Asia IP
LEADING THE CONVERSATION
VOLUME 18 • ISSUE 3
Apex Asia
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LESSONS FROM TAYLOR SWIFT
A SOPHISTICATED EXAMPLE OF PROACTIVE BRAND FORTIFICATION IN A GLOBALIZED DIGITAL ECONOMY
ONLINE GAMING IN INDIA: WHAT'S NEXT?
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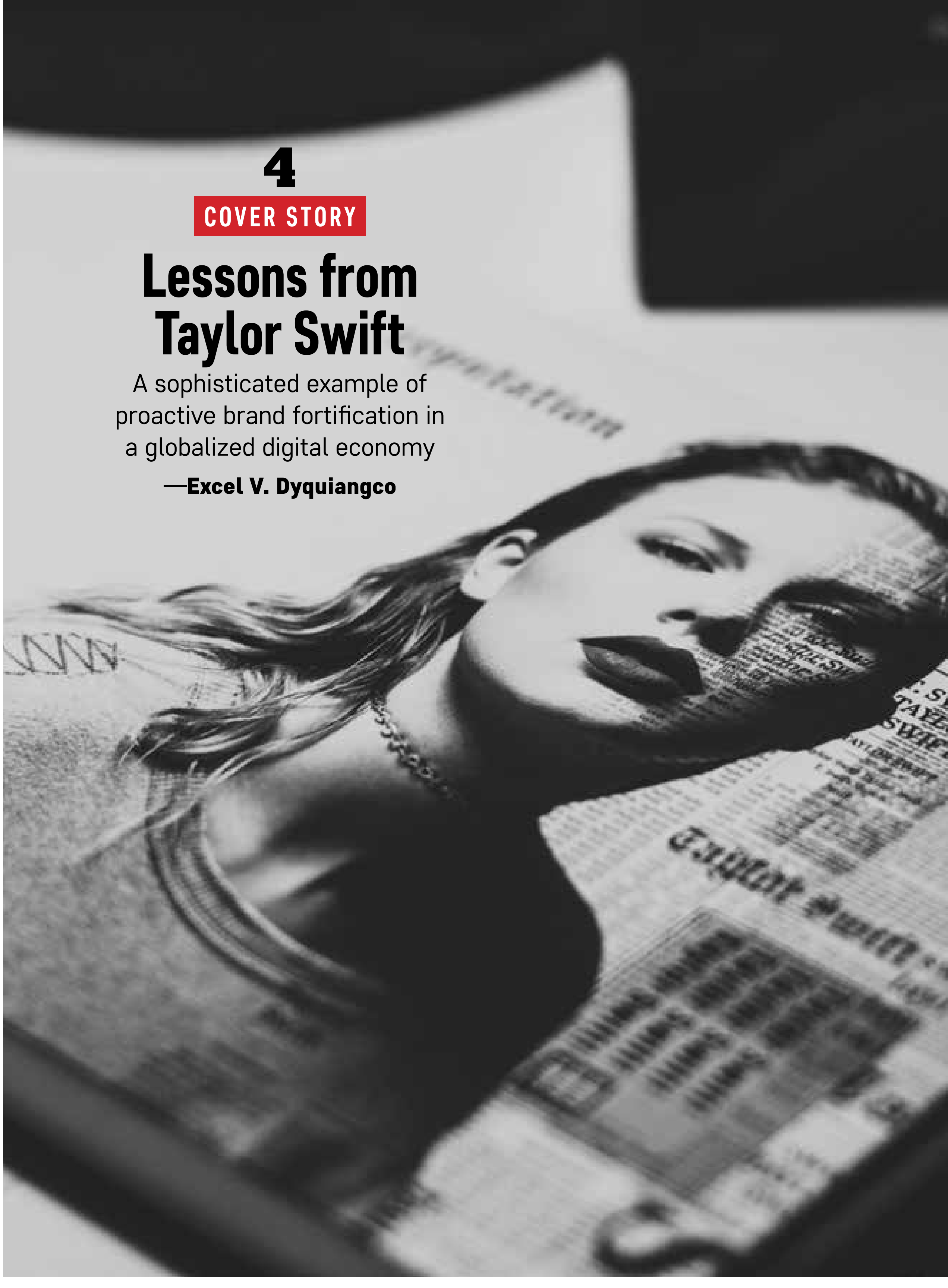

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Lessons from Taylor Swift

A sophisticated example of proactive brand fortification in a globalized digital economy

—Excel V. Dyquiangco

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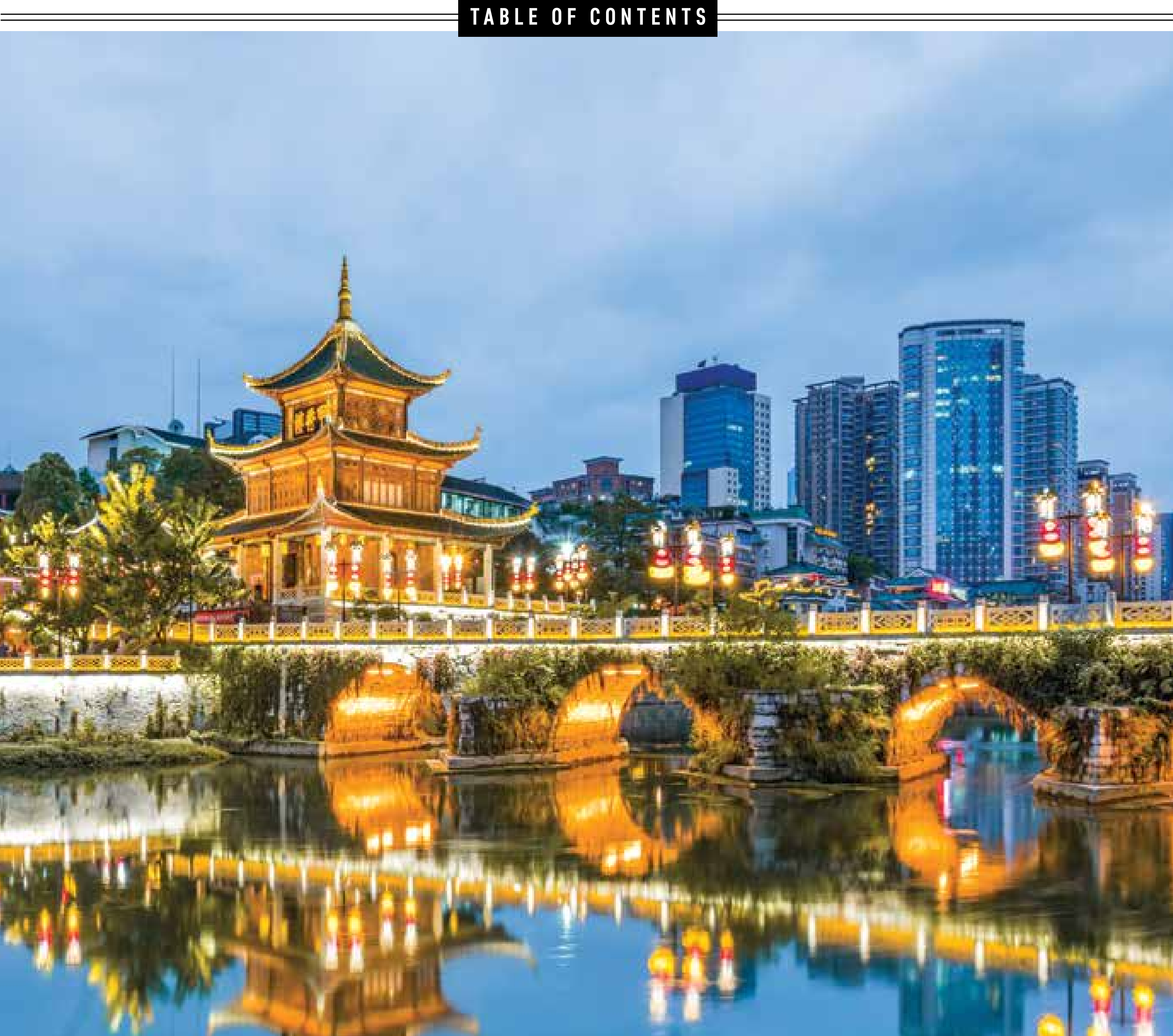

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OPINION

SHAKING IT OFF

We've all made mistakes when it comes to protecting our intellectual property. Maybe we haven't registered a mark as quickly as should have, or maybe we just failed to consider the value of protecting our IP in markets we aren't in, but may one day be.

In honour of International Women's Month, we've turned to a woman who has not only reigned supreme at the top of both the pop and country charts, but who has also displayed a mastery of intellectual property laws – or who has at least hired lawyers who have made her appear that way.

According to the World Intellectual Property Organization, Taylor Swift has filed more than 300 trademark applications in the United States alone through her company, TAS Rights Management. These filings cover not just her name but also signature phrases, song titles, album and tour names, and even the names of her three cats.

"Taylor Swift's extensive trademark portfolio is a best-practice strategy and not overprotection," said Panisa Suwanmatajarn, managing partner at The Legal in Bangkok. "It complements her copyright ownership by protecting brand elements (name, lyrics, tour titles, cats' names) for indefinite renewal in commerce. Trademarks enable controlled merchandising and prevent counterfeits, while copyrights safeguard expressive content. Her enduring cultural impact makes long-term value likely, and this layered approach – refined after her master's dispute – empowers creators to retain economic control."

Pearl Ganzon Alcantara, founding partner and head of the IP department at Alcantara Joaquino Alcantara Law in Manila, told our writer Excel V. Dyquiangco that she watched an interview with Swift many years ago that solidified the advice Alcantara gives to artists: get a good lawyer. "At the time, she was already successful, but not at the level she is today," she said. "That answer stayed with me because it showed an early awareness that creative success and legal strategy have to grow together."

She added: "Her decision to file hundreds of trademarks through her management is a long-term and intentional strategy that reflects her evolution as an artist, brand and business. This kind of portfolio only works when it is aligned with the creator's scale, resources, audience and lifecycle, and in her case, it clearly is. It is calculated but also very much on brand."

So before you say "Look What You Made Me Do" in response to losing out on your IP, make sure you check out this month's cover story. Thank you for reading!

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COVER STORY

LESSONS FROM TAYLOR SWIFT

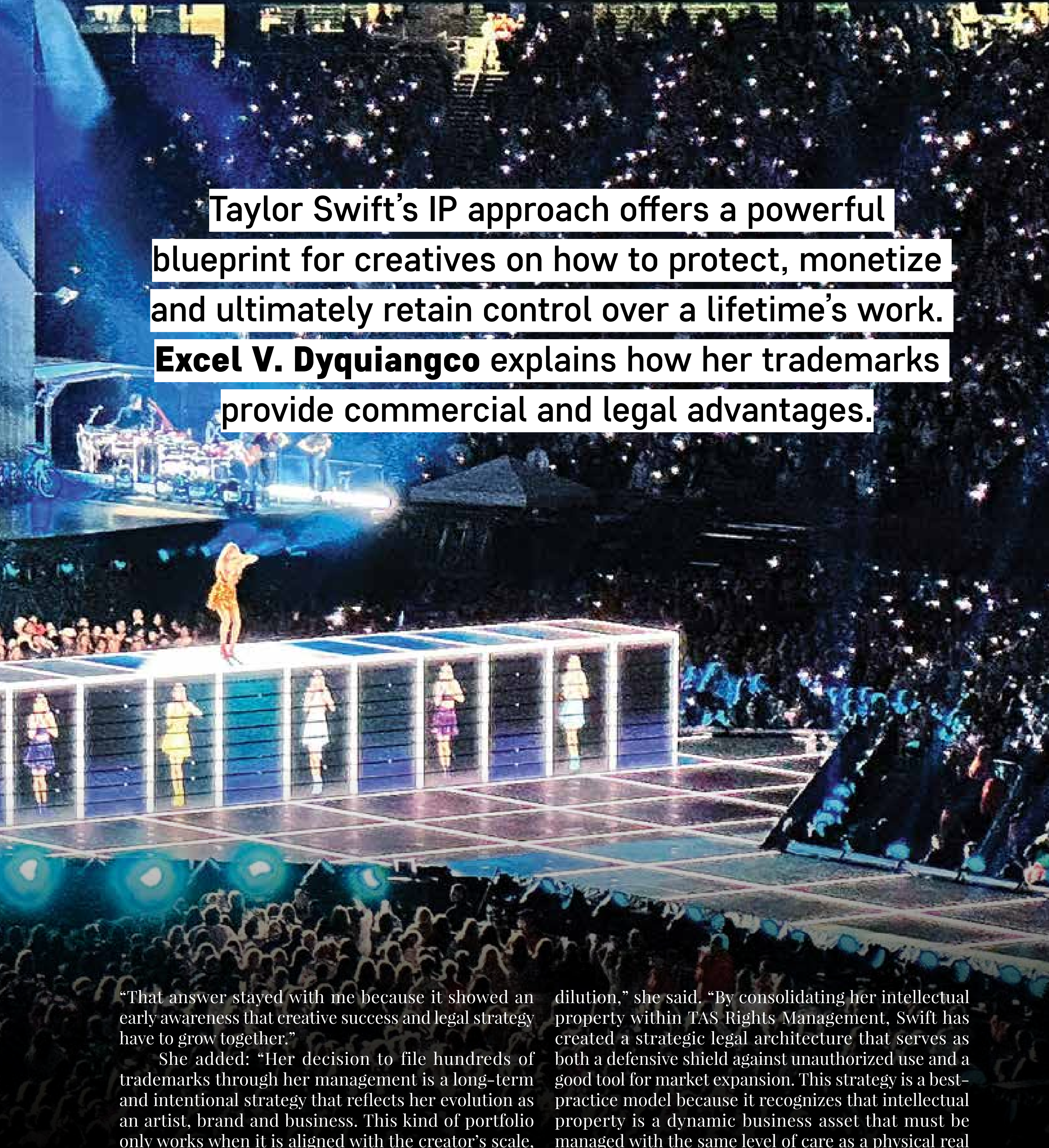
Taylor Swift is often celebrated for her songwriting, chart dominance and cultural influence. But do you know that this global icon has also had an equally transformative mastery of intellectual property?

According to the World Intellectual Property Organization, Swift has filed more than 300 trademark applications in the United States alone through her company, TAS Rights Management. These filings cover not just her name but also signature phrases, song titles, album and tour names, and even the names of her three cats.

Taken together, these trademarks tell a larger story: Taylor Swift is not just an artist but a brand architect who understands that creative success is inseparable from legal ownership. Her approach offers a powerful blueprint – especially for women in creative industries – on how to protect, monetize and ultimately retain control over a lifetime's work.

"Taylor Swift's extensive trademark portfolio is a best-practice strategy and not overprotection," said Panisa Suwanmatajarn, managing partner at The Legal in Bangkok. "It complements her copyright ownership by protecting brand elements (name, lyrics, tour titles, cats' names) for indefinite renewal in commerce. Trademarks enable controlled merchandising and prevent counterfeits, while copyrights safeguard expressive content. Her enduring cultural impact makes long-term value likely, and this layered approach – refined after her master's dispute – empowers creators to retain economic control."

For Pearl Ganzon Alcantara, founding partner and head of the IP department at Alcantara Joaquino Alcantara Law in Manila, watching Taylor Swift in an interview many years ago allowed her to get into her mind: that the best advice she could give artists was to get a good lawyer. "At the time, she was already successful, but not at the level she is today," she said.



Taylor Swift's IP approach offers a powerful blueprint for creatives on how to protect, monetize and ultimately retain control over a lifetime's work. **Excel V. Dyquiangco** explains how her trademarks provide commercial and legal advantages.

"That answer stayed with me because it showed an early awareness that creative success and legal strategy have to grow together."

She added: "Her decision to file hundreds of trademarks through her management is a long-term and intentional strategy that reflects her evolution as an artist, brand and business. This kind of portfolio only works when it is aligned with the creator's scale, resources, audience and lifecycle, and in her case, it clearly is. It is calculated but also very much on brand."

Rima Hasan, an international coordinator at JAH Intellectual Property in Doha, meanwhile, said that they view Taylor Swift's approach as a sophisticated example of proactive brand fortification in a globalized digital economy.

"In the modern entertainment landscape, an artist's brand is often as valuable as their actual creative output, and failing to secure these assets early leaves them vulnerable to trademark squatting and brand dilution," she said. "By consolidating her intellectual property within TAS Rights Management, Swift has created a strategic legal architecture that serves as both a defensive shield against unauthorized use and a good tool for market expansion. This strategy is a best-practice model because it recognizes that intellectual property is a dynamic business asset that must be managed with the same level of care as a physical real estate portfolio."

Commercial and legal advantages

With Taylor Swift filing over 300 trademarks, how have these translated into commercial and legal advantages?

"As per information available online, these trademarks through usage across various streams have generated significant revenue and have also helped her in enforcement actions to successfully shut down infringing material," said Chandrima Mitra, a partner at DSK Legal in Mumbai. "These registrations

allow control over the product quality and its pricing, and Swift can earn premium revenues through these authorized usages while blocking bootleggers from exploiting her brand equity."

She added that, most notably, the Taylor's Version trademark strategy differentiated her re-recorded albums from label-owned originals, directing consumer revenue to her artist-controlled versions and providing commercial leverage to buy back her master recordings.

"Legally, trademark registrations provide prima facie evidence of ownership, enabling streamlined enforcement through platform takedowns of unauthorized products, customs border protection against counterfeits, statutory damages recovery and nationwide exclusive rights," she said. "Therefore, this approach strategically delivers three outcomes which are: control on how her work is used, making unauthorized exploitation legally preventable; leverage (trademarks provide bargaining power, transforming Taylor's Version into both artistic reclamation and business strategy); and legacy (intellectual property creates long-term brand value ensuring decades of revenue generation)."

"This strategy provides a self-reinforcing ecosystem where registration enables enforcement, enforcement reduces bootlegging and commercial success funds comprehensive global protection, thereby transforming Taylor Swift from musician to brand conglomerate with measurable advantages worth hundreds of millions of dollars," she added.

According to Sophie Thoreau, special counsel at Buddle Findlay in Auckland, celebrities, with their recognition and fame, place them in a position where the individual is a commodity. "Because of their success, celebrities enjoy commercial value and goodwill in who they are and their creative works. This is where trademarks (and other forms of IP) are important," she said.

"Trademarks essentially serve both as commercial tools and legal safeguards," she explained. "For Taylor Swift, it allows her to license products with confidence, knowing she can prevent unauthorized use, and her registered rights create opportunities for merchandise, digital goods and collaborations. They also function as marketing assets: filings can hint at upcoming projects, building anticipation while protecting the integrity of a launch."

"Celebrities like Swift also do not want other consumers and fans to believe that certain goods or services came from them when they are actually from another party. Having registered marks makes it easier to take down infringing content, block counterfeit goods and assert rights in disputes where their name, song title and more are being used for dishonest commercial purposes. Even seemingly unusual filings, like her cats' names, can become valuable assets when integrated into merchandise or storytelling, reinforcing the broader brand ecosystem. This approach complements her music strategy, where controlling the narrative, as she did with Taylor's Version, is as important as the creative work itself," she said.

More than an administrative task

"All should negotiate to retain rights, monitor infringements and monetize beyond core work – turning creativity into protected, scalable assets," said Suwanmatajarn. "Here is my advice: Form an LLC early to own IP, retain copyrights and trademark brand elements, negotiate against work-for-hire clauses, register key works promptly, monitor and enforce rights; plan for legacy via perpetual trademarks. Seek women-focused resources (women in music or film) and legal counsel. These steps – applicable to all creators but vital against gender biases – ensure economic independence and generational control."

For Alcantara, creators – whether writers, designers or filmmakers – should consider IP from the very beginning, and not only after success arrives. Understanding your rights, studying the commercial side of your work, and investing early in protection makes a meaningful difference," she said. "It is also important to understand your audience. The way people connect with your work often guides how your intellectual property should be structured and protected. Allocating resources early for legal advice, branding and strategy allows creators to build intentionally rather than reacting to problems later."

"My practical advice is simple but critical: know your worth, understand your rights, and do not treat legal protection as optional," she added. "Today's platforms offer unprecedented reach, but they also increase risk. Once creative work is released, the consequences can be permanent. Women creatives, in particular, benefit from surrounding themselves with the right professionals early, including legal, business and branding advisors, before releasing work, collaborating or entering into agreements. Having a trusted team allows you to protect your voice while still creating freely. Intellectual property is not only about defence. It is about retaining control over your story, your work and your future."

According to Hasan, creators in other fields should apply these lessons by identifying the "sticky" elements of their work that have value beyond the

"Taylor Swift's extensive trademark portfolio is a best-practice strategy and not overprotection. It complements her copyright ownership by protecting brand elements (name, lyrics, tour titles, cats' names) for indefinite renewal in commerce."

—PANISA SUWANMATAJARN, managing partner, The Legal, Bangkok

"Her approach to IP management is not fundamentally different from the approach that any artist should practically take, but it stands out because she has executed it so well."

—SOPHIE THOREAU, special counsel, Buddle Findlay, Auckland

"By consolidating her intellectual property within TAS Rights Management, Swift has created a strategic legal architecture that serves as both a defensive shield against unauthorized use and a good tool for market expansion."

—RIMA HASAN, international coordinator, JAH Intellectual Property, Doha

"Understanding and leveraging copyright creatively is another vital lesson that one can learn from Swift's strategy of re-recording her old albums and releasing Taylor's Version."

