 博钦律师事务所
- Ropes & Gray 美国瑞格律师事务所
- Rouse 罗思(中国)
- Stephenson Harwood 罗夏信律师事务所
- Wilkinson & Grist 高露云律师事务所
- Vivien Chan & Co 陈韵云律师行

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- Eiger 艾格峰外国法事务律师事务所
- Jones Day 美国众达律师事务所
- MMLC Group MMLC集团
- Norton Rose Fulbright
英国诺顿罗氏律师事务所
- Oldham, Li & Nie 高李严律师事务所
- Spruson & Ferguson
- Quinn Emanuel Urquhart & Sullivan
昆毅律师事务所
- Skadden, Arps, Slate, Meagher & Flom
世达国际律师事务所
- Simmons & Simmons 西盟斯律师事务所
- Squire Patton Boggs
翰宇国际律师事务所

*Please see the full list on ALB website and
WeChat platforms.

*完整榜单, 请查看ALB网站或微信平台。

■ For the first time in the long history of PCT, China became the biggest user of the system last year, WIPO reported. This was a position previously held consistently by the United States since the system began operations in 1978. China filed 58,990 PCT applications last year, a 200 percent increase from the 276 applications it filed in 1999.

"China's rapid growth to become the top filer of international patent applications via WIPO underlines a long-term shift in the locus of innovation towards the East, with Asia-based applicants now accounting for more than half of all PCT applications," says Francis Gurry, the outgoing director-general of World Intellectual Property Organization (WIPO).

China and Asia's new dominant role in global innovation was also highlighted in a separate WIPO report on "The Geography of Innovation: Local Hotspots, Global Networks" that was published last year. The report finds that while innovation has become more collaborative and transnational, it remains concentrated in a handful of countries and even within these countries, in particular cities and regions.

China, Japan, and South Korea were three of the five countries, along with Germany and the U.S., which accounted for most of the patent production and scientific activity from 2015 to 2017.

"China and the Republic of Korea are largely responsible for the rising share of new areas in knowledge production and innovation; together, they account for over 20 percent of patents registered in the years 2015-2017, compared to under three percent in 1990-1999," notes the report.

Patents filed in Asia rose to 48 percent from 32 percent since the 2000s, while scientific publications increased to 36 percent from 17 percent. "This reflects the rise of China and the Republic of Korea and comes despite the relative decline in Japan's share of patents and publications," the report further elaborates.

IP protection continued to figure prominently in the ongoing trade dispute between the U.S. and China. In June last year, China released a white paper on the China-U.S. economic and trade consultations and reiterated its long-standing position on the issue.

"Historical records confirm that China's achievements in specific and technological innovation are not something we stole or forcibly took from others; they were earned through self-reliance and hard work. Accusing China of stealing IP to support its development is an unfounded fabrication," China stresses in the paper.

In one patent infringement case won at the U.S. International Trade Commission by Orrick for its Chinese clients, the law firm commented that the win had gotten more meaning amid the trade tension as it assured business continuity in the U.S. not only for the clients, but for the other Chinese companies in the industry. ALB

■ 世界知识产权组织报告称, 中国去年提交了58990项专利申请, 有史以来第一次位居PCT系统申请量之首, 而此前, 自1978年PCT开始运作以来, 美国一直占据榜首地位。

"中国迅速成为国际专利申请的头号申请国, 这突显出创新的重心长期向东方转移。目前亚洲申请者占PCT申请总数的一半以上," 即将离任的世界知识产权组织(WIPO)总干事弗朗西斯·加里表示。

世界知识产权组织去年发表的另一份报告《创新地域: 地方热点, 全球网络》也强调了中国和亚洲在全球创新中的新主导地位。报告称, 尽管创新已变得更具合作性和跨国性, 但仍集中在少数国家, 甚至是这些国家特定的城市和地区。

2015年至2017年, 中国、日本和韩国三国与德国、美国共同位列专利产量和科研活动最活跃的五个国家。

"新兴领域的知识产出和创新增长主要归功于中国和韩国。在2015-2017年注册的专利中, 两国的总量占20%以上, 而1990-1999年这一比例还不到3%," 该报告指出。

自2000年以来, 亚洲申请的专利从32%上升到48%, 而科学出版物从17%上升到36%。"尽管日本的专利和出版物份额相对有所下降, 这些数据依然能够反应中国和韩国的崛起," 该报告进一步阐述。

在美中之间持续的贸易战中, 有关知识产权保护的问题始终占据重要地位。去年6月, 中国发布的《关于中美经贸磋商的中方立场》白皮书, 并重申了其在这一问题上的立场。

"历史和事实充分证明, 中国在科技创新方面取得的成就不是偷来的、不是抢来的, 而是通过自力更生、艰苦奋斗得来的, 指责中国发展靠'盗窃'知识产权, 完全是无中生有、极其荒谬。"中国在文章中强调。

律师事务所极其客户均感受到了贸易战带来的影响。欧华律师事务所表示, 在他们去年处理一个案例中, 贸易战致使一位中国客户在美国开展研发活动时不得不面对许多复杂的问题。

奥睿律师事务所去年代表上海三思电子工程有限公司、深圳市创显光电有限公司和深圳市大族元亨光电股份有限公司在美国国际贸易委员会(ITC)的专利侵权诉讼案中取得胜利。"在目前中美贸易战的大背景下, 这个胜利不但来之不易, 而且很有意义。"该所表示。

亚洲有更多的司法管辖区采用了专利联动机制; 根据该机制, 仿制药品的销售许可审批推迟到源自美国的原研药到期为之后。据称, 该机制的优势在于其透明度以及能够更快解决专利纠纷。

中国将在开始实施中美签订的第一阶段经贸协议后也开始实施该专利联动机制。这种转变似乎已经初具规模。方达律师事务所去年代表安斯泰来制药(Astellas Pharma)处理了涉及10家中国制药公司的专利药物关联问题的专利侵权案件。该所表示, 这些案例对于制定专利药品联动机制方面的法规有参考价值。 ALB

锦天城律师事务所成立于 1999 年，是一家提供一站式法律服务的综合性律师事务所，在核心业务领域具备行业领先优势。

发轫于中国上海的锦天城，已在中国大陆二十一个城市（北京、杭州、深圳、苏州、南京、成都、重庆、太原、青岛、厦门、天津、济南、合肥、郑州、福州、南昌、西安、广州、长春、武汉、乌鲁木齐）及中国香港、英国伦敦开设分所，并与香港史蒂文生黄律师事务所联营，与鸿鹄国际律师事务所建立战略合作关系。

承袭海派文化的锦天城，不断汇集法律行业的中坚力量与优秀青年。从 2017 年的近 2000 名律师，到 2018 年的超 2300 名律师，再到如今的 2800 余名律师，拥有充足人才储备的锦天城不断完成律师规模上的突破。

锦天城从未停止进行法律专业服务的升级与迭代，持续优化业务领域体系。锦天城共有十大专业委员会：证券与资本市场、银行与金融、公司与并购、国际贸易、跨境投资、房地产与建设工程、知识产权、海商海事、破产重整与清算、诉讼与仲裁。

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SPOTLIGHT

ON TOP IP FIRMS

CCPIT Patent & Trademark Law Office 对话CCPIT

ALB: What are the latest developments of relevant laws and regulations in the IP field in China over the past one to two years? What are the trends in China's IP legal service market?

Long Chuanhong, deputy director, CCPIT: In recent years, China has improved its IP laws and regulations, and made new progress in building an IP system. Issuing "opinions on strengthening the protection of IP rights" shows that China will make unprecedented efforts to promote the comprehensive improvement of IP protection.

Meanwhile Law of the People's Republic of China Against Unfair Competition and Trademark law of the People's Republic of China have been amended and implemented.

The revised Trademark Law has strengthened the regulation of malicious registration, increased the obligation of the trademark agency, increased the amount of compensation for infringement, and increased the cost of illegal counterfeiting of registered trademarks.

The revised "Anti-Unfair Competition Law" expanded the scope of business secret protection, strengthened the commercial secret infringement of legal responsibility, intensified the administrative punishment on trade secret infringement behavior, and increased legal compensation on the infringement of trade secret and unfair competition. Additionally, "Provisions Governing the Application for Trademark Registration", "Procedures for the Examination and Hearing of Applications for Registration of Malicious Trademarks Not For the Purpose of Use" and so on regulations were issued.

We believe that the domestic IP legal service market reflects the following trends:

- (1) IP cases are more complex and diverse, and many cases involve new technologies like 5G telecommunication, AI and big data, bio-pharmaceutical and so on, requiring higher professional and comprehensive capabilities of legal team.

- (2) the development of artificial intelligence and big data technology will also have a certain impact on the legal service market. Parts of the work that used to be done manually by a legal assistant can now be done efficiently by purchasing a commercial database.
- (3) this year's epidemic is having a profound impact on all industries around the world. The application of new technical means poses new challenges to the practitioners of IP legal services. We should not only upgrade our software and hardware, but also upgrade our capabilities of applying them into work.

ALB: What is your successful experience in trademark infringement and dispute resolution? How should enterprises better protect the rights and interests of trademarks?

