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Intellectual Property Development & Research Center Of CNIPA

China E-commerce Intellectual Property Development Research Report (2019)

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Introduction

2019, the ‘Year of the Ji Hai(己亥)’ is the 36th of 60-year-circle JiaZi (甲子) in China, meaning the storing strength for future growth. In the past decades, the Chinese government has attached great importance to the protection of intellectual property rights, taking it as an inherent need for China to transform into an innovative nation and to attain its national economic and social development aims. With the increasingly prominent position and role of e-commerce in China’s economy, the country’s legislative, administrative, and judicial authorities, with the major e-commerce platforms, such as Alibaba, Suning and JD, have been intrepid to explore, take responsibility and strive for excellence. After years of practice, China has established a scientific and effective system for protecting e-commerce intellectual property rights.

I. Escort by Law: Practice of legal protection of e-commerce intellectual property rights

The protection of intellectual property rights based on the rule of law is the basic guarantee for e-commerce innovation, as well as a core element to enhance the international competitiveness of China's e-commerce industry. China attaches great importance to the protection of intellectual property rights in the e-commerce industry, and have established a comprehensive intellectual property legal protection system for the e-commerce, covering legislative, judicial and enforcement aspects.

(I) Construction of e-commerce intellectual property legal and administrative system

In recent years, in accordance with the strategic plan of comprehensively promoting the rule of law, combined with the demands of the development of the e-commerce industry, China has continuously improved its legal and regulatory systems to protect e-commerce intellectual property rights, and achieved significant progresses in the construction of the intellectual property legal and administrative system in the e-commerce sector.

1. Institutional reform

The State Administration for Market Regulation(国家市场监督管理总局“SAMR”) was established in March 2018 to promote comprehensive enforcement of market supervision. It has cleared that the market

regulation department will be responsible for administrative enforcement of trademarks and patents, which not only enriched the power of intellectual property enforcement, but also improved the effectiveness of administrative protection by integrating trademarks and patents. China National Intellectual Property Administration (国家知识产权局“CNIPA”) will further enact and guide the trademarks, patents, standards of infringement, standards of trademarks and patents enforcement authentication, guidance of trademarks and patents administrative enforcement etc., in order to improve the normativeness, authoritativeness and effectiveness of intellectual property administrative protection.

2. Current status of legislation

China has established a relatively complete system of laws and regulations related to intellectual property protection in the field of e-commerce. Besides the major law, *e.g. the Patent Law, the Trademark Law, the Copyright Law, the Tort Liability Law, the Electronic Commerce Law, and the Anti-Unfair Competition Law*, there are administrative regulations, including the *Regulations on the Implementation of the Patent Law, the Regulations on the Implementation of the Trademark Law, the Regulations on the Protection of Copyright Law, the Regulations on the Protection of Computer Software, and the Regulations on the Protection of Information Network Communication Rights*. In addition to laws and administrative regulations, China also has departmental regulations, such as the “*Network Trading Management Measures*” etc. Local governments also have regulations, for instance, the “*Provisions for the Promotion of E-Commerce in Shanghai*” and “*Several Provisions on the Promotion of the Construction of E-Commerce Trusted Transaction Environment in Shenzhen*”.

3. Judicial protection

The judicial authorities have actively fulfilled the responsibility strengthened the judicial work in the field of e-commerce, strictly protected intellectual property rights, and provided effective judicial relief for rights holders.

In June 2017, the 36th meeting of the Central Comprehensive Deepening Reform Leading Group reviewed and approved the “*Proposal on Establishing the Hangzhou Internet Court*”. In August 2017, the Hangzhou Internet Court was officially launched. This is the first court in China that focuses on internet-related cases. Then, Beijing Internet court and Guangzhou Internet court were established. Internet courts implement the principle of “reviewing the online cases online”. In its jurisdiction, intellectual property related duties take

a significant proportion, covering the copyright or neighboring rights disputes for the published works on the Internet; the online publication or dissemination of works on the Internet Disputes arising from copyright or neighboring rights, the ownership, infringement and contract disputes of Internet domain name.¹ Right holders can resolve internet-related intellectual property disputes, including e-commerce, in a professional, efficient and convenient way.

4. Administrative enforcement

In recent years, CNIPA together with other departments have strived to build a “strict, comprehensive, fast and equal” protection work pattern, and has effectively curbed intellectual property infringement in the e-commerce field through administrative enforcement.

In 2018, CNIPA organized a four-month special rectification in the field of e-commerce, and carried out special rectification work in key areas such as Shanghai, Zhejiang, Beijing, Guangdong, and Jiangsu, and then combined with special actions related to law enforcement and rights protection. CNIPA will continue to strengthen the protection of intellectual property rights in the field of e-commerce, increase the traceability and strike-off of offline sources, strengthen online and offline integrated collaborative management, combat offline intellectual property infringement and counterfeiting, and increase intellectual property protection in the e-commerce.