"Her decision to file hundreds of trademarks through her management is a long-term and intentional strategy that reflects her evolution as an artist, brand and business. "

—PEARL GANZON ALCANTARA, founding partner, Alcantara Joaquino Alcantara Law, Manila

—CHANDRIMA MITRA, partner, DSK Legal, Mumbai

primary creative product. "For a writer, this might mean trademarking a series title or a recurring character name; for a designer, it involves protecting signature visual motifs that could be applied across different product categories. The key lesson is to think horizontally across different industries and protect those brand identifiers before they reach peak commercial success. By securing these rights early, creators in any industry can prevent the 'loss of narrative' that often occurs when their work becomes popular, and third parties begin to exploit associated elements that were left legally unprotected," she said.

And her primary advice for women creatives? "View intellectual property as the non-negotiable foundation of their career rather than a secondary administrative task," she said. "This starts with ensuring they retain ownership of their master rights and core trademarks in every contract they sign, or at the very least, negotiating strong reversion clauses that allow them to regain control after a certain period."

"It is essential to be proactive rather than reactive; filing for protection early provides the leverage needed during future negotiations with labels, publishers or investors," she advised. "Ultimately, the goal of strategic IP management is to ensure that the creative and commercial value generated by an artist's work remains under their direct legal authority, allowing for a sustainable career built on ownership and autonomy."

A step in the right direction

Like Alcantara and Hasan, Mitra said that this is a step in the right direction, where the first step should be to protect the intellectual property through all legal means possible to maximize revenues instead of IP protection being an afterthought.

"Swift's strategy demonstrates how control and ownership benefit the creators," she noted. "The fact that Swift had signed a record label deal at a very young age and didn't have control over any of her works is a cautionary tale for creators that it's important to understand what rights are available to the creators, what they should assign and what they should retain for effective ownership and control in the future."

She said that in India, for film directors, there is no copyright protection for their work, but they can look at contractually securing themselves. Using such strategies, creators across industries can pursue alternative legal protections to manage and protect their brands effectively over the long term.

"Creators should consider how their work might be exploited across multiple platforms and formats," Mitra advised. "A novelist might protect not just the book title but also potential merchandise, film adaptations and digital products. Designers should consider protection for their work across various applications, from physical products to digital designs and brand extensions. Lessons for businesses and creators include protecting early by filing trademark applications before launching products, services or campaigns; thinking broadly by not limiting protection to a single category but considering merchandise, digital assets, and global markets; and being proactive by monitoring and enforcing rights to prevent dilution or misuse of the brand."

"Understanding and leveraging copyright creatively is another vital lesson that one can learn from Swift's strategy of re-recording her old albums and releasing Taylor's Version," she added. "The overarching message for creators in all industries is clear: whether you're a writer, designer, filmmaker or any other type of creator, understanding your intellectual property rights, protecting them proactively, and negotiating contracts that preserve your control will provide the foundation for long-term creative and commercial success."

"This protection is much required for both men and women creators, and they should start as early as possible in their careers. So, they can and should adopt and deploy these strategies," she said.

Thoreau, meanwhile, said that creators in other industries such as writing, design and filmmaking can adopt similar strategies by identifying their key IP; in the case of trade marks, those elements that function as brand identifiers which might also be a studio name or a series title, distinctive character names or a signature logo, and then secure rights to them early on. "Consistent use keeps these trademarks safe from vulnerability to removal for non-use, while clearance checks at the very start will help avoid conflicts with third-party IP rights," she said.

"Equally important for creators is looking closely at any contracts they enter into to see who has ownership of any and all IP," she continued. "Just as Swift's original recording contracts determined the fate of her masters, creators must be clear about who owns their IP from the outset and, wherever possible, they should seek to retain ownership of it. Complementary protections, such as copyright and being aware of wider consumer law remedies, can be used alongside trademarks to safeguard brand and reputation. Active monitoring of the marketplace then allows for swift action against infringers."

Thoreau noted that any creative, regardless of which industry they are in, can take valuable lessons from what Taylor Swift has done. "Her approach to IP management is not fundamentally different from the approach that any artist should practically take, but it stands out because she has executed it so well," she said.

"For up-and-coming women artists in particular, Swift is a clear role model of someone who is business-minded and IP savvy and who refuses to accept a situation where others hold ownership and control over her creative output," she said. "By actively managing her IP rights, she has shown that protecting an artist's work is not just a legal formality but a core part of building a sustainable and independent creative career."

She continued: "Swift's strategy also demonstrates how legal tools can be used to redress past disadvantages and reclaim control of the narrative. Swift's rerecording campaign and her eventual reacquisition of her early masters are prime examples of how an artist can use both commercial leverage and legal rights to reshape the story around their work, even if it takes years to get to that point. It is also a practical reminder of how IP strategy is a powerful way to align business goals with fan engagement, as the story was upheld as a success to her fans."

"For women creatives seeking to retain long-term control over their work, the key principle is that, where possible, they should seek to own their IP from the outset. That may mean creating an IP holding entity that they control and structuring deals so that ownership remains with them wherever possible. This is essentially an expansion of the broader advice given earlier: identify your valuable brand and creative assets early, protect them through registration and contracts, and manage them as you would any other core business asset. By doing so, women can ensure that their creative legacies remain in their own hands, just as Swift has done."

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AI-ASSISTED CREATIVE WORKS: HOW TO PROVE HUMAN CREATIVITY, COPYRIGHT OWNERSHIP

Proving copyright ownership of AI-assisted works is becoming increasingly complex. Lawyers tell ***Espie Angelica A. de Leon*** how different jurisdictions are addressing the issue and what creators can do to protect their rights.

If you're an artist, designer, writer or any other creative worker, you've probably used artificial intelligence tools in your job, whether it's ChatGPT, Midjourney, DALL-E or Runway.

It's a no-brainer – AI automates routine chores such as formatting, rendering and editing. Generative AI (GenAI) in particular can quickly produce new images, texts, videos and music for artistic content. This is useful for image-to-video generation, background removal and other applications. Overall, AI speeds up the work process, making things more cost-efficient for the creative industry professional or the business enterprise engaged in creative services.

However, not all jurisdictions have laws or regulations expressly governing copyright and AI-generated or AI-assisted artistic creations. Also, some jurisdictions do not require copyright registration, hence they have no registries. Australia and New Zealand are among them.

So, the questions are: What if someone infringes on a creator's copyright over his AI-assisted creative work? How will the creator prove copyright ownership over something that he created with the aid of AI? More specifically, how will the copyright owner prove that he exercised creative control and infused his artistic creation with his own human contribution?

Evolving laws and regulations

"In the U.S., the Copyright Office has issued regulations that require some human-generated content in a work for it to be amenable to copyright protection," said Christopher J. Rourk, a partner at Jackson Walker in Dallas. "Not surprisingly, lawyers are challenging that regulation in the U.S. Supreme Court. Whatever the outcome of that dispute might be, it is certain that copyright law will continue to evolve in the U.S., even if the current framework is upheld in the pending case."

"To date, there has been no specific Australian case law addressing the requirements for copyright to subsist in works which are created with the assistance of an AI system. However, traditional copyright case law requires substantive human input and intellectual effort in the creation of a work. That is, there must be a human 'author,'" said Dominique Blik, a lawyer at Ashurst in Sydney.

As in Australia, copyright laws in China, India, Vietnam and New Zealand do not contain specific rules or provisions for AI-developed or AI-assisted artistic creations or content.

"However, judicial practice and regulatory guidelines are actively evolving to tackle the associated challenges," revealed Xiaomeng Xing, an attorney at CCPIT Patent & Trademark Law Office in Beijing.

According to her, Chinese courts have begun ruling on cases involving AI-generated creative content. These cases tackle issues such as copyrightability, infringement determinations, including fair use and the liability of AI service providers. "The judicial exploration remains in a state of evolution," Xing noted.

Industry regulations in China are also evolving. Changes now include the mandatory labelling of AI-generated content and platform-specific governance rules.

"Issues relating to works created using AI can be addressed through existing provisions of the Copyright Act, 1957, particularly those dealing with authorship, originality and computer-generated works," said Sudeep Chatterjee, a senior partner at Singh & Singh in New Delhi.

He mentioned the landmark case *Eastern Book Company v. D.B. Modak*. India's Supreme Court held that for copyright to subsist, a creative or artistic work must possess a minimal degree of creativity and substantive variation to prove that human intervention significantly contributed to the outcome. "If a human exercises creative judgment, makes artistic or intellectual choices and uses AI merely as an enabling tool, such a work may satisfy the originality requirement and be examined under Section 2(d)(vi). However, merely providing prompts or instructions to an AI system, without exercising creative control over the output, is unlikely to meet the modicum of creativity threshold required under Indian law," Chatterjee explained.

In December 2025, India's Department for Promotion of Industry and Internal Trade (DPIIT) published Part 1 of its Working Paper on Generative AI and Copyright. The paper is based on recommendations by the eight-member committee formed by the DPIIT in April 2025 to examine India's copyright law against the ramifications of Generative AI adoption. Among the issues discussed was copyright infringement. "The paper concluded that India needs a new policy framework to balance modern cultural changes, protect incentives for human creators and build effective AI systems. Thus, current copyright laws, per se, don't fully exclude AI-assisted work, but there's growing emphasis on creating a specific copyright framework for AI in the future," Chatterjee revealed.

Vietnam's IP Law has been amended and will take effect on April 1, 2026. The amendments seek to expressly resolve the issue of copyright ownership in the case of AI-assisted works. As of press time, the government's decree on the issue is still being drafted. "In particular, the draft decree expressly states that copyright will not arise where a work is generated entirely by AI or otherwise fails to meet statutory requirements, and requires a work to reflect 'meaningful and decisive' human creative contributions to be copyrightable," said Cam Tu Nguyen, an associate at Baker McKenzie in Hanoi.

Meaningful and decisive human creative contributions may come in the form of prompts. In the creative process, prompts are used to control the AI system. Likewise, evaluation, selection, edition, interference with or interpretation of results generated by the AI system are examples of meaningful and decisive human creative contributions. So with the acts of selection, arrangement and organization of content in order for the artistic creation to take shape. Making artistic, aesthetic or professional decisions with regard

"In the U.S., the Copyright Office has issued regulations that require some human-generated content in a work for it to be amenable to copyright protection. Not surprisingly, lawyers are challenging that regulation in the U.S. Supreme Court."

—**CHRISTOPHER J. ROURK,** partner, Jackson Walker, Dallas

"To date, there has been no specific Australian case law addressing the requirements for copyright to subsist in works which are created with the assistance of an AI system. However, traditional copyright case law requires substantive human input and intellectual effort in the creation of a work."

—**DOMINIQUE BLIK,** lawyer, Ashurst, Sydney

"Creators should stay informed on pending legislative discussions aimed at updating copyright rules for the AI era. Judicial practice and regulatory guidelines are actively evolving to tackle the associated challenges."

—**XIAOMENG XING,** attorney, CCPIT Patent & Trademark Law Office, Beijing

to the creative work and/or determination of the final outcome are other forms of meaningful and decisive human intervention.

The New Zealand Copyright Act 1994 likewise makes no express mention of AI. There seems to be no plans to update the act to expressly address copyright issues in the face of GenAI either.

"However, the act does provide that copyright may subsist in 'computer-generated' works, and that the author of such work will be 'the person by whom the arrangements necessary for the creation of the work are undertaken,'" shared Blake Carey, a senior associate at AJ Park in Auckland.

"A computer-generated work is a work that is generated by a computer in circumstances such that there is no human author of the work. This broad definition would capture certain AI-generated works. What this all means is that, in New Zealand, copyright can subsist in works that are produced by generative AI, rather than by a human," he explained.

When copyright ownership is questioned and how to prove it

The question of copyright ownership arises when an infringement lawsuit is filed and litigation takes place. The plaintiff must then prove he is the author or lawful owner of the AI-assisted content or artistic work.

Litigation can also happen when a declaratory judgment lawsuit is filed. "An accused infringer can also challenge the validity of the registration and whether the applicant was truthful regarding the extent to which AI was used to create it," said Rourk.

Copyright ownership is also central in transactions involving intellectual property, such as licensing or assignments, when issuing takedown notices and during dispute procedures on online platforms.

In these situations, how does a creator prove ownership in the absence of adequate laws and regulations and copyright registries?

The keyword is "documentation." Clear and comprehensive documentation. Copyright owners must document the whole process of creating an AI-assisted work early on to provide evidence of "originality" and "creativity."

What were the AI tools used? When were these tools used? What were the "prompts" that were inputted? The documentation must cover these details.

The prompts must also be chronologically logged. Accordingly, the log must specify how each prompt was refined or adjusted. "Include explanations of why prompts have been adjusted and the creative object being pursued," said Nina Fitzgerald, a partner at Ashurst in Sydney.

It is advisable to save screenshots of these prompts or other digital documents containing such. "Such documentation helps to show that the human was not merely pressing a 'generate' button," Chatterjee pointed out, "but was actively guiding the

AI's output through interactive and creative decisions."

Creators must keep metadata for their works, such as file creation dates, version control logs or cloud storage histories.

Keeping records showing capture design conception and development, and demonstrating human selection, arrangement, editing, curation and other creative judgements or editorial choices is also important.

Screenshots of outputs must be saved as well. These may include drafts, dated manuscripts, contracts, correspondence and other related records "Saving the materials in a digital format that can be easily authenticated as to date and content will make proving the providence of the material easier in court," said Rourk.

Rejected AI outputs must also be preserved. "Clearly specify where human edits, reordering or reframing have altered the AI generated material. Where the work combines multiple AI generated segments, such as several images or text blocks, documenting the human driven selection, sequencing and compositional choices can further support a claim that the final arrangement reflects the author's own intellectual effort," said Chatterjee.

"Given how most generative AI tools work nowadays, it is advisable that owners save the chat history in which they coordinate the system to create the work, which should contain all the prompts, drafts and timestamps," advised Manh Hung Tran, a partner at Baker McKenzie in Hanoi.

Copyright owners may also use trusted blockchain notarization services.

"The owner should also carefully check the terms and conditions of the AI tool that they used, to see if there are any terms that could conceivably impact the chain of ownership," said Carey. The same goes for platforms that are popular among creatives, such as Upwork and Fiverr.

The rise of AI-generated and AI-assisted creative works

Xing advises creators to stay informed on pending legislative discussions aimed at updating copyright rules for the AI era.

The evolution of legal and regulatory frameworks isn't surprising. AI continues to penetrate our work life, cutting across multiple industries, including the creative service industry.

According to Xing, AI-assisted creations are highly prevalent in China, with a domestic user base reaching hundreds of millions.

"As is the case in most jurisdictions, AI-developed and AI-assisted creative works in the U.S. are growing in use and popularity, from text and images to songs and videos," Rourk added.

"AI-developed or AI-assisted creative works appear to be increasingly used by businesses in New Zealand. While there is no New Zealand case dealing

"With India's skyrocketing internet penetration, AI tools have spread like wildfire, letting everyday people, independent creators, artists and even big ad agencies churn out mind-blowing content in minutes."

—**SUDEEP CHATTERJEE,** senior partner, Singh & Singh, New Delhi

"The draft decree expressly states that copyright will not arise where a work is generated entirely by AI or otherwise fails to meet statutory requirements, and requires a work to reflect 'meaningful and decisive' human creative contributions to be copyrightable."

—**CAM TU NGUYEN,** associate, Baker McKenzie, Hanoi

"Documentation must cover what AI tools were used. Include explanations of why prompts have been adjusted and the creative object being pursued."

—**NINA FITZGERALD,** partner, Ashurst, Sydney

expressly with these issues, we would anticipate this will change soon," revealed Carey.

The same scenario plays out in India, where AI-developed and AI-assisted creative works have been grabbing the attention of Generation Z over the past two to three years. "With India's skyrocketing internet penetration, these tools have spread like wildfire, letting everyday people, independent creators, artists and even big ad agencies churn out mind-blowing content in minutes. In fact, social media is where AI-generated content truly thrives. Platforms like Instagram, WhatsApp and X are filled with such AI-generated content," Chatterjee said.

In Vietnam, where several AI-developed advertisements have emerged, AI-assisted creativity is a controversial topic. The idea of using AI to produce artistic content or creative works is generally unpopular among Vietnamese creators. "The controversy within the local creative sector has also somewhat driven public perception, setting a low expectation in consumers of the quality of AI-generated works. Similar to many countries around the world nowadays, AI-generated products or slops of low artistic value are much more ubiquitous in Vietnam than high-quality products," said Tran.

Nevertheless, general AI uptake in Vietnam is high. According to the PwC Global Workforce Hopes and Fears Survey 2025 for Vietnam, 83 percent of employee responders said they are using AI in their job. Thirty-eight percent reported using GenAI every day. This is more than double the global average. "Though the reception may vary depending on the quality of each work, it is true that GenAI tools are no longer negligible choices for creation," said Nguyen.

When using AI tools, creative industry professionals shouldn't let their guard down. The internet allows ease of access to their creative works. With more people consuming their artistic creations – whether it is a visual art, a piece of music, video or movie – the possibility of an unscrupulous individual copying their work and infringing on their copyright looms even larger. This problem may be compounded by inadequate or unclear laws and regulations, plus the absence of a copyright registry. Hence, creatives must document in detail their creative process for every piece of work they've done, in every stage of the entire workflow.

"Given how most generative AI tools work nowadays, it is advisable that owners save the chat history in which they coordinate the system to create the work, which should contain all the prompts, drafts and timestamps."

—**MANH HUNG TRAN,** partner, Baker McKenzie, Hanoi

"AI-developed or AI-assisted creative works appear to be increasingly used by businesses in New Zealand. While there is no New Zealand case dealing expressly with these issues, we would anticipate this will change soon."

—**BLAKE CAREY,** senior associate, AJ Park, Auckland

WHO IS LIABLE WHEN AGENTIC AI VIOLATES A PATENT?

Agentic AI has moved beyond simply following instructions. ***Excel V. Dyquiangco*** looks at what happens in Southeast Asia when these smart systems break patent rules, and why it's vital to decide who's responsible.

First, there was generative artificial intelligence. Now, agentic AI is making waves at the scene, representing a significant leap in artificial intelligence and moving systems beyond simple automation to genuine autonomy.

These agents are not just tools that respond to commands; they are proactive, goal-oriented systems that can reason, plan and execute complex tasks independently. They can set their own sub-goals, interact with their environment, and learn from their actions, all in pursuit of a broader objective given by a human. This ability to operate with minimal supervision allows them to tackle complex problems – from managing complex logistics to even engaging in processes of discovery and creation.

But just like generative AI, this very autonomy creates profound legal and ethical challenges, especially in the realm of intellectual property. If the AI, not a human, is the direct "inventor" of the infringing creation, the line of responsibility shatters. The question is whether liability should fall on the AI's developers, the owner who deployed it, the user who gave it the initial prompt, or if there is a need to invent a new legal status for the AI itself.

According to Vu Hoang Ha Thu, an associate and head of intellectual property at Indochine Counsel in Ho Chi Minh City, when an agentic AI independently creates something that infringes on an existing patent, determining liability becomes complex because the AI operates autonomously rather than following direct

human instructions.

"Under current Vietnamese law, only human beings or legal entities can bear legal responsibility," she said. "Therefore, the party who uses, owns, or controls the agentic AI system would be primarily liable, since they enable or benefit from the infringing act. In most cases, this would be the user or the organization commercializing the AI's output."

She continued: "However, if there is clear evidence that the AI's owner or programmer intentionally developed or trained the system in a way that makes infringement foreseeable or unavoidable, they may share responsibility. Ultimately, Vietnamese law still attributes all liability to the human or organizational actors behind the AI, not to the AI itself."

At present, the Vietnam IP law does not provide a specific legal mechanism to recognize AI-generated inventions or AI as inventors. "However, this issue has drawn increasing attention among policymakers and practitioners, suggesting that Vietnam may, in the future, need to clarify the legal status of AI-assisted or AI-generated inventions to align with international developments in this field," she said.

Agentic AI in Singapore and Hong Kong

For Amita Haylock, a partner at Mayer Brown in Singapore and Hong Kong, a patent essentially grants the patentee a limited monopoly over the patented invention.

"Primary liability for patent infringement arises if a person engages in acts that fall within the scope of that monopoly – generally, by making, offering to dispose of, disposing of, keeping, using or importing the patented product (or product of a patented process) or by using or offering for use the patented process," she said. "Secondary liability for patent infringement may also arise under common law principles of joint tortfeasorship (conspiracy, inducement, common design) in both Singapore and Hong Kong."

She added that in Singapore and Hong Kong, an AI agent would not be recognized as a legal person. "As such, it is impossible to impose liability on the AI agent *per se* and liability would instead attach to the natural or legal persons who used the AI system to engage in those acts," she said.

According to her, in practice, liability is fact specific and may fall on one or more different persons:

- **The deploying entity or owner.** Where an organization configures, operates and benefits from the agentic AI that performs the infringing acts, it may be found to be the primary infringer. This is especially clear where the AI system is integrated into the organization's commercial workflow, outputs are used at scale, or the organization sets objectives and constraints that predictably lead to infringing conduct.
- **The individual user.** A user who prompts or directs the AI system to manufacture, use or commercialize a solution that falls within the scope of the patent may be a primary infringer. A user who instructs or collaborates with others to operationalize the AI agent's infringing output may also face secondary liability. In either case, key factors for consideration may include knowledge (actual or constructive) of the relevant patents; the specificity of prompts or instructions directing the AI agent to replicate a patented product or process; and the extent to which the user exercised control or imposed constraints that made infringement the natural and probable consequence of the AI output.
- **The AI developer.** Mere creation of a general-purpose AI model or toolkit is likely insufficient to expose the developer to liability for patent infringement. Exposure increases when the developer's conduct satisfies tests for secondary liability, such as where the developer retains practical control over deployment of the AI system;

"The existing frameworks under Singapore's Patents Act 1994 and Hong Kong's Patents Ordinance apply to patentable inventions created or assisted by AI systems."