Long: We are the oldest IP firm in China. Since 1957, we have been engaged in the trademark business, and have been developing with the establishment and improvement of China's intellectual property law. Our success is based on a deep understanding of the laws and regulations on IP rights, and the continuous training of high-level professionals and rich experience. Many of the cases we handle have been selected as typical cases by China's supreme people's court and other authoritative institutions at home and abroad, setting a benchmark in the industry and winning high praise from peers worldwide and full trust from clients.

We believe that enterprises should be in close coordination with intellectual property legal services professionals and can take the following measures to better protect the rights and interests of trademarks:

- (1) design a comprehensive IP protection strategy, and build a strict IP protection framework and system;
- (2) pay attention to competitors' and industries' IP protection strategies and best practices, and adjust and improve strategies and practices timely; cooperate with industry peers, share information, and jointly combat the counterfeit infringement by the same infringer;
- (3) pay special attention to the infringement strategy and mode of the infringer. The infringer is the worst



ENRICHING
YOUR IDEAS

PROVIDING HIGH QUALITY
IP SERVICES

FOR YOUR
PARTICIPATION
IN THE CHINA
INTERNATIONAL
IMPORT EXPO



中国国际贸易促进委员会专利商标事务所
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enemy and the best teacher. As the right holder of a trademark, we should pay attention to the infringement strategy and mode of the infringer, discover the loopholes and weaknesses in the protection of IP from the perspective of the infringer, and take remedial and rights protection measures.

- (4) make use of typical cases to carry out proper publicity, conduct public IP education, avoid fighting alone with the infringer.

ALB: 过去一两年中，中国知识产权领域相关法律法规有何动态？国内知识产权法律服务市场体现出怎样的趋势？

CCPIT副所长龙传红先生：近年来，中国知识产权法律法规体系更加健全，知识产权制度建设取得新成效。中办、国办印发了《关于强化知识产权保护的意见》，表明我国将以前所未有的力度推动知识产权保护能力和保护水平全面提升。《中华人民共和国反不正当竞争法》和《中华人民共和国商标法》修改并施行。

修改后的《商标法》加强了对恶意注册行为的规制，增加了商标代理机构的义务，提高了侵权赔偿数额，大幅度提高了假冒注册商标行为人的违法成本。

修改后的《反不正当竞争法》扩大了商业秘密的保护范围、强化了侵犯商业秘密行为的法律责任，适当减轻了权利人的举证责任，加大了侵犯商业秘密行为的行政处罚力度，提高了侵犯商业秘密和经营者实施不正当竞争行为的法定赔偿额。

此外，还制定了《规范商标申请注册行为若干规定》、《关于不以使用为目的的恶意商标注册申请审查审理规程》、《关于加强查处商标违法案件中驰名商标保护相关工作的通知》；修订发布了《国外地理标志产品保护办法》等部门规章。

我们认为国内知识产权法律服务市场体现出如下趋势：

- (1) 知识产权案件更加复杂多样，许多案件涉及5G通信、人工智能和大数据、生物医药等新技术，对办案团队的专业性和综合能力提出更高的要求。
- (2) 人工智能和大数据技术的发展，对法律服务市场也会产生一定冲击。原来需要法律助理人工完成的部分工作，现在可以通过购买商业数据库高效解决。
- (3) 今年的疫情对于全球各个行业都会产生深远影响，知识产权法律服务行业也不例外。远程立案、云开庭等新技术手段在各级法院的运用，对知识产权法律服务业的从业人员提出了新挑战。大家不仅要从事软件和硬件等技术上做好升级，还要进行能力的提升。

ALB: 在商标侵权、争议解决领域，贵所有何成功经验？企业应该如何更好地保护商标权益？

龙传红先生：我所是中国历史最悠久的知识产权事务所。1957年开始从事商标业务，随着中国知识产权法

律体现的建立和完善而不断发展壮大。我们的成功来自对中国知识产权主要法律法规立法和历次修法背景、宗旨和过程的深刻理解、几代高水平专业人才的接续培养和数十年办案经验的深厚积淀。我们办理的许多案件入选中国最高人民法院、各地高级人民法院、国家知识产权局等国内外权威机构的典型案例，在业界树立了案件办理标杆，得到国内外同行高度评价和客户的充分信赖。

我们认为企业为更好地保护商标权益，应该与知识产权法律服务专业人员密切配合，可以采取如下措施：

- (1) 设计全面周到的知识产权保护战略，根据知识产权保护的预算，构建相对严密的知识产权保护架构和体系；
- (2) 关注竞争对手和行业的知识产权保护策略和最佳实践做法，及时调整和完善自身的保护策略和做法；与行业同仁合作，共享信息、联手合力、共同打击同一侵权人实施的假冒侵权行为；
- (3) 特别关注侵权人的侵权策略和模式。侵权人是最坏的敌人，也是最好的老师，作为商标权利人要关注侵权人的侵权策略和模式，以侵权人的视角发现自身在知识产权保护方面的漏洞和弱点，及时采取补救和维权措施；
- (4) 利用典型案件进行适当宣传，进行公众知识产权教育，避免与侵权人单打独斗，借助消费者和社会各界的力量，更为有力地打击假冒侵权行为。

Dare & Sure Law Firm 对话达晓律师事务所

ALB: What are the latest developments of relevant laws and regulations in the IP field in China over the past one to two years? What are the trends in China's IP legal service market?

Lin Wei, managing partner, Dare & Sure Law Firm: After 40 years of rapid economic growth, China's economy has entered a new stage, paying more attention to the growth of innovation and quality. Accordingly, the intellectual property rights protection related to it has also begun to show great changes. These changes are not only due to external pressure from the international community, but also due to the changes in China's economic structure.

At the same time, due to market size and trade integration, China has become a major IP jurisdiction in the world, and a considerable number of foreign companies have chosen to fight IP wars in China. I'd like to draw the attention of the relevant subjects to the following changes:

- (1) Changes and trends in legislations
Laws have recently been revised or promulgated include the new Trademark Law, the new Anti-unfair

汇业律师事务所为中国首批提供综合知识产权法律服务的律所之一，在过去的21年中，已经协助上百家全球知名品牌进入中国市场并实施本土化知识产权战略，帮助数百家中国企业创造并维持品牌竞争优势。截至目前，汇业已经建立起涵盖专利、商标、版权、商业秘密、域名等全领域的知识产权法律服务团队。十余名合伙人被评为中国领先知识产权律师并担任知识产权有关的社会职务，其代理的众多具有标杆意义的案例、项目广受业界赞誉，并于2019年荣膺知识产权诉讼代理机构著作权领域中国十强。

01 汇业近年部分知识产权案例 被各级机构评为典型案例

▲ 代理世界最大汽车轮胎一体化成型机制造商（VMI）与萨驰华辰机械（苏州）有限公司的一系列专利侵权和确认不侵权之诉，入选2019年第10期《中华人民共和国最高人民法院公报》，该案是最高院知产庭设立以来对专利确认不侵权案件作出的首例裁定；

▲ 代理的艾利丹尼森(Avery Dennison)诉台湾四维企业股份有限公司商业秘密纠纷案，被评为年度全国50大知识产权典型案例；

▲ 代理国际知名企业路易威登马利蒂诉黄钧秋商标侵权及不正当竞争纠纷案，该案为新《反不正当竞争法》实施以来上海地区判决的首例认定有一定影响商品装潢的案件；

▲

02 汇业为全球200余家知名品牌提供 持续全面的知识产权法律服务

▲ 分布在全国各地的汇业商标代理团队随时响应全球客户，提供商标国际、国内查询、注册、异议、监测、交易及行政诉讼等优质服务；

▲ 汇业是为数不多的具有专利代理资质的律所，数十人的专利代理师、技术专家能够全面满足化工、生物、医药、电子、信息技术、机械等行业专利业务需求；

▲ 汇业强大的知识产权争议解决团队，持续为数十家久负盛名的奢侈品、快消、电子等品牌提供超过10年的法律服务；

▲ 汇业跨领域的竞争法团队，已经为众多国内外客户提供反垄断、商业秘密保护、反商业贿赂等涵盖民事、行政及刑事的立体化、高效率的维权路径；

▲

03 汇业律师被评为中国领先 知识产权律师并担任社会职务

▲ 杨国胜律师被聘为华东政法大学硕士生导师、华东师范大学法学院兼职教授等等；

▲ 潘志成律师被聘为上海交通大学法学院、上海政法学院兼职硕士生导师、上海市法学会竞争法研究会理事，被评为知产力2019年中国优秀知识产权律师名录等；

▲ 魏青松律师，全国政协委员，担任最高人民法院优秀商事知识产权案例评审专家，被评为ALB2018年度“中国十五佳诉讼律师”、“江苏省知识产权领军人才”等；

▲ 黄春林律师被聘为同济大学、华东师范大学法学院实务导师、上海市徐汇区知识产权调解专家，被评为知产力2019年中国优秀知识产权律师名录等；

▲ 王刚律师担任湖南省知识产权法学研究会常务理事、湖南省知识产权创业导师等；

▲ 王函律师被评为“全国星级专利代理师”称号，任上海市律协知识产权业务委员会委员等；

▲

04 近年出版的部分知识产权专著

▲ 《知识产权领域的反垄断问题：以美国为主要线索的考察》/ 法律出版社

▲ 《知识产权领域的反垄断问题》/ 人民法院出版社

▲ 《知识产权滥用及其法律规则》/ 中国法制出版社

▲ 《知识产权纠纷非讼解决机制研究》/ 中国政法大学出版社

▲

Competition Law, the E-commerce Law, and judicial interpretations on the trial of administrative cases concerning patent authorization and confirmation, among others. The above-mentioned revisions or ongoing revisions of laws or judicial interpretations show a few trends: the increase in the amount of statutory compensation; the easier access to pre-litigation and in-litigation bans; the patent system is more in line with international standards; and a closer connection with the Internet and data competition.