In 2016, CNIPA established an e-commerce patents enforcement collaborative center in Zhejiang province (hereinafter referred to as Center) to deepen the collaborative mechanism of patent law enforcement and the cross-province infringement in e-commerce. For online patents infringement cases, the Center will confirm infringer’s information through e-commerce platform operator, and transfer evidence to local Intellectual Property Administrations that have jurisdiction for offline procedure, thereby cracking down patent infringement and counterfeiting. As important regions for online-offline case transferring, Hunan, Jiangsu, Guangdong, Chongqing, Fujian, Sichuan, Hebei and Zhejiang have organized various of vital evidence to trace online cases, and to crack down related patent infringement and counterfeiting.

At the level of local government, in 2011, Zhejiang Intellectual Property Office signed a *Memorandum on Intellectual Property Protection Cooperation* with Alibaba and Taobao, establishing an internet patent

¹ The Supreme People’s Court of the People’s Republic of China, <http://www.court.gov.cn/zixun-xiangqing-48982.html>

infringement processing mechanism. Under the mechanism, guidance has been given by the administrative authorities on patent infringement cases. In August 2016, Zhejiang, Shanghai, Jiangsu, Anhui, and Jiangxi provinces jointly launched a cooperation scheme named “Cloud Sword Action” in the Yangtze River Delta Region to combat internet counterfeiting.

In May 2017, the cooperation was expanded to cover Fujian, Hunan, Guangdong, and other provinces (districts) in the Pan-Pearl River Delta region, bringing into the establishment of a regional mechanism to combat infringement and counterfeiting covering 13 provinces (autonomous regions, municipalities). Moreover, legal enforcement departments and e-commerce platforms jointly cracked down on numbers of infringement and counterfeiting, and safeguarded the rights and interests of Chinese and foreign brand rights holders, such as Apple, Chanel, Johnson & Johnson, Sony, Bayer and Nanfu, Yanghe. During Guangdong Intellectual Property Trade Expo in 2017, 19 cities signed a 19 cities in China jointly signed and released the Announcement of Joint IPR Enforcement in E-Commerce, with the aim of effectively combating patent infringement and counterfeiting in e-commerce and improving the IPR enforcement coordination in e-commerce.

(II) Guided by e-commerce intellectual property policy

China has become one of the largest and fastest growing e-commerce markets in the world. Behind the rapid development is the robust support of policies. The *"Opinions of the State Council on Vigorously Developing E-Commerce to Accelerate the Cultivation of New Economic Dynamics"*, issued in May 2015, states that the country shall "strengthen the protection of intellectual property rights in the field of e-commerce, and explore to further enhance the protection of internet-related business method patent". The *"Guiding Opinions of the General Office of the State Council on Promoting the Healthy and Rapid Development of Cross-Border E-Commerce"*, issued in June 2015, requires to "strengthen law enforcement supervision, enhance the protection of intellectual property rights, and resolutely crack down on various illegal infringements arising in cross-border e-commerce." The *"Internet + Intellectual Property Protection Work Plan"*, issued by CNIPA in August 2018, has comprehensively deepened the relevant collaborative scheduling mechanism and has provided a better protection for intellectual property rights in the e-commerce field, via information technology. The *"Intensive Implementation of the National Intellectual Property Strategy in 2019 to Accelerate the Construction of IP Strong Countries"*, issued by

the Office of the Inter-Ministerial Joint Conference on the Implementation of the Intellectual Property Strategy of the State Council in June 2019, encourages e-commerce platforms to provide data information for law enforcement cases, endeavors to make the rights holders to participate in the protection of intellectual property rights. Efforts have also been made to accelerate the construction of intellectual property credit system to regulate the order of Internet competition.

(III) Building e-commerce intellectual property integrity

Credit is a passport to the new business era. Over the years, Chinese government has steadily promoted the construction of intellectual property credit system. In 2011, CNIPA issued the *“Decision on Strengthening the Administrative Law Enforcement of Patents”*, indicating that a social credit evaluation and supervision mechanism for intellectual property protection will be established, and a multiple-level intellectual property protection social credit evaluation and supervision mechanism will be built.² In 2016, the *“Notice on Several Issues Concerning the Construction of the Social Credit System for Intellectual Property System”* stated that “the social credit system of the intellectual property system shall be completed by 2020”. In the meantime, Guangzhou, Shenzhen and Wenzhou explored the construction of an intellectual property credit system.³ In December 2018, CNIPA together with 38 central government agencies jointly issued the *Memorandum of Cooperation on Joint Punishment on Seriously Dishonest Parties in the IP (Patent) Field*, to strengthen joint punishment for intellectual property dishonest conduct. This punishment is regarded as the most severe punishment in the history of intellectual property protection.