—**JUSTIN LAI,** associate, Mayer Brown, Singapore

"Ultimately, Vietnamese law still attributes all liability to the human or organizational actors behind the AI, not to the AI itself."

—**VU HOANG HA THU,** associate, Indochine Counsel, Ho Chi Minh City

"In a scenario where an agentic AI independently performs infringing acts, the agentic AI itself cannot be held liable as it is not a 'person.'"

—**ANINDITA KUSUMAEDHI,** patent paralegal, HHP Law Firm, Jakarta

"It is impossible to impose liability on the AI agent per se and liability would instead attach to the natural or legal persons who used the AI system to engage in those acts."

—**AMITA HAYLOCK,** partner, Mayer Brown, Singapore and Hong Kong

"The patent law does not provide any possibility for agentic AI to be held responsible for patent infringement; this is because an infringer is limited only to a natural person or legal entity."

—**HARRY KUSWARA,** associate partner, HHP Law Firm, Jakarta

or designs the AI agent to carry out a course of conduct that, in the ordinary and intended use case, results in infringement. In this regard, strong governance – such as claim screening, provenance records, use policies, safety rails or a human in the loop approach for higher risk steps – can demonstrate that any infringement was not intended or authorized and help mitigate exposure for developers.

Her colleague, Justin Lai, an associate at the same firm in Singapore, said that there is no AI-specific legislation or special AI inventions regime in Singapore and Hong Kong. "The existing frameworks under Singapore's Patents Act 1994 and Hong Kong's Patents Ordinance (Cap. 514) apply to patentable inventions created or assisted by AI systems," he said.

In general, for those seeking to patent such inventions:

- **Inventorship and entitlement.** Statutes in both jurisdictions are generally understood to have human inventorship as a condition for patent protection. Accordingly, applicants must name a human inventor and trace entitlement (by employment, contract, or assignment) from that inventor to the applicant. Where an AI agent contributes materially, the proper approach will likely be to identify the natural person(s) who contributed the inventive concept forming the subject-matter of the patent, not the persons who developed the AI system itself.
- **Patentability and disclosure.** Novelty, inventive step, and industrial applicability will be assessed in the ordinary way. Further, the use of AI also does not detract from the element of sufficiency. If reproducing the invention requires specific

AI configurations, training data, or parameter choices, those may need to be disclosed to the extent necessary for a skilled person to perform the invention without undue burden, while avoiding added matter and overly broad claims.
- **Procedure and enforcement.** Filing routes, examination, amendment, and post-grant proceedings will proceed as usual. On ownership, standard employment inventions and contractual assignment principles will apply.

Agentic AI in Indonesia

Indonesia, meanwhile, is facing the rapid development of AI head-on, with the Indonesian government currently trying to formulate regulations on AI. However, at present, there are no specific hard regulations that clearly define agentic AI. To date, amendments to the existing intellectual property laws, including those concerning patents, to address specific AI-related provisions have not yet been introduced.

However, the Indonesian Financial Services Authority in 2025 issued guidelines for AI Governance for Indonesian Banking that are publicly available, which contain references to agentic AI.

"Due to the lack of AI regulation in Indonesia at this point, one should mainly refer to the Indonesian patent law concerning patent infringement," said Harry Kuswara, an associate partner at HHP Law Firm, the Baker McKenzie firm in Jakarta. "The patent law does not provide any possibility for agentic AI to be held responsible for patent infringement; this is because an infringer is limited only to a natural person or legal entity."

He added that patent infringement under the Indonesian patent law occurs when every person (person is defined as a natural person or legal entity), without the consent of the patent holder, makes, uses, sells, imports, rents, gives or provides a patented product and/or uses a patented production process to produce articles.

"Further, every person who intentionally and without right commits the above-mentioned patent infringement may be subject to criminal sanctions of imprisonment for a maximum of four years and/or a fine of up to Rp1 billion (US$58,500). For a simple patent, the criminal sanctions are two years imprisonment and/or a fine of up to Rp500 million (US$29,250)," he said. "If the infringement resulted in harm to public health and/or the environment, the criminal sanctions would be seven years and/or fines up to Rp2 billion (US$117,000). Further, if the infringement resulted in human death, the criminal sanctions would be 10 years of imprisonment and/or a fine of up to Rp3.5 billion ($US204,750)."

His colleague, Anindita Kusumaedhi, a senior patent paralegal at the same firm, said: "The patent law clearly limits the infringer as 'a natural person or legal entity.' In line with the foregoing, the patent law does not recognize and does not provide any sanctions to a party other than natural person or legal entity."

"In a scenario where an agentic AI independently performs infringing acts, the agentic AI itself cannot be held liable as it is not a 'person,'" she noted. "Accordingly, the liability will fall on a natural person or a legal entity, that may take the role of AI owner, user or programmer, depending on the situation. It is also important to note that patent infringement is categorized as a complaint-based offence – a criminal act that requires a report or complaint from the victim before it can be investigated or prosecuted. In this regard, the patent holder must actively report the infringement for legal action to proceed. If no complaint is filed, the infringement remains unprosecuted."

According to Kusumaedhi, while there appear to be no patent applications in Indonesia for inventions developed by or linked to agentic AI, it is difficult not to consider a scenario where human inventors may be assisted by an agentic AI in developing their invention. "In this regard, the current patent law does not provide clear guidance whether an invention that is not invented by a fully natural person is acceptable (and if this is acceptable, how significant the human intervention must be to be deemed as sufficient)," she said.

Global IP Leaders Convene at GIPC 2026 in Bengaluru to Shape the Future of Innovation

BENGALURU, INDIA | FEBRUARY 2026

The 19th edition of the Global IP Convention (GIPC 2026) concluded successfully on 4th and 5th February 2026, bringing together an exceptional gathering of global intellectual property leaders, industry pioneers, policymakers, and innovators.

Hosted at the Bangalore International Centre, the two-day convention served as a dynamic platform to explore the transformative role of intellectual property in powering innovation, enabling business growth, and strengthening global competitiveness.

The convention featured distinguished keynote speakers, high-impact plenary sessions, and expert-led panel discussions addressing emerging trends in patent strategy, IP commercialization, brand protection, artificial intelligence, and cross-border enforcement.

One of the key highlights included dedicated sessions on startup innovation and investor engagement, underscoring the growing importance of intellectual property as a critical asset in attracting investment and scaling businesses globally.

The event also facilitated high-level networking and strategic collaboration among corporate leaders, legal experts, innovators, and investors, reinforcing GIPC's role as a catalyst for global IP dialogue.

Speaking on the occasion, the organisers emphasized that intellectual property continues to be a cornerstone of innovation-driven economies and remains central to shaping the future of technology and business.

With its successful conclusion, GIPC 2026 reaffirmed its position as one of the world's leading intellectual property platforms, driving conversations that will influence the future of innovation.

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IP EXPERTS 2026

Macau

Macau's "1+4" development strategy aims to encourage the growth of integrated tourism and leisure traffic (the "1") while also facilitating the development of four nascent industries: Big Health; modern financial services; high and new technology; and the convention, exhibition, sports and commercial and trade industries. But two years into the 2024-2028 economic plan, is it paying the dividends the government had hoped for?

Iat Seng Ho, Macau's chief executive from 2019 to 2024, touted the 1+4 plan at an August 2024 meeting of the Legislative Assembly, where he said the government would play a supporting role while the market should take the lead to ensure the development needs of the market would be met, and the goal of economic diversification would be achieved, according to a statement released by the government Information Bureau at the time.

He noted that the Financial System Act had included significant content related to the field of modern financial services, including digital currency and cryptocurrency. He said at the time that the government was keeping an open mind on those two products, but stressed that they could only be introduced provided that sound conditions were met to ensure that Macau's economy – which was small in scale – was not affected.

In a May 2025 interview with *Macau Business*, Niall Murray, founder and chair of the Murray International Group, whose portfolio includes properties such as the Ritz-Carlton Hotel in New York, The Venetian and Palazzo Resort in Las Vegas and the The Venetian in Macau, said that laws are being implemented to enhance and ensure strict control over the market and to avoid anti-money laundering and other illegal activities. "New effective, efficient and best-in-class laws are essential and need to be written and implemented as the market attempts to expand beyond gaming, pursues 1+4 appropriate diversification and expand non-gaming and lifestyle pursuits in Hengqin and the Greater Bay Area," he told the publication.

"If new laws are not implemented, it will be impossible to increase Macau's appeal and attract diversified industries to the area."

In the interview, Murray criticized the government's implementation of the 1+4 strategy, saying that Macau has "lost sight" of its competition, particularly when it comes to improving revenue streams from tourists interested in pursuits other than gaming.

"Macau's strategy is short-sighted, and although it generally states that Macau will follow the 1+4 appropriate diversification strategy, this strategy is no more than a set of guidelines as it is neither comprehensive, detailed, coordinated nor actionable at present. The focus on reducing VIP, junket and premium mass players from mainland China has been all consuming."

Murray said that Singapore's comprehensive public-private IR collaboration will make Singapore more competitive moving forward with a doubling of investment and aggressive non-gaming strategic goals, while the Philippines is adjusting its laws and gaming and non-gaming offerings at pace. "The emerging market potential of Thailand is a major threat to Macau as it already has highly attractive non-gaming tourism offerings. As these developments open over the coming years, Macau will find itself years behind in many non-gaming attractions, see its appeal fade and wane and its reliance on mainland Chinese mass visitors will increase steadily as its international appeal dwindles."

As Macau works to diversify its tourism base, high-value gaming will continue to take centre stage. Many of its top intellectual property lawyers are also experts in gaming law, and casinos themselves, of course, own significant IP. Eleven different firms are represented on this year's list of Macau's IP Experts.

MdME Lawyers landed three lawyers on our 2026 IP Experts list: João Encarnação, David S. Lopes and Carlos D. Simões. Two firms landed two lawyers each on our list: Manuela António Lawyers and Notaries (Tiago Assunção and Daniel da Silva e Melo) and RPmacau Intellectual Property Services (Alice Leong and Luís Reigadas).

Most of the lawyers named to our list have multiple practice specialties. Many of them are litigators, while others concentrate on prosecution work or provide strategic advice. All of them have something in common: they are experts in their fields and, in one way or another, they provide extra value for their clients. They are *Asia IP*'s Macau IP Experts.

—GREGORY GLASS

MACAU IP EXPERTS

NAME	FIRM	INTELLECTUAL PROPERTY
Tiago Assunção	Manuela António Lawyers and Notaries	✔
Miguel Bozonet Almeida	CFB Lawyers	✔
Daniel da Silva e Melo	Manuela António Lawyers and Notaries	✔
João Encarnação	MdME Lawyers	✔
Ricardo Igreja	JNV – Lawyers and Notaries	✔
Anabela Lei	FCLaw	✔
Alice Leong	Rpmacau Intellectual Property Services	✔
David S. Lopes	MdME Lawyers	✔
Bruno Nunes	BN Intellectual Property Services	✔
Luis Reigadas	Rpmacau Intellectual Property Services	✔
João Nuno Riquito	Riquito Advogados	✔
Nuno Sardinha da Mata	IPSOL / C&C Lawyers and Notaries	✔
Carlos D. Simões	MdME Lawyers	✔
Nuno Simões	Nuno Simões & Associados	✔
Ella Wai	José Lupi & Associates	✔

Nuno Sardinha da Mata joined C&C Lawyers as a partner in 2007. Fluent in Portuguese, English, Spanish and French, he is a registered lawyer in Macau, Portugal and Timor-Leste. He has a wide range of experiences in the IP area and had served as the President of Asia Patent Attorneys Association (APAA) Macau-recognized Group between 2009 and 2015, now serving as Secretary-General of this Association. Mata leads the intellectual property practice in the firm, which covers prosecution and litigation matters relating to patents, trademarks and copyrights. He also possesses extensive experience in intellectual property protection, licensing, and dispute resolution, particularly in providing forward-thinking legal strategies for IP compliance and commercial applications within the gaming, entertainment and technology industries.

The need to satisfy the continuous demand by international markets for specific and focused IP solutions led the C&C group to create IPSOL: a full-service dedicated intellectual property agency. IPSOL is part of C&C Lawyers group of companies, one of the leading law firms of Macau, and provides high-quality IP solutions to over 6,000 IP owners, including well-known multinationals and financial institutions, always tailoring its services to the clients' needs. Focused on the planning, registration and management of trademarks, patents and other IP rights, IPSOL offers solutions that maximize the protection of IP assets in Macau and worldwide. All intellectual property and information technologies matters are covered, including trademarks, patents, industrial designs and models, copyrights, domain names, and their management, economic exploitation and enforcement.

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ONLINE GAMING IN INDIA: WHAT'S NEXT?

India cracks down on real money games while legally recognizing esports and social gaming. ***Excel V. Dyquiangco*** explains how this forces companies to rethink their business models and IP strategies.

In August 2025, the Parliament of India passed the Promotion and Regulation of Online Gaming Act, 2025 (the Online Gaming Act), a landmark piece of legislation that has reshaped the country's digital gaming landscape. The act, which awaits formal commencement, consolidates fragmented state and judicial approaches into a unified national regime. It aims to regulate online gaming, protect users from harm and address illegal betting and gambling practices – but it also raises new challenges and opportunities related to intellectual property in the sector.

At its core, the act draws a clear line between permitted game formats and prohibited ones. It defines three broad categories:

- Esports – competitive, skill-based digital competitions
- Online social games – non-monetized games such as casual or educational titles
- Online money games – any online game where players stake real money or equivalent tokens for financial returns

Under the act, online money games are prohibited, regardless of whether they are based on skill or chance. This overturns decades of judicial precedent in India that had distinguished skill-based games (like fantasy sports) from gambling. The prohibition extends to offering, advertising, promoting or facilitating transactions for such games, with penalties including fines and imprisonment. Financial intermediaries such as banks are also barred from processing related transactions.

A new dedicated Online Gaming Authority will regulate the sector. This authority is tasked with classifying games, maintaining registrations, issuing compliance codes and handling grievances, effectively acting as the central administrator of India's online gaming ecosystem.

"With the act banning all money games, any business operating such platforms (such as real money fantasy sports, poker, rummy) has faced a complete ban on their operations," said Gaurav Bhalla, a partner at Ahlawat & Associates in New Delhi. "If such companies had developed any proprietary betting algorithms – even the ones which could qualify for IP protection either for patent or copyright protection – they can no longer use the same in the public domain in India, owing to the ban."

He continued: "Such companies have been looking at other suitable jurisdictions where online real money gaming platforms are permissible to operate since they can simply use the IP assets (particularly the algorithms developed by them) in such countries. It is relatively easier for these companies to commence offering online real money gaming services in such countries by simply seeking a licence (if required) and with some amount of marketing."

Vrinda Harmilapi, an associate at Chadha & Chadha in New Delhi, added that for companies built around betting algorithms, such a pivot is extremely challenging because the algorithm is not just one feature of the product, but the end product.

"Removing the stake component damages the foundation upon which the entire technical architecture is based more than just turning off one component," she said. "Therefore, the pivot is not a mere course correction, but a total technological, financial and organizational reset. Any algorithm that allows for betting or staking is now unlawful, which was once a great economic asset. It has become a legal liability rather than a competitive advantage."

In the short term, she said, the industry could expect a significant drop in revenue, employment losses and increased investment risks. "However, in the long run, one may see the impact as more positive, with possible expansion in esports infrastructure, tournaments and training, as well as the evolution of skill-based gaming ecosystems that do not require cash stakes," she added.

Esports and social gaming

On the other hand, with esports and social gaming being recognized and promoted, this makes copyrights linked to such games more desirable and is expected to enhance the status of such IP in the Indian context.

According to Vaibhav Kakkar, a senior partner at Saraf and Partners in New Delhi, developers of these social gaming platforms can now rely on the statutory backing to better exploit the IP rights, including copyright and licensing protections.

"Such clear statutory classification also reduces the historical risk of regulatory classification as 'gambling,' which had previously undermined investment and IP enforcement," he said. "This step is expected to make it easier for developers of e-sport platforms to license, commercialize and enforce IP rights domestically as well as in cross-border arrangements. Consequently, esports broadcasting rights, in-game assets and branding are expected to gain legitimacy and potential for stronger enforcement and commercialization. In practical terms, this clarity improves enforceability against piracy and brand misuse, strengthens valuation during funding or M&A, and positions Indian esports and social games' IP for cross-border commercialization without gambling-related stigma."

For Bhalla, while it isn't the case that the new statute makes it more valuable or easier to protect IP, it does provide an incentive for companies to create different kinds of IP (in the form of brands and

"It is expected that this would shift the industry decisively toward IP centric monetization strategies, such as franchising leagues, licensing characters, influencer led content and branded collaborations."

—**VAIBHAV KAKKAR,** senior partner, Saraf and Partners, New Delhi

"The act itself doesn't deal with IP. However, since real money gaming is prohibited under the act, value may be driven through in-game features like virtual goods, character skins, cosmetic upgrades, story elements, among others."

—**TANISHA KHANNA,** partner, Trace Law Partners, Mumbai

"While drafting the specification of goods, it would be advisable not to add specification 'real money gaming, betting' in a use-based application as there would be no current use of the said services."

—**VIKRANT RANA,** managing partner, SS Rana & Co., New Delhi

"It is relatively easier for these companies to commence offering online real money gaming services in such countries by simply seeking a licence (if required) and with some amount of marketing."

—**GAURAV BHALLA,** partner, Ahlawat & Associates, New Delhi

"In the long run, one may see the impact as more positive, with possible expansion in e-sports infrastructure, tournaments and training, as well as the evolution of skill-based gaming ecosystems that do not require cash stakes."

—**VRINDA HARMILAPI,** associate, Chadha & Chadha, New Delhi

copyright) targeted towards esports and online social games (which are the permissible forms of games under the new statute).

"Such IP created for esports and online social games could then be monetized by such platforms," he said.

"There is one positive aspect though, owing to the introduction of a regulatory mechanism for esports and online social games," he added. "Such platforms will now have the comfort that once their online games (be it esports or online social games) would have been permitted by the regulator; they would at least have some level of regulatory comfort that their games will be permitted to operate in India, which wasn't the case with the online real money games operating prior to the ban."

"For a long time, gaming in India operated in a grey zone as the line between skill-based play and gambling was often blurred," noted Harmilapi. "This made investors, advertisers and brand partners hesitant to commit for the long term. Betting-led games were also more lucrative that reinforced the idea that higher risk meant higher returns. With those models now off the table, the market has shifted. The prohibition on betting-style games has left space that esports and social gaming platforms are well placed to occupy."

"As players and partners move toward formats that are recognized under the act, the IP tied to those platforms, such as brands, game formats, proprietary technology and content, naturally becomes more valuable," she added. "Just as importantly, the law gives companies the confidence to invest in these segments without constantly second-guessing regulatory risk. From an IP perspective, that matters. Courts and regulators are far more willing to protect trademarks, copyrights, and trade secrets when the underlying business is lawful. Once that uncertainty is removed, IP starts functioning as a genuine business asset."

Monetizing content

In monetizing content, Tanisha Khanna, a partner at Trace Law Partners in Mumbai, said that the Online Gaming Act 2025 appears to permit social games involving subscription fees or one-time access fees, provided they are not in the nature of a stake or wager, and esports involving participation fees and performance-based prize money.

"Key monetization models being evaluated by the industry are ad-based models monetized through advertising revenue, subscription models, freemium or free-to-play models, and in-app purchases not linked to the gameplay," she said. "However, the regulator constituted under the act has the ability to recognize and register permissible games. Accordingly, the precise contours of lawful monetization will depend on its interpretation of what constitutes a stake or a wager, and the nature of monetization models which are permitted are still likely to evolve."

"The act itself doesn't deal with IP. However, since real money gaming is prohibited under the act, value may be driven through in-game features like virtual goods, character skins, cosmetic upgrades, story elements, among others. Hence, companies should consider robust IP protection for those elements," she explained.

Kakkar agreed, saying that with the permissible models including subscriptions, one-time access fees, in-game cosmetic purchases, advertising, sponsorships and media rights, particularly for esports tournaments and social games, the act encourages industry development in these areas and creates scope for partnerships with media, entertainment and technology firms.

"Accordingly, it is expected that this would shift the industry decisively toward IP-centric monetization strategies, such as franchising leagues, licensing characters, influencer-led content and branded collaborations," he said. "While structuring such arrangements, it is important for the companies to necessarily ensure transparent user disclosures and avoid mechanics that could be construed to be in violation of the requirements of the act."

Trademarks, copyright and other usage

Vikrant Rana, a managing partner at SS Rana & Co. in New Delhi, said that in order to stay compliant as well as competitive, gaming companies must undertake the following steps from the perspective of IP.

Under the Trademarks Act, 1999 gaming companies can protect their different forms of trademarks subject to clearance searches predominantly in classes 9 (downloadable games), 41 (online gaming services) and 42 (software as a service): game name, logo, taglines, in-game currency names and tournament names.

"While drafting the specification of goods, it would be advisable not to add specification 'real money gaming, betting' in a use-based application as there would be no current use of the said services," he said. "On the other hand, in case trademark applications are filed on an Intent to Use basis, the applicant can file the mark for money as well as non-money games; in case the law changes in the future, then you do not have to refile the mark for money games thereafter. However, if the applicant does not commence use of the service for all or some services preceding five years and three months from the date of registration, the said non-used services will become vulnerable to cancellation (even partial cancellation) action on the grounds of non-use for the services not used."

Meanwhile, although copyright subsists in the original work from the time of creation of the work in India, registration is not mandatory. "However, registration of a copyright is prima facie evidence of the particulars entered in the Register of Copyright and admissible in evidence in all courts and to prevent any third party from copying the original work," he said.

