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SIPO will be restructured. What is it all about and what changes will this bring to us?

Restructuring of SIPO Explained: To Facilitate Unified Law Enforcement and Avoid Separate Administration

To solve the problems of separate administration and conflicting enforcement of trademarks and patents, the State Intellectual Property Office (SIPO) will be restructured, taking over the duties of trademark administration and geographical indications (GI) respectively from the State Administration of Industry and Commerce (SAIC) and the General Administration of Quality Supervision, and Inspection and Quarantine (AQSIQ). The reformed SIPO will be administered by the State Administration of Market Regulation (SAMR) which was newly established this March.

Duties of the reformed SIPO include protecting IP rights, promoting IP protection, managing registration and administrative adjudication of trademarks, patents and GI, and providing guidance on trademark and patent enforcement, which will be performed by integrated enforcement teams for market supervision and administration.

We are of view that such restructure will bring positive changes.

Firstly, the current separate administration has resulted in divergent enforcement standards and understanding of IP protection. The proposed integrated administration by SIPO will better unify enforcement standards. For example, differences in damages and administrative remedies can be mitigated after the consolidation.

Secondly, both trademarks and patents involve extensive administrative examination procedures, which are handled by two different authorities under the current system. Once integrated, the two departments can draw reference and learn from each other, thus significantly improving the overall administrative efficiency.

Lastly, the integrated enforcement teams of SAMR will take over the duties of both trademark and patent enforcement, typically including counterfeit products, counterfeit trademarks, counterfeit patents, etc. It not only avoids duplication in enforcement efforts, but also facilitates the unification of enforcement standards. It is especially good news for patent enforcement, since the current

administrative enforcement of trademark has comparatively stronger competence and relatively adequate personnel. The power of patent enforcement may be enhanced after the reorganization.

However, there are also some uncertainties regarding the restructuring, such as how to integrate the patent/trademark systems, which are quite different in practice. In addition, the administrative adjudication of trademarks and patents will be managed by SIPO, but the enforcement thereof will be supervised by the integrated enforcement teams of SAMR. It will be challenging to facilitate coordination and unification when carrying out the task, since IP (especially patent) involves high level of professionalism.

We will keep you updated for further development. Stay tuned for more important updates on IP law in China.

Please contact us with any questions: eip@eipgroup.asia.

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