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No. 2026-06

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n° 72 WHD Case:
TM | Schiff brand prevails after Supreme Court concludes 13-year trademark squatting saga

Hu Meili, 3 June 2026, first published by IAM

Precis: Having spanned 45 opposition, invalidation and non-use cancellation cases and 10 administrative litigation proceedings, the Schiff trademark saga underscores a loophole in China's Trademark Law. The law should include a provision that allows the courts to order the bad-faith party to pay damages to the other party.

On 19 March 2026, the Supreme People's Court issued a landmark judgment in a squatting case involving Reckitt Benckiser and individual Jianglin Huo.

Trademark squatting and massive hoarding remains a major IP challenge in China. In practice, most brand owners do not adopt full-class registration due to cost control, and not every brand owner can invoke well-known trademark status to support cross-class protection. As a result, squatters can easily register identical or similar marks in non-similar classes with no genuine intention to use. Such registrations often survive initial oppositions and invalidations due to the focus on similarity of goods rather than bad-faith hoarding in the trademark examination process.

The Schiff trademark saga sets a landmark precedent, spanning 13 years, involving 45 interrelated cases of trademark opposition, invalidation and non-use cancellation, plus 10 administrative litigation proceedings, ending with the brand owner's victory after years of repeated setbacks.

Background

Reckitt Benckiser, owner of the renowned dietary supplement brand Schiff with a history of nearly 70 years, first launched its SCHIFF trademark in the Chinese market in 1999 and rapidly established a strong reputation in China.

In 2011, an individual named Jianglin Huo and his affiliated companies launched a malicious trademark squatting campaign against the Schiff brand, applying for 82 marks copying 'Schiff' and its Chinese translation '希夫' across 17 vastly divergent classes covering cosmetics, healthcare products, medical devices, food and retail services, among others.

Years of relentless enforcement

Reckitt's first trademark opposition was initiated on 13 March 2013 against the squatter's earliest conflicting mark in Class 35. Between 2013 and 2020, Reckitt filed a dozen oppositions against Huo's Schiff-related marks. Without exception, the China National Intellectual Property Administration (CNIPA) dismissed the oppositions, holding that the goods and services differed in function and purpose, did not constitute similar items and would not cause consumer confusion. The CNIPA further ruled that evidence of malicious copying and adverse market impact was insufficient.

Facing deadlock in opposition proceedings, Reckitt adjusted its strategy and targeted the squatter's lack of actual use.

Reckitt filed non-use cancellation applications against several of the squatting marks. Huo chose not to respond and the CNIPA consequently ruled to cancel the registrations in accordance with article 49 of the Trademark Law.

The non-use cancellation success became the turning point of the entire campaign.

Reckitt then conducted a comprehensive review of all the pending cases and launched a first round of invalidation applications, alleging violations of article 4 (bad-faith registration without genuine intent to use), article 13 (well-known trademark), article 30 (similar mark on similar goods) and article 44(1) (registration obtained by other improper means) of the Trademark Law.

The first two invalidation applications were initiated on 25 December 2020 against the SCHIFF mark in Class 35. A third invalidation application ensued on 20 October 2021 against the SCHIFF mark in Class 31. On 14 October 2021 and 30 September 2022 respectively, the CNIPA ruled against Reckitt, concluding that the evidence was insufficient to support any of its claims in both the Class 35 and Class 31 invalidations.

Reckitt appealed to the Beijing IP Court for a reexamination of the Class 35 invalidation cases and the Class 31 invalidation case. Huo did not respond to any of the arguments, nor did he appear in court.

On 24 July 2023, the Beijing IP court dismissed Reckitt's claims in the Class 35 invalidation cases, considering that bad faith was not sufficiently proven. Reckitt appealed to the Beijing High Court, which upheld the first-instance judgment on 2 April 2024.

Meanwhile, Huo repeatedly re-applied for identical or similar marks after previous ones were cancelled.

However, the Class 31 invalidation case had a different result. On 29 September 2024, the Beijing IP Court explicitly recognised the squatter's bad faith.