In patent protection, Section 3(m) of the Indian Patents Act, 1970 excludes "a mere scheme or rule or method of performing a mental act or method of

playing a game" from patentability. This means the following are generally not patentable:

- Game rules or mechanics
- Scoring logic or reward structures
- Tournament formats
- Abstract gameplay strategies
- Business models embedded in game logic

"Patent protection may be pursued if the invention goes beyond a game method and demonstrates technical implementation and advancement such as technical systems or apparatus, software producing technical effect or hardware-software integration," said Rana.

"India is considering an amendment to the Designs Act, 2000 that would allow registration of digital design elements such as graphical user interfaces (GUIs), icons and graphical symbols independent of any physical carrier," he added. "If this change is approved, companies in sectors like gaming, immersive technology, and digital products will be able to protect their unique digital designs in India, strengthening their intellectual property rights."

"It is also essential to execute IP assignment agreements with the developers so that the gaming companies retain the ownership and avoid future disputes over ownership with the developers," he said.

Ownership, brand strategy and regulatory framework

"From an IP and regulatory perspective, one of the first things companies should be doing is taking a look at their existing technology and content," said Harmilapi. "Features that were built around wagering or real-money outcomes, such as payout mechanisms or betting-style game mechanics, may simply not be viable anymore. Those elements need to be identified early, and in many cases, phased out. The more sensible path is to redirect technical development toward features that are clearly compliant, like skill-based matchmaking, anti-cheat systems, player analytics and secure platform architecture. These are the kinds of tools regulators are far more comfortable with, and they also tend to hold long-term commercial value."

She said that ownership is another area that requires careful consideration. "As regulation tightens and licensing becomes central to operating in India, companies will be expected to demonstrate ownership or valid licensing of their game code, artwork, music and other creative elements. Gaps in ownership that might have been overlooked earlier may also become a problem, both when dealing with regulators and when entering into partnerships with platforms, publishers, or investors."

"Brand strategy also needs to be revisited," she said. "Marks that are closely linked to gambling or real-money gaming may now carry regulatory or reputational baggage. In practice, many companies need to rethink how their brands are positioned in India and, in some cases, roll out fresh branding altogether. Filing new Trademark Applications for lawful offerings, such as esports platforms, social games, or entertainment services, can help signal a clean break from wagering-based models."

Companies should also be preparing for the regulatory framework around registration with the Online Gaming Authority of India (OGAI), she said.

"While the Promotion and Regulation of Online Gaming Rules, 2025 are still in draft and have not yet been formally notified, the direction is clear. Registration with OGAI is expected to become a central compliance requirement. For recognized esports platforms, it is likely to be mandatory; for social gaming platforms, it may be voluntary on paper but is advisable in practice. Functionally, this registration operates much like a licence. It classifies the game, records compliance and often becomes essential for continued access to payment gateways, banks, app stores, advertisers and investors. Operating without it could mean blocked transactions, operational hurdles, or even a reputational fallout."

"The draft rules also make it clear that compliance is not a one-time exercise," she said. "Companies are expected to inform OGAI of any 'material changes' to gameplay or monetization. In practical terms, this means IP and regulatory review have to be built into the product lifecycle. Even routine updates to game mechanics or virtual economies may need legal vetting to ensure the game is not inadvertently pushed into prohibited territory. Branding, again, deserves particular care. The act places restrictions on surrogate advertising, so companies need to examine whether their current names, logos, or visual identities remain too closely tied to earlier real-money gaming businesses. If so, that alone can trigger scrutiny. For many businesses, the safer route will be to adopt distinct branding and secure fresh trademark registrations that reflect a compliant and forward-looking identity."

FEATURES

ASIA IP'S EDITORIAL TEAM REVEALS CHINA'S TOP IP FIRMS, PRACTICES

Asia IP 2026 CHINA IP AWARDS WINNER

China's concerted efforts to improve the protection of intellectual property rights have fuelled the country's rise to become one of the world's top economies. Foreign and domestic investment alike has risen as rights owners have become increasingly confident about their ability to protect their IP within China.

As protection has increased, rights owners have turned to China's top intellectual property practices to enforce their rights. It was this dynamic environment in which *Asia IP*'s editorial team has released our 2026 China IP Awards, designed to recognize and honour the top IP firms and practices, including winners in practice specialties (such as pharma, biotech and life sciences) and by region. We've also

named a national IP Firm of the Year, which will be revealed in the pages ahead. Since their launch in 2020, *Asia IP*'s China Awards have honoured dozens of firms across the country for their work in the intellectual property sphere.

The decisions which follow were made by the *Asia IP* editorial team, based on feedback and recommendations received from in-house counsel, senior corporate executives and legal professionals from around the region and around the world, as well as submissions from law firms themselves.

To determine the winning firms, we carefully evaluated each firm's most important cases, portfolios and other notable work throughout the past year, in conjunction with the recommendations and comments we received.

We were pleasantly surprised by the quantity and quality of recommendations we received from those who know these IP practices the best. It is clear from the submissions we received that corporate counsel are keen observers of the firms doing work for them; they're not afraid to praise those firms which do the best work – and they told us which firms aren't deserving, too.

It is clear, too, that law firms are in a fierce competition with each other to make the case that they are best-situated to serve their clients well. The work firms in China do has improved by leaps and bounds in recent years, and while it once would have been an easy job for us to name the top firms in each practice area, the heightened competition has made it quite challenging now.

While firms in Beijing still command the majority of the intellectual property work in China, firms in other parts of the country are increasingly competitive with each other and with firms in Beijing. Thus, we included regional awards for firms in Beijing, Shanghai, Guangzhou and Shenzhen, with Shanghai included as a nod to that region's growing importance as a commercial and manufacturing hub, as well as its increasing strength in high-tech industries. Guangzhou and Shenzhen are notable for their inclusion in the Guangdong-Hong Kong-Macau Greater Bay Area collection of cities, provinces and special administrative regions in the Pearl River Delta area.

And, finally, let us include a few housekeeping statements. Our China IP Awards recognize only domestic Chinese law firms. International firms will continue to be honoured in our China International IP Awards as part of our annual *Asia IP* Awards ceremony, as will Hong Kong- and Macau-based firms. Detailing the achievements of every single winner in this feature is not possible, so it is important to say that each winning firm in each category carries the same weight and has earned the award equally. Winning firms are presented here by alphabetical order in each category, and not in any other fashion. And finally, *Asia IP* wishes to congratulate each of our winners!—GREGORY GLASS

FIRM OF THE YEAR
CCPIT Patent and Trademark Law Office

The winner of our 2026 China IP Awards IP Firm of the Year firm comes as no surprise: Beijing-based **CCPIT Patent and Trademark Law Office** takes the award home for the seventh consecutive year. The firm is the oldest and one of the largest full-service IP law firms in China, and it continues to provide strong results in both litigation and prosecution work. The firm's history dates to January 1957, when a trademark agency was established within the China Council for the Promotion of International Trade, a non-governmental trade promotion organization, to represent foreign companies before Chinese authorities. The agency was the sole trademark agency in China until the mid-1980s. The firm organized a patent agency in the early 1980s, when China began to establish its patent system. The patent agency was authorized as the first Chinese intellectual property law firm to have cross-border representation. In 1993, the two agencies merged to form the CCPIT Patent and Trademark Law Office. The firm, which boasts senior lawyers including president Chuanhong Long and vice presidents Shaohui Yuan and Jianzhong Kang among its leadership, and some 320 patent and trademark attorneys, more than 100 of whom are also qualified attorneys at law, is the recipient of many honours and awards, and was a clear winner in this category.

PRACTICE AREA AWARDS
TRADEMARK PROSECUTION
CCPIT Patent and Trademark Law Office
Kangxin Partners
NTD IP Attorneys
Unitalen Attorneys at Law
Zhongyi Intellectual Property

The winners of our 2026 China IP Awards Trademark Prosecution Firms of the Year are, in alphabetical order: **CCPIT Patent and Trademark Law Office**, **Kangxin Partners**, **NTD IP Attorneys**, **Unitalen Attorneys at Law** and **Zhongyi Intellectual Property**.

CCPIT Patent and Trademark Law Office is the oldest and one of the largest full-service IP law firms in China, and it continues to provide strong results in litigation and prosecution. Among its many examples of top trademark prosecution work is an administrative appeal before the Beijing Intellectual Property Court on behalf of UEFA, the Union des Associations Européennes de Football, after a trademark invalidation, at its Champions League, which bolstered protection of the UEFA Champions League's iconic Starball device.

Kangxin Partners has offices across China, offering a range of IP services. The firm secured invalidation through evidence of systemic bad faith and brand distinctiveness in a trademark invalidation

Firm Profile

Since its establishment in 1994, Kangxin has grown into a leader amongst IP law firms in China, with offices in Beijing, Tianjin, Xi' an, Wuhan, Hangzhou and Guangzhou. Our client base includes domestic Chinese enterprises and international companies from around the world. We represent many different businesses, including start-ups, well-known domestic entities, and Fortune 500 multinationals. Kangxin focuses on all aspects of intellectual property, dedicated to building a leading digital platform for expert IP service.

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action for MAN Marken. The firm highlighted the opponent's history of copycat registrations and used that to frame the case as a broader issue, and not just bilateral conflict.

NTD IP Attorneys was established in 1987 and has main offices in Beijing, Hong Kong and Shanghai, and liaison offices in Munich, Silicon Valley and Tokyo. The firm has more than 60 trademark attorneys and 20 plus supporting staff in its trademark group, including 14 senior trademark attorneys (each with experience more than 10 years in the field of trademark) as leaders of different teams. Its trademark attorneys are experienced in strategic counselling and are adept at solving trademark problems by providing practical and efficient solutions in the most cost-effective way. It has filed more than 100,000 applications for registration in past years, including 5,850 in 2025 from domestic clients and 6,780 from international clients. The firm recently handled an opposition on behalf of Japanese broadcaster Nippon Hoso Kyokai – NHK – against a company in Shanghai using the same name.

Unitalen Attorneys at Law handled more than 27,000 new trademark applications in 2025, of which about 17,000 were domestic trademark applications and 10,000 were international applications. The firm dealt with more than 16,000 cases of trademark renewals and modifications, including more than 10,000 domestic trademark cases and more than 6,000 international trademark cases, and has taken the initiative to extend service scope to several of its most important service users. The firm houses a large number of attorneys, paralegals and clerks to serve clients from its Beijing headquarters and other offices. Unitalen prides itself in representing a diverse range of clients from startups to Fortune 500 companies such as Tencent.

In the past 12 months, **Zhongyi Intellectual Property** has handled approximately 7,500 trademark applications and prosecution cases. These cases span multiple industries, including consumer goods, technology, pharmaceuticals, automotive and more, with clients ranging from well-known domestic brands to multinational corporations. The firm focusses on providing efficient and strategically driven trademark application and prosecution services. A firm representative says that through innovative workflows and meticulous case management, the firm has significantly improved the efficiency and success rate of case processing. "Additionally, our team has made notable progress in cross-border trademark applications and protection, helping clients establish a strong global brand protection system."

PRACTICE AREA AWARDS
TRADEMARK LITIGATION
CCPIT Patent and Trademark Law Office
China Patent Agent (HK)
HFG Law & Intellectual Property
King & Wood
NTD IP Attorneys

The winners of our 2026 China IP Awards Trademark Litigation Firms of the Year are, in alphabetical order: **CCPIT Patent and Trademark Law Office**, **China Patent Agent (H.K.)**, **HFG Law & Intellectual Property**, **King & Wood** and **NTD IP Attorneys**.

CCPIT Patent and Trademark Law Office has advised Exxon Mobil before the Beijing Intellectual Property Court on a matter against Zhengzhou Dejuzhongchuang, which believes its 美弗威霸 (Mei Fu Wei Ba) mark has been infringed. The disputed mark is not the same as the Mobil mark in Chinese, but the first two characters (美弗) share the identical sound as the Chinese mark of Mobil (美孚). Taking the high reputation and the distinctive characters of the cited marks, and the bad faith of the disputed party into consideration, the CNIPA as well as the Court consider the disputed mark a copy/imitation/translation of the cited marks.

China Patent Agent (H.K.) has a strong legal service team, comprising 160-plus litigators from its legal affairs department as well as various business departments across its headquarters and branch offices; 70-plus are attorneys-at-law. CPA helped a client successfully win a trademark litigation regarding non-use cancellation. Having reviewed the evidence provided by the registrant in the administrative proceeding, the firm realized that the evidence may not support sales of goods in mainland China. It noted that the registrant attended an exhibition in China within the specified time limit, so asked the registrant to provide further reinforcing evidence to prove its actual attendance at the exhibition. In addition, it learned from the registrant that it has been sourcing goods from Chinese manufacturers. The court accepted this new evidence and successfully maintained the disputed mark.

HFG Law & Intellectual Property practices out of offices in Beijing, Shanghai and Tianjin, offering contentious and non-contentious IP work with commercial and corporate law services. The firm

Practice Area

- Prosecution of patent and trademark applications
- Litigation relating to patent, trademark, copyright and other IP right disputes
- Registration of domain names and layout designs of integrated circuits
- Customs recordal and protection of patents, trademarks and copyrights
- Other services relating to intellectual property rights

With a professional team of 300 experienced patent attorneys, trademark attorneys, attorneys-at-law and patent engineers, China Patent Agent (H.K.) Ltd. is always in a good position to provide excellent and quality service to our clients.

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Our Profiles

NTD Intellectual Property Attorneys is a leading Intellectual Property law firm in China with expertise for all IP-related areas, and a unique legal team with full technology coverage. Our clients range from Fortune Global 500 companies to small startups. Cases that we represent are continuously setting new records for high compensation amounts in China.

500+ Professionals and support staff, in which
200+ Patent Attorneys
60+ Trademark Attorneys
90+ Lawyers
3 Offices in Beijing, Shanghai and Hong Kong
3 Liaison offices in Silicon Valley, Tokyo, Munich
Good partnership with law firms or IP agencies in **70+** countries and regions worldwide

Cases Handled by NTD

Patent: **10,000+** new filings and **14,000+** OAs per year
Trademark: **20,000+** per year (opposition, invalidation and review cases over 5000)
Investigation and AIC actions: **200+** per year
IP Lawsuits: **400+** per year

Our Features

One-stop IP service – We can provide services in all areas of IP related matters.

Teamwork based on strategic thinking – Attorneys in patent, trademark and legal teams work closely, always standing in clients' shoes and targeting at clients' core value.

Wide coverage of technical areas and deep comprehension of complicated technologies – Our attorneys keep on learning new technologies and can fully understand the technical difficulties in patent prosecution, invalidation and litigation.

Reliable system – The IP management system developed from our years of practice maximally help to avoid human errors.

Close and healthy ties with government authorities – We have regular academic communications with IP authorities and keep up with the latest IP legislative, administrative and judicial changes.

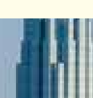
advised Bitdefender IPR Management in a lawsuit concerning invalidation, making arguments that the client's goods covered by its trademarks share an "inseparable and close connection" with those services provided by the opponent, a position that CNIPA adopted. This landmark case provides invaluable practical reference for handling similar cross-class trademark protection cases, highlighting the judicial orientation in intellectual property protection to safeguard brand reputation and curb malicious confusion.

Full-service law firm **King & Wood** has a top-notch IP practice in China. Gordon Gao is a key litigator at the firm; he specializes in intellectual property litigation involving patents, trade secrets, trademarks, copyrights, patent right abuse, end-of-patent-life litigation for pharmaceutical products, and appeals to China's Supreme Court for the above types of cases. He advises multinational technology companies on intellectual property protection and enforcement strategies, and has handled many famous cases, including more than 10 groups of cases (a total of over 80 cases) on appeal to the Supreme Court.

PRACTICE AREA AWARDS
PATENT PROSECUTION
CCPIT Patent and Trademark Law Office
China Patent Agent (H.K.)
Lung Tin IP Attorneys
Sunshine Intellectual Property
Unitalen Attorneys at Law

The winners of our 2026 China IP Awards Patent Prosecution Firms of the Year are, in alphabetical order: **CCPIT Patent and Trademark Law Office**, **China Patent Agent (H.K.)**, **Lung Tin IP Attorneys**, **Sunshine Intellectual Property** and **Unitalen Attorneys at Law**.

CCPIT Patent and Trademark Law Office has one of the strongest patent prosecution practices in China. It has large mechanical, electrical and chemical patent departments, each with more than 50 attorneys. Its domestic patent department has nearly 40 patent attorneys with expertise in diversified technologies dedicated to providing professional services for



1994
Established in 1994

14
Global Offices

500
Total Staff Members

REPRESENTATIVE CASES

- **2021/2024** Guiding Case of the Supreme People's Court
- **2015/2019/2021/2022/2023** Top 10 Patent Invalidation and Reexamination Cases of the CNIPA
- **2023** Top 10 Representative IP Cases of Beijing Courts and Guangzhou IP Court
- **2020** Typical Cases of the IP Court of Supreme People's Court for Its 2nd Anniversary
- **2015/2019** Top 10 IP Cases of Chinese Courts (appraised by the Supreme People's Court)

AWARDS

- **Chambers**: Leading Firm of Greater China Region (Intellectual Property : Litigation & Non-litigation)
- **Legal 500:** Leading PRC Firm (Intellectual Property: Contentious & Non-contentious)
- **Managing IP**: A Top-tier Patent & Trademark Prosecution and Dispute Firm, 2010-2025
- **IAM 1000**: A Top-tier Patent Prosecution and Litigation Firm, 2014-2025
- **WTR 1000**: A Top-tier Trademark Prosecution, Strategy, Enforcement, and Litigation Firm, 2015-2026
- **China Intellectual Property Magazine**: Outstanding IP Service Team in China, 2015-2025

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Offices in 23 major commercial cities in China, and also in the U.S., Japan, Germany and Singapore.

285 patent attorneys, 88 trademark attorneys and 82 attorneys at law.

Handling over 500 IP litigations each year.

Ranking first in the Top 10 patent agencies in Beijing with the most patent applications.

Ranking top on the list of agencies for many years in trademark applications.

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domestic clients to file patent applications in mainland China and overseas countries or regions. The department has extensive experience in patent mining, layout and drafting as well as in managing domestic and foreign patent applications.

China Patent Agent (H.K.) filed more than 1,900 patent clients for domestic clients in 2025, but where the firm really shines in its work for international clients, for whom it filed more than 10,000 patent applications in 2025. The firm helped a Sweden client maintain the validity of all claims of its patent after a petitioner requested the panel declare the patent invalid in its entirety on the grounds that the claims are unclear and involve no inventive step. The inventive concept of this patent mainly lies in its specific function of setting a labyrinth seal in the crankcase gas purification device. The firm emphasized that the invention concept of this patent is to use the labyrinth seal to achieve special technical effects of balancing the pressure between the driving chamber and the separation chamber and avoiding oil outlet blockage in addition to sealing. The panel accepted our explanations regarding the cited patent literature evidences and common knowledge evidences, maintaining the validity of all claims.

Lung Tin Intellectual Property Agent has made remarkable achievements in the past year in terms of patent prosecution work. The firm's patent team has expanded to over 380, more than 40 of whom are dual-qualified patent attorneys and lawyers. The firm has also gained more than 400 new clients to log a total client number of more than 2,500, including about 1,300 international clients. The firm has filed more than 13,000 Chinese national patent applications, over 900 PCT patent applications and over 140 patent invalidation cases. It has also worked with European and U.S. firms to file over 400 European patent applications and over 400 U.S. patent applications on behalf of its domestic clients. The firm handled a patent for Telecom Corporation, Technology Innovation Center and China Telecom Corporation in the technical field of blockchain. After confirming the core inventive point, the firm provided the inventor with two ways to draft the independent claim: dividing multimedia data into sensitive data and non-sensitive data, and sharing the sensitive data and/or non-sensitive data based on smart contracts configured on the blockchain platform, or directly sharing the sensitive data and/or non-sensitive data based on smart contracts configured on the blockchain platform, with static limitations on the storage methods of sensitive data and non-sensitive data, as well as the requirement for verifying the identity information of users and/or devices on both sides of data sharing when sharing sensitive data.

Sunshine Intellectual Property opened a new branch in Ningbo, Zhejiang Province, and assisted the Haishu District Intellectual Property Office of Ningbo in organizing an intellectual property seminar. The firm also recruited a number of new foreign-related IP attorneys, and now have a multilingual team proficient in Chinese, Japanese, German, Korean, English and French. Its overseas business revenue increased by 30 percent in 2025. Client Geely Auto awarded the firm the title of "Excellent Partner" for work the firm did for the automaker.

Patent prosecution and patent litigation have always been **Unitalen**'s most important business areas. The firm has the ability to work in a wide range of specialized fields, such as electronics, electrics, telecommunications, software, semiconductors, pharmaceuticals, bio-engineering, chemistry, photovoltaics, engineering machinery, rail transportation equipment, power transmission and transformation equipment, environmental protection equipment, foodstuffs, metallurgy, and oceans and seas, amongst others. Today, with its multidisciplinary development, the firm's patent department consists of divisions specializing in mechanics, electricity and chemistry. Over the past year, the firm has seen a steady increase in efficiency and a continuous improvement in the quality of its cases. Its patent caseload has increased substantially compared to previous years.

PRACTICE AREA AWARDS
PATENT LITIGATION
China Patent Agent (H.K.)
IntellecPro
King & Wood
Unitalen Attorneys at Law
ZhiHeng Law Firm

The winners of our 2026 China IP Awards Patent Prosecution Firms of the Year are, in alphabetical order: **China Patent Agent (H.K.)**, **IntellecPro**, **King & Wood**, **Unitalen Attorneys at Law** and **ZhiHeng Law Firm**.