II. Platform autonomy: E-commerce platform governance system is rapidly developing

President Xi Jinping emphasized that: “Intellectual property rights protection is the centerpiece of the system for improving property rights protection, and it would provide the biggest boost to enhance the competitiveness of the Chinese economy.” Deepening e-commerce regulation system requires stronger intellectual property protection and a more optimized e-commerce platform regulation. According to legal requirements and their own business practices, platforms have established and continuously improved the platform governance system, which has become an important part of the e-commerce intellectual property

² CNIPA, <http://www.sipo.gov.cn/gztz/1099411.htm>

³ CNIPA, <http://www.sipo.gov.cn/zscqgz/1101019.htm>

protection system.

U.S. and China have taken the lead in the e-commerce industry. The major platforms of the two countries have established Intellectual property complaint-handling mechanisms based on the “notification and deletion” rule. E-Bay, as a pioneer, has implemented the project of “Verified Rights Owner (VeRO)” since 1998⁴. At present, more than 30,000 intellectual property rights holders have participated in the project. Alibaba also operates its intellectual property protection platform committed to providing one-stop intellectual property protection solutions for global intellectual property rights holders. Amazon has established online intellectual property complaint channel, “Amazon Brand Registry”, which effectively helps rights holders to carry out brand management and intellectual property protection, and enables the brand holders to search for intellectual property infringement information and product links, and directly file complaints on trademarks and copyrights infringements.

Facing the massive online commodity information, all-time and borderless network environment, both Chinese and the U.S. companies have realized that traditional methods and models to combat intellectual property infringement were unable to deal with online infringement effectively. Data and technology are the most effective weapon to actively manage intellectual property infringement issues in the Internet era. E-Bay, Alibaba and Amazon have established tools and systems for online active monitoring to process the information of products containing words such as “high imitation”, “plagiarism”, “cracking”, “piracy” and “replication”.

In the meantime, the achievements of Chinese companies have been recognized by their foreign peers. In July 2019, the US Intellectual Property Coordination Center invited companies such as Alibaba, Amazon, e-Bay and Wal-Mart to hear about the IPR protection results of these companies. Doug Collins, the US House Judiciary Committee vice president, pointed out that Alibaba's anti-counterfeiting policies and programs are much more effective than any American counterparts.⁵

⁴ eBay, <https://pages.ebay.com/seller-center/listing-and-marketing/verified-rights-owner-program.html>

⁵ China's Website for the Campaign Against IPR Infringements and Counterfeits, <http://www.ipraction.gov.cn/article/xxgk/gzdt/bmdt/201907/20190700224328.shtml>

(I) Comprehensive platform rules: the foundation for platform autonomy

Based on the current legal system, the mainstream Chinese e-commerce platforms represented by Alibaba, Suning and JD have developed comprehensive platform rules, covering all aspects of the relation between the business entities in the platforms, in which the rule of intellectual property protection is particularly important. Under such a protection system, operators in the platforms achieve the effective regulation and management of the platforms through the credit evaluation system, and the infringement punishment system, so as to secured the efficient operation and the platform management.

For example, Alibaba has formed a complete intellectual property protection system of rules based on the “Rules for Sale of Counterfeit Goods Identification and Punishment”. According to article 19 of the *TMALL Management Regulations*, once counterfeit goods selling occurs, the merchants will be immediately screened and cleared out of the platform; The “selling counterfeit goods”, which is stipulated in Article 24 of TMall Platform “Taobao Market Management and Violation Regulations”, is the only C-class violation of Taobao platform (the most serious type of violation of Taobao). 1688, TMALL International and other Alibaba platforms consider counterfeit and other intellectual property rights infringements as a “high-voltage line” for operators on the platform, and guide the operators to operate legally, following the rules that “intellectual property infringements and counterfeiting must be investigated and dealt with”.

Chinese e-commerce companies have embarked on a road of characteristic practice. For example, at the end of 2016, Alibaba proposed “fighting against anti-counterfeiting as same as drunk driving”⁶, comprehensively launching a lawsuit against online counterfeits sellers, to implement the Chinese government's policy of “resolutely punishing violations of intellectual property rights according to law and introducing punitive damages”. Alibaba's offline project teams, cooperates with rights holders and law enforcement agencies to report criminal clues, trace the counterfeit goods and sellers, and crack down counterfeit goods. In 2018, Alibaba accumulatively submitted 1,634 evidence, and assisted to arrest 1,953 suspects. Alibaba also assisted law enforcement agencies in cracking down cross-border IPR crimes, and assisted the Chinese and the U.S. police to jointly detect the Pursevalley.cn case.