Therefore, on 23 July 2024, Reckitt filed a petition for retrial with the Supreme People's Court, seeking to overturn the unfavourable rulings in the Class 35 invalidation cases. The court issued its landmark judgment on 19 March 2026, finding

that the squatter had:

- filed 82 trademark applications across 17 unrelated classes;
- copied well-known prior brands and scenic names;
- repeatedly re-applied for cancelled marks; and
- publicly offered trademarks for sale, which clearly constituted bad-faith trademark registration without genuine intention to use under article 4 of the Trademark Law.

The court determined that the intention to free-ride and make profits was obvious. Such conduct disrupted the trademark registration order, improperly occupied public resources and harmed public interest, falling within the scope of "other improper means" under article 44(1) of the Trademark Law.

Key takeaways

When the CNIPA or the courts hold that goods and services are not similar and reject likelihood of confusion, invoke absolute grounds. Article 4 (bad-faith registration without genuine intention to use) and article 44(1) (registration acquired by other improper means) provide a stronger legal basis to combat massive trademark hoarding.

Non-use cancellation is a powerful weapon against trademark squatters. Most trademark squatters have no real commercial use. Filing non-use cancellation can directly eliminate squatting marks and obtain critical evidence for subsequent invalidation and litigation.

Persistence and exhaustion of all legal remedies are essential. Trademark-squatting cases often face repeated setbacks in early administrative and court procedures. This case demonstrates that international brand owners shall commit to long-term enforcement and exhaust all available legal remedies to secure support from China's highest judicial authority.

Finally, this prolonged case is another illustration of a loophole remaining in the Trademark Law that the legislator might be well inspired to re-examine: the time and resources invested in all these years of administrative proceedings and litigation before the CNIPA and the courts are considerable and cannot be reimbursed in the end by the bad-faith applicant. Therefore, what is missing in Chinese trademark law is a provision that allows the courts to order the losing party that acted in bad faith to pay damages to the other party.

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n° 100 WHD Insights:
PT | CNIPA guidance on interpreting Swiss-type claims

Honghui Hu, 28 April 2026, first published by MIP

In China, medical use of a substance is generally perceived as a method for diagnosing or treating diseases, which is unpatentable under the Patent Law. However, such inventions would be allowed when the claims are reformulated as use of a substance for manufacturing a medicament for an indication – commonly known as Swiss-type claims.

The reformulation would in effect make such claims a manufacturing method in form. This practice often gives rise to disputes over the interpretation of the protection scope of Swiss-type claims. An examination of three invalidation cases illustrates how the CNIPA approaches such issues in practice.

The dapagliflozin case

Dapagliflozin, which is marketed as Forxiga and developed by AstraZeneca, is an SGLT2 inhibitor approved for multiple indications in China, including improved glycaemic control in adult patients with type 2 diabetes. AstraZeneca holds a Chinese patent, CN200780024135.X, on a crystal form of dapagliflozin. Claim 1 of the patent claims a crystal form of dapagliflozin defined by an X-ray powder diffraction pattern. Claim 9 claims "use of the crystal structure of Claim 1 in the manufacture of a medicament for the treatment of diabetes in mammals".

The petitioner, Sino Universal Pharma, requested to invalidate the patent in January 2025. The focal point of the dispute centred on the interpretation of the scope of claim 9; specifically, whether it encompasses a technical solution where the crystal structure of dapagliflozin is used to produce a medicament, wherein dapagliflozin exists in another form in the final product. In other words, the question boiled down to whether the claimed crystalline structure of dapagliflozin constitutes a raw material for manufacturing the medicament, or an active ingredient present in the medicament.

The CNIPA apparently adopted the latter perspective. The administration elucidated the general cognisance of Swiss-type claims in the decision: "The reason for allowing the protection of medical use of a substance in the form of Swiss-type claims is to safeguard, on one hand, the doctor's free choice of various methods and conditions in the course of diagnosis and treatment, whilst, on the other hand, providing patent protection to the right holder discovering the medical use of that substance. Therefore, Swiss-type claims constitute a special form of claim drafting in the field of medicine. In essence, they represent a special provision installed to address the unpatentability of 'methods of treating diseases' under the law, and thus should not be interpreted in an extended or expansive manner to cover [a] scenario where the

substance as defined in the claim is used as a raw material to produce any drug or as part of a combination therapy for treating diseases."

