



China National Intellectual Property Administration

# The Administrative Protection and Judicial Protection of IPR in China

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Reexamination and Invalidation Department of the Patent Office, CNIPA

2023.10.20

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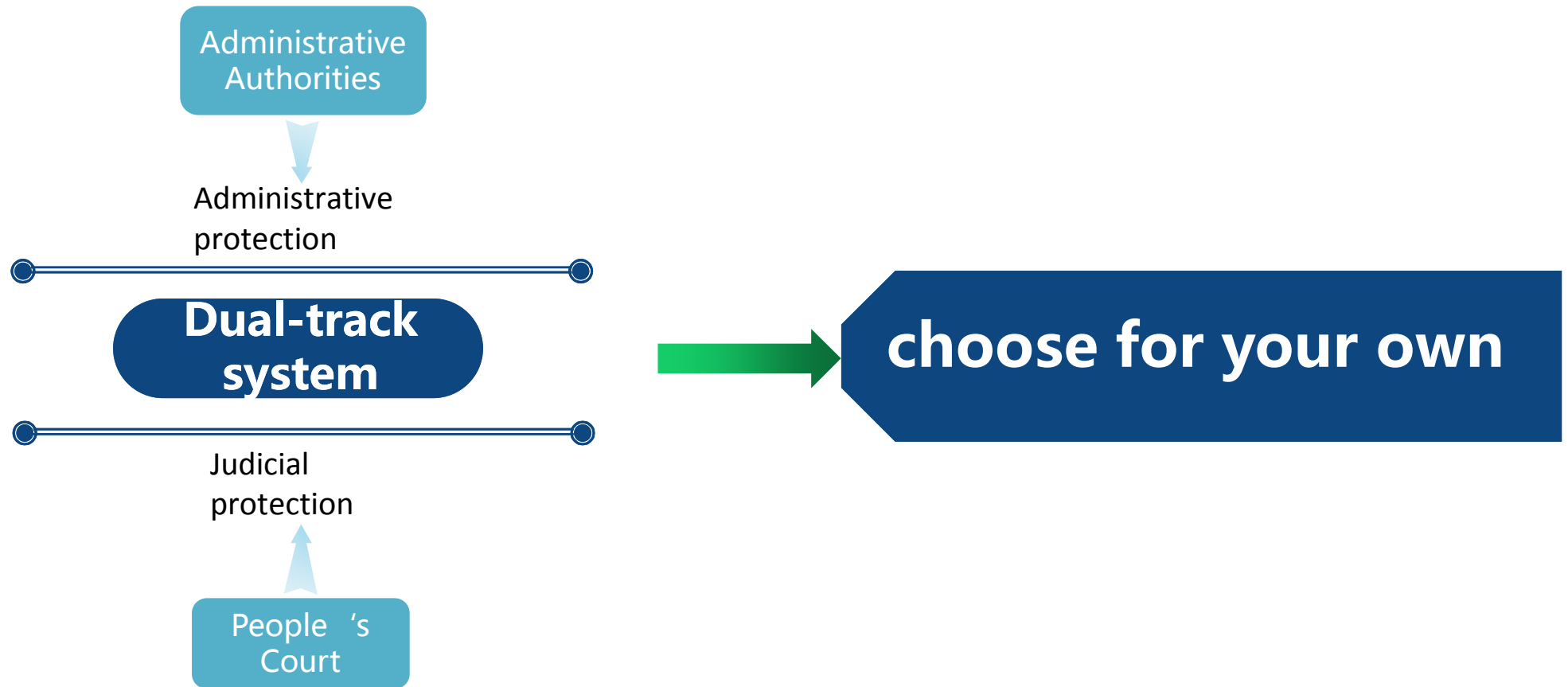
# Overview

# 1. Overview

**CHINA has always attached great importance to IPR protection, and exerted efforts to make the country strong in intellectual property. China has strengthened the legal protection of IPR, improved the IPR management system, strengthened IPR full-chain protection, and continued to improve the innovation and business environment .**

**Chinese President Xi Jinping  
Apr. 26 2023**

# 1. Overview



# 1. Overview

Clarify the responsibilities and competence and jurisdiction of administrative authorities and judicial organs, improve the mechanism of convergence between administrative and judicial protection of intellectual property rights, and ***form a synergy of protection.***

**Outline to Build China into a Strong IP Country(2021-2035)**

Strengthening the communication and sharing of information between judicial protection and administrative confirmation of rights, administrative law enforcement, mediation, arbitration, notary deposits, etc., promoting the unification of administrative law enforcement standards and judicial adjudication standards, and ***forming an organically connected and complementary operating mechanism.***

**National IPR Protection and Application Plan for the 14<sup>th</sup> Five-Year Plan Period**

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# Characteristics

## 2. Characteristics

### Administrative Protection

- ✓ Proactive
  - ✓ Simple
    - ✓ Low cost
      - ✓ Efficient
        - ✓ Professional
          - ✓ Judicial remedy





