



# Intellectual Property Legal System of China and Latest Development

Department of Treaty and Law, China National Intellectual Property Administration  
October 2023

# Main Contents

- 01 Overview of IP Legislation of China
- 02 Latest Development

## Overview of China's Intellectual Property Legal System



Trademark  
Law

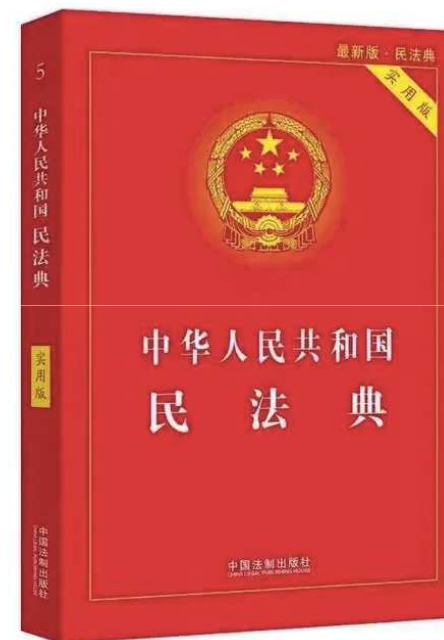
Patent  
Law

Copyright  
Law

Anti-unfair Competition Law

Regulations on the Protection of New Plant  
Varieties

Regulations on Protection of Integrate Circuit of  
Layout Design



Civil Code of the People's  
Republic of China

## Accession to International Conventions and Treaties



Time of Accession	Name of Treaty
1980-06-03	Convention Establishing the World Intellectual Property Organization
1985-03-19	Paris Convention for the Protection of Industrial Property
1989-10-04	Madrid Agreement Concerning the International Registration of Marks
1992-10-15	Berne Convention for the Protection of Literary and Artistic Works
1992-10-30	Universal Copyright Convention
1993-04-30	Convention for the protection of Producers of Phonograms against Unauthorized Duplication
1994-01-01	Patent Cooperation Treaty
1994-08-09	Nice Agreement Concerning the International Classification of Goods and Services for the Purpose of the Registration of Marks
1995-07-01	Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure

## Accession to International Conventions and Treaties



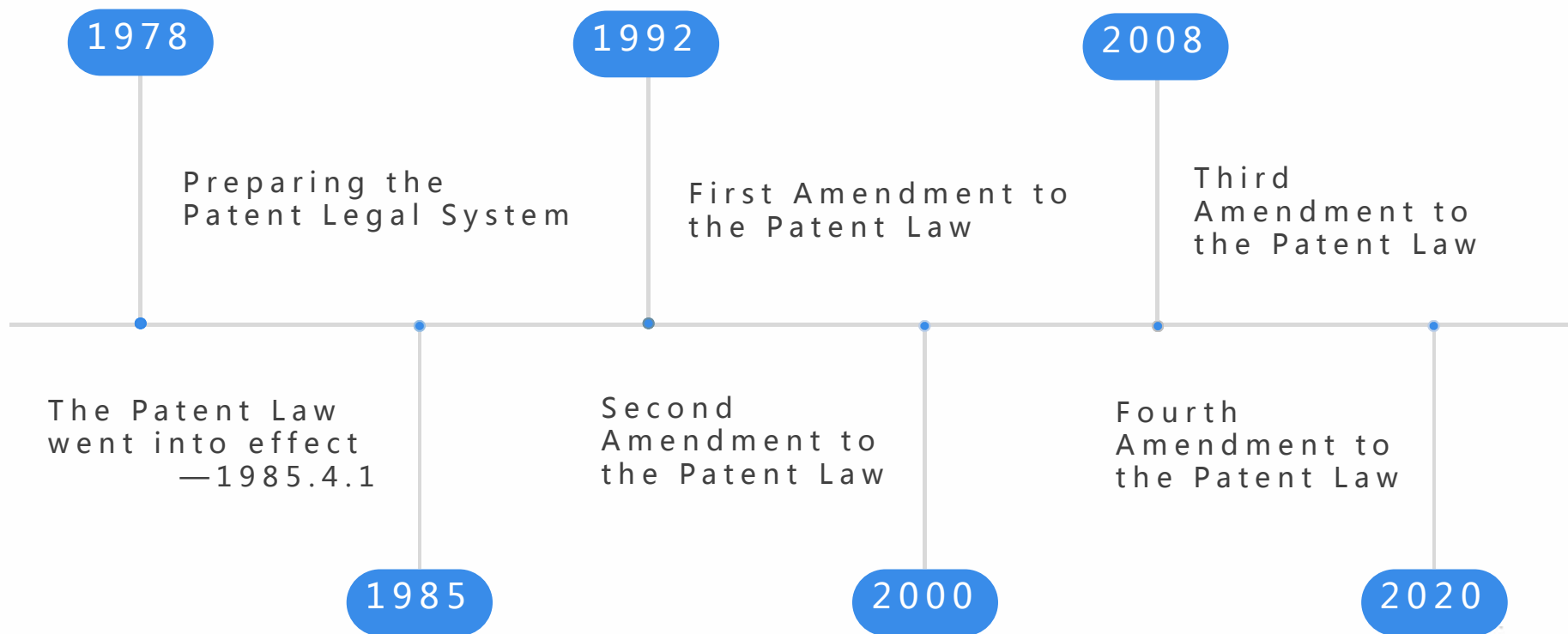
Time of Accession	Name of Treaty
1995-12-01	Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks
1996-09-19	Locarno Agreement Establishing and International Classification for Industrial Designs
1997-06-09	Strasbourg Agreement establishing an International Classification for Industrial Designs
1999-04-23	International Convention for the Protection of New Varieties of Plants
2001-12-10	Agreement on Trade-related Aspects of Intellectual Property Rights
2007-06-09	World Intellectual Property Organization Copyright Treaty
2007-06-09	World Intellectual Property Organization Performances and Phonograms Treaty
2014-07-09	Beijing Treaty on Audiovisual Performances
2021-10-23	Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled
2022-02-05	Hague Agreement Concerning the International Registration of Industrial Designs