The reasoning affirms the CNIPA's view that Swiss-type claims essentially protect the therapeutic application of a substance rather than a typical preparation method of a drug.

Based on such understanding and considering the prosecution history and description of the patent, the CNIPA concluded that claim 9 should be interpreted as a technical solution of using the crystalline structure of dapagliflozin as the active ingredient for the manufacture of a produced medicament, excluding the solution of using the crystalline structure as a raw material for producing a medicament.

The everolimus case

Everolimus, which is an mTOR inhibitor developed and marketed as Afinitor by Novartis, has been approved in China for a number of cancer-related indications. Novartis has a Chinese patent, CN200680051365.0, protecting therapeutic use of everolimus for pancreatic neuroendocrine tumours (PNET). In 2021, CTTQ, the petitioner, attacked the validity of the patent on several grounds, including lack of sufficient disclosure.

In assessing sufficient disclosure, the CNIPA started with interpreting the claim scope of the patent. Claim 1 of the patent claims use of everolimus in the manufacture of a medicament for the treatment of PNET. Despite both parties agreeing that the use as defined in claim 1 should be construed as everolimus being used alone (i.e., as the sole active ingredient) for treating PNET, the CNIPA disagreed.

The CNIPA held that Swiss-type claims constitute a special provision under China's Patent Law, which was specifically introduced to address the unpatentability of methods of treating diseases. This regime aims to provide protection and institutional incentives for medical use innovations. Such claims are typically drafted as "use of compound X in the preparation of a medicament for treating disease Y". Compound X is generally regarded as an active ingredient of the medicament. However, whether it is the sole active ingredient should be determined based on the wording of the claim. Without explicitly defining Compound X as the 'sole active ingredient', the common understanding dictates that the claim should be interpreted as Compound X may be used as the sole active ingredient or in combination with other active ingredient(s) for the treatment.

Based on the language of the claim, which did not specify everolimus as the sole active ingredient, and considering the disclosure in the patent specification, the CNIPA concluded that the claimed scope covered both the sole use of everolimus and its use in combination with other drugs.

The chidamide case

Chidamide, marketed as Epidaza, is the world's first subtype-selective histone deacetylase inhibitor, developed by Chipscreen. In China, it has been approved for a

number of indications, including peripheral T-cell lymphoma. Chipscreen has a Chinese patent, CN201410136761.X, relating to medical use of chidamide. In December 2024, Nanjing CTTQ challenged the patent on the grounds of lack of novelty and inventiveness. The disputed claims concern the use of chidamide in the manufacture of a medicament for the treatment of cutaneous T-cell lymphoma (CTCL).

The petitioner attacked the novelty of the patent by citing prior art evidence concerning a Phase I clinical study report on chidamide, showing its partial remission in cancer patients, including one patient with CTCL. The patentee contended that the patent disclosed a Phase II clinical trial of chidamide for the treatment of CTCL, thereby demonstrating its therapeutic efficacy in a patient population, whereas the prior art merely showed effect in a single patient, indicating the claims possessed novelty.

The CNIPA affirmed that for Swiss-type claims, if the compound cannot effectively treat the defined indication, it would be moot to protect that medical use of the compound. Therefore, the use feature of the claims should be construed in so far as the compound is effective in treating the indication as defined. However, the assessment over indication treatment efficacy does not necessarily hinge on clinical trials, in light of alternatives such as cell- or animal-based experiments, as the CNIPA held. In other words, the use feature does not necessarily imply limitations of clinical effectiveness unless explicitly stated in the claims.

The CNIPA thus opined that as the claims of the patent did not define features such as size of the subject population in the clinical trial, they could not be interpreted as implicitly containing a “population” feature.