(2) Changes at the judicial level and the formation of new organizational system

The intellectual property court of the supreme people's court (SPC) was open in 2019 to hear appeals from technology and monopoly cases, in addition to the 19 IP courts that have been set up over the past few years across China's major economic development zones, and three in Beijing, Shanghai and Guangzhou. Currently, China has basically formed a specialized court system for the trials of IP cases.

Different from the way other traditional cases are organized, under this new system, we can feel that the quality of IP case trials improved, the standards in line with one another, and professional legal community formed. Recently, there have been a number of cases that deserve attention and have influence beyond China's legal domain. The parties' enthusiasm for seeking intellectual property rights protection in China continues to increase along with the protection effect, supported by the increase of the amount of compensation mentioned above, legislative resources for temporary injunctions, technical investigation, judicial expertise, evidence preservation, distribution and transfer of burden of proof, and the system of first judgment.

(3) Changes in noteworthy areas and legal services

I believe that the pharmaceutical and chemical industry, communications, Internet, data and entertainment industry will remain the most important IP dispute areas for quite some time, and the most dynamic part in the legal service market. This is because changes in China's socioeconomic structure and age structure have led people to pay more attention to health and quality of life. Local pharmaceutical companies are also growing rapidly and strengthening their strategic planning in the field of intellectual property.

In addition, China has the smallest gap with the advanced countries in the fields of 5G communication, Internet, big data, artificial intelligence and entertainment, and it is likely to surpass them. However, there are numerous competitors to reinvest in this field, and a large number of foreign-related intellectual property disputes are inevitable.

Judging from the current judicial and law enforcement practice in the United States, Europe and China, intellectual property rights dispute is often related to data protection, competition and anti-trust issues. The multi-oriented demand of intellectual property disputes has put forward more demands and challenges for legal service providers. To become more competitive in the future, traditional IP practitioners need to think more about integration with specific industries, rather than providing services according to academic departmental law.

ALB: What are the requirements of the SSE STAR Market on the IP of enterprises? What suggestions do you have for companies interested in listing in STAR Market in terms of management and protection of their IP rights?

Lin: The positioning of the STAR Market determines that the scientific and technological innovation and intellectual property work of the companies listed in STAR Market will inevitably become the focus of attention of all parties.

The regulations on intellectual property rights of enterprises in the system of STAR Market are concentrated in papers like Measures for the Administration of Registration of IPO in STAR Market (trial). Judging from the papers, there are six main requirements for the SSE STAR Market companies: (1) the accuracy of industry classification based on IP rights; (2) Whether a company has established a complete IP management system and implements the system effectively; (3) Whether a company has core technology and IP which are clear, complete, independent and sustainable, including the stability of legal status of intellectual property rights, and the certainty and entirety of ownership of intellectual property rights; (4) Whether the core technology and IP are combined with the main business of the company; (5) The relevant information of core technical personnel; and (6) IP related risk disclosure and prevention.

Given the above, my suggestions would be: (1) carrying out comprehensive system planning and deployment as soon as possible, as issues involving intellectual property rights are difficult to cope with through short-term planning; (2) establishing a professional IP management team. The short establishment time of science and innovation enterprises, the insufficient investment in intellectual property management and the lack of a professional intellectual property management team are the shortcomings that the intellectual property work of science and innovation enterprises need to make up; (3) formulating a complete IP management system to improve work efficiency and avoid mistakes; (4) establishing and improving the arrangements for patent management. On the basis of a professional intellectual property management team and a sound intellectual property management system, companies should conduct early patent applications and planning for their

core technology; and (5) investigating the risk of litigation. By working together with law firms or third-party institutions, a company should monitor and analyze whether its core product involves a patent that has been filed or granted, and meanwhile formulate an emergency plan.

ALB: 过去一到两年中，中国知识产权领域相关法律法规有何动态？国内知识产权法律服务市场体现出怎样的趋势？

达晓律师事务所管理合伙人林蔚律师：中国经济在高速增长四十年后进入了新的阶段，更加注重创新和质量的提升，相应地，与之相关的知识产权保护也开始呈现较大变化，这些变化既来自于国际间的外部压力，也来自于中国经济结构的自身变化。

同时，缘于市场体量和贸易融合的情况，中国业已成为世界主要的知识产权管辖区，已经有相当数量的外国公司之间的知识产权战争选择在中国开启。我认为如下四方面的变化值得相关主体关注：

(1) 立法层面的变化与趋势

涉及知识产权的法律修订在2019年变得频繁起来，将要出台的法案有专利法的第四次修改、著作权法的第三次修改，新反不正当竞争法的司法解释，已经修改或者出台的有新商标

法、新反不正当竞争法、电子商务法（其中的相当条款涉及知识产权）、有关知识产权纠纷行为保全的司法解释，审理专利授权确权行政案件的司法解释和。

从上述已经修订或正在修订的法律或司法解释来看，中国知识产权保护的趋势也可以被总结为如下四个方面：（1）法定赔偿数额的提升；（2）诉前、诉中禁令的更易取得；（3）专利制度更加地与国际接轨，医药领域尤其明显；（4）与互联网、数据竞争的关系日益紧密。

(2) 司法层面变化及新的组织方式

最高人民法院知识产权法庭也在2019年正式办公，其专门审理涉技术及垄断案件的上诉案件，加上在过去的几年间设立的遍布中国主要经济发展带的十九个知识产权法庭，和北京、上海和广州的三个知识产权法院。目前，中国已经基本形成了知识产权审判的专门法院体系。

与其他传统案件审理的组织方式不同，在此架构下，我们能感受到知识产权案件审理的质量提升、标准统一、及专业的法律共同体的形成。再与前述的赔偿数额提升、临时禁令



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段和段于 1993 年由司法部特批成立，是中国最早成立的私人合伙制律师事务所。历经近三十年的发展，段和段已成为中国最具特色和知名度的综合性律师事务所之一，持之以恒地向客户提供高品质的法律服务。作为知识产权部最重要的团队之一，段和段专利团队拥有由律师、专利代理师、技术经纪人、政府项目顾问组成的六十余人的 IP 服务战队。

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颁发的立法资源的配套，辅与技术调查、司法鉴定、证据保全、举证责任分配与转移、先行裁判制度的衔接，近期出现了一批值得关注，并具有超出中国法域影响力的案件，当事人在中国寻求知识产权救济的热情随着保护效果在持续提升。

(3) 应当被关注的领域和法律服务的变化

通过实务经验结合行业观察，我认为医药化工、通讯、互联网、数据及娱乐行业会是未来相当长一段时间内最引人关注的知识产权争议领域，也是法律服务市场最具活力的部分。这是因为中国社会经济结构和年龄结构的变化决定了人们更加重视健康与生命质量，本土的医药企业也正在迅速地成长并在知识产权领域加强布局。

另外中国在5G通讯、互联网、大数据、人工智能与娱乐领域与先进国家的差距最小，且有超越之势，但在此领域重筹投入的竞争者云集，大量的涉外知识产权争议势不可免。

从美国、欧洲及中国目前的司法和执法实践看，相关知识产权争议往往还与数据保护、竞争和反垄断问题交织在一起，知识产权争议的多面向需求对法律服务的提供者提出了

更多的要求与挑战，传统的知识产权从业者要在未来更具竞争力，需要更多地考虑与具体行业的融合，而不再是按照学院派的部门法划分提供服务。

ALB：科创板对于企业的知识产权有着怎样的要求？对于有意上市科创板的企业，在其知识产权管理与保护方面，您有何建议？

林蔚律师：科创板的定位决定了科创板上市公司的科技创新和知识产权工作必然会成为各方关注的焦点。对于计划未来上科创板或是已经成功登陆科创板的公司而言，如何做好公司的知识产权工作都是意义重大的事情，直接关乎企业能否成功上市以及上市后是否能够安全、合规运营。

科创板制度中关于企业知识产权的规定集中于《科创板首次公开发行股票注册管理办法（试行）》、《公开发行证券的公司信息披露内容与格式准则第41号——科创板公司招股说明书》、《公开发行证券的公司信息披露内容与格式准则第42号——首次公开发行股票并在科创板上市申请文件》和《上海证券交易所科创板企业上市推荐指引》等文件中。

从上述规定及上交所的问询看，科创板对企业的要求主要有六个方面：1.根据知识产权来确定行业



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分类的准确性；2.企业是否建立了完善的知识产权管理制度体系并有效运行；3.核心技术和知识产权是否清晰、完整、独立、可持续，其中包括知识产权的法律状态稳定，知识产权权属确定和完整；4.核心技术与知识产权与主营业务的结合，即主要依靠核心技术开展生产经营的认定；5.核心技术人员的相关信息，包括核心技术人员的独立性、任职合理性、稳定性和企业对核心技术人员的依赖；6.知识产权的风险披露和预防。