## PART ONE

---

# Patent Legal System

## Establishment and Development of the Patent Legal System



## Main Characteristics of Patent Legal System



- Three kinds of patent:
  - invention, utility model, industrial design
- The first-to-file system, early publication and delayed substantive examination for inventions for invention
- The preliminary examination system for utility models and industrial designs
- Stipulate a system with Chinese characteristics such as the “dual-track” protection mode  
*judicial protection and administrative protection*



## The 4th amendment to Chinese patent law



- Introduce punitive damages compensation for intentional patent infringement
- Investigate and handle patent infringement with significant impact ( CNIPA )
- Introduce early settlement mechanism on the patent right associated with the pharmaceutical product applied for registration
- Compensate the term of the new pharmaceutical-related invention

## Patent Regulations and Departmental Rules



### Patent Administrative Regulations

<b>Implementing Regulations of the Patent Law</b>	Implemented on the same date as the Patent Law on April 1 <sup>st</sup> , 1985, and reissued after revision in 2001. Amended in 2010 in line with the amendment of the Patent Law.
	A new round of amendment is currently in progress.
<b>Regulations on Patent Agency</b>	Issued in 1991, amended in 2018

### Patent Departmental Rules

Measures for the Management of Patent Agencies, Measures for the Enforcement of Patent Administrative Law, Measures for Compulsory Licensing of Patent Implementation, etc.

## PART TWO

---

# Trademark Legal System

**The Trademark Law of the People's Republic of China came into effect on March 1, 1983.**

It stipulates the basic content of trademark legal system:

- Establish the legislative purpose of protecting the right to exclusive use of registered trademarks and protecting the interests of consumers;
- Stipulate a clear registration procedure;
- Stipulate a dual-track protection system of administrative protection and judicial protection.

## Trademark Regulations and Departmental Rules



### Trademark Administrative Regulations

**Implementing Regulations of the Trademark Law**

Issued in 2002, revised in 2014

### Trademark Departmental Rules

Provisions on Regulating Applications for Trademark Registration

Measures for the Registration and Administration of Collective Trademark and Certification Trademark, etc.

**6 Articles**

**1** Regulating bad-faith trademark registration and hoarding registration

**2** Increase punishment intensity for trademark right infringement

## PART THREE

---

### Geographical Indications Legal System

## Means of Legal Protection for Geographical Indications



01

Trademark Law System

02

Sui generis System



## Two Protection Modes



- Applying for registration of geographical indications as certification trademarks or collective trademarks to obtain legal protection

- 
- Departmental regulations
  - Regulations on Protection of Geographical Indication Products
  - Measures for Protection of Foreign Geographical Indication Products

## PART FOUR

---

### Legal System for Integrated Circuit of Layout Design

### Administrative Regulations

#### Regulations on the Protection of Integrated Circuit of Layout Design

Issued in April 2001, the system stipulates the exclusive right of integrated circuit of layout design and its legal liability regarding registration, performance and infringement.

### Departmental Rules

#### Rules for Implementing the Regulations on the Protection of Integrated Circuit of Layout Design

Issued in 2001

#### Administrative Law Enforcement Measures for Integrated Circuit of Layout Design

Issued in 2001

# Latest Legislation Development

**The latest amendment to the Implementing Regulations of the Patent Law**

- Improve the patent application system
- Improve the quality of patent examination
- Strengthen patent right protection
- Promote the exploitation and utilization of patents
- Add provisions on the international application for designs

### The new round of amendment to trademark law

- Serving high-quality economic development, optimizing the legislation structure
- Maintaining fair market order, strengthening the construction of creditability system, combating the bad-faith registration
- Improving the trademark registration and opposition procedures and streamlining the procedures
- Emphasizing the trademark use obligations
- Strengthening the protection of trademark rights especially well-known trademarks , strengthening the protection of trademark rights in the network environment, and adding the ways of dispute resolution
- Strengthening trademark management and regulating the abuse of rights.

## Latest Development in GI Legislation Construction



01

- Actively conducting in-depth research on special legislative protection on geographical indications

02

- Revising Regulations on Protection of Geographical Indication Products
- Measures for the Registration and Administration of Collective Trademark and Certification Trademark

**Thanks for listening!**