⁶ People.cn, <http://it.people.com.cn/n1/2017/0301/c1009-29114684.html>

Through online investigations and offline attacks, JD has formed a closed loop. If the online investigation team finds out evidence, after the preliminary judgment, the evidence will be submitted to the right holders. If the right holder wants to crack down, the two sides will jointly launch an offline attack; if not, the store will be directly closed.

(II) Convenient rights protection mechanism: the window of platform autonomy

In 2002, Alibaba has begun to establish a safeguard channel to protect intellectual property rights, and rights holders can file infringement complaints by email. In 2008 and 2011, Alibaba launched Aliprotect which was used to receive complaints against AliExpress, Alibaba International Exchange and 1688 merchants, Taoprotect which was used to receive complaints against Taobao and TMALL merchants respectively. In 2015, Alibaba launched an integrity complaint mechanism based on the concept of mutual trust and efficiency in order to provide a faster and more effective handling for rights holders who have requirements of the integrity complaint mechanism. In 2017, Alibaba launched the “Alibaba Express IPP” project, using technology to improve the efficiency of intellectual property protection. In 2018, Alibaba established a bilateral feedback channel between the platform and brand rights holders, optimized guidelines for rights protection, launched a multi-dimensional digital board, upgraded account management system based on “Alibaba Express IPP”, and carried out digital transformation and mechanism innovation. Data shows that, in 2018, 96% of IPR complaints from Alibaba's IPR protection platform were processed within 24 hours, and the number of brand rights holders' complaints were decreased by 32% compared with 2017. On April 23, 2019, Alibaba released a video copyright protection plan, cooperating with rights holders for intellectual property protection projects for movies.

Suning has upgraded its IPR reporting platform comprehensively, and formulated the “Infringement of Intellectual Property Rights Interpretation and Handling Rules”. If the Legal Affairs Center determines an infringement in the IPR reporting system, the penalties for the removal of goods shall be imposed directly by the system. Further penalties for the point deduction shall be implemented by the Merchant Arbitration Management Department. As for trademark infringement, Suning further strengthened the merchants qualification review, especially the review of trademark. In the process of merchants' operation, Suning promotes and trains merchants on intellectual property rights knowledge, and improved the frequency of inspections.

JD's intellectual property rights protection system can accept all kinds of complaints on trademarks, patents and copyrights of intellectual property rights owners. In terms of brand protection, JD has established a full-time professional team. With the help of big data modeling analysis and system monitoring, it has dynamically adopted more than 300 indicators, deeply inspected high-risk merchants, brands and commodity data, and driven system real-time operation monitoring to achieve multi-dimensional and refined statistical analysis. JD sends suspect commodities to the brand or authorized organization by a *secret purchase process* to identify all the products including global purchases of the brand in China and guard the interests of right holders.

For NetEase Koala's IPR complaints, about 70% are related to trademarks, 20% are related to copyrights, and 10% are related to patents. Netease Koala receives complains through customer service email, CEO email, privacy policy email, lawyer letters and complaints platform page. In Netease Koala's intellectual property protection system, there are clear regulations on the entry of intellectual property complaints, effective complainants, materials required for complaints, and rules of handling procedures. The clear complaint entry and understandable application process are core principles of its intellectual property protection system.

In March 2016, WeChat officially launched the brand rights protection platform that covers all WeChat official accounts and personal accounts. The brand rights holders with access to the platform can identify whether it is a counterfeit or shoddy product based on the evidence provided by users. By March 2017, more than 350 brands have been successfully accessed to the platform, more than 35,000 infringement notifications have been processed, and over 32,000 personal accounts have been removed after the verification of infringement.

(III) Pro-active prevention-control system: responsibility of the platform

On the basis of intellectual property's complaints handling mechanism, main e-commerce companies also proceed active prevention-control to the huge amounts of online goods and service information. Especially, Alibaba has begun to explore and establish a pro-active prevention-control system since 2010. After years of accumulated experience, Alibaba has established a set of active Prevention-control system covering all elements of user behaviors, commodities, logistics, transactions and services, etc. They use model

algorithms to intercept suspected infringements and conducting real-time online monitoring on fake commodities and infringement behaviors. In 2016, Alibaba launched the IP Joint-Force system, which sent the suspected infringement links that difficult to judge founded by the system to the rights holders. In this process, e-commerce platforms maintain close communication with rights holders, jointly adjust and optimize the main defense model, to improve the accuracy of identifying infringing goods.