因此我建议：首先，尽早进行系统全面的规划和部署。从上交所的问询函来看，涉及知识产权的问题不仅数量多，且深入、全面，难以通过短期筹划应付。故企业必须高度重视知识产权工作，尽早做系统、全面、专业的规划和部署。第二，科创企业急需组建专业的知识产权管理团队。科创企业普遍成立时间短、公司在知识产权管理方面投入不足，缺乏专业知识产权管理团队，是科创企业知识产权工作亟需弥补的一块短板。第三，制定完善的知识产权管理制度。企业在知识产权工作初期常常只注重专利申请和商标注册等具体工作，忽略制度构建的系统工作，导致知识产权工作没有制度化、体系化，导致在知识产权工作中出现纰漏。第四，建立和完善专利布局。在前述组建专业的知识产权管理团队，制定完善的知识

产权管理制度的基础上，对于自身的核心技术，应尽早进行专利申请、提前进行专利布局、加大对竞争对手专利的检索力度。第五，做好重大诉讼风险排查工作。企业日常，尤其是申请上市前，应当进行知识产权侵权风险评估，借助第三方机构或者律师事务所的力量，对竞争对手，以及核心产品涉及的他人专利提前进行分析和监控，做好化解和建立紧急预案制度。

Han Kun Law Firm 对话汉坤律师事务所

ALB: What are the latest developments of relevant laws and regulations in the IP field in China over the past one to two years? What are the trends in China's IP legal service market?

Wang Yan and Duan Zhichao, partners, Han Kun Law Firm: In the past 1-2 years, the development of China's laws and regulations related to intellectual property rights has reflected the trend of: firstly, strengthening the protection of intellectual property rights. Damages for infringement/intentional infringement may be up to five times the actual



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loss or illegal gain; secondly, the difficulty of proof and the burden of rights protection is reduced; thirdly, judicial means are more widely used, which provide more timely protection of intellectual property rights, and also promote the settlement of disputes by means of reconciliation to some extent.

The development of domestic intellectual property law market continues the previous trend of rapid development, with further breakthroughs in service breadth and depth. We have also observed some market development and opportunities in our own business in recent years. First, emerging industries have brought new opportunities to the market. High-tech enterprises in the fields of biopharmaceuticals, artificial intelligence and new energy are constantly emerging. As intellectual property rights have a direct impact on the business model and competitiveness of such enterprises, they generally attach importance to the protection of intellectual property rights. Secondly, the opportunity brought by the stock of intellectual property rights. In the previous stage, the rapid development of intellectual property industry brought considerable stock to the market. Technical innovators also urgently hope to realize the value of intellectual property through

commercialization. Such commercialization needs include not only the optimization of resources through the transaction and licensing of intellectual property rights, but also the protection of their own competitive advantages, the containment of competitors, and the pursuit of liquidity opportunities through relevant litigation (such as litigation related to NPE). Thirdly, the chance of market and technology globalization. The strengthening of China's intellectual property protection system and the importance of the Chinese market have made multinational companies see China as one of the most important areas when it comes to the intellectual property disputes resolution. Such services has brought new vitality to the market demand.

ALB: What is your successful experience in patent infringement and dispute resolution in the high-tech field? What progress has China made in the patent protection system in recent years?

Wang and Duan: The Han Kun intellectual property team is composed of members who graduated from top universities at home and abroad, with technical background and legal expertise in wireless communication, artificial intelligence, semiconductors, biomedicine and other fields.



誠思遠信
取業遠信

华诚简介

华诚成立于1995年，总部位于上海，分支机构遍及北京、香港、哈尔滨、兰州、烟台、广州、苏州、郑州、成都、芝加哥、东京等国内外城市（更多分支机构信息请参阅华诚官方网站）。二十多年来，华诚秉承“诚信、思远、敬业、进取”的企业文化，已经发展成为由华诚律师事务所、华诚知识产权代理有限公司等多个实体组成的法律和知识产权服务综合体。

华诚目前的整体业务范围已经涵盖知识产权、公司商事、数据法律与知识产权服务、资本市场、金融与资产管理、破产与重组、文化娱乐体育、建筑房地产及基础设施、劳动人事、家事与财富管理、贸易海关及税务、诉讼与争端解决、调查等众多领域。

About Watson & Band

Watson & Band was established in 1995 and is headquartered in Shanghai. It maintains domestic and international branch offices in Beijing, Hong Kong, Harbin, Lanzhou, Yantai, Guangzhou, Suzhou, Zhengzhou, Chengdu, Chicago and Tokyo (for more details on these offices, please refer to our official website). Over the last two decades Watson & Band, adhering to its philosophy of "Integrity, Strategy, Professionalism and Dedication", has developed into an integrated legal and IP services provider that is represented primarily by Watson & Band Law Offices and Watson & Band Intellectual Property Agent Ltd.

Watson & Band's current scope of practice includes various areas such as intellectual property; corporate and commercial law; data-related legal and IP services; capital market; financial and asset management; restructuring and insolvency; culture, entertainment and sports; construction, real estate and infrastructure; labor and employment; family law and wealth management; trade, customs and tax; litigation and dispute resolution; and investigation, etc.

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We have been committed to providing high quality and efficient services to our customers in the fields of patent infringement and dispute resolution. In recent years, we have helped the world's leading technology companies in printers and consumables, mobile communications, and software and cloud services achieve favorable results in patent-related dispute resolution. In such cases, we conclude the following experience:

- (1) comprehensively speaking, create solutions based on customer needs. Such clients' patent suits in China are often part of their global dispute resolution or have specific business claims. The priority should not be given to the winning of individual cases, but the bigger picture, to design feasible plans for clients' needs.
- (2) in individual cases, flexibly use a variety of litigation means, including the confirmation of non-infringement of the lawsuit, temporary injunction, behavior preservation, to maximize the interests of customers. By reasonable and flexible use of relevant litigation means can we quickly resolve disputes, resolve the crisis for customers and strive for the best interests.

- (3) coordination and interaction of invalid and infringing procedures. It is necessary to pay attention to the consistency of the interpretation of the scope of protection of claims in different procedures from the beginning of the case in order to avoid the adverse consequences of estoppel.

In recent years, China has made real efforts to improve its patent protection system, especially in patent infringement proceedings:

- (1) specialization of trial courts and judicial personnel. Technical investigators started getting involved in an increasing number of cases. The centralized trial of technical cases by the intellectual property court of the supreme people's court is conducive to the consistency of trial standards. The intervention of the technical investigation officer helps to correctly understand the technical scheme from the perspective of the technical personnel and confirm the relevant facts for the judgment of infringement.
- (2) trial procedure innovation. The extensive use of judicial means such as injunction and preemptive judgment before or during litigation has not only strengthened

Every solution we deliver reflects the collective knowledge of our multi-jurisdictional and multi-disciplinary professionals.



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the protection of the obligee, but also paid attention to the coordination of the public interest and the legitimate rights and interests of the defendant.

- (3) The significant increase in the amount of compensation for infringement. The amount of compensation confirmed by the court in the judgment of patent litigation has been significantly increased, which has strengthened the crackdown on infringement, and also enhanced the confidence of the right holders in the judicial system.

ALB: 过去一到两年中, 中国知识产权领域相关法律法规有何动态? 国内知识产权法律服务市场体现出怎样的趋势?

汉坤律师事务所合伙人王焱律师、段志超律师: 在过去的1-2年中, 中国知识产权相关法律法规的发展以及相关司法整体体现了强化知识产权保护的趋势, 主要体现在以下几项: 一是建立健全知识产权惩罚性赔偿制度, 加大对恶意侵权的打击力度, 针对侵权/故意侵权赔偿额最高可达实际损失或违法所得的五倍; 二是通过证据保全、举证责任转移等授权来降低举证难度, 减轻权利人维权负担, 特别是在诸如商业秘密类案件以及非通用消费类侵权产品相关案件上有利地促进了知识产权的保护; 三是诸如临时禁令、先行判决等司法手段更广泛地被使用, 为具有时效性和紧迫性的知识产权保护提供了有力的武器, 也在一定程度上促进了通过和解等方式来实现定纷止争的效果。

国内知识产权法律市场的发展延续了此前高速发展的趋势, 在服务宽度和深度上都有了进一步的突破, 我们也从自身的业务中观察到近年来市场的一些发展和机会。一是新兴行业为市场带来了新的机会。生物制药、人工智能、新能源等领域中科技型企业不断涌现, 由于知识产权对此类企业的经营模式和竞争力具有直接影响, 其普遍重视对知识产权的保护, 希望能够找到有能力和经验的法律服务机构提供相关服务; 二是存量知识产权带来的机会。知识产权行业在前一阶段的迅猛发展为市场带来了可观的存量, 技术创新者也迫切地希望通过商业化来实现知识产权的价值, 这样的商业化需求既包括通过知识产权的交易和许可来实现资源的优化和产品的落地, 也包括通过相关诉讼去确保自身的竞争优势、遏制竞争对手、以及寻求变现机会(例如NPE相关诉讼); 三是市场和技术全球化带来的机会。中国知识产权保护制度的加强以及中国市场的重要性都促使跨国企业将中国视为其解决知识产权纠纷的重要一环, 且很多时候相关纠纷并不涉及中国企业。此类服务需求给市场带来了新的活力, 也给从业者的专业素质提出了更高的需求。

ALB: 在高科技领域专利侵权、争议解决领域, 贵所有何成功经验? 近几年, 中国在专利保护体系方面做出了哪些进步与完善?