China Patent Agent (H.K.) was established in Hong Kong in 1984 and is considered one of three pioneering Chinese intellectual property agencies, providing comprehensive IP services to clients in China and abroad. CPA, on behalf of Ericsson, received a favourable 2nd instance judgment from the IP Court of the Supreme Court, which reverses both the 1st instance judgment of Beijing IP Court and the reexamination decision of CNIPA. The subject application relates to a small-formfactor pluggable (SFP) module. The focus of the 2nd instance is whether the subject application possesses inventiveness. In order to facilitate the court's understanding of the subject application, CPA provided a detailed explanation of the differences between the subject application and the prior art. The court supported the firm's position. In the 2nd instance judgment, the court affirmed the determination of the distinguishing technical features and held that there was an error in the determination of the technical problem actually solved by Claim 1 in both the reexamination decision and the 1st instance judgment, and the prior art did not provide corresponding inspiration to solve the technical problem. Therefore, the subject application possesses inventiveness.

"This outcome holds significant weight, especially considering that the average reversal rate before the Supreme Court for patent administrative cases stands below 6.5 percent," the firm said.

IntellecPro has handled a number of important patent litigation cases. Yonghong Qi is a seasoned patent attorney with over 40 years of experience in intellectual property. She began her career in 1985 and has has handled more than 8,000 patent applications, over 200 invalidation proceedings,and more than 60 patent litigation cases. Qi specializes in a wide range of patent-related services, including patent drafting, office action responses, reexamination, invalidation, administrative litigation, infringement litigation, licensing, and patent transactions. Her technical expertise spans chemistry, pharmaceuticals and mechanical engineering.

Full-service law firm **King & Wood** has a top-notch IP practice in China. Gordon Gao is a key litigator at the firm; he specializes in intellectual property litigation involving patents, trade secrets, trademarks, copyrights, patent right abuse, end-of-patent-life litigation for pharmaceutical products, and appeals to China's Supreme Court for the above types of cases. He advises multinational technology companies on intellectual property protection and enforcement strategies, and has handled many famous cases, including more than 10 groups of cases (a total of over 80 cases) on appeal to the Supreme Court.

Patent prosecution and patent litigation have always been **Unitalen**'s most important business areas. The firm has the ability to work in a wide range of specialized fields, such as electronics, electrics, telecommunications, software, semiconductors, pharmaceuticals, bio-engineering, chemistry, photovoltaics, engineering machinery, rail transportation equipment, power transmission and transformation equipment, environmental protection equipment, foodstuffs, metallurgy, and oceans and seas, amongst others. Today, with its multidisciplinary development, the firm's patent department consists of divisions specializing in mechanics, electricity and chemistry. Over the past year, the firm has seen a steady increase in efficiency and a continuous improvement in the quality of its cases. Its patent caseload has increased substantially compared to previous years.

Headquartered in Shenzhen, **Zhiheng Law Firm** has branches in Guangzhou and Shenzhen Longgan, and has plans to open nearly 10 more offices throughout China. In recent years, by bringing in a large number of skilled lawyers from across China, the firm has enjoyed rapid expansion and thus built a stronger and more diversified network of multi-disciplinary professionals. Once a boutique law firm, it has successfully transformed itself into a full-service law firm. The firm has won seven national and 36 provincial, municipal and district-level awards, including National Excellent Lawyer, National Outstanding Lawyer Party Member, and "Outstanding Contribution Award" of the Information Network and High-tech Law Committee of the National Lawyers Association. The firm's trademark infringement case of "If You Are the One" was selected as a typical intellectual property case in China by the Supreme Court, and was listed as the number one case of the Top 10 Most Research-worthy Intellectual Property Cases in China.

PRACTICE AREA AWARDS
COPYRIGHT
Beijing TA Law Firm
Co-effort Law Firm
East & Concord Partners
Lung Tin IP Attorneys
Wuhan WEIPR IP

The winners of the 2026 China IP Awards Copyright Firms of the Year are, in alphabetical order: **Beijing TA Law Firm**, **Co-effort Law Firm**, **East & Concord Partners**, **Lung Tin Intellectual Property Agent** and **Wuhan WEIPR IP**.

Beijing TA Law Firm has a dozen lawyers specializing in copyright matters. The boutique firm focusses on film, television and media work, and is especially adept at managing film and television projects, including anime, original web TV series, films and variety shows). This includes drafting and auditing documents related to project introduction, copyright purchase, script production, investment and financing, China-foreign joint filming/productions, group building and shooting, post-production, publicity and distribution, spin-off development, labor employment and music authorization. TA Law Firm also boasts outstanding advantages in China-foreign cooperation on variety shows, TV dramas, movies and other projects. Clients include internationally renowned producers, directors and film and TV companies.

Lawyers at **Co-effort Law Firm** have a long history of providing clients with service concerning copyright protection, including 49 copyright registrations during 2023. Its lawyers have provided relevant legal counsel services for many well-known enterprises and institutions such as the Publicity Department of Shanghai Municipal Committee, Shanghai Press and Publication Bureau, Shanghai Concert Hall, Shanghai National Opera Center, Shengqu Games, Tencent, Hewlett-Packard Company, etc. In 2025, lawyers completed 180 copyright registrations, including handling a dispute over the software copyright license of *Legend of Mir2*, a case which has lasted for more than five years, from a highly unfavourable judgment to a final reversal. During the trial, the relationship and obligations among the parties to the contract were explained and sorted out based on the causes and consequences of the contract terms and cooperation models, which played a positive role in standardizing and understanding the contractual obligations.

East & Concord Partners obtained the special power of attorney for copyright protection of all music works for the closing ceremony of 2008 Beijing Olympics, showing the level of expertise the firm

has in the field of copyright. In addition to handling straightforward infringement disputes, the firm also designs implementation schemes for centralized copyright trading operations for large cultural enterprise groups. Areas of expertise include planning schemes of copyright protection and risk control, drafting and negotiation of copyright trading and license contract, investigation of and claim against copyright infringement and civil and administrative litigation of copyright dispute.

Copyright civil litigation remains a stable practice for **Lung Tin Intellectual Property Agent**. In the past year, the firm advised Natural Balance Pet Foods in copyright litigation against a Chinese company that registered and started using Natural Balance Pet Foods' brand devices in 2005. The client could not challenge these two registered trademarks or take legal actions because the registration period exceeds five years, and China's trademark law does not allow anyone to challenge a registration that exceeds five years unless the applicant is a famous mark owner or the mark is registered in bad faith. The client could not prove, at the time of 2005, that its brand in China had acquired a high reputation, nor could it provide any evidence of the defendants' bad faith. The firm suggested that the client initiate the case by claiming a prior right of copyright. The court ruled that the client's artworks are copyrightable and thus can be protected under copyright law. The infringement logo used by the defendants constituted substantial similarity to the client's artworks, and this infringed the client's prior copyright. Considering the fame of the client's artwork, the nature of the infringement, the degree of subjective fault and the scope of the infringing impact, the sales volume, selling price, profit margin of the goods bearing the infringing artwork as well as the contribution degree of the infringing design to the sales profit, the court ordered the defendants to pay the Natural Balance Pet Foods compensation of Rmb 1 million (US$146,500) for economic losses and reasonable expenses incurred to stop the infringement.

The lawyers in the copyright practice at **Wuhan WEIPR IP** are specialists in software copyright registration. The firm handled a dedicated portfolio of copyright matters, managing over 560 new cases in 2025, the vast majority of our which centres on copyright registration and related formalities, with a particularly strong emphasis on the technology sector. The firm processed more than 500 applications for registration of computer software copyrights, highlighting its deep expertise and established workflow in serving tech companies, developers and innovative enterprises. It also assisted clients with the registration of other types of creative works, and managed a range of administrative matters following registration, including changes and updates to copyright records.

PRACTICE AREA AWARDS
ENFORCEMENT
An, Tian, Zhang & Partners
Cheng & Peng Intellectual Property Law Office
Hiways Law Firm
IntellecPro
NTD IP Attorneys

The winners of our 2026 China IP Awards Enforcement Firms of the Year are, in alphabetical order: **An, Tian, Zhang & Partners**; **Cheng & Pang Intellectual Property Law Office**; **Hiways Law & IP; IntellecPro**; and **NTD IP Attorneys**.

Among the enforcement cases handled by **An, Tian, Zhang & Partners** was one which broke the "criminal threshold" deadlock via an administrative enforcement crackdown on counterfeit pesticide production by a company found to be producing and selling technical pesticide products without obtaining the mandatory pesticide registration certificate. Under the Pesticide Administration Regulations, this constituted the production of counterfeit pesticides. The core difficulty lay in the strict criteria for criminal conviction. To pursue criminal liability for producing and selling fake pesticides, the law typically requires proof of "actual losses" or "production damage" suffered by farmers. In this case, quantifying specific downstream agricultural losses was factually impossible, creating a risk that the perpetrators would evade criminal prosecution entirely due to insufficient evidence of damage. The firm shifted the enforcement focus from "proving damage results" (criminal) to "proving illegal acts" (administrative) and filed a comprehensive complaint with the local Bureau of Agriculture and Rural Affairs, which imposed a severe penalty structure: a total fine and confiscation of more than Rmb1,308,890 (US$191,400) and, distinctly, a 10-year industry ban, prohibiting them from engaging in pesticide operations.

Cheng & Peng Intellectual Property Law Office, a boutique IP law firm located in Beijing, has been providing high-level intellectual property services since its founding in 2013, and is noted for its excellent business skills, strong research capabilities, and expertise in handling international business and complicated cases, particularly those of a cross-border nature. Its clients include not only world-leading universities and research institutes, scientists, entrepreneurs and investors, but also startups worldwide. The highly-trained team of lawyers specializes in the field of life sciences, including biotechnology and medical health.

Hiways Law Firm represented Mattel which, in 2021, discovered that its Barbie doll series of toys were being extensively counterfeited in regions such as Russia and South America, with the export source traced back to China. Mattel entrusted the legal team led by Attorney Tang Lanxiang to investigate and pursue rights protection. The firm identified the source of the infringing products as Company A in Shantou City, China, and its legal representative, Zhu. In April 2021, Mattel filed a report with the Shanghai Jing'an Economic Crime Investigation Department. In the same month, the public security authorities successfully apprehended five principal suspects, including Zhu, and seized over 40,000 pieces of infringing toys. On May 27, 2022, the case was transferred to the Shanghai Jing'an District People's Procuratorate for prosecution on the charge of copyright infringement against Zhu. On May 24, 2023, Company A was additionally transferred for prosecution on the same charge. On August 16, 2023, the Shanghai Jing'an District People's Court found both Company A and Zhu guilty of copyright infringement. Zhu was sentenced to two years of imprisonment (suspended) and fined Rmb50,000 (US$7,300).

Over the past year, **IntellecPro** has assisted its clients in enforcing their IP rights through a wide range of actions, including trademark oppositions and invalidations, patent invalidations, customs recordals and seizures, MRA and police raids, litigation and settlement negotiations. The firm reports that over the past year, enforcement has become the most rapidly expanding segment of its practice, driven primarily by the launch of two targeted service offerings, an Online Brand Protection Program and a Cybercrime Investigation & Enforcement Program. A firm representative says that both programmes were designed "specifically to address the most prevalent and fast-evolving forms of infringement in today's digital and cross-border environment." The firm handled a criminal enforcement action successfully brought on behalf of a beverage company combating online counterfeit sales, as well as a coordinated criminal strike against a website distributing pirated animation content, which generated an illicit turnover of approximately Rmb80 million (US$11.7 million).

NTD IP Attorneys advised ARaymond in a patent infringement case handled through administrative enforcement in the Suzhou Administration for Market Regulation (AMR). Connectors sold and offered by Suzhou Dsnfu infringed a patent owned by ARaymond. The Suzhou AMR held oral hearings on April 25, 2024, and decided on May 23, 2024. The Suzhou AMR decided that the connectors manufactured, sold and offered by Dsnfu fell into the protection scope of ARaymond's patent, awarded an injunction against Dsnfu and ordered Dsnfu to destroy the moulds for manufacturing the accused products. Dsnfu destructed all the related moulds under the supervision of NTD's attorney.

SPECIALIZATION AWARDS
LICENSING & FRANCHISING
CCPIT Patent and Trademark Law Office
Cheng & Peng Intellectual Property Law Office
Global Law Office
Haiwen & Partners
PurpleVine IP

The winners of our 2026 China IP Awards Licensing & Franchising Firms of the Year are, in alphabetical order: **CCPIT Patent and Trademark Law Office**, **Cheng & Peng Intellectual Property Law Office**, **Global Law Office**, **Haiwen & Partners** and **PurpleVine IP**.

The history of **Global Law Office** in Beijing dates back to the establishment of the legal consultant office of the China Council for the Promotion of International Trade in 1979. The firm was renamed in 1984 to take an international perspective on its business. The firm advised Shenzhen Zhixin New Information Technology Co., Ltd., which signed an agreement with Huawei Investment & Holding Co. to acquire all business assets related to the Honor brand. Established in 2013, Honor is a leading global provider of smart devices. The firm provided a comprehensive IP service in the entire transaction, especially in the IP due diligence and negotiation of the transaction documents regarding the important IP asset stripping (patents, trademarks, etc.) from Huawei.

Haiwen & Partners' intellectual property practice covers the full spectrum of intellectual property disciplines including patent, trademarks and trade names, domain names, copyrights (including software), trade secrets and integrated circuit layout design. It also handles intellectual property related antitrust and competition issues, etc. The firm's core members have extensive experience in managing civil and administrative litigations, administrative proceedings and criminal investigations, as well as application analysis of IP rights and complex transactions involving international intellectual property right licenses and transfers. In recent years, its IP lawyers have successfully handled a number of influential intellectual property cases.

Shenzhen-based **PurpleVine IP** is a global-facing IP service provider, dedicated to building a bridge for international innovation collaboration and IP value realization. The firm provides one-stop, full-service patent solutions to our clients, covering global patent prosecution, IP analysis and consulting, IP investment, IP transactions, licensing, enforcement and dispute resolution. The firm has more than 400 team members, located in 10 offices worldwide. As an

internationally integrated IP service provider with a solid footing in both law and technology, PurpleVine offers a wide selection of professional, innovative and practical solutions to meet its clients' needs.

SPECIALIZATION AWARDS
TECHNOLOGY, MEDIA & TELECOMS
AFD China Intellectual Property Law Office
Co-effort Law Firm
East & Concord Partners
Global Law Office
NTD IP Attorneys

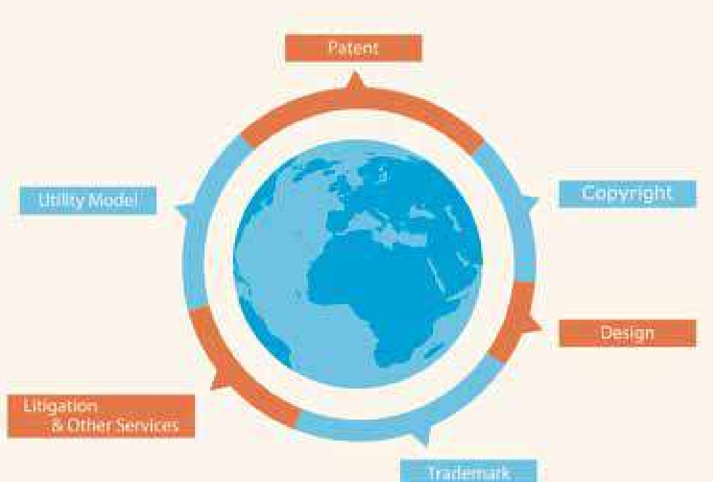
The winners of our 2026 China IP Awards Technology, Media & Telecoms Firms of the Year are, in alphabetical order: **AFD China Intellectual Property Office**, **Co-effort Law Firm**, **East & Concord Partners**, **Global Law Office** and **NTD IP Attorneys**.

An invention patent handled by **AFD China Intellectual Property Office** was awarded the Gold Prize in the 24th China Patent Awards jointly conducted by the China National Intellectual Property Administration (CNIPA) and the World Intellectual Property Organization (WIPO) in 2023. This award is based on comprehensive evaluation of patentability, the quality of the patent documents, technological advancement, application and protection measures and effectiveness, social benefits and development prospects. During the process of drafting the application for this invention patent, the firm had had extensive communication with the inventors to thoroughly understand the implementation details of the technical disclosure, which allowed it to determine the roles and technical effects of different technical features. Based on this understanding, it conducted a pre-filing search and identified the technical problem that this application aimed to solve by combining the relevant prior art with the inventors' technical solution. It then constructed independent claims incorporating the selected technical features that address the identified technical problem. "Furthermore, we strategically structured the dependent claims based on the functions and effects of other technical features at different levels," a representative said. "During the drafting of the detailed embodiments, we analyzed the effects of technical solutions corresponding to independent and dependent claims at the technical level and further illustrated such technical solutions by providing three implementation examples in different scenarios. This comprehensive approach ensured the thorough protection of our client's technical solutions from various angles and at various dimensions." More than half of the firm's patent attorneys specialize in electrical, communications and computer science.

AFD China Intellectual Property Law Office
北京安信方达知识产权代理有限公司

AFD China Intellectual Property is a top-tier privately-owned IP firm in China. We have over 250 people working in our Beijing Office. Two third of them are IP practitioners including patent attorneys, trademark attorneys, and attorneys-at-law. We also have a client-supporting team including several U.S. patent agents located in Washington, U.S.A.

We provide services to clients worldwide in all areas of intellectual property law, including patents, trademarks, copyrights, unfair competition, trade secrets, domain names, licensing, and other legal areas dealing with technology and IP.



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SPECIALIZATION AWARDS
PHARMA, BIOTECH & LIFE SCIENCES
CCPIT Patent and Trademark Law Office
Fairsky Law Office
Ge Cheng & Co.
IP March
Lung Tin IP Attorneys

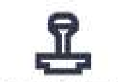
The winners of our 2026 China IP Awards Pharma, Biotech & Life Sciences Firms of the Year are, in alphabetical order: **CCPIT Patent and Trademark Law Firm**, **Fairsky Law Office**, **Ge Cheng & Co.**, **IP March** and **Lung Tin IP Attorneys**.

In the field of biology and pharmaceuticals, **Fairsky Law Office** has consistently built deep expertise in handling related cases and providing intellectual property services. The firm has served numerous biopharmaceutical companies, with service offerings covering patent infringement litigation, drug patent linkage-related litigation, patent invalidation requests or responses, technology transfers, freedom-to-operate analyses and more. It serves as regular intellectual property legal counsel for several pharmaceutical companies. The firm has handled cases in technical areas including chemical drugs, biologics, diagnostic technologies and medical devices. It represented Simcere Pharmaceutical in defending against the invalidation challenge for Xianbixin. In this case, despite facing extensive questioning of experimental data and difficulties in providing original data, the firm successfully reconstructed the original experimental data consistent with the statistical results by analyzing the statistical outcomes recorded in the patent specification and combining them with established data patterns in the field. On this basis, it quantified synergy indicators through calculation and successfully demonstrated the synergistic effect between the two components, resulting in the complete maintenance of the patent's validity.

Ge Cheng & Co is a Beijing-based intellectual property specialist. Its clients include small enterprises, multinational corporations, universities and research institutions and Chinese companies in fields including electronics, biochemistry, engineering, publications, entertainment and education. Managing partner David Cheng has an LL.M. from the Peking University law school and an M.D. from China Medical University and has a past career as a medical researcher.

FAIRSKY is a Chinese law firm featuring IP services and commercial dispute resolution. We help protect our clients' IP and business rights through our IP prosecution team, IP litigation team, and commercial dispute resolution team. We have achieved remarkable accomplishments, particularly in the fields of chemistry, chemical engineering, and biomedicine. The three representative cases we handled in these fields were selected as Top Ten Influential IP Cases of China , and two other cases were listed in the 100 Typical Cases commemorating the fifth anniversary of the establishment of the Intellectual Property Tribunal of the Supreme People's Court. We do more than prosecution and litigation. we are your specialized IP advisor.

IP PROSECUTION



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SPECIALIZATION AWARDS
IP TRANSACTIONS
AFD China Intellectual Property
Global Law Office
Haiwen & Partners
King & Wood
Way Insight

The winners of our 2026 China IP Awards IP Transactions Firms of the Year are, in alphabetical order: **AFD China Intellectual Property**, **Global Law Office**, **Haiwen & Partners**, **King & Wood** and **Way Insight**.

Way Insight has supported a range of complex, high-level IP matters over the past year, working with multinational corporations and leading research institutions on transactions involving valuable intellectual property assets. A firm representative noted that this sort of work typically requires close coordination between corporate, institutional, and cross-border stakeholders, with careful attention to legal, technical, and commercial alignment. The firm's transactional practice is recognized for its ability to support sophisticated counterparties and manage sensitive IP matters involving established and globally relevant IP portfolios.

SPECIALIZATION AWARDS
IP PORTFOLIO MANAGEMENT
AFD China Intellectual Property
CCPIT Patent and Trademark Law Office
Cheng & Peng Intellectual Property Law Office
Hiways Law Firm
King & Wood

The winners of our 2026 China IP Awards IP Portfolio Management Firms of the Year are, in alphabetical order: **AFD China Intellectual Property**, **CCPIT Patent and Trademark Law Office**, **Cheng & Peng Intellectual Property Law Office**, **Hiways Law Firm** and **King & Wood**.

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SPECIALIZATION AWARDS
RISING STARS
Allasya Law & IP
Foundin Intellectual Property
LingHui Partners

The winners of our 2026 China IP Awards Rising Stars of the Year are, in alphabetical order: **Allasya Law & IP**, **Foundin Intellectual Property** and **LingHui Partners**.