Alibaba has gotten fruitful achievements in active prevention-control, and wins the praise by famous brand owners and the leader of international intellectual property organization. "If I look at what Alibaba is doing, all they are doing is trying to serve consumers, and they are actively fighting against fakes, but Amazon didn't do that." said by Nick Hayek, the CEO of Swatch Group⁷. And the WIPO's deputy director general Silvy Forbin said that "The exploration and experience in intellectual property protection will help WIPO propose the best legal framework for intellectual property protection for member states in the future. Ali's efforts and achievements need to be promoted more in the world. We look forward to having more in-depth cooperation with Alibaba in this regard".⁸

III. Social co-governance: the emergence of e-commerce sharing and co-governance

The broadness, immediacy, virtualization and interactivity of e-commerce have brought huge challenges. In order to cope with these challenges, the government, e-commerce platforms, rights-holders, consumers and other parties actively explore the pattern of intellectual property protection that conforms to the laws of the market, innovation and efficiency, and multi-party governance.

(I) Expanding government-enterprise cooperation

Since 2014, intellectual property administrative departments started cooperating with e-commerce platforms, and established three modes to deal with online patent infringement complains. The first one focuses on obvious patent infringement behavior, which enables e-commerce platforms to delete or block

⁷TechWeb, <http://www.techweb.com.cn/news/2018-04-25/2659090.shtml>

⁸CNIPR.com, http://www.cnipr.com/sj/jd/201806/t20180626_227093.html

infringing products links according to contracts; the second one is for complicated patent infringing behavior, e-commerce platforms will handle cases according to consulting opinions from intellectual property rights assistance center; the third one is for controversial cases, which will be handled by local intellectual property administrative. The three modes effectively integrate resources of local intellectual property administrative, intellectual property rights assistance centers, and e-commerce platforms. According to statistics, since the implementation of three modes, Alibaba has provided thousands of evidence for case handling, and nearly 1,500 counterfeiter manufacturers have been destroyed. The total value involved has exceeded ¥3 billion , and more than 100 companies' rights have been defended.

In 2016, the Beijing Intellectual Property Protection Assistance Center with JD, Dangdang and other e-commerce platforms jointly developed the “*E-Commerce Intellectual Property Supervisor Plan*”, which strengthened the self-discipline, self-examination and self-correction obligations of e-commerce platforms. According to the plan, supervisors will assist e-commerce platforms to find out intellectual property infringement on platforms. Then, supervisors will submit the report to the Center, which will then submit to the administrative enforcement for review after grace period.

Also, Jiangsu Intellectual Property Office strengthened its cooperation with Suning and other well-known e-commerce platforms in Jiangsu province, and provided guidance and service regarding handling of intellectual property infringement complaints. Since 2016, Suning has initiated the “Suning Superior Product Engineering”, joined “Hangzhou E-Commerce Anti-Counterfeiting Association”, and also actively cooperated with the former AQSIQ Law Enforcement Department to carry out the “Enterprise Product Quality Commitment”.⁹

In March 2017, NetEase Kaola and the National Monitoring Center for Cross-border E-Commerce Commodity Quality and Safety Risk signed a memorandum of cooperation on quality of cross-border e-commerce products. The two sides engaged in information exchange, data sharing, quality co-governance, and coordinated disposal. Cooperating in various aspects, they established a cross-border commodity quality normal supervision and spot check cooperation mechanisms, discussed and formulated jointly cross-border commodity self-inspection and self-control plans, as well as implementing sampling, feedback, and disposal according to their respective functions.

⁹Fenghuang, http://biz.ifeng.com/a/20170315/44554969_0.shtml

(II) Building community governance

Intellectual property rights owners are an essential part of the Internet intellectual property system. Timely discovery of infringements, easily and quickly feedback to e-commerce platforms, quickly process of disputes, and reducing losses are expectation to all right owners. Chinese e-commerce platforms, especially Alibaba, JD, Suning, actively explored to solve this problem, and have established an effective e-commerce and brand rights co-governance model.

In July 2016, the world's first “e-commerce+” rights holder co-construction system - "IP Joint-Force System" developed by Alibaba was officially launched. Through the big data model, rights holders can be provided with suspected infringement links by the platform and help to identify the infringement. After the right holder verifies the infringement, the “one-click rights protection” could be realized online. By April 2018, there have been 252 brands co-constructed with Alibaba, including 183 oversea brands. The IP Joint-Force System makes the victims of intellectual property rights infringements to be introduced into the process of intellectual property protection of e-commerce platforms. The system can also send product information with rights holders, and constantly adjust and optimize data models, which allows for more accurate crackdowns on infringements. In January 2017, the Alibaba Anti-Counterfeiting Alliance (AACA), which is the world's first intellectual property protection alliance advocated found by thee-commerce platform, was established. The current alliance comprises 132 members covering 16 countries and regions across the world. Alliance members are co-operating in online intellectual property protection area, offline law enforcement assistance, litigation cooperation, and public education.