The CNIPA, in determining whether the prior art disclosed the claimed use of effectively treating CTCL, further held that a person skilled in the art could confirm that, in Phase I clinical trials, there was at least one case of a CTCL patient whose symptoms were alleviated after the administration of chidamide. The CNIPA therefore concluded that the prior art disclosed the claimed technical solution, rendering the claim not novel.

Practical takeaways

The aforesaid decisions corroborate the consistency in the CNIPA’s stance; namely, the Swiss-type claim essentially protects the medical use of a substance.

However, in practice, the workaround in drafting a medical use invention claim creates a misalignment between the formality and substance of the claim, which is the underlying cause of disputes over the interpretation of the claimed scope and perception of the limiting effect of the claim features.

In the dapagliflozin case, the CNIPA clarified that a Swiss-type claim cannot be perceived as a claim for a typical manufacturing method. However, in assessing the novelty and inventiveness of a Swiss-type claim, the Patent Examination Guidelines provide that assessment focuses on whether the claim features have any limiting

effect on the manufacturing process, which may explain the arguments made by the patentee in the dapagliflozin case. The misalignment creates a dilemma that remains to be resolved within the existing legal framework.

The everolimus case clarifies the scope of a typical Swiss-type claim, specifically addressing whether the claim involves use of a substance alone or in combination. The chidamide case confirmed that Swiss-type claims implicitly define that the substance, as an active ingredient, should be effective in treating the indications, though the "effective treatment" does not seem to align with general cognisance, especially whether efficacy in one patient would suffice to render the treatment effective. To satisfy the requirement of sufficiency, animal or in vitro tests are allowed to establish the claimed use, which is based on the common expectation of a person of ordinary skill in the art (POSA) from those test results. In contrast, in novelty assessment, the "effective treatment" needs to be directly and unambiguously disclosed for the POSA, rather than being expected. In the chidamide case, the CNIPA seemed to confuse the parameters for the assessment of sufficiency and novelty.

In a nutshell, proper interpretation of a Swiss-type claim is pivotal as it could serve as a point of reference on claim drafting, assessment of patentability, and interpretation of the protection scope.

n° 101 WHD Insights:
PT | Patentable methods in smart medical patents in China: a trend to watch

Jie Zhao, 4 June 2026, first published by MIP

Article 25.1.(3) of the Chinese Patent Law stipulates that methods for the diagnosis or treatment of diseases are not patentable. Although the Patent Examination Guidelines further clarify that methods "whose direct purpose is not to obtain a diagnostic result or a health status" but rather "to obtain information serving as an intermediate result, or to process such information" are not diagnostic methods, in practice, examiners tend to adopt a broad interpretation of "obtaining a health status", thereby tightening scrutiny on patentability assessment.

For example, in the case of detecting certain biomarkers, even if the detection result is not correlated with whether a subject is suffering from a disease or has been cured, the mere presence or absence of the biomarker per se may be deemed as a "health status", leading to findings of unpatentability for many therapeutic intermediate methods involving a core step of biomarker detection, unless they are reformatted as Swiss-type claims.

However, the 2023 revision of the Patent Examination Guidelines introduced a provision explicitly stating that "information processing methods carried out entirely by computers or other devices" are not diagnostic methods. This welcome change has formalised the patentability of many upstream or intermediate methods related to diagnosis and treatment that rely on algorithms, large language models, and machine learning, leading to a surge in the number of patent grants.

The selected cases below showcase the patentable methods in smart medical patents in China.

Screening drugs and biomarkers

Owned by Proteint Tianjin Biotech Co Ltd., CN106404975B protects a method for screening individualised drugs, by utilising liquid chromatography-tandem mass spectrometry (LC/MS/MS) technology to construct a disease-related pathogenic protein molecular database, a patient-individualised clinical course-pathogenic protein factor response characteristic correlation database, and a disease model target drug-protein response correlation database. Drugs suitable for individualised treatment are screened by comparing and analysing protein differences between diseased and non-diseased populations.

