

中国法院第一审知识产权案件管辖概况

Jurisdiction of First-Instance IP Cases at Chinese Courts

中华人民共和国最高人民法院知识产权审判庭
IP Tribunal, SPC (Supreme People's Court)

法官 许常海 Judge Changhai XU

2022年5月23日 北京
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第一审知识产权案件专门化审判体系 A specialized trial system for IP cases in the first instance

- 1.2014年以来，北京、上海、广州和海南自由贸易港知识产权法院相继设立；
Since 2014, four IP courts have been established in Beijing, Shanghai, Guangzhou and Hainan Free Trade Port;
- 2.2017年起，最高人民法院批复同意南京等27个城市设立知识产权专门审判机构，跨区域管辖专业技术性较强的知识产权案件；
The SPC has approved, in 27 cities (e.g., Nanjing), the establishment of specialized IP trial bodies with cross-regional jurisdiction over technical IP cases;
- 3.最高人民法院批准的基层人民法院集中管辖相应区域的商标、著作权等普通知识产权案件。
The primary court approved by the SPC has local jurisdiction over common IP cases (trademarks, copyright, among others).

◆ 《最高人民法院关于第一审知识产权民事、行政案件管辖的若干规定》（法释〔2022〕13号）（2022年5月1日起施行，以下简称《规定》）

“Several Provisions of the SPC on the Jurisdiction of IP Cases of First Instance” (Fa Shi [2022] No. 13) (Effective May 1, 2022, “Provisions” hereinafter)

◆ 《最高人民法院关于印发基层人民法院管辖第一审知识产权民事、行政案件标准的通知》（法〔2022〕109号）（以下简称《通知》）

“Notice of the SPC on Distributing the Standards for Civil and Administrative IP Cases of First Instance under the Jurisdiction of Primary Courts” (Fa [2022] No. 109) (“Notice” hereinafter)

● 进一步明确中级人民法院、基层人民法院管辖知识产权民事、行政案件类型及诉讼标的额标准

Further clarified the categories of civil and administrative IP cases under the jurisdiction of intermediate and primary courts and the standards for the subject amount

● 从案由、类型及标的额三方面入手，明确知识产权法院等部分中级法院集中管辖发明专利等特定类型案件，推进知识产权案件繁简分流

Specified the categories of cases (e.g., invention patent cases) under the centralized jurisdiction of certain intermediate courts, based on the cause of action, the category and the subject amount

部分中级法院管辖的第一审知识产权案件类型

Types of cases under the centralized jurisdiction of certain intermediate courts

发明专利、实用新型专利、植物新品种、集成电路布图设计、技术秘密、计算机软件的权属、侵权纠纷及垄断纠纷这七类案件由知识产权法院、省会城市中级人民法院和最高人民法院确定的中级人民法院集中管辖（《规定》第一条）。

Seven types of IP cases involving inventions, utility models, rights to new plant varieties, designs of integrated circuits, technological know-how, computer software copyrights, infringement and anti-monopoly disputes are under the centralized jurisdiction of IP courts, intermediate courts at provincial capitals and intermediate courts as approved by the SPC (Article 1 of the “Provisions”).

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各中级法院管辖的第一审知识产权案件类型

Types of cases under the jurisdiction of intermediate courts

☆第一类是外观设计专利的权属、侵权纠纷以及涉驰名商标认定第一审民事、行政案件。

Type 1: civil and administrative cases of the first instance involving the rights to design patents, infringement disputes, and the recognition of well-known trademarks.

☆第二类是最高人民法院确定的诉讼标的额以上的普通知识产权民事案件。

Type 2: common civil IP cases with a subject amount over the limit determined by the SPC

☆第三类是涉及国务院部门、县级以上地方人民政府或者海关行政行为的普通知识产权行政案件。

Type 3: common administrative IP cases involving the administration of the State Council, local governments at or above the county level, or the customs.

《规定》第二条

Article 2 of the “Provisions”

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最高人民法院确定的基层人民法院管辖的案件类型

Types of cases under the jurisdiction of primary courts

除《规定》第一条、第二条规定的案件外，其他第一审知识产权民事、行政案件均由基层人民法院管辖。

Except for the cases stipulated in Article 1 and Article 2 of the “Provisions”, other first-instance civil and administrative IP cases fall under the jurisdiction of the primary courts.

为细化《规定》第三条，最高人民法院同步发布了《通知》

With the concurrent issuance the “Notice”, the SPC provided more details on Article 3 of the “Provisions”.

☆确定了具有知识产权民事、行政案件管辖权的基层人民法院及其管辖区域。除个别地区外，每个中级人民法院辖区内至少有1个基层人民法院具有知识产权案件管辖权。

It thereby determined the primary courts with jurisdiction over civil and administrative IP cases and the scope of their jurisdiction. With only a few geographical exceptions, at least one primary court within the jurisdiction of each intermediate court has jurisdiction over IP cases.

☆确定了基层人民法院管辖第一审知识产权民事案件的诉讼标的额标准。

It thereby established the standards on the subject amount of civil IP cases in the first instance under the jurisdiction of primary courts .

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知识产权民事、行政和刑事案件“三合一”审判机制改革 Reform of “three-in-one” system of civil, criminal and administrative IP cases

由具有知识产权民事案件管辖权的法院管辖和审理知识产权
行政、刑事案件

Administrative and criminal IP cases are subject to the
jurisdiction and trial of courts with jurisdiction over civil IP cases.

《规定》实施后，知识产权“三合一”审判机制改革**新变化**：

Changes brought by the “Provisions” — the reform of “three-in-one” system for IP cases:

◎知识产权刑事案件集中管辖布局更加合理。原则上，知识产权刑事案件将在中级人民法院辖区内由相应的基层人民法院管辖。

Better geographical distribution of centralized jurisdiction over criminal IP cases. As a principle, such cases are under the jurisdiction of the primary court within the jurisdiction of the intermediate court.

◎“三合一”改革将全面铺开。一般情况下，第一审知识产权刑事案件的管辖法院及管辖区域范围，应当与第一审知识产权民事、行政案件保持一致。

With the nationwide rollout of the “three-in-one” reform, the competent court and the jurisdiction over first-instance criminal IP cases should in general be consistent with those over first-instance civil and administrative IP cases.

谢 谢 大 家

Thank You

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