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Intellectual Property Trends in China

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Analysing the intellectual property trends in China, at the beginning of the new National five-year plan is an interesting subject. Whether one looks at the registration of intellectual property rights or at the protection of such rights by the administrative and judicial authorities, the conclusions differ. From the applications/registrations point of view, the numbers are declining, which is good news, with not so good consequences. From the protection and enforcement point of view, it must be said that China is achieving noticeable positive results.

The decline of IP numbers

Trademark registrations in China have nearly halved since 2021, falling from a historic record of 7.74 million to 4.21 million in 2025. Invention patent grants dropped 7% in 2025, the first decline after four years of double-digit growth. Software copyright filings levelled off after topping 10 million.

These numbers look like China is cleaning up the clutter that had accumulated since the release of the "National Strategy of China for the Intellectual Property", a nationwide initiative that encouraged the filing of IP rights, through lowering costs, accelerating procedures and rewarding numbers.

This is part of an effort to remove trademarks filed for speculative reasons ("trademark hoarding"), patents devoid of any novelty filed for the mere sake of receiving subsidies, and template-based software copyrights produced for certification purposes.

For trademarks, the number of trademark applications fell from 9.45 million in 2020 to 6.97 million in 2024, with the figure in 2025 absent from official statistics. The Trademark Law revision in 2019 which introduced the prohibition to register trademarks filed in bad faith without intention to use had an obvious impact. The draft revision of the Trademark Law is now shifting further toward a stronger requirement of genuine use by specifying that the applied trademark should reflect the actual "production or commercial need" of the applicant. Trademark agents are also targeted. A recent judgment of the Guangzhou IP Court found a trademark agent jointly liable with his client for the compensation of the prejudice caused by bad faith trademark filings. This case has been selected by the Supreme People's Court as exemplary case for the year 2026.

Regarding patents, the government had been, for some time already, clamping down on "abnormal" applications of utility models or design patents – IP rights which in principle are not subject to substantive examination – when the lack of novelty was obvious.

In copyright, software copyright registrations exceeded 10 million in 2024, making it the most filed IP right in China. In March 2026, the Copyright Protection Centre launched a campaign against abnormal software copyright applications.

The system is being decluttered across all three major IP categories, with the same rationale, which – on the face of it – responds to a need to raise the intrinsic quality of the IP rights registered or granted.

But the picture is more of a mixed bag.

The tightening of examination standards produces collateral damage as it seems that the examiners are under obligations to satisfy KPIs based mainly on quantitative criteria. As a result, rights holders are seeing rejections that would have sailed through two years ago, not because the applications are problematic, but because the

examination threshold has shifted across the board.

Trademark examiners have become overactive in applying absolute grounds for refusal, including descriptiveness, deceptiveness, and adverse social impact. Legitimate filings are getting caught in the crosshairs. This is a real cost of the transition, and it is not being discussed enough.

Regarding patents, invention patents are targeted by the CNIPA. A growing percentage of applications are refused for lack of inventive step by a simple reference to "common knowledge", and even, invention patents already granted are invalidated for the same reasons. Cases are subject to appeal but the percentage of reversing the CNIPA decisions remains extremely low (around 3%).

Enforcement

Administrative enforcement:

China's administrative enforcement regime operates on two separate tracks, handled by different authorities.

On the patent side, CNIPA and its local offices handle patent infringement disputes through administrative adjudication. Caseloads rose from 49,800 (2021) to 72,000 (2024). In 2025, CNIPA concluded 9,341 adjudication cases and 62,000 mediation cases separately, reflecting a policy shift toward mediation as the primary resolution mechanism.

On the trademark side, local market supervision authorities investigate and penalize trademark infringement and counterfeiting under the market regulation system. These authorities handled 39,400 and 40,400 trademark violation cases in 2023 and 2024, and 36,000 in 2025. CNIPA is also drafting new rules on e-commerce platform obligations in trademark infringement investigations and on how administrative enforcement authorities should assess trademark similarity in infringement cases, both of which will directly affect how trademark rights are enforced at the administrative level.

(Source for all administrative enforcement data: Intellectual Property Protection in China White Paper, 2021 – 2025 edition, CNIPA.)

Administrative enforcement does not produce damages awards, only courts can do that, but for stopping infringement quickly it remains the fastest path available, particularly at trade shows, on e-commerce platforms, and at Customs.