CN112071365B is owned by the Beijing Institute of Technology. This patent protects a method for screening glioma biomarkers based on PTEN gene status. This method obtains the PTEN gene status – whether the gene has undergone mutation – stratifies glioma patients based on the PTEN gene status, screens for subgroup-specific differential genes, constructs a prognostic model, calculates a risk score, and screens for potential targeted drugs.

Although the methods in the above patents involve the collection or detection of a "health status" (e.g., clinical course, gene mutation status), their direct purpose is to screen potential drugs. Therefore, they aim to "provide results for the reference of physicians or the like" rather than "to obtain a health status" and are thus patentable.

Predicting drug sensitivity, drug response, or efficacy

Owned by Peking University, CN115966316B protects a method for predicting tumour drug sensitivity, by employing graph neural networks combined with deep learning technology. It leverages protein-protein interaction network data, gene expression profiles, and drug chemical molecular structure data to train a pre-training model and performs transfer learning to generate a merged model for predicting tumour drug sensitivity.

CN115274136B is owned by Shanghai Jiao Tong University. This patent protects a method for predicting drug response in tumour cell lines. It constructs the DROEG (drug response based on omics and essential genes) prediction method, integrating gene expression data, copy number variation data, methylation data, somatic mutation data, and CRISPR gene effect data. Drug response prediction is performed using a support vector regression model, combined with quantitative and qualitative evaluation methods to comprehensively assess model performance.

CN117116349B is owned by the Innovation Center of Yangtze River Delta, Zhejiang University. This patent protects a method for ranking drug-responsive cell populations based on single-cell transcriptome data. This method constructs a target gene regulatory network, using drug target information to virtually knock out targets, training low-dimensional representations of gene nodes through manifold alignment, calculating Euclidean distances and drug perturbation scores, to generate a ranking result of drug-responsive cell populations.

Granted to Shenzhou Medical Data Technology (Beijing) Co., Ltd., CN107038351B protects a method for systematically predicting the impact of omics variations on drug efficacy. By establishing a database of protein three-dimensional functional subregions, it compares unknown clinical significance variants with known variants in terms of attribution, type, and amino acid property changes, predicts the impact of unknown variants on drug efficacy, refines domains, and analyses the three-dimensional distance and position of amino acid residues relative to drug binding sites, generating a functional subregion database for prediction.

Similarly, these methods are also deemed to be “providing results for the reference of physicians or the like” and are thus patentable.

Drug recommendation methods

CN115472216B is owned by Shenzhou Medical Technology Co Ltd., protecting a data integration-based method for recommending cross-indication combination drugs for tumours. By integrating multiple types of data, it constructs a tumour-specific protein-protein interaction network, screens potential target proteins, generates a candidate drug list, and builds a drug response prediction model to recommend optimal drug combinations.

CN112768029B is owned by Shanghai Dongfang Hospital, which is affiliated to Tongji University. Claim 5 of this patent protects a method for recommending combination drugs based on single-cell sequencing. It obtains tumour sample information, performs immune-related feature extraction and assessment based on machine learning models, selects drug administration methods, and generates a multi-objective optimisation model using the Monte Carlo algorithm to recommend multiple drug combination regimens.

Even for “information processing methods carried out entirely by computers or other devices”, the bottom line remains that such methods cannot include treatment or administration steps. Therefore, the objectives of the above methods are both “recommending drug combinations” (for physician’s reference).

Methods for screening subjects and determining physiological parameter targets

CN113948165B is owned by Yilinyun (Shenzhen) Technology Co., Ltd. This patent protects a subject screening method. By obtaining a subject’s physical sign information and clinical research project protocol information, it uses a physical sign feature extraction model and a preset feature prediction model to extract and predict

the subject's physical sign features at various stages. These are then matched stage-by-stage with expected features to facilitate the calculation of a comprehensive matching score based on which target subjects could be screened.

