

中国品种权司法执法概况

China's PVR Enforcement: An Overview

潘才敏 最高人民法院知识产权法庭
Caimin PAN, SPC IPC



最高人民法院
SPC (Supreme People's Court)

知识产权法庭
IPC (IP Court)

发明和实用新型专利、植物新品种等民事、行政案件
Civil and administrative cases of patent, utility model and new plant variety

“统一裁判标准系统工程”

System of Unified Ruling Criteria (SURC)

统一裁判标准实施细则 Implementation Details

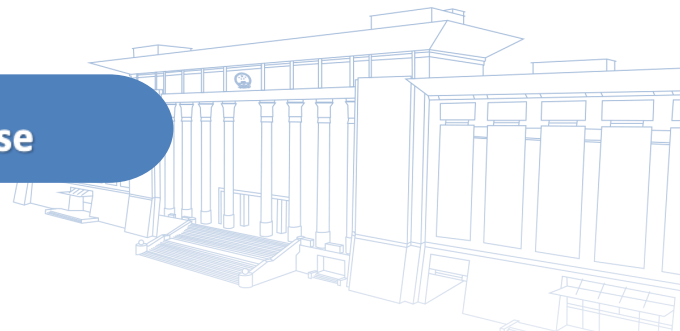
前端分案梳理 Case Sorting (Prewrite)

法官会议 Judge Discussions

法庭讲坛、新知大讲坛 Seminars

“知己”裁判规则库 “Zhiji” Ruling Database

统一裁判标准
SURC



提高审判质效 Efficacy Improvement

案件审限管理
Time Limit Management

一

文书评查、评比
Inspection and
Appraisal of Judicial
Documents

二

案件信息管理和统计
e-Database and Data
Analytics

三

巡回审判、快捷审理
Circuit,
Fast-Track Processing

四

业务培训
Training

五

电子诉讼平台、远程审
判、电子卷宗
e-Complaint,
Virtual Court,
e-Dossier

六

技术调查官和咨询专家库
Talent Bank
(Technical Investigators,
Consultants)

七



司法公信力和国际影响力 Judicial and International Outreach

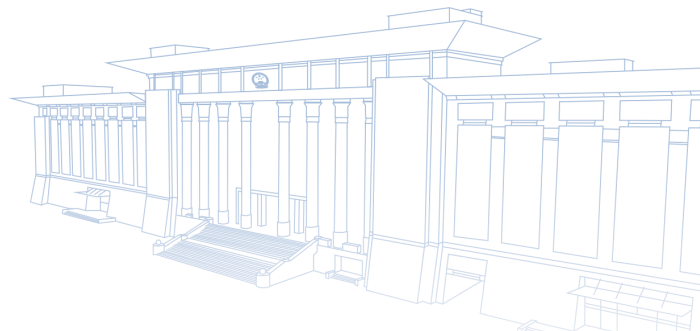
国际法院 ICJ



国际保护知识产权协会 AIPPI



世界知识产权组织 WIPO



加强与行政机关的专业交流
Exchanges with
administrative bodies

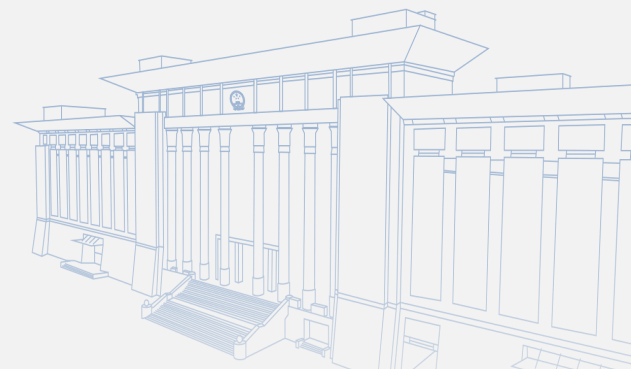
国家知识
产权局
SIPO



最高人民
法院知识
产权法庭
SPC IPC



农业农村
部
MARA



主要法律框架 Legal Frameworks

UPOV78

种子法 The Seed Law

最高人民法院关于审理植物新品种纠纷案件若干问题的解释

最高人民法院关于审理侵犯植物新品种权纠纷案件具体应用法律问题的若干规定

Interpretation of SPC on Issues Concerning Cases Involving Disputes over Rights of New Plant Varieties

Interpretation of SPC on Issues Concerning Cases Involving Infringement of Rights of New Plant Varieties

植物新品种保护条例

植物新品种保护条例实施细则

Regulation on Protection of New Varieties of Plants

Implementation Rules on Protection of New Varieties of Plants

法院受理案件的范围 Judicial Scope

最高人民法院关于审理植物新品种纠纷案件若干问题的解释

Interpretation of SPC on Issues Concerning Cases Involving Infringement of Rights of New Plant Varieties