王焱律师、段志超律师: 汉坤知产团队由毕业于国内外顶尖大学的成员组成, 兼具无线通讯、人工智能、半导体、生物医药等诸多领域的技术背景和法律专长。我

们一直致力于在高科技领域专利侵权、争议解决领域向客户提供优质、高效的服务。近年来, 我们先后帮助打印机及耗材、移动通讯、以及软件和云服务行业的全球领先高科技公司在专利相关的争议解决中陆续取得有利结果。就此类案件, 我们总结出如下经验:

- (1) 综合策略方面, 基于客户需求打造针对性的解决方案。此类客户在中国的专利诉讼往往是其全球争议解决方案中的一部分, 或是具有具体的商业诉求。在设计诉讼策略时, 不应该以个案胜诉优先, 而是应该综合考虑各方面因素, 设计能够服务于客户需求的可操作计划。
- (2) 个案中, 灵活利用多样化的诉讼手段, 最大化客户利益。近年来专利诉讼制度的完善为权利人和被告都提供了丰富的诉讼手段, 包括确认不侵权之诉、临时禁令、行为保全在内。复杂技术类案件的审理通常面临在举证上的困难, 且审理时间漫长。通过合理、灵活地利用相关诉讼手段能够迅速解决纠纷, 我们能够为客户化解危机并争取到最大利益。
- (3) 无效和侵权程序的协调和互动。复杂技术案件中专利无效程序和侵权程序的协调尤为重要。需要自案件之初起就重视在不同程序中对于权利要求保护范围解释的一致性, 以避免由于“禁反言”带来的不利后果。

近年来, 中国在专利保护体系的完善方面做出了切实的努力, 特别是在专利侵权诉讼程序中:

- (1) 审理法院与审判人员专业化。最高人民法院知识产权法庭集中审理专利类案件的二审以及越来越多的案件中开始有技术调查官的介入。最高人民法院知识产权法庭的集中审理技术类案件有利于审判标准的一致性; 技术调查官的介入有利于从技术人员的视角正确理解技术方案, 为侵权判断确认相关事实。
- (2) 审判程序创新。包括诉前/诉中禁令以及先行判决等司法手段的广泛采用在加强对权利人的保护的同时也注意了对公众利益以及被告合法权益的协调。
- (3) 侵权赔偿额明显增加。法院在专利诉讼判决中认定的赔偿额较此前有了明显上升, 加强了对侵权行为的打击力度, 也增强了权利人对司法制度的信心。

Hui Ye Law Firm 对话汇业律师事务所

ALB: What are the latest developments of relevant laws and regulations in the IP field in China over the past one to two years? What are the trends in China's IP legal service market?

Wang Han, partner and director of the IP commission, Hui Ye Law Firm: at present, China has established a



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专无不达、业无不晓

——专访达晓律师事务所高级合伙人林蔚律师

ALB：达晓律师事务所秉承着怎样的律所理念？

林蔚律师：达晓具备成体系的理念和价值观，通过多维度呈现，并内化为对事务所和律师的要求：

- (1) 在专业上，以达晓的中文名作为律师的素养要求，即练达、通晓；
- (2) 在品格上：以达晓的英文名作为律师的内心品格的要求：即Dare（果敢）& Sure（确信），果敢是对律师勇气和担当的要求，确信既是对专业、成果的自信，又是期望达成客户对达晓的信任，以及打动法官的心证；
- (3) 在处世哲学上：我们秉承王阳明的“知行合一”（这也是达晓知识产权和行政法两个最重要的业务领域的简称），以及稻盛和夫提出的“胆识”（也是Dare & Sure的谐音）；
- (4) 在方法论上，达晓要求律师兼顾客户在法律、技术、商务上的需求，臻致问题的妥善解决。这也是达晓对客户的承诺：问题到此为止。

ALB：达晓律师事务所的重点领域有哪些？在这些领域中，可否分享一或两个颇具开创性意义的案例？

林蔚律师：达晓最具优势的领域包括知识产权、竞争与反垄断、行政诉讼与合规。达晓团队配置了多位审判经验丰富的前法官、资深律师，还吸纳了海外一流人才。

在竞争与反垄断领域，我们最近成功代理了国内医药行业反垄断民事诉讼第一案，代表扬子江药业集团与合肥医工恩瑞特药业反垄断及合同纠纷一案，引发医药圈和反垄断领域的广泛关注。该案涉及扬子江药业重磅药物地氯雷他定，南京市中级人民法院一审判决全面支持了扬子江药业的诉讼请求，认定被告构成无正当理由的限定交易，以不合理高价销售涉案原料药，和附加不合理的交易条件，认定相关合同（条款）无效，并获近7000万元人民币的损害赔偿和合理支出。该案既是国内医药行业反垄断民事诉讼第一案，也是目前中国反垄断诉讼中判赔额最高的，对医药行业尤其是原料药市场的竞争法规制具有很高参考价值。

在知识产权领域，我们最近成功代表阿里文娱（以优酷网络为原告）对百度公司传播著名电视剧《三生三世十里桃花》的侵权行为进行维权并全面胜诉。海淀法院判决百度网盘应采取事前预防侵权措施，这是中国法院首次明确网盘服务商有事前采取合理技术措施遏制侵权的义务，仅被动的“通知-删除”义务已非网盘服务商的免责充分条件，该判决的意义在于将纾解此前实务中“侵权-通知-断开-再侵权-再通知-再断开”带来的循环维权困境，更加适用于新技术条件下的互联网业态，亦是响应和落实中央《关于强化知识产权保护的若干意见》中提出的“侵权易发多发现象得到有效遏制，权利人维权‘举证难、周期长、成本高、赔偿低’的局面明显改观”的目标要求。该案将对我国信

息网络传播权纠纷领域的争议解决有正面助益。同时法院判决还超过著作权法的法定赔偿上限，给予单部电视剧100万元人民币的损害赔偿。

在行政法领域，达晓为财政部、外汇管理局、证监会、国家市场监督管理总局，食药监局，国家铁路局，国家认监委，各级政府提供包括复议、诉讼和咨询的一系列服务。

ALB：达晓的律师团队在这些领域积累丰富执业经验的同时，对相关行业本身有着怎样的观察？将来又会有怎样的发展趋势？

林蔚律师：从我们的实践经验来看，医药化工、通信、互联网、数据及娱乐行业未来将会是法律服务市场最具活力的领域，其中最引人关注的法律服务领域包括知识产权、竞争与反垄断和行政监管。

宏观方面的原因是：首先，这些领域的技术性特别强，当事人需要建立强大的知识产权护城河并应对竞争对手的知识产权挑战；其次，这些领域也容易因为技术和知识产权壁垒发生经营者集中甚至出现寡头的情况；另外，这些领域涉及大众身体健康、隐私保护，会受到主管部门的强监管。

微观方面的原因是：中国的医药企业正在迅速地成长并在知识产权领域加强布局，中国法也在加快建立与美国法类似的专利链接制度，随之而来的知识产权和竞争法的问题将会喷涌而来。另外，中国在5G通讯、互联网、大数据、人工智能领域与先进国家的差距最小，且有超越之势，但在此领域重拳投入的竞争者云集，大量的争议和新型案件势不可免。

基于以上原因，这些行业的头部客户非常需要能够一站式和总揽性地解决这些问题、并能够事先作出科学安排的法律服务者。这对法律服务提供者提出了更高的要求 and 更严峻的挑战：一方面需要律师了解技术、行业、商业及发展趋势，同时还需要律所能够科学协调跨领域的资源并有效沟通，而不再是按照学院派的部门法划分提供服务。

ALB：达晓律师事务所怎样的愿景？未来三到五年，达晓有怎样的发展规划？

林蔚律师：我们创立达晓律师事务所，正是观察到了中国的法律服务市场正在发生深刻的变化。通过我们的人才优势、执业经验以及在前述三个领域里的精心布局，达晓在五六年内得以迅速发展壮大。

在未来三到五年内，我们会坚持将达晓办成有特色、有口碑的精品律所，坚持在公司制和体系化管理的基础上，进行有计划的地域性和规模性有限扩张。本所在今年初已经设立天津分所，目前正在筹建上海分所，未来还将在大湾区、重庆设立两个分所，最终将形成覆盖全国东南西北四大区域的网格体系。我们还将加强在金融犯罪、资本市场业务的布局，成为一家覆盖全国主要经济区、专门就重大复杂的法律事项提供一站式服务的律所。

complete IP system in accordance with the international rules and acceded to almost all the major international conventions on IP, becoming a defender, participant and builder of international rules on intellectual property rights. In the past one to two years, China's intellectual property laws and regulations have been revised with high frequency and rapid change. Last year, China completed the revision of the trademark law and the anti-unfair competition law and put them into effect. This year, we will continue to revise the copyright law, the patent law and the detailed rules for their implementation. One of the main points of dispute between China and the US is IP. The signing of the first phase economic and trade agreement between China and the US in January will facilitate the revision and improvement of relevant laws and regulations in China.