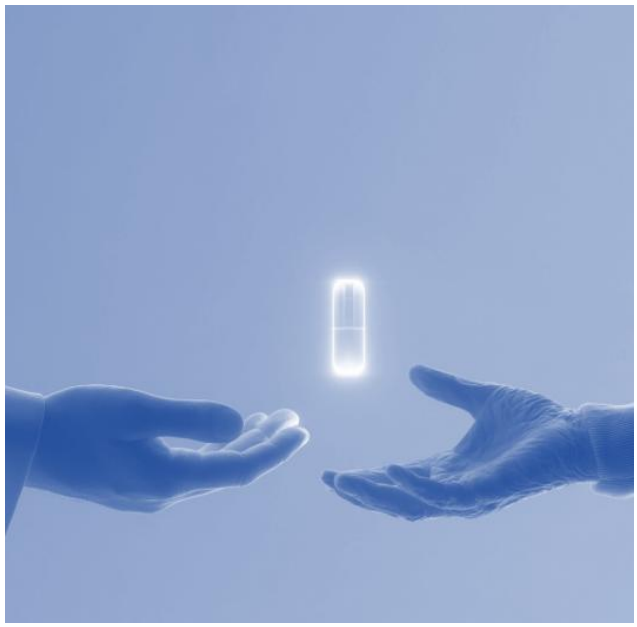
CN113164105B is owned by Abbott Diabetes Care, Inc. This patent protects a method for determining a glucose level target. By measuring glucose levels and the reticulocyte production index, it calculates a more reliable cHbA1c value, further calculates at least one physiological parameter, and thereby adjusts a glucose level target.

Although CN113948165B is used for screening subjects, it involves neither a specific disease nor a correlation between specific physical sign information and certain disease or health status. CN113164105B claims a "method for determining a glucose level target" rather than a "method for determining a glucose level". Therefore, neither of them falls within the unpatentable subject matter of "directly obtaining a health status".

Final thoughts

The filing and granting of patentable methods in smart medical patents have been on an upward trajectory in China, with domestic applicants in particular universities contributing significantly. This could be attributed to the nation's booming AI industry and state initiatives to increasingly use universities as R&D incubators.

Foreign applicants that have business interests in the smart medicine industry are thus strongly advised to keep abreast of the CNIPA's latest examination trends and developments in this regard and leverage the Chinese regime to broaden the scope and diversity of their patent portfolio.



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n° 102 WHD Insights:
IP | An overview of current IP filing and enforcement trends in China

ZHU Zhigang, Paul Ranjard, HUANG Hui, 24 June 2026, first published by IAM

Analysing IP trends in China at the beginning of the new national five-year plan is an interesting undertaking. Whether one looks at the registration or protection of IP rights by the administrative and judicial authorities, the conclusions differ. From the applications/registrations point of view, numbers are declining, which is good news – with more negative consequences. From the protection and enforcement perspective, China is achieving noticeable positive results.

The decline of IP numbers

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

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

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

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

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

obvious.

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

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

But the picture is more of a mixed bag.

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

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

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

Enforcement

Administrative enforcement

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

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

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

enforced at the administrative level.

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

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

Judicial enforcement: people's courts allow more flexibility

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

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

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

In New Balance v New Barlun, the defendant refused to disclose financial data (Jiangsu High Court, 2024, 58.9 million yuan). Rather than accepting the statutory damages ceiling, the plaintiff's team built an independent calculation basis using the defendant's own publicity materials from investment conferences, sales figures confirmed in prior related litigation and industry profit margins from published sources. The court adopted this calculation in full. The punitive damages clock was started from the date of a prior judgment confirming infringement, making intent self-evident. This approach, constructing the damages basis from external evidence when the defendant withholds internal data, aligns with the framework now codified in the new Supreme Court interpretation.

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

Looking ahead: the Supreme People's Court's five-year plan

Alongside the national 2026–2030 five-year plan, the Supreme People's Court has published its own five-year plan, in which a comprehensive range of topics and issues are listed.

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

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

China's IP regime is transitioning. It is shedding unproductive weight and building capacity in areas that matter. The transition is real but it is also uneven, and stakeholders embracing its benefits need to deal with its less desirable side effects.