## 2. Characteristics

### Judicial protection

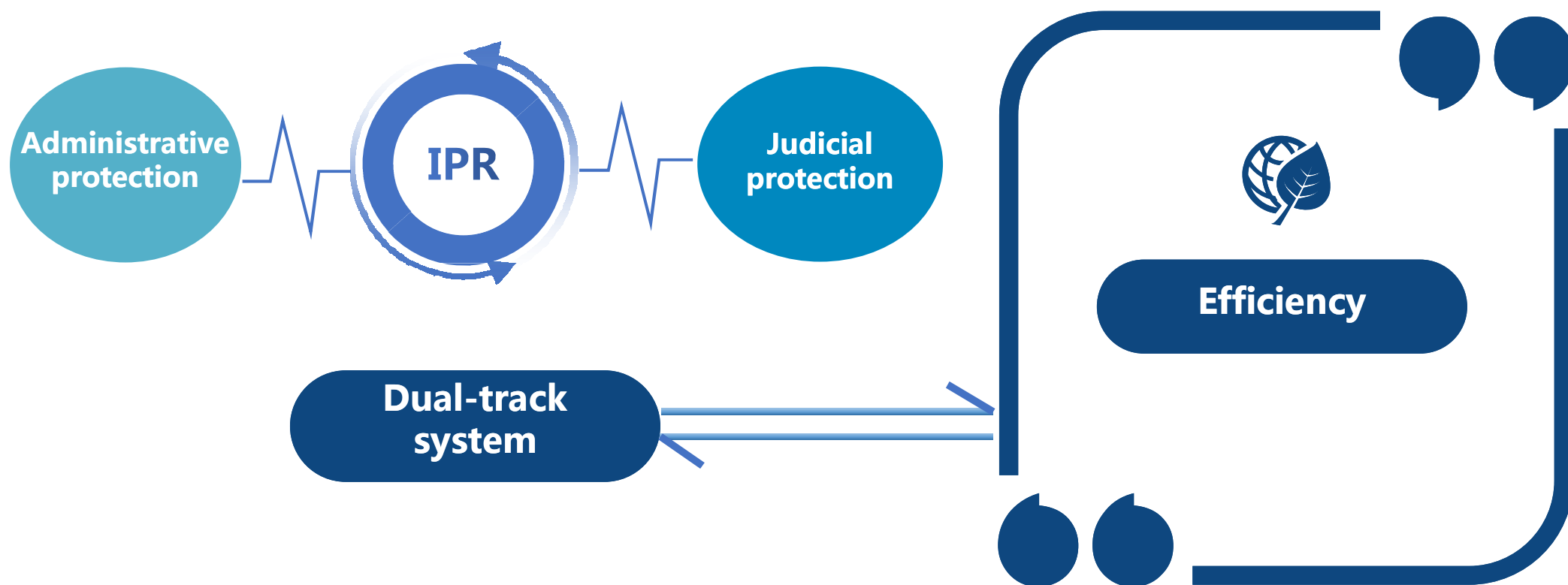
**Comprehensiveness**

**Diverse remedies**

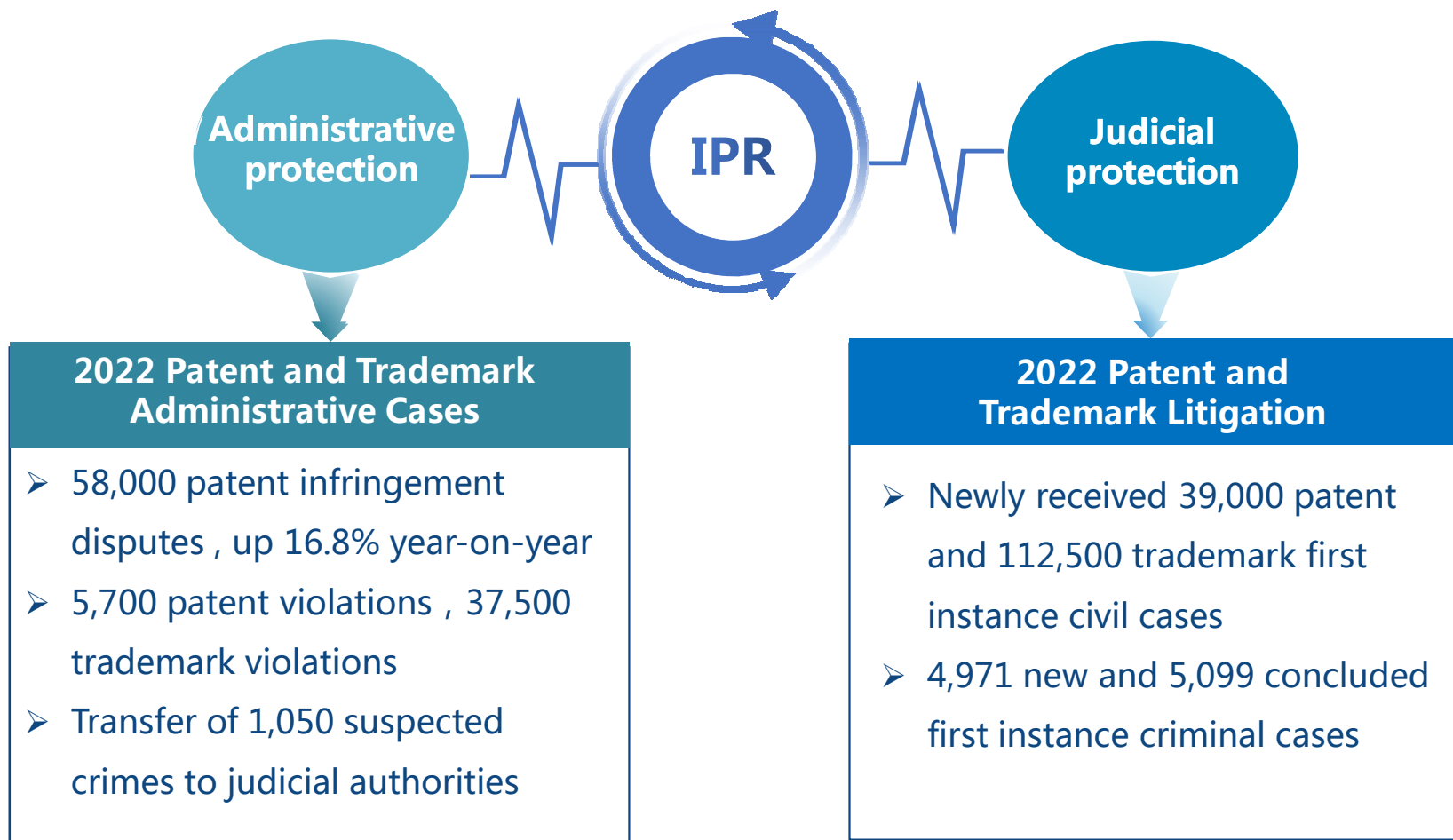
**Finality**



## 2. Characteristics



## 2. Characteristics



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# Efforts



## 3.Efforts



**Uniformity in standards**



**Exploring**



**Others**

## 3.Efforts

1

### Uniformity in standards



#### Criteria for fact-findings - Promoting uniformity of approach to the determination of professional and technical issues

- November 2022, CNIPA, the Supreme People's Court (SPC), the Supreme People's Procuratorate (SPP) and other departments issued a circular on "Opinions on Strengthening the Interface of Intellectual Property Authentication Work," which promotes the establishment of a platform for sharing intellectual property authentication information, and realizes the interconnection and interoperability of the administrative and judicial information related to intellectual property authentication.

# 3.Efforts

1

## Uniformity in standards



**Fact-finding standards, evidence-finding standards, law enforcement procedures, etc.**

February 2023, Opinions of the Supreme People's Court and CNIPA on Strengthening Collaborative Protection of Intellectual Property Rights.

### **Criteria for fact-findings - Strengthening professional and technical support**

- People's courts and IP administrative departments at all levels shall improve and make full use of the expert advisory pool and technical investigation talent pool already established by the two sides, strengthen cross-regional resource sharing, and promote the scientificization of the ways of identifying professional and technical issues in the administrative and judicial protection of intellectual property.
- Jointly promote the professionalization and standardization of intellectual property authentication institutions.

# 3.Efforts

1