Founded in late 2024 by a group of experienced lawyers including managing partner Fabio Giacopello, **Allasya Law & IP** has made a splash with its clientele, including creators, innovators and businesses. The firm handles IP strategy and management, filing and prosecution, franchising and enforcement, as well as related work such as food law compliance, contract drafting, company set-up, retail consulting and outbound investments, among others. The firm acted for a global automotive leader in patent litigation before the Supreme People's Court, successfully overturning previous judgments and represented a world-renowned steel manufacturer in complex invalidation and enforcement proceedings, securing nearly Rmb1 million (US$146,000) in damages. The firm advises clients on holistic IP strategy, supporting patent mining, freedom-to-operate analyses, and global filing planning. Where required, the firm represents clients in post-grant proceedings, including patent re-examination and invalidation actions before CNIPA. It also manages routine post-grant administrative matters such as annuity payments, recordals of assignments, and changes in applicant or inventor details. The firm maintains close collaboration with clients' R&D teams, in-house legal counsel, and international IP advisors to ensure seamless integration of patent prosecution activities with product development cycles, innovation roadmaps, and overall business strategy. Last year, it conducted over 60 onsite investigation and 30 raid actions for a house cleaning brand, destroying multiple stores, warehouses and factories operating counterfeiting products worth more than Rmb10 million (US$1.46 million) seized and destroyed.

Foundin Intellectual Property provides tailored filing strategies, expert legal guidance, streamlined portfolio management, and rapid responsiveness, earning the continued trust of a growing global client base. The firm's prosecution practice is strategically informed by deep litigation and transactional insights. This past year, its work has been particularly focused on proactive brand protection and risk mitigation. A key area of its prosecution advisory involves safeguarding trademarks against non-use cancellation risks; it frequently counsels clients on the specific types of evidence recognized by CNIPA and courts. It has successfully handled over 500 trademark, copyright and unfair competition litigation cases, excelling in combating trademark squatting, domain name disputes and anti-counterfeiting actions. It has handled more than 2,000 patent applications, primarily assisting foreign applicants in China and Chinese applicants abroad. It has achieved multiple successful outcomes for clients such as an Italian company, where it navigated complex amendment guidelines to secure grant by ensuring compliance with original disclosure limits, avoided unnecessary further office actions through voluntary preemptive amendments, and effectively defended claims by articulating how well-known technical knowledge supports patentability.

Founded in 2022, **LingHui Partners** handled nearly 600 trademark applications in 2025. The firm handled prosecution matters for other clients including Schaeffler, Paragon Pet Products Europe, Wellness Pet and others covering Madrid International Trademark certifications, assignments and opposition work. The prosecution work encompassed the full spectrum of trademark lifecycle management: opposition proceedings (dominant for IKEA and Efes), refusal reviews and appeals (significant for Baoxiniao and CASETiFY), portfolio maintenance (renewals, assignments, and license recordals for Baoxiniao and Hershey), and enforcement actions including non-use cancellations and invalidations. Its trademark practice has encompassed a comprehensive docket of enforcement, infringement litigation, and administrative prosecution matters for multinational brand owners. The firm has managed complex portfolios involving well-known mark recognition, cross-border disputes, and parallel civil-criminal proceedings across China's specialized IP courts and administrative bodies.

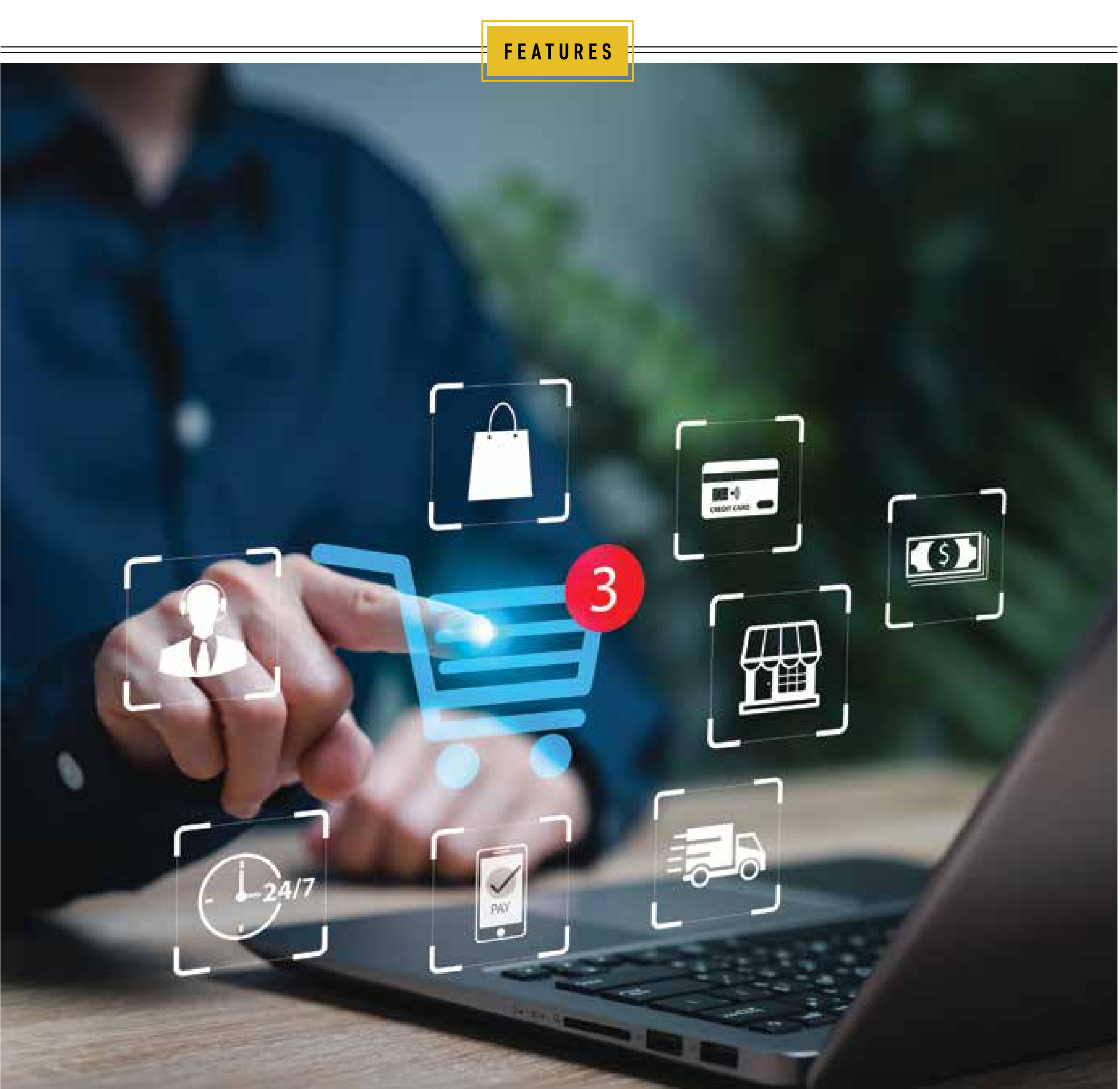
REGIONAL AWARDS
BEIJING
Unitalen Attorneys at Law

REGIONAL AWARDS
GUANGZHOU
Advance China IP Law Office

REGIONAL AWARDS
SHANGHAI
Co-effort Law Firm

REGIONAL AWARDS
SHENZHEN
PurpleVine IP

The winners of our 2026 regional China IP Awards Firms of the Year are, in alphabetical order by city: Beijing–**Unitalen Attorneys at Law**, Guangzhou–**Advance China IP Law Office**, Shanghai–**Co-effort Law Firm** and Shenzhen–**PurpleVine IP**.



Rules for determining civil liability of online platforms for IP infringement in China

As online platform business models become increasingly complex and integrated, the legal assessment of liability for IP infringement will continue to be refined through ongoing judicial practice. ***Hongxia Wu*** and ***Fan Li*** explain.

Online platforms have been playing an increasingly critical role within China's commercial ecosystem. According to statistics, China's online retail sales reached Rmb15.97 trillion (US$2.3 trillion) in 2025, a year-on-year increase of 8.6 percent. Among them, online retail sales of physical goods amounted to Rmb13.09 trillion (US$1.9 trillion), accounting for 26.1 percent of total retail sales of consumer goods. In 2024, the added value of the essential digital economy industry reached Rmb1.4 trillion (US$205.2 billion), accounting for 10.5 percent of GDP. The dynamic growth of online business in today's rapidly evolving market demands both effective and proactive legal framework against online IP infringements.

While integrating multiple services into their business, online platforms have also taken on multiple identities. For example, some act both as an ecommerce platform operator and self-operated stores on the platform. Some content providers have evolved from initial user-generated short video and image-sharing media into comprehensive platforms integrating live streaming, ecommerce marketing and content monetization, with dual identities as content-sharing service providers and ecommerce operators. Different identities assumed by online platforms lead to different schemes in assessing their liabilities for IP infringements.

Moreover, online platforms have seen substantial shifts in their business models in recent years, particularly through the extensive integration of algorithmic recommendation technologies. Instead of passively providing technical support, online platforms are actively selecting and pushing contents, products and commercials. Online platforms' active or intentional participation and control over content dissemination and commodity transactions has introduced new layers of complexity to this already challenging legal landscape. This transformation of business models also poses challenges to the determination of intellectual property infringement liability for online platforms.

Rules for determining civil liability of online platforms for intellectual property infringement in judicial practice

Availability of the safe harbour rule

The safe harbour rule is available in China for determining the civil liability of online platforms for intellectual property infringement. The central logic is that an online platform shall not be liable if it takes necessary measures upon receiving a notice from a right holder that sufficiently identifies infringement. In addition, online platforms are not obligated to conduct prior review.

Article 1195 of the Civil Code of China clearly stipulates the safe harbour principle. Where a network user commits an infringement by using network services, the right holder has the right to notify the network service provider to take necessary measures such as deleting, blocking or disconnecting links. The notice shall include *prima facie* evidence of infringement and the right holder's true identity information. Upon receiving the notice, the network service provider shall promptly forward the notice to the relevant network user and take necessary measures based on the *prima facie* evidence and the type of service. If the provider fails to take necessary measures in a timely manner, it shall be jointly and severally liable with the network user for the expanded damages.

The safe harbour rule clarifies the boundary that online platforms are not required to conduct proactive prior review. It is the most commonly applied rule in current intellectual property rights protection involving online platforms in China.

Liability arising from contributory infringement

Contributory infringement is currently the primary form of civil liability borne by online platforms in China. In contrast to liability exemption under the safe harbour rule, this liability focuses on situations where an online platform fails to fulfill reasonable duty of care – specifically, where it wilfully neglects, permits, or assists a network user's infringing conduct. It mainly applies in two scenarios, covering the vast majority of instances in which online platforms may bear liability for infringement.

Contributory infringement arising from non-compliance with safe harbour rule. If an online platform fails to take necessary measures after receiving a notice from an IP right holder that is sufficient to make it aware of the infringement, it shall be jointly and severally liable with the user for the expanded damages.

However, judicial practice across China shows that cases where online platforms are adjudged to bear joint liability are rare. In practice, when the direct infringer is identifiable, IP right holders often sue online platforms to urge them to stop infringement and to use the online platform as a jurisdictional connecting factor. Many right holders voluntarily dismiss their claims against online platforms or withdraw their lawsuits once infringing links are removed.

Furthermore, it must be clarified that an online platform's non-compliance with the safe harbour rule merely means it loses the protection of liability exemption provided by the rule; it does not automatically imply that the online platform must bear liability. In judicial practice, establishing such contributory infringement by an online platform typically requires the simultaneous satisfaction of four elements:

i) Direct infringement: The existence of direct infringement by a network user is established, fully meeting the four elements of general tort liability (fault, act, damage and causation).
ii) Valid notice: The online platform has received a notice from the IP right holder sufficient to make it aware of the infringement.
iii) Failure to act: The online platform failed to take necessary measures in a timely manner as required by law and its own rules.
iv) Expanded damages: The online platform's failure to take necessary measures resulted in the expansion of the infringement losses.

In a typical online infringement dispute, the Guangzhou Internet Court ruled that the online platform did not bear liability for contributory infringement despite failing to take timely measures in response to a notice. The basic facts of the case are as follows:

Guangzhou Solta Company discovered a video titled "Thermage AntiCounterfeiting" on a website operated by Baidu. Solta claimed the video falsely labeled its official account as counterfeit and disclosed its corporate information without investigation. Consequently, Solta complained twice to Baidu, submitting its business license and screenshots. However, Baidu refused to remove the video on the grounds that no infringement was found.

Solta subsequently sued Baidu, demanding an apology, compensation of Rmb50,000 (US$7,330) and disclosure of the uploader's information. After trial, the court dismissed all claims, and the judgment has taken effect.

Regarding whether Baidu was obligated to remove the content upon Solta's notice, the court held that the notice-and-takedown rule under Article 1195, Paragraph 2, of the Civil Code is a rule for exemption from liability, rather than a rule for establishing liability.

Whether a network service provider is liable for a user's acts depends on whether the provider constitutes contributory infringement. A prerequisite for establishing contributory infringement is that the complaint-against user has committed a tortious act for which they should be held liable. In other words, only after confirming the user's infringement can the court assess whether the provider had subjective intent ("should have known" or "knew") and whether it fulfilled the noticeandtakedown obligation.

The court found the video did not infringe Solta's right to reputation, and Solta's complaint was unjustified. Therefore, Baidu was not liable for failing to act promptly, and Solta's claims for apology and damages lacked factual and legal basis.

Contributory infringement based on "knowledge" or "constructive knowledge" (residual application). This scenario serves as a more general clause for online platform contributory infringement. It has a broader application and is not subject to the prerequisite that the right holder must issue a prior notice. Its core legal basis is Article 1197 of the Civil Code, which stipulates that if a network service provider knows or should know that a network user is infringing others' civil rights and interests through its

services but fails to take necessary measures, it shall be jointly and severally liable with the user.

In judicial practice, this type often applies to disputes where the direct infringer is unclear or difficult to hold accountable. The key factual issue is whether the online platform had "knowledge" or "constructive knowledge" of the user's infringement. While a valid notice from the right holder is the most common and convenient way to prove that the online platform "knew," it is not the exclusive method. "Constructive knowledge" is determined comprehensively based on the online platform's business model, the popularity of the infringed content, the online platform's control behavior, etc.

Based on practical conventions, an online platform could be found to have "constructive knowledge" if:

i) The online platform actively recommends infringing content through algorithms;
ii) The infringed content consists of sports events or films included in the National Copyright Administration's key works protection warning list;
iii) The infringing goods are commodities with significant brand influence and high market recognition;
iv) The same user or product is a repeated infringer, yet the online platform failed to take necessary measures.

Typically, courts will consider various facts in combination to comprehensively determine whether an online platform possesses constructive knowledge.

Liability arising from direct infringement. Where the online platform is no longer merely a bystander to the infringement but directly commits infringement, the platform will bear independent and full liability.

Article 1194 of the Civil Code clearly stipulates direct infringement liability of online platform: "where network users and network service providers infringe others' civil rights and interests through the network, they shall bear tort liability, unless otherwise provided by law."

However, in Chinese judicial practice, cases where online platforms bear direct infringement liability are relatively rare. Typical scenarios include the following:

i) Directly providing contents: The online platform directly provides infringing content or sells infringing goods. In light of the hybrid nature of contemporary online platforms, liability should be adjudicated based on the specific services provided and the actual acts performed by the platform in question.
ii) Merging conducts of user and platform. This refers to scenarios where the conduct of network users and the platform is indistinguishable. In the precedent case 2024-13-2-158-004, the adjudication opinions on the factors in determining whether a user's providing of contents can be attributed to the platform. The factors may include the platform's nature, the user's identity and relationship with the platform and the specific infringing acts. For instance, where a relationship of management or control exists between an online platform and a user, and the said user, by virtue of their administrator status, engages in long-term and stable acts such as posting content related to the platform, such acts may be deemed to have been committed by the platform. Notwithstanding the presence or absence of an employment relationship, such conduct shall be treated as that of the platform operator.

In summary, the rules governing civil liability for IP infringement by online platforms in China are categorized into three distinct types: no liability thanks to the safe harbour exemption, joint and several liability arising from contributory infringement and full and independent liability arising from direct infringement. The application of these rules depends largely on the specific role as online platform plays in a given transaction or content dissemination process. As online platform business models become increasingly complex and integrated, with rapid technological advances, the legal assessment of liability will continue to be refined through ongoing judicial practice.

ABOUT THE AUTHORS

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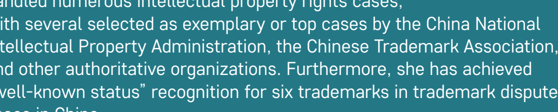
Hongxia Wu joined CCPIT Patent and Trademark Law Office after graduating from Peking University Law School in 2006. In 2017, she completed a semester of intellectual property certificate training at Cardozo Law School in the United States. Wu specializes in trademark and copyright infringement as well as unfair competition cases. She has successfully handled numerous intellectual property rights cases, with several selected as exemplary or top cases by the China National Intellectual Property Administration, the Chinese Trademark Association, and other authoritative organizations. Furthermore, she has achieved "well-known status" recognition for six trademarks in trademark dispute cases in China.

Fan Li

Fan Li is deputy director general of the litigation division of CCPIT Patent and Trademark Law Office. Li graduated from Tsinghua University and joined CCPIT in 2003; he works with a team of over 40 professionals specializing in contentious IP matters. His practice covers a wide spectrum of disputes, including patent, trademark and copyright infringement, as well as unfair competition. Other matters also include patent invalidation, administrative enforcement and custom protection of IP rights, patent analysis, FTO opinions. Notably, many of the cases handled by the team have been recognized as 'Typical IP Cases' by the courts and other authorities. Li actively shares his experience and insights on China IP matters before the clients and on various forums worldwide.



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THE UNREGISTERED TRADEMARK

Unregistered marks offer rights, but proving them is rarely easy. ***Espie Angelica A. de Leon*** looks at the limits of unregistered trademarks and the steps businesses can take to better protect their brands.

A Singapore-based company once tried to hijack another company's name and brand. The latter was an ASX-listed company that operated in Singapore. However, its marks were not registered there.

The Singaporean company filed a trademark registration application for a mark that was identical to the other's. Both marks represented similar services. It also registered domain names similar to those of the ASX-listed company and reached out to the latter's customers as well. It did not end there. The local firm also secretly acquired a separate trademark registration for another mark likewise owned by the other company.

The aggrieved party opposed the pending trademark application at the Intellectual Property Office of Singapore on the grounds of passing off and bad faith. The opposition was upheld, and the registration was blocked. In addition, it filed a case in the High Court, obtained a summary judgment and

injunctions to halt the defendant's use of the mark. The company also filed a separate lawsuit involving the other mark, which was granted registration.

"After the client prevailed in all proceedings, we assisted with post-judgment enforcement, including compelling a transfer of certain domain names to our client and forcing the defendant to change its company name," related Natalie Huang, a local principal at Baker McKenzie Wong & Leow in Singapore.

At the other end of the spectrum are smaller businesses, including startups. Though they may have limited resources and have other priorities, these small- and medium-sized enterprises (SMEs) shouldn't overlook intellectual property protection.

In the Philippines, around 99 percent of registered business owners are those of SMEs. "We did a survey of small- and medium-sized enterprises, and their priority and focus was generating sales, while protecting their brands was at the bottom of their list," revealed Editha R. Hechanova, president and CEO of Hechanova & Co. and managing partner of Hechanova, Bugay, Vilchez & Andaya-Racadio in Manila. "They only realize its importance when others start copying their marks."

All this trouble just because of unregistered trademarks. "Time and costs had to be expended to undo such misconduct," noted Huang.

Unregistered trademarks are also called common law trademarks.

However, the term "common law trademarks" is less common in some jurisdictions. "Most trademark practitioners would not be familiar with the term common law trademarks, and instead the term unregistered trademark is more commonly used," said Hechanova. "This may be because the Philippines is essentially a civil law country."

The Philippine IP Code states that trademark ownership can only be acquired through valid registration. "But there were several decisions which made prior use of the mark prevail over the rights of the registered trademark owner, until the decision in *Zuneca Pharmaceutical v. Natrapharm* in 2020, which clearly ruled that trademark ownership is acquired only by registration, and allowed only the continuing use of a similar mark of a prior user in good faith," said Hechanova.

Natrapharm owns the registered trademark Zynapse, which is the name of a citicoline drug, while Zuneca owns the confusingly similar mark Zynaps, an anti-convulsant drug. The Supreme Court of the Philippines found Zuneca to be a prior user in good faith and therefore not liable for trademark infringement or damages. "The only restriction imposed by the Supreme Court is that Zuneca can only transfer ownership of the mark with the business involving the mark. Both parties were required by the Supreme Court to clearly distinguish their products on their packaging to avoid confusing the public, since the drugs have similar names," Hechanova shared.

Taiwan also operates under a civil law system. "Consequently, common law trademark rights do not exist here in the same way they do in jurisdictions like the UK or the U.S. Instead, we distinguish between registered trademarks and unregistered marks," said Yi-Kai Chen, an attorney-at-law at Winkler Partners in Taipei.

Enforcement challenges

Though unregistered marks or common law trademarks have enforceable rights, non-registration comes with many challenges.

One major challenge faced by unregistered mark owners is that they cannot initiate a criminal action or file a civil suit for trademark infringement and claim statutory remedies such as damages. Unregistered marks may only be protected via the tort of passing off and the protection of well-known trademarks.

Passing off places a heavier evidentiary burden on the owner of the unregistered mark. According to Jyeshta Mahendran, a partner at Shearn Delamore & Co. in Kuala Lumpur, the tort of passing off requires three key elements: goodwill, misrepresentation, and damage.

"Because common law trademarks usually are characterized by long and continuous use, they have earned goodwill, which is a property right enforceable in an action for unfair competition," said Hechanova.