JD and Suning also works with the right owners to obtain resources and create an authorized ecosystem for platform merchants. Suning has launched an alliance with 9 brands including Yili, BE&CHEERY, Tianjin Goubuli, Philips, Tsingtao Beer, Haier, FOTILE, etc. Furthermore, JD devoted to establishing a copyright authorization eco-system, and JD cooperated with Microsoft to launch the “ZHENGJING Project” to provide 41 DIY brands on JD platform to pre-install Win10 system in the PC products. Currently, JD has been cooperating with over 1100 brands on intellectual property protection.

Chinese e-commerce platforms also established a cooperation relation with international organizations and

professional industry organizations. For example, Alibaba maintains good communications with the World Intellectual Property Organization ("WIPO"), the International Criminal Police Organization ("INTERPOL") and the International Trademark Association ("INTA") on intellectual property protection. And, maintaining active and effective cooperation with the International Anti-Counterfeiting Alliance ("IACC"), The Motion Picture Association("MPAA"), and the Business Software Alliance, Inc. (BSA). JD also actively cooperates with brand owners and well-known IP protection organizations, such as Quality Brand Protection Committee ("QBPC"), British-Chinese Trade Association ("CBBC"), Japan Trade Promotion Agency ("JETRO"), the American Film Association ("MPAA"), the Korea Trade and Investment Promotion Agency ("KOTRA").

(III) Innovation of public review model

For modern networks' social governance, encouraging social organizations and citizen participation at the national level is an inherent requirement. It should adhere to the rule of law and accelerate the establishment of an internet governance mechanism led by the government, enterprises, social organizations, technical communities, and citizens to participate and cooperate with one another in *The National Informatization Development Strategy 2006-2020* (《2006—2020 年国家信息化发展战略》).

In 2012, Alibaba created a public review mechanism. The mechanism has been introduced into the field of intellectual property rights protection that enable the platform to quickly identify and resolve plagiarism disputes. At present, nearly 5 million members have participated in the public review mechanism, and over 100 million disputes have been resolved. The public review mechanism is a transformation of the common law jury, and it is applied to the practice of e-commerce platform governance. It emphasizes wide participation by internet users and creates an alternative of "online dispute resolution mechanism", which is an attempt to create a highly innovative social governance model.

(IV) Deepening co-governance

E-commerce intellectual property protection system requires the cooperation and common governance of all parties concerned, including the government departments, e-commerce platforms, rights holders, consumers, and the public. In order to ensure mutual benefits, the involved body share both governance technology and information.

In 2018, Alibaba pioneered the creation of an open “shared and co-governance platform” on a global scale, so that law enforcement departments, right owners and platform parties can share anti-counterfeiting information. Currently, the shared co-government platform has various classes such as “anti-counterfeiting cloud classroom”, “rights owner lecture hall” and “anti-counterfeiting offline communication class”. It has invited 55 anti-counterfeiting volunteer lecturers from brand rights owners and law enforcement authorities. By late 2018, over 9,000 law enforcement officers across the country had shared anti-counterfeiting experiences through online and offline community.

At present, multi-dimensional governance is the direction of change in the e-commerce governance model. It requires the government, the market, social organizations, consumers to clarify their respective responsibilities and obligations to further promote cooperation among enterprises, consumers and other parties. The broad participation, group prevention, and group control, and social co-governance has now emerged.

IV. Management with wisdom: technology innovation drives management system upgrading

According to Alibaba Group 2018 Intellectual Property Rights Protection Annual Report, in 2018, 96% of the links were disconnected by Alibaba before a single sale took place, the number of links actively deleted by the platform due to suspected infringement decreased by 67%, rights holder takedown requests decreased by 32% year-over-year. The number of links removed in response to consumer reports dropped 70% from the previous year. The number of IPR-infringement cases investigated on Alibaba platforms by administrative authorities dropped 64% from the previous year. Only 1.11 out of every 10,000 orders were suspected counterfeits, down 26% from the same period last year. Since 2015, the proportion of returns and refunds requested by customers on suspicion of fakes has been declining year by year. Customers’ trust for the platform has continued to rise.

Behind the data, Chinese e-commerce platforms including Alibaba continue investing in and upgrading their anti-counterfeiting technology. Product intelligence, counterfeit screening model, image and semantic recognition algorithms, commodity knowledge database, real-time monitoring and interception, bio-identification, algorithms to detect abnormal merchant behavior, and government-enterprise collaboration

platform had previously been developed and implemented by Alibaba. In the 2018, Alibaba built upon those measures and pioneered the application of analysis of emotions and semantics, full view of merchants, and live broadcasting controls to keep suspicious goods and merchants out.