We believe that the domestic IP legal service market reflects the following trends:

- (1) Traditional services are highly competitive
The competition of traditional services like IP application, IP litigation legal services is quite fierce. In particular, the application business of IP rights drives the growth of policy patent applications. IP litigation business has been growing rapidly in recent years. On one hand, IP agencies are improving and building the whole industrial chain of IP services. On the other hand, many law firms focusing on litigation business are actively exploring the IP market.
- (2) Rapid development of emerging new services
Emerging services are developing rapidly, such as IP information services, patent search and analysis, IP review, and FTO analysis. Another example is the construction and development of a number of intellectual property trading platforms, which have been promoted by intellectual property trading and licensing services.
- (3) Blue ocean of IP is welcoming pioneers.
Overlapping business fields like intellectual property financial legal services, and industries of the new technological revolution such as artificial intelligence, biological medicine may be the blue ocean of future IP. Hui Ye has come up with a "legal and industry two-wheel-driven strategy", while exploring cooperation among enterprises, insurance industry, IP and legal professionals to realize mutual winning. We believe that Law firms are increasingly focused on differentiated competition, and legal services can only realize "curve overtaking" if layout in emerging areas is made beforehand.

ALB: What role do legal services related to IP rights play in facilitating the successful listing of high-tech enterprises?

Wang: There is no doubt about the importance of intellectual property rights for high-tech enterprises. Legal

services related to intellectual property rights are playing an increasingly important role, especially in the process of high-tech enterprises going public. At present, the quantity, quality and operation and management level of IP have become important indicators to judge the quality of listed enterprises. For enterprises preparing to go public, it will play a key role to formulate enterprise IP strategy as early as possible and construct enterprise IP management system. It is not uncommon for companies to delay or even be forced to abandon their listings because of intellectual property issues. The needs of enterprises are especially reflected in front-end research, planning and layout of patents and the demand for services is increasing.

Based on the needs, we used our comprehensive advantages and the in-depth combination of committees of IP and financial to develop relevant IP legal services and products, such as intellectual property planning and layout, intellectual property due diligence (including clarify the ownership of the intellectual property rights, FTO analysis), intellectual property disputes, dispute resolution and protection (including intellectual property infringement risk screening, invalid patent retrieval and analysis, the competitor product infringement analysis, etc.), the core technical staff equity incentive legal service, etc., in order to meet customized and all-round demands of enterprises.

ALB: 过去一到两年中，中国知识产权领域相关法律法规有何动态？国内知识产权法律服务市场体现出怎样的趋势？

汇业律师事务所合伙人、汇业知识产权委员会主任王函律师：

我国目前已经建立了符合国际通行规则、门类较为齐全的知识产权制度，加入了世界几乎所有主要的知识产权国际公约，成为名副其实的知识产权大国，是知识产权国际规则的维护者、参与者和建设者。过去一到两年中，中国知识产权领域相关法律法规的修法频率高，变化快。甚至一两个月的时间，新法就出现了，这在过去是难以想象的。去年我国已完成《商标法》以及《反不正当竞争法》的修订并开始施行。今年还将继续推进《著作权法》、《专利法》及其实施细则的修订等。中美贸易纠纷的焦点之一是知识产权，今年1月《中美第一阶段经贸协议》的签订会促进中国知识产权领域相关法律法规的修改和完善。在已修订的《商标法》和《反不正当竞争法》中，提高侵权赔偿标准，将侵权的法定赔偿额上限提升至500万元；此外，对于恶意侵权、情节严重的行为，均规定了一倍以上五倍以下赔偿数额的惩罚性赔偿制度。在现行有效的《专利法》和《著作权法》中，还没有相关惩罚性赔偿的条款。为了弥补该缺失，完善知识产权全领域的侵权惩罚性赔偿制度，我国将加快推动相关立法进行。从紧锣密鼓的修法中，可以看到中国对知识产权保护的重视与信心。

我们认为，国内知识产权法律服务市场体现出如下趋势：

HANKUN

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汉坤代表惠普重拳出击打印耗材领域的侵权行为并在相关专利诉讼中获得有利结果

2019年8月，汉坤律师事务所知识产权团队协助惠普中国有限公司（China HP，简称“惠普中国”）在与某打印耗材有限公司（简称“涉案公司”）的专利侵权诉讼中达成有利于惠普中国的和解协议，上海知识产权法院依据相关和解协议出具了调解书。

根据和解协议，涉案公司将停止侵犯惠普中国知识产权的相关行为，包括停止进口、制造、销售兼容惠普公司墨盒的侵权产品；召回下游经销商的库存，并连同自身库存以及用于制造侵权产品的模具和原材料一起交付惠普中国。涉案公司另将就其侵权行为向惠普中国支付赔偿金。

惠普中国是惠普公司（HP）的全资子公司。惠普公司在打印机以及相关耗材领域具有深厚的技术积累，并占据显著的市场份额。本次诉讼是惠普在中国区进行的新一轮知识产权保护行动的重要部分之一，涉案产品包括HP803等多款惠普在中国市场的主打产品型号，其结果对于惠普具有战略性意义。本案的有利结果是我国知识产权保护法治环境不断加强的又一体现，将有助于惠普在我国肃清打印耗材相关的知识产权侵权行为，也会进一步增强包括惠普在内的外国公司对我国司法制度的信心。

本案涉案专利ZL 200680056896.9（“896.9号专利”）和ZL 200580011727.9（“727.9号专利”）主要涉及喷墨墨盒的打印头芯片电路的寻址和地址复用的相关技术，具有较高的技术难度。汉坤知识产权团队前期进行了缜密的技术分析和证据收集，有力地证明了侵权产品落入到惠普中国所主张的专利的保护范围中，并通过高效的沟通和谈判，最终在起诉后仅4个月即协助客户取得有利结果。

值得一提的是，早在2015年，惠普曾以惠普发展有限公司为主体，同样就727.9号专利在上海和深圳起诉相关耗材制造商。在诉讼程序中，包括727.9号专利在内的惠普专利曾多次被案外人提起无效程序，个别专利曾被国家知识产权局专利复审委在无效决定中宣告无效。汉坤团队在相关行政诉讼程序中基于对技术的准确理解和法律的精准把握，最终说服北京知识产权法院以及北京市高级人民法院先后确认和维持了包括727.9号专利在内的惠普专利的有效性，为本次侵权诉讼建立了坚实的基础。

本案也是汉坤知产团队在复杂疑难类知识产权诉讼帮助客户获得有利结果的又一成功案例。由毕业于国内外顶尖大学的成员组成的汉坤知产团队兼具无线通讯、人工智能、半导体、生物医药等诸多领域的技术背景和法律专长，擅于在知识产权诉讼和非诉领域向客户提供优质、高效的法律服务。此外，团队不同成员在知识产权案件审判、专利审查和无效程序以及政府监管沟通方面的宝贵经验让我们能够以多元化的视角对案件提供独到的见解，并打造具有可操作性的全局化解决方案。

不仅如此，汉坤知产团队更将创新贯穿于服务中，在诉讼方面，灵活利用包括确认不侵权、行为保全、临时禁令在内的诉讼手段，辅以行政投诉、仲裁等，在涉及标准必要专利、反垄断、以及复杂芯片技术等近年来诸多重大案件中成功为客户化解危机，争取到最大利益。在非诉方面，汉坤专利申请团队和商标申请团队以客户利益最大化为己任，用精品服务帮助客户提升知产价值。

汉坤知产团队亦以其国际化视野和跨境协同能力得到客户高度评价。团队多名成员具有多年海外求学和从业经验，常年和国际一流律所在跨境知识产权案件中服务于众多领先的跨国企业，并相继获得不同国际法律评奖机构和行业协会的高度认可。

(1) 传统服务, 竞争激烈

传统的知识产权申请、知识产权诉讼法律服务, 竞争相当激烈。尤其是知识产权申请业务, 以高新技术企业认定等政府项目推广为切入点, 带动了政策性专利申请的增长。知识产权诉讼业务近几年增长迅速, 一方面知识产权代理机构正在完善并构建知识产权全产业链服务, 另一方面很多以诉讼业务为主的律师事务所也在积极探索和开拓知识产权这一法律服务市场。

(2) 新兴服务, 蓬勃发展

这几年来, 知识产权运营方面的相关新兴服务发展迅速, 例如知识产权信息服务, 专利检索分析, 知识产权评议, FTO分析等; 又如, 知识产权交易、许可服务, 催生了一批知识产权交易平台的建设和发展。

(3) 知产蓝海, 期待领跑

交叉型的业务领域(知识产权金融法律服务等)和新科技革命产业(人工智能, 生物医药等)可能是未来的知产蓝海。汇业提出专业与行业双轮驱动战略, 与相关行业协会携手举办“2020世界知识产权日主题系列论坛”, 结合“贸易战”“新基建”“疫情”等热点问题, 对相关知产法律问题进行分析和探讨。同时, 汇业还在探索企业、保险业、知产界、律师行业相结合, 通过协同合作实现多方共赢。我们认为, 法律服务朝更高的专业细分是必然趋势。律所之间也越来越注重行业差异化竞争, 在新兴领域提前布局才有可能实现未来的“弯道超车”。

ALB: 知识产权相关法律服务在助力高科技企业成功上市的过程中扮演着什么角色?

