



# Beijing RisingMark

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## In this issue

### ➤ **Guideline of IP Anti-Monopoly to be submitted to the State Council in the 1st half of the year**

The draft of “The State Council of P. R. China’s Guideline regarding Anti-monopoly in Abusive Use of IP Rights” was released to the public on the last day of 2015.

According to the officer of State Development and Reform Commission, the guideline is undergoing public opinions collection. Before this, opinions had been collected from domestic and international businesses, industrial associations, standardization organizations, lawyers, professionals and scholars respectively. At the same time of this online publication, the draft has also been forwarded to related international organizations and anti-monopoly enforcement organizations of major foreign countries and regions. After incorporating the adopted opinions, the guideline expects to be submitted to the State Council Anti-Monopoly Commission for approval within the first half of this year.

### ➤ **Invention Patent Applications in 2015 Exceeding 1M for the first time**

January 14, State Intellectual Property Office (SIPO) released invention patent statistics of 2015 at a press conference. Over 1.1 million invention patent applications have been received in 2015, which is up 18.75% from last year and tops in the world for the 5th consecutive year.

350,900 invention patents were granted in 2015, among which 263,000 come from mainland applicants, which is up 61.9% with 100,000 more pieces than 2014. By the end of 2015, there are 872,000 valid invention patents in mainland China (excluding Hong Kong, Taiwan and Macao). (Source: China IP News)

### ➤ **34,000 IP Infringement Cases handled by AICs Last Year**

State Administration for Industry and Commerce (SAIC) recently mentioned to the media an uptrend of IP infringement and misleading cases in 2015. Last year alone, AICs at various levels handled 34,000 IP infringement cases and 20,700 misleading cases involving false advertisement, false promotion and false indication.

In addition, 5.3% of the unfair competition cases in 2015 were conducted through Internet. (Source: SIPO)

## Cases in Spotlight

### ➤ **Sogou Sued Baidu for Input Method Patent Infringement claiming 260 million Yuan Indemnity**

IP related dispute is commonly found in “battles” in the Internet market. In October 2015, Sogou sued Baidu for infringement of its 17 input method patents and claimed a damage of 260 million yuan, which has broken the indemnity amount records of China patent litigation.

As one of the pioneers in input method software market, Sohu Company released Sogou input method product back in 2006, which has gained substantial popularity among the public ever since. Sogou was later spun off from Sohu in 2010, with Sogou input as one of their trump products. It was in the same year when Baidu launched Baidu Input and tapped into this market officially.

In October 2015, Sogou initiated a lawsuit before Beijing IP Court, accusing Baidu of infringing 8 of its patents and claimed for 80 million yuan as indemnity. Later in November, Sogou filed more suits respectively at Beijing IP Court, Shanghai IP Court and Shanghai Higher People’s Court respectively accusing Baidu of infringing another 9 patents of theirs and claimed for 180 million yuan as indemnity.

According to industry insiders, Sogou started in input method development earlier and with more patents in this area, therefore, it’s with obvious technology advantages. Although Baidu started its development in input method later, its patent application numbers in this field grow at very significant speed in the recent two years.

#### **Observation:**

The fight between Sogou and Baidu in the input method market derives from the huge market potential in input method software. Besides browsers and real time communication software, input method is one of the most used software by China Internet users. More and more Internet businesses enter the input method market, so as to develop user dependency and loyalty and thus to expand the customer base. Due to the knowledge industry nature of the Internet market, IP becomes one of the most important weapons among the internet businesses.

### ➤ **Gualcomm fined for 60.8 billion yuan for monopoly**

February 10, 2015 National Development and Reform Commission of P. R. China (NDRC) issued the biggest fine ticket ever in China anti-monopoly history – 60.8 billion yuan, to US Qualcomm company for its monopoly behaviors.

Established in July 1985, Qualcomm is a US-based wireless communication technology research and design company, and it leads the global patent licensing market as the largest wireless communication microchips manufacturer. Its CDMA technology is world famous with thousands CDMA and other related technology patents registrations and applications, quite a few of them are adopted by global standardization organizations as standards or suggestions.

July 2013, a report was submitted to NDRC accusing Qualcomm of suspected monopoly in pricing by taking advantage of its leading position in wireless patent standards, essential patent markets and cellphone microchips market, which include behaviors such as unfair over pricing, discriminative pricing and affixing unfair conditions.

February 10, 2015, NDRC announced Qualcomm as abusing its market dominant position to exclude and limit competitions and constitutes monopoly. Qualcomm was demanded to readjust its operations and pay for 8% of its 2013 sales revenue in China, which is equivalent to 60.8 billion yuan.

Qualcomm didn't oppose to the NDRC's decision; and they agreed to pay the fine on time without intent to seek further legal proceeding.

**Observation:**

Standard-Essential Patent (SEP) is the most powerful weapon among all the patents. Combined with the industry standards, SEP right owner can take a prominent market position. However, if the right owner abuses this leading advantage for unfair over pricing, discriminative pricing and affixing unfair conditions in their patent licensing and assignment practices, they will hinder innovation and bring upon damage to the social public interests. Therefore, SEP right owners shall be restrained by fair, reasonable and non-discriminative principles. The fine thrown on Qualcomm by NDRC has created a big impact in the industry and set a warning line for all SEP right owners.

### ➤ **2013 China Symposium on new technology of biological feed**

On April 17, 2013, Li Ji and Zhang Yufeng, the company's intellectual property consultants, went to Chengdu to attend the 2013 China Biofeed New Technology Seminar and gave a keynote report entitled "Problems and Key Points in Patent Application for Biofeed". The report focuses on some key issues of patent protection and application in the field of bio-feed, and extensively discusses and exchanges with participants.