The most effective enforcement strategies combine both: administrative action to stop the infringing activity, followed by civil litigation against the most egregious infringers to recover damages and build deterrence. Conversely, brand owner may resort to court proceeding to adjudicate the intricate cases and then leverage the court decision to seek protection from the administrative authorities. For seasonal products or time-sensitive markets, the administrative track is often the only one that matters.

Judicial enforcement: People's Courts allowed more flexibility

The compensatory damages framework in China has not fundamentally changed. The plaintiff must prove the loss suffered or the illegal gains yielded by the infringer, with a possibility to refer to a royalty rate used in the type of trade concerned. There is no American style discovery and such calculation is difficult. Consequently, a large percentage of cases end up being adjudicated on a "statutory basis", capped at RMB 5 million, which is the limit provided by the IP laws when the calculation cannot be precisely substantiated.

What has changed is the punitive damages regime, which is now available across all major IP laws with a multiplier of 1 to 5 times the aforesaid amount based on the evidence. The Supreme People's Court explained, in 2021, the conditions required by such punitive regime, in particular the intentions of the infringer must be well established. A new updated SPC judicial interpretation, effective May 1, 2026, expands the circumstances for finding intent from five to seven, including post-settlement repeat infringement and evasion through affiliated company structures. The multiplier no longer needs to be a whole number, which allows more flexibility. In 2025, courts applied punitive damages in 505 cases nationwide, awarding a total of RMB 1.8 billion (source: SPC press conference, April 20, 2026).

Two recent cases illustrate the practical approach adopted by some courts to increase the compensation or facilitate the execution of the judgements.

The *New Balance v. New Barlun* case (Jiangsu High Court, 2024, RMB 58.9 million). The defendant refused to disclose financial data. Rather than accepting the statutory damages ceiling, the plaintiff's team built an independent calculation basis using the defendant's own publicity materials from investment conferences, sales

figures confirmed in prior related litigation, and industry profit margins from published sources. The court adopted this calculation in full. The punitive damages clock was started from the date of a prior judgment confirming infringement, making intent self-evident. This approach, constructing the damages basis from external evidence when the defendant withholds internal data, aligns with the framework now codified in the new SPC interpretation.

The Lafite case (Shanghai High Court, 2026) demonstrates the other end of the spectrum, not just on damages but on enforcement execution. The rights holder proposed five different calculation methods and obtained a first instance judgment awarding RMB 10 million against the company selling the knockoff wines. Punitive damages were denied but a personal liability was ordered against the controlling shareholder, capped at RMB 100,000. The defendant appealed and the appellate court made a significant move on a different front: it increased the personal liability of the controlling shareholder from RMB 100,000 to the full RMB 10 million. The court pierced the corporate veil on the specific finding that she personally initiated, directed, and benefited from the infringing activities. This is an important development. Enforcement of judgments in China can be frustrating when the infringing entity has limited assets or restructures to avoid payment. Listing the actual controller as a co-defendant and securing personal liability substantially improves the enforceability of the award.

Looking ahead: the SPC's five-year plan

Alongside with the National 2026-2030 five-year plan the SPC has published its own five-year plan where a comprehensive range of topics and issues are listed.

One of them (Article 14 - Promote Research and Formulation of Special Procedural Law for IP Litigation) deserves special attention. It proposes to "study and improve mechanisms for hearing related litigation and mechanisms linking patent infringement and patent invalidation procedures". This is a direct allusion to the "bifurcation" system, inspired from the German procedural law, which provides that, in a patent infringement case, when the defendant challenges the validity of the patent, the court must suspend the infringement procedure and refer the case to another court who will adjudicate the validity of the patent. A delegation of Chinese judges, led by the SPC, visited France in May 2025 and discussed the pros and cons of a procedural system where the court in charge of an infringement case has the power to adjudicate all issues including the validity of the patent.

The SPC's 2026-2030 five-year plan (Article 17) explicitly addresses fraudulent and malicious litigation, as well as "abnormal batch litigation". The latter refers to the practice consisting of running large-scale enforcement programs that involve hundreds of cases per year against counterfeiters. Such volume enforcement faces resistance from the courts who draw a line between enforcement that aims to stop real harm and enforcement that generates revenue. Rights holders may want to be more deliberate about case selection and make more active use of administrative enforcement channels where the primary goal is stopping the infringing activity rather than recovering damages.

China's IP regime is transitioning. It is shedding weight that was never productive and building capacity in areas that matter. The transition is real, but it is also uneven, and stakeholders embracing its benefits need to deal with its less desirable side effects.