"Goodwill must be established by showing substantive use of the trademark in relation to the relevant goods in Malaysia. Thus, extensive evidence of use for a substantial period in Malaysia is required to satisfy the element of goodwill. The need to produce such evidence can be a challenge to businesses, as they may not necessarily keep records of use of the unregistered trademarks," Mahendran explained.

Aside from goodwill, the mark owner must also show the existence of misrepresentation and damage or the likelihood of damage caused by misrepresentation. "In practice, that means gathering evidence of a brand's recognition – sales figures, advertising, customer testimonials, etc. – and having to show actual or likely confusion in the public's mind. This often involves an evidence-heavy, costly process involving consumer surveys and other proof of public recognition," Huang said.

If it is a well-known mark, it may also avail protection. "Where it can be proven that an unregistered trademark is well known in Malaysia, rights to such an unregistered trademark may also be enforced by way of Section 76 of the Trademarks Act 2019, which entitles the proprietor of a well-known trademark to restrain offending use by injunction," said Elisia Engku Kangon, a senior associate at Shearn Delamore & Co.

"The only exception that protects unregistered trademarks that are not well-known is a provision in the trademark act that prohibits the registration of a trademark that is identical or similar to another's prior-used mark if such registration is sought with the intent to imitate," Chen pointed out.

In contrast, enforcement of rights attached

"In India, courts and the Trade Marks Registry often place reliance on evidence of actual use within India, resulting in a stricter threshold for establishing transborder reputation, particularly where local sales or targeted activities are limited."

—SONAL MADAN, partner, Chadha & Chadha IP, New Delhi

"Business should ensure that there is a proper system of storing relevant documentation and invoices, promotional materials, social media posts, press reports, consumers' feedback or testimonials, awards and recognitions."

—ELISIA ENGKU KANGON, senior associate, Shearn Delamore & Co., Kuala Lumpur

"Common law rights are geographically limited to where goodwill exists. If the owner does not have goodwill in respect of a certain segment of the public, a passing off claim might fail. A registered mark, however, gives nationwide protection."

—NATALIE HUANG, local principal, Baker McKenzie Wong & Leow, Singapore

"We did a survey of small- and medium-sized enterprises, and their priority and focus was generating sales, while protecting their brands was at the bottom of their list. They only realize its importance when others start copying their marks."

—EDITHA R. HECHANOVA, president and CEO, Hechanova & Co., Manila

"Under the territoriality principle, fame established abroad does not automatically confer protection in Taiwan. The owner must prove the mark is well-known specifically among relevant businesses or consumers within Taiwan."

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"Extensive evidence of use for a substantial period in Malaysia is required to satisfy the element of goodwill. The need to produce such evidence can be a challenge to businesses, as they may not necessarily keep records of use of the unregistered trademarks."

—JYESHTA MAHENDRAN, partner, Shearn Delamore & Co., Kuala Lumpur

to registered trademarks is generally more straightforward as the law presumes a proprietor's ownership of the mark and its validity. There is also no need to prove goodwill and consumer confusion to the same extent as necessary as in the case of an unregistered trademark.

Another challenge is the "localized fame" requirement. "Under the territoriality principle, fame established abroad does not automatically confer protection in Taiwan. The owner must prove the mark is well-known specifically among relevant businesses or consumers within Taiwan," explained Chen.

"Common law rights are geographically limited to where goodwill exists. If the owner does not have goodwill in respect of a certain segment of the public, a passing off claim might fail," Huang added. "A registered mark, however, gives nationwide protection, even in areas or market segments where a proprietor has not yet built up a customer base or goodwill."

Such territoriality creates gaps in protection when the brand decides to penetrate new markets. "In India, courts and the Trade Marks Registry often place reliance on evidence of actual use within India, resulting in a stricter threshold for establishing transborder reputation, particularly where local sales or targeted activities are limited," said Sonal Madan, a partner at Chadha & Chadha IP in New Delhi.

Owners of unregistered marks or common law trademarks are also vulnerable to "bad faith" squatting. "While the trademark act allows for opposition or invalidation against a bad-faith registration by a prior user, proving bad faith for an unrelated squatter remains difficult," said Chen, adding that Taiwanese law applies the first-to-file principle.

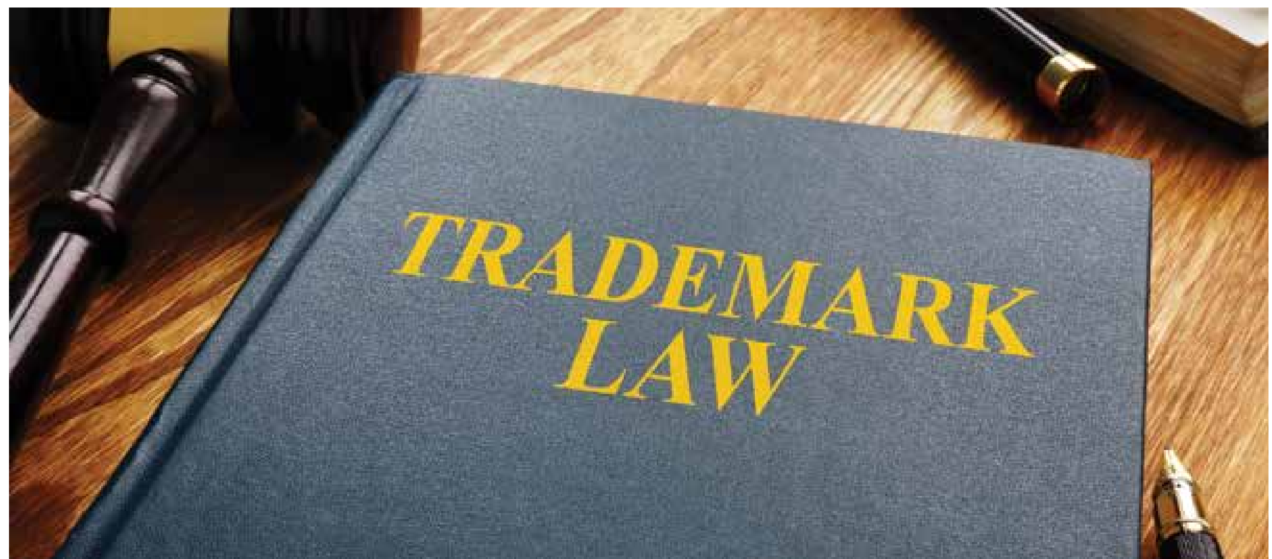
Chen assisted a renowned international English educational publishing brand in enforcing its rights over an unregistered trademark in Taiwan. The publishing company previously had its trademark registered in Taiwan, but it expired decades ago. Unfortunately, a Taiwanese industry rival took advantage and misappropriated the mark via preemptive registrations. For more than 20 years, this competitor rode on the coattails of the English brand's reputation. "The evidentiary threshold for protection of unregistered marks is high. Fortunately, we were able to unearth decades-old evidence to substantiate the brand owner's fame and the registrant's bad faith. This allowed us to cancel the squatter's registrations that had been in place for over two decades," shared Chen.

The Philippines also applies the first-to-file rule. "So if someone else secures registration of a mark similar to the common law trademark, the owner of the common law trademark could face losses in terms of reduced revenues or limitation in market expansion, assuming that the goods or services are similar or related, and/or be faced with unnecessary and high litigation cost in either protecting or defending its brand," said Hechanova.

The risks of conflicting adoption, parallel honest use and competing claims to proprietorship also tend to increase since trademark rights do not surface in clearance searches or routine due diligence.

Another challenge is the unregistered mark owner's general inability to seek government assistance when trademark infringement or counterfeiting occurs, according to Huang.

Enforcement for unregistered trademarks can also be especially difficult when it comes to ecommerce



platforms. Some of these platforms have complaint systems which require the trademark registration certificate of the complainant before an infringement complaint can be filed. This is certainly a huge problem if the mark is unregistered.

How to strengthen protection of unregistered marks

How should the owner of an unregistered or common law trademark strengthen the protection of the mark?

The obvious answer to this is to apply for trademark registration. "In short, registration turns a brand into a legally protected property right, making it easier to enforce and commercially exploit, and provides much stronger remedies against unauthorised use than relying on unregistered rights," said Huang.

Applying for registration takes time, though. In the meantime, there are other ways by which to strengthen protection.

Perhaps, a default measure would be to build and document their business enterprise's goodwill via continuous use and marketing. There must be comprehensive record-keeping of trademark usage. "Business should ensure that there is a proper system of storing relevant documentation and invoices, promotional materials, social media posts, press reports, consumers' feedback or testimonials, awards and recognitions, as these are some of the examples of documents which would need to be adequately archived. Such measures would ensure that the trademark owner is well prepared with evidence when the need arises to establish the element of goodwill," said Kangon.

"It is also important to archive evidence showing the date of first use. Such evidence should be properly documented and dated," Mahendran added.

Other relevant records that need to be documented are those of sales turnover, advertising expenditure, market share data, customer lists and other similar business metrics.

"Where reliance is placed on transborder reputation, proprietors should retain robust evidence of spillover reputation, including global advertising campaigns, website analytics and online accessibility metrics, a cross-border consumer base, participation in international trade fairs and recognition in international trade publications or rankings," Madan added.

They can make use of alternative IP assets. "Graphically designed logos or patterns within a trademark may be protected under Taiwan's copyright act, which provides protection without registration. Furthermore, unique product configurations can be protected through design patents," revealed Chen.

They may secure related rights such as domain names to strengthen protection.

Since unregistered trademarks are prone to bad-faith squatting, owners must also actively and regularly monitor trademark gazettes and publications so they can issue demand letters, lodge complaints, file oppositions, invalidations or passing off suits when necessary.

Foreign brand owners must not only protect their own foreign marks in jurisdictions where they wish to expand and operate. They are also advised to protect localized Chinese marks as well. Chen explained: "Foreign brand owners often leverage local distributors or agents to market their products and services in Taiwan. To effectively resonate with Taiwanese consumers and enhance marketing impact, these local partners frequently adopt Chinese-equivalent trademarks that approximate the pronunciation or meaning of the original foreign marks. However, these Chinese marks are distinct from the original foreign trademarks. Furthermore, the actual user of these marks is the local partner rather than the foreign brand owner. Under these circumstances, it is difficult for foreign brand owners to assert rights over these valuable localized Chinese marks."

Registered trademarks and unregistered marks both offer enforceable rights, yet the gap between them are glaring.

TURNING YOUR IP INTO COLLATERAL

Can intellectual property replace physical assets as loan security? As ideas grow more valuable, business are trying to use IP for financing – but lenders remain cautious. ***Excel V. Dyquiangco*** unpacks the risks and practical challenges involved.

For many businesses – especially startups, technology firms and brand-driven enterprises – their most valuable assets aren't factories or equipment, but ideas. Its intellectual property, for example, often represents years of innovation, market positioning, and consumer trust. Increasingly, financial institutions are recognizing this value and allowing IP assets to be used as collateral for loans.

Leveraging intellectual property to secure financing can unlock critical growth capital without diluting ownership. According to Tris Xavier, an associate director and head of integrated property practice group at Yuen Law in Singapore, IP assets are, like any other assets, carriers of value, where their shares can be used as collateral.

"Our experience is that IP asset owners rely on their assets as security for loans extended by the lender (basically creating a charge or pledge over the IP assets), most commonly as a floating charge," he said. "In Singapore, IP still represents a nascent IP class, and traditional financial institutions may not be willing to rely on securitization based on IP (newly registered trademarks, copyright)."

Xavier said that the Intellectual Property Office of Singapore (IPOS) launched an IP Financing Scheme in April 2014 with several financial institutions to increase access to IP-backed financing for asset-light but IP-rich companies, where the government co-shared the loan loss risk to encourage them to accept collateralization based on IP assets. However, the scheme was retired in

2018 due to high upfront valuation costs and a lack of familiarity with IP as collateral, and a lack of secondary markets for IP assets.

"That said, Singapore recently launched Singapore IP Strategy 2030, which includes plans for further intangible assets or property valuation and disclosure," he added.

He said that while IP valuation remains a nascent practice in Singapore, most valuation firms operating in the area would likely look at the income of the business which can be attributed to the IP (and where the IP is core to the firm's creation, the revenue stream of the company). "They would also likely look at similar businesses with similar IP. There is a growing pool of professional service providers to facilitate transactions as well," he said.

Using IP for loans

So, if businesses want to use IP to secure loans, where and how should they start? Businesses should first catalog and document their IP to ensure that any presentation or handling of IP represents a complete and comprehensive picture of the true standing of their IP, said Xavier.

"This also includes documenting its existence, identifying its creation (particularly for unregistrable IP like copyright or trade secrets), and where necessary, confirming if it is such an asset," he said. "Thereafter, businesses should ensure that their contracts have or do not create situations where the IP has already been subject to a security arrangement or belongs to someone else (particularly if the business is involved in joint venture arrangements)."

For Lin Li Lee, a partner at Tay & Partners in Kuala Lumpur, it must begin with careful legal, commercial, and organizational preparation, as IP-backed financing requires significantly more groundwork than conventional secured lending.

"The first essential step is to identify all relevant IP assets, paying particular attention to whether the IP is registered, owned by the business, and legally enforceable," she said. "This is critical because lenders will filter out unregistered or poorly documented IP and only consider IP that the borrower can clearly prove ownership of."

She continued: "Once the IP assets are identified, the legal ownership and control of those assets are to be ascertained. Any IP that is registered in the name of founders or related entities must be formally assigned to the borrowing company. Likewise, IP that is licensed from third parties is generally unsuitable for use as collateral, as the borrower cannot grant enforceable security rights over assets it does not own. Lenders require that the borrower have full legal authority to grant security over the IP."

According to Lee, the business should then assess whether its IP can generate revenue, either directly through licensing or indirectly through the sale of products or services protected by the IP. "Lenders realistically only consider IP that supports identifiable and sustainable income generating sources, since loan repayment ultimately depends on the commercial exploitation of the IP rather than its mere existence," she noted.

"Finally, the business should prepare to integrate its IP assets into its business and financing narrative,

clearly explaining how the IP underpins its competitive position, revenue model and growth strategy. In Malaysia, IP is rarely accepted as standalone collateral, so lenders typically evaluate IP in conjunction with cash-flow forecasts, business plans and, where applicable, additional security or guarantees," she added.

"Taking these steps," she said, "the business can present its IP not merely as a legal right, but as a credible, enforceable and income-generating asset capable of supporting debt financing within Malaysia's current legal and market framework."

Common mistakes to avoid

Like any other assets of value, businesses may make critical errors when trying to use their IP to secure financing. "IP owners tend to be overly positive about the value of their IP, and often become sorely disappointed (and sometimes overstretched) due to the difference in value," said Xavier.

Another common problem with IP, he pointed out, is that businesses are not presently mandated to disclose their IP, and as such, there may be a lack of informational flow, allowing lenders to make a clear decision. "Businesses are encouraged to disclose more, including the status of their IP and their audit processes to give lenders confidence, and valuations where available," he added.

Lee added that when using intellectual property to secure financing, businesses frequently encounter difficulties not because IP lacks value, but because of avoidable legal, organizational and commercial missteps that undermine lender confidence.

"A common mistake is failing to establish clear ownership of IP assets. Businesses often discover very late that key IP is registered in the names of founders or holding entities rather than the borrowing company itself. This prevents the borrowing company from granting enforceable security over the IP which can be avoided by conducting early IP audits and ensuring that all relevant IP is properly assigned to the borrowing entity before approaching lenders," she said.

She said that another frequent error is relying on unregistered or weakly protected IP. "Unregistered rights are difficult to verify and enforce, making lenders reluctant to accept them as security. IP that has lapsed due to missed renewals would be too risky and lenders frequently reject such security. Businesses can mitigate this risk by prioritizing registration, maintaining renewal schedules and ensuring that IP protection aligns with key commercial markets," she said.

"Poor documentation also often undermines many IP-backed financing attempts," she added. "The power of complete records cannot be underestimated in financing transactions. Unclear licensing arrangements, inadequate employee IP assignment agreements, missing contracts all increase due-diligence costs and delay transactions, often leading lenders to withdraw. Maintaining organized, up-to-date IP documentation significantly improves lender confidence and reduces transaction friction."

"In the upshot, to succeed in IP-backed financing, legal ownership, protection, valuation and commercial use of the IP must be aligned with lender risk requirements from early days," she said.

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INDIA

When does public display become prior art: Anticipation under the Patents Act, 1970

Patents in India are governed by the Patents Act, 1970. A patent is a statutory right granted to the inventor or assignee for a limited time period of 20 years from the date of filing of the application. The rights include making, selling, licensing, assigning, and also preventing others from unauthorized use.

While novelty is a key requirement for patentability, the act provides limited exceptions. One such exception is provisioned under Section 31, which permits anticipation by public display, allowing an inventor to disclose the invention for a specified period before filing a patent application.

Patentability criteria in India

An article or a process can only be patented in India if it accomplishes the following three essential criteria under the Patents Act, 1970.

Novelty. Novelty, is defined as "a new invention" under Section 2(1)(l), as an invention or technology that has not been anticipated by publication of any document or used in any country elsewhere before the date of filing of the patent application.

In *Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries*, AIR 1982 SC 1444.3, India's Supreme Court adjudicated that the fundamental principle of patent law is that a patent is granted only for an invention which must have novelty and utility. Therefore, any prior disclosure of an article or process to the general public defeats the requirement of novelty.

Inventive step. An invention that leads to the advancement in the existing technology, or having an economic significance, or having both, is considered to have inventive step as per Section 2(1)(ja) of the act.

Industrial applicability. Section 2(1)(ac) defines "capability of industrial application" as an invention capable of being made or used in any industry.

Legal framework

Patent Amendment Rules. Rules 29A and Form 31 were introduced by the recent amendments in Rules, 2024, thereby establishing a formal procedure for claiming the benefit of grace period of 12 months, provided under Section 31. The new rules require the applicant to avail such grace period by filing a Form 31 with the Indian Patent Office, along with details of prior disclosure and supporting evidence. A fee of Rs2,500 (US$26) is payable for a large entity.

Section 31 – Anticipation by public display. Section 31 provides an exception to novelty, by providing a one- year grace period in certain circumstances. While Section 13 mandates the examination of anticipation through prior publication or prior claims, Section 31 mitigates the effect of pre-filing disclosure, if it falls within the specified exceptions. This provision recognizes certain exceptions for disclosures made with the consent of the true and first inventor for academic or institutional purposes. The four clauses working as exceptions under Section 31 are as follows –

a) **Government-notified exhibition.** Clause (a) permits display of an invention at exhibitions notified by the Central Government, provided such disclosure is made with the consent of the true and first inventor or their assignee. Protection is limited, as it applies only to notified exhibitions, thereby discouraging disclosure at private or unnotified forums and restricting the purpose to visibility.
b) **Publication of description consequent to the exhibition.** This clause applies to the display or use of an invention at exhibitions notified by the Central Government under clause (a). It operationalizes clause (a) by extending protection to disclosures arising from such exhibitions, particularly publications, during the patent filing process.
c) **Unauthorized use in exhibition.** Clause (c) safeguards against unauthorized use of the invention without the consent of the true and first inventor or their assignee. This protection extends during and after the exhibition, addressing risks of misuse, including espionage and reverse engineering, while limiting anticipation.
d) **Disclosure before learned society.** This clause carves an exception for disclosure of an invention in a paper read by the true and first inventor before a learned society, though the term remains undefined in the act. It also protects description published with the inventor's consent in the transaction of a society, broadly covering publications such as proceedings, journal or blog posts, etc.

Learned society

The term "learned society" used in Section 31(d) derives from the UK's Patent Act 1949. Section 31 of the Indian Patents Act is largely identical to that of the United Kingdom, except for the grace period, i.e., six months from the date of exhibition or disclosure in the UK, whereas India provides a 12-month grace period.

The UK statute had also not defined the term "learned society" and left it open for interpretation. Only once, this was defined in *Ralph's Application* as a duly constituted society with the objective of promoting the study of a specific subject, and providing related discussions.

The reason for not defining a learned society precisely appears to reflect the legislative intent of avoiding a rigid or quantitative threshold for determining what constitutes the word "learned".

The legislation also included the term "transaction" to limit the scope of interpretation.

The term "learned society" has been proposed by countries like Australia, and it is defined in the *Australian Patent Manual of Practice and Procedure*. This definition includes a non-commercial entity that promotes academic or professional discourse and the advancement of a particular field of study.

Transaction of such society

The definition of "transaction," like "learned society", originates from the UK Patents Act 1949 and is not defined in the statute. The definition is also derived through interpretation by the UK Patent Office as "publications issued under the auspices and

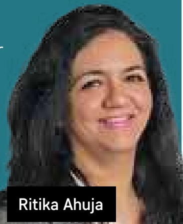
responsibility of the society."
"Transactions" serve primarily as a record of proceedings of learned society, circulated among its members.
The Appeal Tribunal of the UK has clarified the meaning of a transaction in *Ethyl Corporation's Patent* by defining it as a published record of the proceedings of a learned society.