In the meantime, AI technology has also been widely applied to commodity information identification and store certification. With in-depth high-quality algorithm model, Alibaba has covered more than 40 categories in risk control. Powered by a strong risk control engine computing ability, Alibaba is able to deal with 300 billion risk scans per day, with more than 2 million times per second on peak. It has established a real-time, near-line and offline three-layer prevention and control system. Powered by AI machine learning technology, counterfeit scanning and detection system can adjust the algorithm model and information dimensions for timely interception.

With image algorithm technology and cloud computing technology, Alibaba launched an “Original Design Protection” plan. Through this plan, original designer merchants can quickly obtain original design certificates through electronic deposit certificate technology and algorithm verification. The public review mechanism can judge design disputes and decide the suspected plagiarism case based on the platform rules.

Based on Alibaba's big data, "Related Account Identification Technology" can hunt for sellers who have serious violations such as selling low-quality goods, fake products or fraud. They are not allowed to open online stores forever. Also, big data will prevent violators to register new stores, and identify the violators even they use shady seller accounts.

In March 2018, Alibaba's Tmall International and Rookie Logistics jointly announced that both parties have fully enabled blockchain technology to track, upload and verify the full link information of imported goods. JD Global Purchase announced that it will use the blockchain technology to trace the whole process of every product, including the source of raw material, production process, circulation process and marketing process information.

JD also built a "Jingdun System" and the “Tianjian System”. Through the analysis of big data, the suspected counterfeits can be identified, and a specialized brand protection team will purchase high-risk commodities anonymously and send them to a third-party institute for inspection and identification.

It has been proven that with new technologies, such as big data and block chain, these platforms are able to combat illegal businesses more accurately, protect the interests of intellectual property right holders more effectively, and combat illegal activities at low cost. Chinese e-commerce operators have successfully reduced the risk of infringement and vigorously promoted the awareness of intellectual property through the public.

V. Problem and difficulty: the “global problem” of e-commerce IPR protection

Under the efforts of legislative authorities, law enforcement agencies, right owners, consumers, e-commerce platforms, etc., various data and indicators related to intellectual property protection also continue to improve. However, there are many problems remain unsolved.

(I) The difficulty of cross-border remedy

In recent years, the scale of cross-border e-commerce in China has expanded rapidly. According to customs statistics, the imports and exports of China’s cross-border e-commerce retail totaled ¥134.7 billion in 2018, and increased 50% compared with last year. The expansion of geographical scope and the stimulation of the potential of cross-border e-commerce brought new challenges—the trend of industrialization and globalization in counterfeit manufacturing. Cross-border counterfeit combating has become a new problem in intellectual property protection.

Compared with the traditional counterfeit combating within one country, the scope of violators and victims in cross-border e-commerce intellectual property infringement cases is wider, and the difficulty of settlement is higher. Some foreign traders order fake products from developing countries which have lower labor costs, then sell fake products to other countries. Some of them also use social media platforms, such as Instagram and Face book. Their activities are well organized with strong sense of anti-reconnaissance and clear responsibilities assigned to each team member, which brings a huge challenge for the management of counterfeit goods in e-commerce. In addition, the inconsistency of laws and regulations on intellectual property protection in different countries increased the cost of cross-border e-commerce operations, especially for brands owners, the cost of cross-border remedy is unaffordable. These challenges on fighting cross-border e-commerce intellectual property infringement require not only platform

management, but also global cooperation.

(II) The dilemma of platform management

Unlike traditional business, the e-commerce ecosystem relies on the e-commerce platform, and parties need the platform for the electronic transaction and service. Therefore, the legal responsibility of the platform should also be compatible with its function. In practice, malicious infringement, malicious cybersquatting, unfair competition and other phenomena coexist. If the platform over-trusts complainants, and immediately disconnects the reported product solely based on complainants' notice, sellers may lose the opportunity to defend themselves. But if it is an infringement, the platform may be jointly liable for the expanded economic consequences of the violation. As business operators, it is difficult for the e-commerce platform which is not professional in this area to accurately judge the infringement. They are facing the dilemma of legal obligation and platform management.

VI. Development and prospects: the 'China road' for e-commerce intellectual property protection

In the 16th meeting of central financial leading group, President Xi Jinping said that "improving property rights protection, especially intellectual property protection is an important part of shaping good business environment". Premier Li Keqiang presided over a State Council executive meeting to arrange the policy on cross-border e-commerce promotion. He emphasized that e-commerce platforms shall be guided to strengthen services on intellectual property rights protection.¹⁰

Despite numerous unresolved challenges, it is undeniable that Chinese intellectual property protection in e-commerce has a positive trend. Facing future opportunities and challenges, China's e-commerce intellectual property protection will be based on current developments and plan for the long-term; seek development in change, seek change in development; expect to provide new solutions for global governance, and inject new abilities into innovation and development.

