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## **Renting Products in China Now Constitutes Design Patent Infringement**

The Beijing High People's Court recently made important changes the guidelines for patent infringement pertaining to rented products. Under the new law, renting a product to another in China can constitute infringement of a design patent.

Previously, the act of renting a product could not constitute infringement of a design patent in China. For example, if company A rented a product to another that was covered by a design patent, the owner of the design patent could not sue company A for patent infringement. Renting of the product to another was not considered to be making or selling of the product in China, and hence there was no design patent liability. The new guidelines for patent infringement changed this law.

Under the new guidelines for patent infringement, that act of renting of a product to another is viewed as selling the product. Even though the product is being rented and returned, the new guidelines treat the rental as an actual sale. A sale of a patent product constitutes patent infringement. Under the new law, if company A rents a product to another that is covered by a design patent, then the owner of the design patent can sue company A for "selling" a patented product. Even though company A did not actually sell the product, China law now considers renting the same as selling for patent infringement purposes.

This change in the law may significantly increase the number of patent infringement actions since many products being rented are covered by one or more design patents. Some issues still remain undecided. For example, does renting the same product multiple times to different customers constitute multiple different acts of infringement? If so, this may significantly increase the amount of rewards a design patent holder can receive.

Stay tuned for more important updates on IP law in China.

Please contact us with any questions: [eip@eipgroup.asia](mailto:eip@eipgroup.asia).

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