王函律师: 知识产权对于高科技企业的重要性毋庸置疑, 尤其在高科技企业上市的过程中, 知识产权相关法律服务在助力企业上市过程中扮演的角色越来越重要。当下, 知识产权的数量、质量、经营管理水平已经成为判断上市企业优劣的重要指标, 而对于准备上市的企业来说, 尽早制定企业知识产权战略, 构建企业知识产权管理体系将对企业成功上市起到关键作用。知识产权规划和布局是企业上市前必不可少的环节。拟上市的企业因知识产权问题推迟上市甚至被迫放弃上市的情况并不少见。企业的需求在急剧上升, 特别体现在前端的研究、高质量和高价值专利的规划和布局、诉讼及许可等业务上, 对服务的需求日益高端化。汇业根据企业的需求, 利用汇业以商业法律服务见长的综合性优势, 依托知识产权专业委员会和金融专业委员会的深度融合, 开发了企业上市相关知识产权综合性法律服务产品, 例如, 知识产权规划和布局, 知识产权尽职调查(包括理清知识产权权属, FTO分析)、知识产权纠纷争议解决及防范(包括知识产权侵权风险排查、专利无效检索及分析、对竞争对手产品进行侵权分析等)、核心技术人员股权激励法律服务等, 为高科技企业提供持续、全面的知识产权法律服务, 以满足企业个性化、多方位的需求。

**Tiantai Law Firm
对话天驰君泰律师事务所****ALB: What are the latest developments of relevant laws and regulations in the IP field in China over the past one or two years? What are the trends in China's IP legal service market?**

Liu Jianqiang (Frank), senior partner, Tiantai Law Firm:

China has been increasing its efforts in the protection of IP rights, which is manifested in the fourth amendment to the Trademark Law, the third amendment to the Copyright Law and the fourth amendment to the Patent Law. The latest development is the fourth revision of the trademark law, which came into effect on November 1, 2019. The compensation for malicious infringement of the right to exclusive use of a trademark will be raised from less than three times to less than five times, and the legal limit of compensation will be raised from 3 million yuan to 5 million yuan.

If we deal with intellectual property disputes in the front line for a long time and objectively analyze the existing legislation and judicial precedents, we will find that although there is still room for improvement in the legislation and judicial aspects of intellectual property in China, it is at least one of the most internationally integrated legal departments.

With China playing an increasingly important role in international economic activities, the IP protection will be an important development path for China to promote fair competition, and improve the competitiveness of China's business environment. We believe that China will continue to strengthen the IP protection.

With the growing importance of intellectual property rights, the number of trademark and patent applications filed by Chinese companies increases every year. As IP legal service providers, we see more work in the field. At present, China's IP legal service market mainly includes two parts: conventional agency services and dispute resolution. There are not many practitioners who can provide companies with one-stop comprehensive IP solutions. Improving services to meet companies' comprehensive needs in IP-related areas is definitely the development trend in the IP legal service market. Furthermore, China's IP legal services are becoming more diversified, in addition to conventional agency services and dispute resolution, assisting companies in the monetization of their intellectual properties, such as IP pledge, investment and financing, is gradually becoming a hot area in the IP field. We always believe that the value of IP legal services rests in the success of clients. We are committed to provide our clients with quality services to help them protect their brands and develop their market shares.

从著作权法起草到第三次修订，因专注而卓越

不忘初心，深耕著作权领域

1990年我国第一部著作权法诞生，时任国家版权局版权处处长的马晓刚律师，参与了这部法律和配套法规的起草和实施工作。1997年，由马晓刚律师参与创办的浩天律师事务所（浩天信和律师事务所前身）正式成立，并于2007年与李文律师事务所合并建立了如今的大型综合性专业法律服务机构。

浩天知产部在创始合伙人马晓刚律师的带领下，走过了逾23年的风雨历程，亲历并深度参与了《著作权法》起草到三次修订的全过程。日前，《著作权法》第三次修订之修正案（草案）历经十年终于提交全国人大常委会初审，不日即将通过实施。浩天知产部曾就此次修订独立提出修订意见稿，创始合伙人马晓刚律师作为第三次修订专家组成员、承接并组织团队就此次修订涉及的权利客体和权利内容调整等课题进行了专项调研。此外，浩天知产部还参与了《电影产业促进法（征求意见稿）》等相关法律法规的起草、修改和完善工作。

正是基于对《著作权法》深入的理解和认识，23年来，浩天知产部在创始合伙人马晓刚律师、高级合伙人肖群律师、朱玉子律师、李正宁律师等领导团队的带领下，不忘初心，始终专注并精耕著作权、商业标记、文化创意及相关法律服务领域，形成了围绕著作权法、商标法等知识产权法律，并延伸至商业交易、投融资、基金、特许加盟等复杂、综合性事务的专业法律服务模式。除了非诉讼业务外，浩天知产部也凭借着专业优势，代理了诸如游戏汉化中文字库字体问题、影视改编摄制问题、体育赛事节目视频保护问题等众多著作权领域疑难复杂、行业关注度极高的诉讼、仲裁案件，形成了包含诉讼和非诉讼业务的完整业务形态。

砥砺前行，紧跟行业发展

伴随着著作权法出台到第三次修订以及文化、旅游、体育产业对民营资本及外资的逐步开放，我国文化产业经历了近三十年的高速发展。作为时代的亲历者，浩天知产部见证了文化娱乐行业从传统出版发行业务一枝独秀，到电影、电视剧、舞台剧百花齐放，再到实景演出、文旅、音乐、游戏、体育赛事等蓬勃发展，也凭借着专业表现和丰富的产业经验，为包括但不限于政府单位、高校科研机



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构、行业协会、集体管理机构、行业头部企业、知名导演艺术家等提供诉讼和非诉讼法律服务，确立了娱乐传媒行业法律服务先行者的地位。

时至今日，网络技术迅猛发展催生了直播、网红经济、电竞等等新行业、新业务形态；艺术品交易、文化创意、文博非遗等等产业也出现了前所未有的大发展趋势。浩天知产部始终紧跟行业发展脚步，结合客户需求及具体业务形态、技术方案，借助自身在著作权等知识产权法、竞争法方面的专业积累以及一贯保持的与国际国内行业最前沿的直接接触、深入研究、持续关注，克服法律滞后性障碍，为前瞻性问题的提供解决方案和思路。

对于行业发展，律师从来都不是局外人。文化产业三十年大发展成就了浩天知产部行业领军者地位，屡获殊荣、连续被评为中国/亚太地区领先知识产权律所；浩天知产部也用扎实、专业的法律服务推动新行业、新业态建立有序、健康的竞争秩序和竞争规则，并力求以经典案件作为国家立法、司法解释、行业规则等出台和制定的契机和参考。

立足未来，精益求精

放眼未来，法律的不断制定、修改和完善将深刻影响行业秩序，5G、AI等技术的发展将很快带来文化娱乐传媒领域的下一个风口，随之而来的将可能是文化娱乐传媒行业的深度变革。不忘初心、方得始终，浩天知产部会始终立足于著作权等知识产权领域专业优势，充分发挥20余载行业服务积累的经验和认知，推动知识产权法律服务的变革和创新。

ALB: Would you share with us the successful experiences of your firm in solving disputes involving trademark infringements? What do you suggest enterprises do to better protect their trademarks?

Liu: In practice, the common mode of intellectual property rights protection in the industry is relatively scattered and single, and the right foundation of rights protection lacks the comprehensive strategy to organize different rights bases and actions in an organic way. Therefore, it may be inadequate when dealing with an experienced infringer. We are committed to providing our clients with comprehensive IP protection strategies, which means to organically integrate the confirmation of trademark rights, administrative protection, litigation and other protection approaches. When faced with complex infringement challenges, on the one hand, we combat infringements existing on the Internet or the market by means of administrative protection and litigation; and on the other hand, we take measures such as raising objections to, applying to invalidate or cancel the trademarks that have been registered by infringers. In addition, we include in the brand protection strategy other effective means such as patent, trademark and copyright.

We believe that enterprises should take proactive actions to protect their trademarks, which helps maintain and increase their market shares and help increase their brand awareness. Even in the cases of trademark rights confirmation and protection, the evidence of the number, frequency, region and success rate of anti-counterfeit rights protection and other actions taken by enterprises also plays an important role in proving the trademark rights of enterprises and the influence of trademarks on the market, and will affect the amount of compensation in civil cases. Additionally, it is suggested that companies have a clear and objective understanding of the status quo of the trademark protection in China, formulate a complete IP protection strategy at an earlier stage, and endeavor to combat infringements, so as to effectively protect their IP rights in China.