¹⁰CNR, http://news.cnr.cn/special/G20hz/news/20160903/t20160903_523109399.html

(I) Cooperation and dialogue--The way to expand intellectual property protection of e-commerce

With the fast development of internet industry and the rise of globalization, borders of goods and services have been eliminated, while cross-border e-commerce and service trade are on the rise. However, counterfeiters is becoming more and more professional in using technology and the Internet, while the cooperation between law enforcement authorities, brand owners and e-commerce platforms, has not been established yet. Cooperation between enforcement authorities, e-commerce platforms, rights owners, merchants, and customers are important to regulate Internet business environment.

Chinese e-commerce companies are aware of the crucial role of intellectual property in technological innovation and economic development, while the most effective intellectual property protection weapon is cooperation. By broad collaboration on significant intellectual property issues, all parties can achieve sustained and effective intellectual property protection outcomes.

Chinese e-commerce understands the importance of intellectual property in technological innovation and economic development. Expanding cooperation and strengthening dialogue is also one of the most effective path for intellectual property protection. In the future, Chinese e-commerce platforms will hold the positive attitude of “promoting cooperation and dialogue to achieve mutual benefit”, exploring new trends and new measures for e-commerce intellectual property protection. Strengthening cooperation to integrate intellectual property protection, consolidate sustainable intellectual property protection achievements, complementary resources, market sharing, and common development.

(II) Innovation and upgrading--the base for thriving e-commerce intellectual property protection

Protection is never the final destination of intellectual property for Chinese e-commerce platforms. Inspiring innovation and establishing a better business environment are the starting points. E-commerce platforms have become important carriers for cultivating intellectual property. For example, nearly 100,000 original businesses are actively on Taobao to produce numerous numbers of original designs, original products and even original service models every day, and they are rapidly shared and disseminated via the internet.

Chinese society has reached consensus on intellectual property protection cultural “respecting knowledge, advocating innovation, being honest and abiding by law”. Accordingly, creating a market operating environment of fair competition, honest operation, innovative development, and maintaining a fair environment are also widely accepted by the society. Chinese governments, judicial authorities, e-commerce platforms, and professions from different fields have collaborated to promote e-commerce intellectual property rights protection.

In the digital economy era, the future development of e-commerce will rely on the ever-changing technology, concerted efforts and comprehensive intellectual property protection standards and rules that provide strong economic development and human welfare for China and the world.

Conclusion

Back in 1998, Alibaba, Made-in-China.com and other B2B e-commerce platforms were established; in 2003, Taobao, JD and other B2C e-commerce platforms emerged. Over the past two decades, Chinese e-commerce companies have been in arduous combat against counterfeits, and have achieved impressive progress by in-depth investment, bold innovation and practical measures in intellectual property protection. A “technology, e-commerce and law” three-in-one governing model was developed. This transformation marks the forming of the Chinese model for e-commerce intellectual property rights protection. From the perspective of practice, this model can be promoted and replicated, not only in the e-commerce intellectual property field, but also across the entire social governance system. In April 2019, the Luxury Law Alliance awarded Alibaba Group as the “Luxury Law Innovator in IP Rights and Technology”¹¹. Following this, on May 22 the World Trademark Review announced Alibaba as the World Trademark Review’s Asia Pacific Team of the Year for carrying out its work in brand protection to the highest possible standards in 2019.¹² China has been continuously implementing strict intellectual property protection and developing new business models. Chinese e-commerce platforms’ have established platform governance system and rights protection services in practice, with comprehensive platform rules, active prevention and control, convenient IP rights protection mechanisms, deepening social co-governance, alongside continuous international cooperation, are being significant characteristics on IPR protection across Chinese e-commerce platforms.

Prospectively, Chinese governments and judicial departments will further strengthen intellectual property protection enforcement in key areas such as online shopping, further strengthen inter-regional joint enforcement cooperation, explore the establishment of a more effective administrative protection mechanism to achieve the precise attack of infringement behavior and create a better environment for the sustainable and healthy development of e-commerce. Chinese e-commerce will continue to respond to the government's call, keep up with the era's footsteps, and continue to contribute to the China's economy.

¹¹Alizila, <https://www.alizila.com/alibaba-wins-award-for-leadership-in-ip-protection/>

¹²Alizila, <https://www.alizila.com/world-trademark-review-industry-awards-alibaba/>

Building an intellectual property governance system that adapts to the development of new technologies is the hope and appeal of the whole world. Chinese e-commerce platforms will work with other countries to explore problems, share China's experience, and contribute China's solutions in strengthening e-commerce intellectual property rights protection. The global economic expects a new international intellectual property protection trend in the digital economy era.

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