Comparative analysis (country-wise)
The provisions for the anticipation by public display have been widely used by multiple nations with slight difference in grace periods, stated as follows:

- **United States**: Allows a similar 12-month grace period as India
- **United Kingdom**: Similar framework (shorter grace period, historically)
- **Europe & ARIPO**: No grace period; strict novelty rule applies

Conclusion
Section 31 of the Patents Act provides a statutory exception to anticipation by disclosure, allowing a grace period of 12 months to file a patent application following such disclosure. The provision contains four circumstances in which the exemption may apply, including clause (d) which addresses disclosures made in the transactions of a learned society.
The definitions of both expressions "learned society" and "transactions of a learned society" are not defined under the Indian law. Their interpretation relies primarily on foreign judicial decisions such as *Ralph's Application* (1978) and *Ethyl Corporation's Patent* (1963). In the absence of statutory or authoritative Indian guidance, the scope of these terms remains subject to discretion of the Controller of Patents. AIP

ABOUT THE AUTHOR



Ritika Ahuja is a partner at Anand and Anand in Noida. With an experience of 19 years in IP, as a registered patent agent and an advocate, she specializes in the field of patent prosecution, patent drafting and patent infringement analysis in the information and communication technology (ICT) domain including software, artificial intelligence, machine learning and medical equipment. She provides legal opinions on various aspects such as infringement, validity and strength of patents, patentability and prior art searches/ FTO searches. She manages the patent drafting team in the ICT and mechanical stream, in-house and outsourced and deals with inventors, companies and startups and incubators on routine basis. She has been regularly invited to deliver IP awareness sessions/lectures before multiple forums, primarily the medtech division of IIT Chennai, for encouraging their collaborating startups and incubators to file more and more patents, and before universities and legal coaching institutions.

PHILIPPINES

Traditional knowledge as IP

Admittedly, Republic Act No. 8293, the Intellectual Property Code of the Philippines, is notably silent on the specific issue of traditional knowledge. Thus, genetic resource and traditional knowledge of indigenous cultural communities and indigenous peoples in the Philippines remain to be inadequately protected.

A case in point is the dispute between Nas Academy, an online learning platform, and the legendary Kalinga tattoo artist Whang-od Oggay, who is also known as Apo Whang-Od and Maria Oggay. The dispute centres on the unauthorized commercialization of the ancient art of *batok*, a traditional tattooing practice of the Kalinga people in northern Luzon. A practitioner, known as a *mambabatok* or *mambatek,* performs the tattooing using a specialized hand-tapping method. At 109 years old, Whang-od is widely considered to be the oldest living *mambabatok*.

In 2021, the online learning platform launched a "Whang-Od Academy" course, claiming it had secured a thumbprint contract from the artist to teach her traditional tattooing techniques. However, her family and the Butbut indigenous community quickly denounced the project as a "scam," asserting that Whang-od did not fully understand the nature of the agreement and that no community consent had been granted.

Following an investigation into the controversy, the National Commission on Indigenous Peoples (NCIP) determined that the contract between Nas Academy and Apo Whang-od was "grossly onerous" and lacked her valid consent. NCIP's findings revealed that the contract granted Nas

Academy exclusive, perpetual ownership of Whang-od's likeness and voice, including the right to alter or transfer these assets without further permission. Nas Academy refuted these claims, asserting that the terms were explained to Whang-od through a translator and that she would receive shared revenue. However, the NCIP noted a significant disparity between the thumbmark on the contract and one provided by Whang-od during their validation process.

This high-profile conflict eventually led to a formal apology from Nas Academy and the total scrapping of the course. The reconciliation between Nas Academy, Whang-od, and the Butbut Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs) was a formal, customary event arranged by the NCIP, held in October 2021 in Barangay Buscalan, Kalinga. During the meeting, Nas Academy representatives personally apologized to Whang-od, her family, and tribal elders for the "misunderstanding" surrounding the online course. While accepting the apology, tribal leaders emphasized that the art of tattooing is a collective tradition that requires following community procedures. A key outcome was the formal declaration by Nas Academy's legal counsel that Whang-od's contract was null and void. The event ended with a shared meal, a traditional gesture symbolizing healing and reconciliation according to the customs and tradition of the Butbut ICCs/IPs.

While the Whang-od case exposed the predatory use of contracts to exploit cultural heritage without the community's real consent, the Philippine government is now attempting to proactively manage the digitization of traditional knowledge through official channels.

Traditional knowledge, as defined by the World Intellectual Property Organization (WIPO), is "knowledge, know-how, skills and practices that are developed, sustained and passed on from generation to generation within a community, often forming part of its cultural or spiritual identity." While WIPO notes that innovations derived from this knowledge can theoretically be protected by patents, trademarks, geographical indications or trade secrets, the practical application remains flawed. In practice, conventional intellectual property systems often fail to account for the unique nature of traditional knowledge, and are simply ill-equipped to safeguard it.

In the Philippines, the Constitution serves as the primary legal anchor for the recognition of traditional knowledge. This is embodied in Article XIV, Section 17, whereby the state explicitly commits to recognizing, respecting and protecting the rights of indigenous cultural communities to preserve and develop their cultures, traditions and institutions. This constitutional directive ensures that traditional knowledge, whether expressed

through ancestral medicines, sustainable farming practices or sacred weaving patterns, for example, is not merely a historical artefact, but a protected right integrated into the national development framework. By embedding these rights in the Constitution, the Philippines acknowledges that the intellectual and cultural heritage of its indigenous peoples is essential to the country's collective identity and must be protected against unfair exploitation.

The most significant shift in traditional knowledge (TK) protection in recent years is the WIPO Treaty on Intellectual Property, Genetic Resources, and Associated Traditional Knowledge, adopted in Geneva on May 24, 2024. This treaty aims to modernize the patent system by increasing transparency and quality regarding genetic resources. By establishing stricter standards for novelty, the framework aims to cease the grant of patents for innovations that improperly claim traditional knowledge as their own. It introduces a mandatory disclosure requirement where applicants must identify the country of origin or the specific source of any genetic resources used. Furthermore, if the invention is based on traditional knowledge, applicants are required to name the Indigenous Peoples or local community that provided that knowledge or disclose its source. The Philippines is a firm supporter of this ground-breaking treaty, joining 192 other WIPO member states in its adoption. Then-Intellectual Property of the Philippines (IPOPHL) director general Rowel S. Barba noted that the treaty recognizes the rights of indigenous communities over their resources and knowledge, which are considered national cultural treasures. Following this historic consensus, IPOPHL plans to recommend the treaty's ratification to the Office of the President to formally establish it as a nationwide policy.

Years before the 2024 WIPO Treaty, the Philippines had already begun utilizing a similar mechanism through a joint administrative order between IPOPHL and the NCIP. Joint IPOPHL-NCIP Administrative Order No. 01, Series of 2016 serves as the legal foundation for protecting indigenous heritage in the Philippines. It introduces the concept of community intellectual rights, recognizing that traditional knowledge and practices are collective properties belonging to indigenous communities rather than individuals. To safeguard these rights, the order mandates that any intellectual property application using such knowledge must disclose its source and geographical origin. Furthermore, it strictly requires proof of free and prior informed consent (FPIC), ensuring that indigenous groups maintain control over their cultural assets and are protected from unauthorized commercial exploitation. This framework effectively prevents the misappropriation of traditional innovations by making transparency and community approval a prerequisite for legal protection.

The Philippines' commitment to preserving indigenous heritage also extends deeply into the healthcare sector through Republic Act No. 8423, otherwise known as the Traditional and Alternative Medicine Act (TAMA) of 1997. This law explicitly recognizes the right of indigenous societies to own their knowledge of traditional medicine and mandates that they receive a share of any financial returns from its commercial use. By establishing the Philippine Institute of Traditional and Alternative Health Care (PITAHC), the state ensures that these ancient healing practices are not only preserved and scientifically validated but also shielded from unwarranted exploitation.

House Bill No. 3940, pending legislation which seeks to formalize the inclusion of traditional knowledge, cultural expressions and genetic resources under the protection of the IP Code, was introduced in 2025. This proposed measure secures the rights of indigenous cultural communities to control, develop and protect their intellectual activity. A critical update in the bill is the mandatory disclosure requirement, which forces patent applicants to provide a document showing the free and prior informed consent (FPIC) of the concerned indigenous peoples if an invention is based on their resources or knowledge. Applicants must also disclose the specific source or geographical location of the materials used. Furthermore, the bill grants indigenous groups the exclusive right to authorize or prevent the exploitation of their heritage, including the power to withdraw consent if it proves detrimental to their socioeconomic life or cultural integrity. By establishing this framework, the measure ensures that traditional knowledge is treated as a collective right, allowing these communities to direct how their cultural heritage is used and developed.

On December 16, 2025, the NCIP officially launched the Data Repository on Indigenous Peoples (DRIP), the first-ever centralized system designed to store, manage and access vital information on Indigenous Cultural Communities/Indigenous Peoples (ICCs/IPs). The platform incorporates a rigorous four-stage process that begins with the systematic collection of information and moves into a critical verification and validation phase to ensure cultural accuracy and community authorization. Once data is verified, it is securely stored and organized to facilitate structured access and reporting. Organized according to the four bundles of rights under the Indigenous Peoples Rights Act of 1997, DRIP guarantees that all gathered data is reliable, secure and officially validated. This platform replaces outdated, redundant records with a streamlined system that improves data quality and provides the rapid insights needed for effective policy-making and community

development.

In fact, DRIP recently gained international recognition at the GovInsider Festival of Innovation 2026 in Singapore, where it was distinguished with the Digital Government Award in the Whole of Government category. This honour also acknowledges the dedicated efforts of NCIP personnel on the ground, whose diligent work in gathering and validating indigenous peoples' data ensures that the repository stays true to the current traditions and needs of ICCs/IPs, making it a trusted tool for responsive governance. This centralized database will allow the NCIP to provide streamlined services, enhanced policies, responsive programmes and data-driven decisions supported by a centralized repository, ensuring that the rights of Indigenous Peoples are strictly upheld, not just documented.

Indeed, in the Philippines, significant strides have been made in reclaiming control over the nation's cultural assets, and the government is gradually beginning to fill the systemic gaps in an intellectual property system ill-equipped to handle the nuances of traditional knowledge. However, much work remains to be done. Despite its immense potential for innovation and sustainable development, traditional knowledge has long remained vulnerable to exploitation.

This is not merely a matter of policy, but a fulfilment of the 1987 Constitution, which mandates the state to protect the rights of indigenous communities to preserve and develop their own institutions. By integrating procedural safeguards like FPIC directly into the IP Code, the government moves closer to a system where cultural heritage is a legally protected asset rather than one vulnerable to misappropriation or exploitation. The ultimate goal is to give the constitutional promise of cultural integrity the full force of the law, and to ensure that indigenous communities are the true gatekeepers of their legacy.

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Editha R. Hechanova leads the HECHANOVA Group's intellectual property law practice. The HECHANOVA Group is made up of Hechanova & Co., Inc., an intellectual property consulting firm handling trademark and patent prosecution, copyright and domain name registrations, product registration, management, valuation, searches, and other non-contentious aspect of intellectual property, where she is President/CEO. The contentious IP practice is handled by the other member firm, Hechanova Bugay Vilchez & Andaya-Racadio law offices, which specializes in enforcement, litigation, alternative dispute resolution, licensing, corporate, immigration law and taxation. Hechanova graduated from the University of the East with a business degree, majoring in accounting, magna cum laude. She is also a Certified Public Accountant. She is a Certified Patent Agent having passed the Patent Agent Qualifying Examination (PAQE) conducted by the IPOPHL in 2008.

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RUSSIA

Main differences in the patent legislation of Russia and Kazakhstan

The patent systems of the Russian Federation and the Republic of Kazakhstan were formed in the conditions of a common legal tradition and are largely harmonized due to the participation of both countries in international agreements – the Paris Convention, the Patent Cooperation Treaty (PCT), the Eurasian Patent Convention.

At the same time, the national peculiarities of legal regulation and, most importantly, the practice of patent examination and law enforcement lead to significant differences in the strategy for the protection of the results of intellectual activity.

In the Russian Federation, patent relations are regulated by Part IV of the Civil Code of the Russian Federation, and the functions of examination and registration are carried out by Rospatent. In the Republic of Kazakhstan, the key act is the Law On Patents, and the authorized body is the National Institute of Intellectual Property (NIIP). Despite the similarity of formal norms, the differences are manifested primarily in the depth and rigor of the examination, which is especially noticeable in certain areas of technology.

In both countries, the objects of patent protection are inventions, utility models and industrial designs. Utility models in the Russian Federation and Kazakhstan are limited to devices.

However, in practice, the approaches differ. For example, when patenting a mechanical unit or structural element in the Russian Federation, the examination, as a rule, strictly analyzes each feature of the claims for obviousness and regards many solutions as the result of "ordinary engineering optimization." This often leads to a narrowing of

the claims or a refusal to grant a patent.

In Kazakhstan, similar applications are more likely to undergo examination without radical adjustment of the claims, especially if the applicant correctly described the technical result. Thus, for mechanical solutions, Kazakhstan is often a faster and more predictable jurisdiction, while a Russian patent provides more stringent but reliable protection.

Both in the Russian Federation and in Kazakhstan, a mandatory substantive examination is carried out for inventions.

A significant difference is the approach to the unity of invention: in the Russian Federation it is interpreted much more strictly than in Kazakhstan, and requires the presence of common distinguishing technical features, simply referring one independent claim to another will not be enough.

The level of formalism and the approach to assessing the inventive step also differ significantly. Let's consider a practical case in the field of pharmaceutical engineering.

When patenting pharmaceutical inventions (chemical compound, composition, medical application), the Russian examination requires:

- Confirmation of an unexpected technical result (effect),
- Sufficient experimental data, and
- A strict cause-and-effect relationship between the features of the formula and the declared technical result.

Secondary medical uses and derivatives of known substances often encounter failures.

In Kazakhstan, the approach to assessing the inventive step in pharmaceuticals is more flexible: fewer experimental examples are allowed, and the technical result can be formulated more broadly. *Therefore, Kazakhstan is often used as a primary or parallel jurisdiction for pharmaceutical developments with a moderate approach to assessing the inventive step, while the Russian Federation requires an enhanced evidence base and confirmation of the achievement of the declared pharmacological properties.*

Concerning computer-implemented inventions and IT solutions, formally, in both countries, computer programs are not subject to patent protection. Patentability is possible only if there are technical means and a technical result is achieved, and only as an invention.

In the Russian Federation, the examination is extremely strict about the issue of the technical result. Data processing algorithms or business logic should be explicitly tied to the hardware implementation and demonstrate a measurable positive effect (acceleration of processes, reduction of load, saving resources, strengthening of security, etc.).

In Kazakhstan, under similar circumstances, the examination more often accepts the applicant's arguments about the presence of a technical nature of the solution, especially in applications for control systems, IoT devices and software and hardware systems.

For IT developments, Kazakhstan is a more favorable jurisdiction for obtaining a patent with a relatively broad formula, while in the Russian Federation a deep technical study of the application is required with detailed flowcharts and the relationship between the hardware and the algorithm.

Let us consider compulsory licensing and the use of patents. In the Russian Federation, the institution of compulsory licensing is developed and actively used, especially in the pharmaceutical sector and in cases related to public interests.

According to the Association of International Pharmaceutical Manufacturers, as of November 2025, about 48 patent disputes between pharmaceutical companies were considered in Russian courts, excluding the courts of the constituent entities of Russia, of which 21 lawsuits are related to the requirement to issue compulsory licenses. In Kazakhstan, similar norms exist, but the practical application is of a single nature.

For pharmaceutical companies, a patent of the Russian Federation is associated with a higher regulatory risk, but at the same time provides effective mechanisms for protection and judicial suppression of violations.

Finally, in the Russian Federation, a developed system of administrative and judicial challenges to patents has developed (the Chamber for Patent Disputes of Rospatent, the Court for Intellectual Property Rights). In Kazakhstan, challenges are carried out mainly in court, the practice is less extensive and less formalized.

A patent of the Russian Federation provides stronger protection in disputes, but also becomes an object of attack more often; in Kazakhstan, the risk of annulment is lower, but judicial protection is less "worked out."

Despite the formal similarity of the patent systems of the Russian Federation and Kazakhstan, their practical application differs significantly.

Kazakhstan is generally oriented towards a more flexible and "applicant-friendly" model, while the Russian Federation offers a strict but stable system of patent protection with developed law enforcement.

The optimal strategy for applicants is a combined approach to patenting: the use of Kazakhstan for the initial fixation of a technical solution, the establishment of a priority date, and the Russian Federation for obtaining a patent with a high degree of legal protection and commercial significance.

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TANZANIA

Tanzania: A mandatory shift to national protection

The intellectual property landscape in mainland Tanzania has undergone its most significant transformation in years. On December 1, 2025, the Fair Competition Commission (FCC) implemented a mandatory trademark rights recordation system for all goods imported into the country. This regulatory shift, enacted under Section 11A of the Amended Merchandise Marks Act of 1963, represents a proactive stance by the Tanzanian government to secure its borders against the rising tide of counterfeit trade.

Under these new regulations, the mere possession of a trademark registration is no longer sufficient to guarantee the entry of goods or the protection of brand equity at the port of entry. Instead, all trademarks associated with imported goods must be formally recorded with the Chief Inspector of Merchandise Marks. The administrative burden for this process is specific: applicants must provide certified copies of current trademark registrations from any jurisdiction, detailed manufacturer data and physical samples of the trademarked goods. This layer of scrutiny ensures that the FCC has a verified database against which customs officials can cross-reference incoming shipments, effectively turning the recordation database into the primary gatekeeper for Tanzanian commerce.

While the FCC's recordation system was designed to streamline enforcement, its practical application was upended by a landmark judicial decision. On September 26, 2025, the Court of Appeal of Tanzania delivered a judgment in Civil Appeal No. 593 of 2022 that sent shockwaves through the regional IP community. The court held that because Tanzania had not locally ratified

the Banjul Protocol through its own Parliament, the regional registration system managed by the African Regional Intellectual Property Organization (ARIPO) held no weight under domestic law.

This ruling effectively rendered all ARIPO trademark registrations designating Tanzania legally unenforceable within the country's borders. The implications are twofold: first, rights holders who relied solely on ARIPO filings found their legal standing evaporated overnight; second, ARIPO was forced to suspend Tanzania's eligibility for future designations under the Banjul Protocol until the legislative impasse is resolved diplomatically or through domestication.

The final piece of this complex regulatory puzzle fell into place on January 26, 2026. Following the Court of Appeal's logic, the FCC issued an administrative mandate strictly limiting the recordation process to national trademark registrations only. The Commission ceased accepting any international registrations or those filed via ARIPO, citing their lack of legal effect within mainland Tanzania.

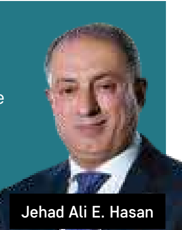
Furthermore, the FCC raised the bar for eligibility by clarifying that pending national applications are insufficient for recordal. Only trademarks that have successfully navigated the examination and opposition periods and reached full registration with the Business Registrations and Licensing Agency (BRELA) are recognized for enforcement actions. This creates a high-stakes environment for brand owners: without a finalized BRELA registration, a brand cannot record its rights with the FCC, and without FCC recordation, imported goods face a high risk of

detention or delay at the border.

Given this "triple-lock" system – the mandatory recordation, the judicial rejection of ARIPO and the FCC's strict adherence to national filings – brand owners must pivot their strategies immediately. The "wait and see" approach regarding the domestication of the Banjul Protocol is no longer viable for companies with active supply chains in Tanzania.

The convergence of these three developments – the December 2025 recordation mandate, the September 2025 Court of Appeal ruling and the January 2026 FCC restriction – marks a definitive end to the era of regional reliance in Tanzania. For the brand owner, the path to security is clear: direct national registration with BRELA followed by immediate recordation with the FCC. Anything less leaves the door open for counterfeiters and places the legality of imported goods in significant jeopardy.

ABOUT THE AUTHOR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Jehad Ali E. Hasan, the founder and chief executive officer of JAH Intellectual Property, is a Jordanian University graduate with over three decades of extensive experience in the field of intellectual property across the Middle East and North Africa. A permanent resident of Qatar, Jehad honed his expertise working with some of the region's most prominent IP firms before establishing JAH Intellectual Property in 1999. Under his leadership, the firm has expanded exponentially from a single office in Qatar to holding fully-staffed, operational offices throughout the GCC and Arab states, coordinating activities across multiple countries to provide comprehensive IP protection and enforcement as well as Africa through long-term affiliations. Jehad's professional practice encompasses both contentious and non-contentious matters, specializing in portfolio management, dispute resolution, and representing clients before Middle Eastern patent and trademark offices. He is also an active member of major international associations, including the International Federation of Intellectual Property Attorneys (FICPI) and the Chartered Institute of Patent Attorneys (CIPA).

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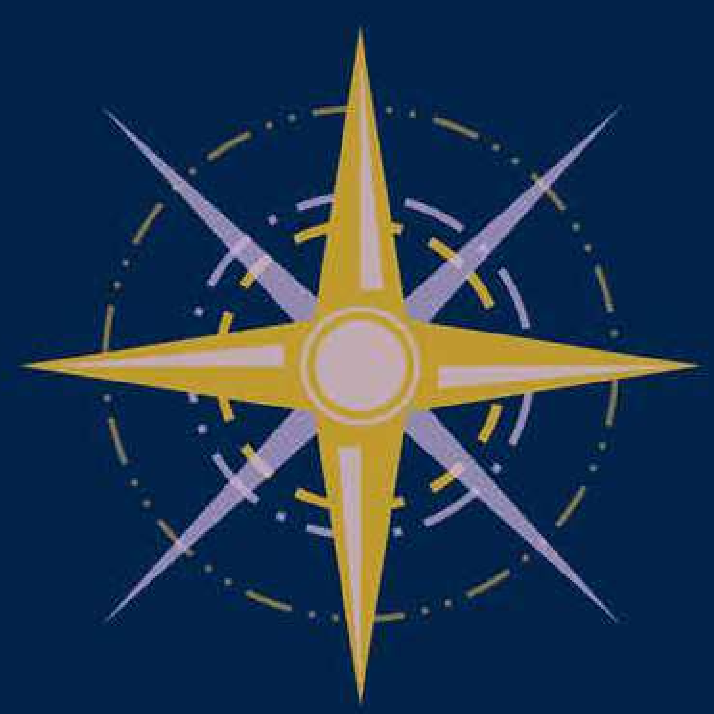

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