ALB: 过去一到两年中，中国知识产权领域相关法律法规有何动态？国内知识产权法律服务市场体现出怎样的趋势？

天驰君泰律师事务所上海分所高级合伙人刘建强律师：中国近年来对知识产权的保护趋势逐渐加强，保护力度也越来越大。最近的动态是2019年11月1日开始实施的第四次修改的《商标法》，明确将恶意侵犯商标专用权的赔偿数额由3倍以下提高到5倍以下，将法定赔偿额上限从300万元人民币，提高到500万元人民币。

《著作权法》的第三次修订和《专利法》的第四次修订也在积极推进过程中。若长期在一线处理知识产权纠纷并客观分析现有立法及司法判例，就会发现国内知识产权在立法和司法上虽然还有不少改进空间，但至少目前是和国际最为接轨的法律部门之一。随着中

国在国际经济活动中扮演着越来越重要的角色，保护知识产权将成为促进中国市场公平有序竞争、提高中国营商环境竞争力的重要途径。我们相信，知识产权保护逐渐加强的趋势在较长一段时期内将会一直持续下去。

随着知识产权的重要性越来越受到企业的重视，中国企业的商标、专利申请量逐年攀升，知识产权法律服务从业者的规模也在不断扩大。但是目前，我国知识产权法律服务市场整体上还是划分为传统代理和争议解决两大部分，能够为企业提供知识产权一站式综合解决方案的法律服务从业者相对较少，因此提高知识产权法律服务水平、满足企业全方位知识产权法律需求必然是行业的发展趋势和目标；另外，我国知识产权法律服务也正在向多元化方向发展，除传统代理业务、争议解决业务外，协助企业进行知识产权的价值转化，如知识产权质押、投融资等，也逐渐成为从业者关注的焦点。

我们一直认为，知识产权法律服务对客户而言最大的意义是通过专业服务为客户提供相应的商业价值；以优质的知识产权专业服务支持客户品牌知名度并维护及发展其市场份额可能是需要关注的重点。

ALB: 在商标侵权、争议解决领域，贵所有何成功经验？企业应该如何更好地保护商标权益？

刘建强律师：实践中，行业内常见的知识产权维权模式相对较为分散、单一，维权的权利基础也较为单一，缺乏以有机方式将不同权利基础及行动组织起来的综合策略；因此在应对有经验的侵权人时会显得力不从心。我们致力于为客户提供知识产权综合保护策略。综合知识产权保护策略，即在保护方式上，按照客户在中国的业务发展目标、知识产权的权利现状及保护目的，通过统一的策略将商标权利的确立、行政保护及诉讼等保护方式，通过各类知识产权之间的相互支持，有机地融合在一起。在面对有经验的复杂侵权挑战时，一方面采用行政保护或/和诉讼方式打击网上及市场上存在的侵权行为，另一方面同时采取措施对侵权人抢注的相同和近似商标采取异议、无效或撤三的方式进行撤销，并且在两类行动中互相支持和配合以达到最佳制止侵权的效果。另外，还需要将专利（尤其是外观设计）、商标及著作权等权利均作为品牌保护策略的有效手段。

我们认为，企业积极采取商标维权行动，不仅是为了维持商标权利，更是为了维持和增加市场份额，同时还能提高品牌知名度。即便在商标确权维权案件中，企业采取打假维权等行动的数量、频率、地域和成功率等相关证据对于证明企业商标权及其商标在市场上的影响力也具有重要作用；并会在民事侵权案件中影响侵权赔偿数额的认定。另外，企业最大的挑战往往不是来自对手，而是其在面临知识产权保护时的认识和决心。如果企业能够对中国商标保护情况有客观认识，尽早制定完善的知识产权保护策略、积极进行权利布局、重视对侵权的打击，是完全能够在中国对其知识产权进行有效保护的。ALB



知识产权领域的领军律所

——专访天驰君泰律师事务所高级合伙人马翔律师

A leading firm in the intellectual property field

—Interview with Ma Xiang, senior partner at Tiantai Law Firm



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作为今年ALB China知识产权排名上榜律所之一，天驰君泰律师事务所近年来在知识产权领域不断深耕细作，成果显著，持续保持行业领先地位。本次专访中，天驰君泰律师事务所高级合伙人马翔律师分享了天驰君泰在知识产权领域里的优势与愿景。

强势竞争力

天驰君泰的知识产权团队在商标和版权领域具备多重优势：

1. 具备商标代理和诉讼双重资格。

“我们从1994年从事商标代理业务，是国内最早从事商标代理的律师事务所，1999年又成立了天驰知识产权代理有限公司，成为全国首家律所与代理机构相结合的二元经营模式律所。”马律师介绍道，这样既能全方位、多层次地了解客户商标的运行状态，又为商标行政授权确权诉讼、民事侵权诉讼和刑事司法鉴定奠定坚实的基础。

2. 能够提供全方位的服务。

马律师表示，天驰君泰的知识产权团队能够为客户提供完整、系统的商标法律服务，可以代理商标查询、注册申请、复议、异议、无效宣告以及不服商标评审委员会裁定向法院提起行政诉讼等常规业务，还可为客户提供商标状态跟踪、侵权防控、商标防御布局、知识产权运维制度建设等专属服务。

3. 首屈一指的代理业绩。

谈及代理业务方面的成果，马律师分享道：“我们代理了的案件包括许多国内外反响强烈的案件，代理了数个国内‘首件’，多起案例被最高人民法院案例选、公报收录，多起案例被评为‘年度十大知识产权案例’，拥有极高的业内评价和良好口碑，一直保持着较高的胜诉率。”

4. 服务团队高度专业化。

自成立以来，天驰君泰引进和培养了一批经验丰富的商标代理人、商标执业律师和专家顾问，建立了一支包括商标专业律师、教学和研究的专家、原商标行政主管部门的官员、原司法审判机关的高级法官所组成的团队，经验丰富，善于办理疑难、复杂及新类型案件。

5. 拥有畅通且广阔的沟通协作渠道。

马律师表示，天驰君泰与商标主管部门、司法机关、行业协会、教学科研部门以及新闻媒体部门等建立并始终保持着畅通的沟通和联系，拥有广泛的社会资源。马律师本人现为中华全国律师协知识产权专业委员会副主任（分管商标法律业务），还曾连续三次出任北京市律师协会商标专业委员会主任，并担任中国政法大学、中央民族大学客座教授。

未来愿景

关于未来的发展计划，马律师表示，天驰君泰将继续提高律师的专业化水平和创收能力；继续强化高效规范的律师队伍；在专业领域持续深耕细作，在团队内做到人尽其才；完善内部梯队培养计划；团队内部不设立业务壁垒，诉讼与非诉讼律师都能得到全面发展；探索并建立团队成员外部学习交流机制。

Tiantai Law Firm, a winner of 2020 ALB China IP Rankings, has been working profoundly in the IP field and achieved remarkable results. It is among the top-tier firms in the field. Mr. Ma Xiang, a senior partner at Tiantai, shared with us their advantages and vision in the IP field.

Strong competitiveness

The IP team of Tiantai has many advantages in dealing with trademark and copyright matters:

1. Having the trademark agency qualification and the qualification to handle litigation cases

“Tiantai started to engage in trademark agency business in 1994, one of the first firms in the field. In 1999, we set up Tiantai Intellectual Property Agency Co., Ltd., the first firm in China which combines the agency business model with the law firm business model,” Ma says. This dual-business model enables Tiantai to understand the operation status of a client’s trademark in an all-round manner and at multiple levels, and meanwhile lays a solid foundation for trademark administrative authorization litigation, civil infringement litigation and criminal litigation.

2. Providing a full range of services

Tiantai’s IP team provides clients with complete and systematic trademark legal services, such as acting as an agent for trademark inquiry, registration application, reconsideration, objection and invalidation declaration, bringing administrative litigation to the court when a client is dissatisfied with the decision of the Trademark Review and Adjudication Board, and other regular services. The team also offers special services such as trademark status tracking, infringement prevention, trademark defense layout, and intellectual property operation and maintenance system construction.

3. Outstanding achievements

The firm has made remarkable achievements in the IP field. “Many of the cases we have represented are well-known home and abroad, and several domestic ones are ‘cases that are the first of their kinds’. A number of cases that we’ve handled have been selected by the Supreme People’s Court and included in the bulletin, and a few others are included in the list of Top Ten Intellectual Property Cases of the Year. Our IP team has won great recognition and enjoys a good reputation in the industry, and has maintained a high winning rate in litigation,” Ma says.

4. A highly professional team

Tiantai has experienced trademark agents, trademark attorneys and expert consultants. The firm also has a team composed of trademark practitioners, teaching and research experts, and former officials of trademark administrative departments, and former senior judges of the judicial organs, which is experienced and good at handling difficult, complex and new types of cases.

5. Extensive collaboration channels

Tiantai has built and maintained good rapport and cooperation with trademark authorities, judicial organs, industry associations, teaching and research institutions, and news media departments, and has extensive social resources, Ma says. Furthermore, Ma currently serves as the deputy director of the Intellectual Property Professional Committee of the All China Lawyers Association (in charge of trademark legal business), and has served as the director of the Beijing Lawyers Association Trademark Professional Committee for three consecutive times. Ma is also a visiting professor at China University of Political Science and Law and Central University for Nationalities.

Looking forward

Speaking of the future development plan, Ma says that Tiantai will continue to improve services and professional level, as well as the value-generating ability of lawyers; develop a team with higher efficiency and higher standards; give support to our team members and empower them; further improve the mentoring and training plans to ensure that both litigation lawyers and non-litigation lawyers could reach their potential; and the firm will explore to set up an external learning and communication mechanism for the team members.