植物新品种授权与无效
Granting and
Invalidation

权属纠纷
Ownership Disputes

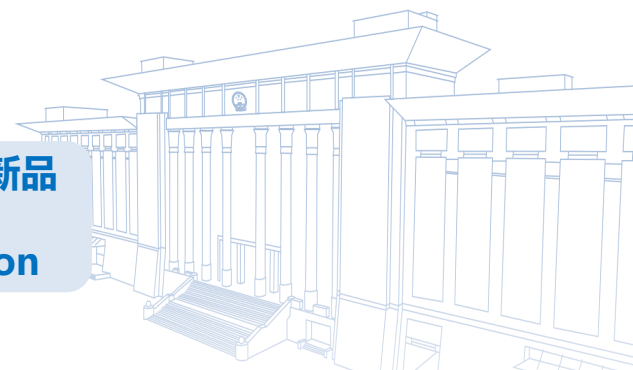
强制许可及使用费
Compulsory
Licensing and
Remuneration

合同纠纷
Contract Disputes

侵权纠纷
Infringement

行政处罚
Administrative
Penalty

诉前停止侵害植物新品种权
Pre-trial Injunction



关于植物新品种权的保护范围

Scope of PVP

蔡新光与广州市润平商业有限公司侵害植物新品种权纠纷案

Xinguang CAI vs. Guangzhou Runping Commercial Co. Ltd.

【主要争议】蜜柚果实是否属于繁殖材料

Main issue: Does honey pomelo fruit constitute propagating material?

品种权的保护范围不限于申请时采取的繁殖方式获得的繁殖材料

The scope of PVP shall not be limited to the propagating material obtained by the propagating method employed in the application

既属于繁殖材料也属于收获材料时被诉侵权行为的审查

Infringement review where propagating material = harvested material

判断授权品种繁殖材料的条件

Conditions for determining PV propagating materials

不能简单依据植物细胞的全能性理论认定繁殖材料

Propagating materials shall not be determined by the totipotency of plant cells

关于生产行为的认定

Determining Act of Production

河北省高速公路衡大管理处与河北法润林业科技有限责任公司侵害植物新品种权纠纷

Hengda Section Office, Hebei Expressway vs. Hebei Farun Forestry Co. Ltd.

【主要争议】种植招标取得的植株是否侵害“美人榆”品种权

Main Issue: Do plants obtained by way of bidding infringe on the variety rights of ‘Meirenyu’ (elm)?

无性繁殖品种“生产”“繁殖”行为的认定

Determining acts of ‘production’ and ‘propagation’ for asexually reproduced varieties

非营利的种植行为本身既不属于生产行为，也不属于繁殖行为

Non-commercial cultivation constitutes neither act of production or act of propagation

敦煌种业先锋良种有限公司与新疆新特丽种苗有限公司侵害植物新品种权纠纷案
Dunhuang XFLZ Seed Co. Ltd. vs. Xinjiang XTL Seed Co. Ltd.

【主要争议】赔偿数额的确定

Main issue: Determining the damage compensation

依据证据合理推定侵权获利

Evidence-based inferred profit from infringement

支持为制止侵权行为所支付的合理开支

Reasonable expenses for stopping the infringement



关于繁殖材料的官方备案

The Official Record of Propagating Materials

瓦房店市玉米原种场与赵劲霖等植物新品种权权属纠纷

Wafangdian Corn Stock Seed Farm vs. Jinlin ZHAO et al.

【主要争议】委托鉴定的程序及鉴定结论的合法性审查

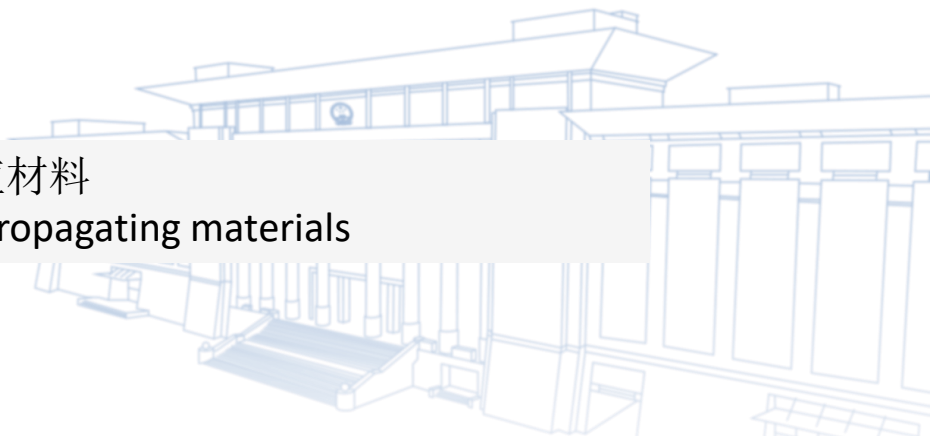
Main issue: Procedure for delegated evaluation and the legality thereof

农业部植物新品种保护办公室植物新品种保藏中心是法定繁殖材料保存机构

The Preservation Center of PVP Office under MARA is the statutory institution for preserving propagating materials

任何人不得更换检验合格的繁殖材料

No person may replace certified propagating materials





创新

Innovation



精进

Perseverance



智慧

Prudence



卓越

Preeminence

官方网站:

ipc.court.gov.cn

Official Website:

enipc.court.gov.cn



官方微信:
WeChat:





Thank you!