## Uniformity in standards



### Criteria for fact-findings - Strengthening professional and technical support

May 2021, CNIPA issued the Several Provisions on the Participation of Technical Investigation Officers in the Handling of Administrative Decisions on Disputes over Infringement of Patents and Layout Designs of Integrated Circuits (Interim).

- CNIPA is responsible for building a national directory of technical investigators and selecting and managing technical investigators.
- Each local authority administering patent work may select and manage technical investigators within its jurisdiction.
- Local authorities administering patent work may apply for allocating technical investigators from the National Technical Investigator Directory Pool to participate in their administrative adjudication activities.

**Despatch of patent examiners from CNIPA to People's Court, local intellectual property courts or tribunals as technical investigators.**



## 3.Efforts

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Explore



### Judicial confirmation of the administrative mediation agreements

Article 65 of the Patent Law provides that at the request of the party concerned, the department in charge of patent-related work dealing with the dispute may carry out mediation concerning the amount of compensation for the patent right infringement.

- Outline (2021-2035): a judicial confirmation system should be explored.
- Since 2021, a number of provinces and cities in China have been carrying out pilot work.

## 3.Efforts

3

Others



### Alignment of procedures

- Article 65 of the Patent Law stipulates that the authority administering the patent work may apply to the People's Court for compulsory execution.
- Article 5 of the Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law to the Trial of Patent Dispute Cases (as amended in 2020): the people's court shall suspend the litigation.
- The Reexamination and Invalidation Department and the court carried out joint hearings of patent validation and infringement litigation in respect of the same patent case.

# Summary





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# Thanks !

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2023.10.20

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