



上海知识产权法院

Shanghai Intellectual Property Court's

知识产权司法保护状况

Judicial Protection Conditions for Intellectual Property

(2015-2019)

2020.4

上海知识产权法院

知识产权司法保护状况（2015-2019）

知识产权保护是激励创新的基本手段，是创新原动力的基本保障，是国际竞争力的核心要素。2014年12月28日，上海知识产权法院成立，这是上海知识产权保护和深化司法改革的重要举措。五年来，在上海市委的领导下，在市人大及其常委会的监督下，在上级法院的指导下，上海知识产权法院坚持保护知识产权就是保护创新的理念，明确发展定位，认真履行职能，主动服务大局，深化改革创新，努力当好司法改革排头兵、创新发展先行者，不断提高知识产权司法保护水平，积累了知识产权法院改革发展的宝贵经验，形成了知识产权司法保护的上海“品牌”，提升了知识产权司法保护形象和国际影响力，为上海建设具有全球影响力的科技创新中心和建设法治化营商环境提供了优质高效的司法服务和保障。

一、知识产权审判职能作用充分发挥

（一）收案情况

2015-2019年，上海知识产权法院认真履行审判职能，共受理各类知识产权案件10111件，收案数逐年上升，年均增长率为11.05%，尤其是2019年收案数同比增长20.75%。其中，受理民事一审案件5133件，民事二审案件4700件，行政一、二审案件16件，诉前保全案件134件，其他案件128件。（见图1）

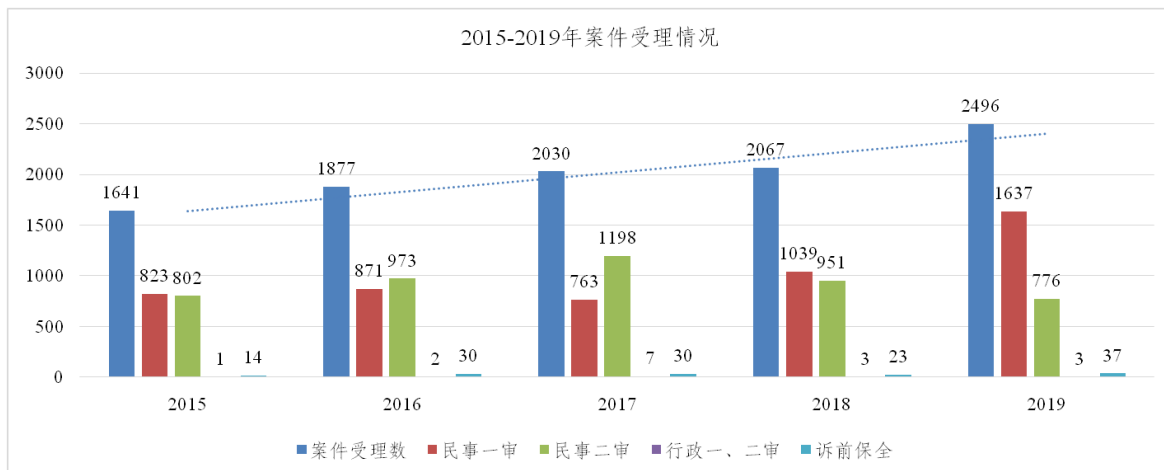


图 1

在受理的全部案件中，收案数位居前五位的案件分别是：著作权纠纷案件 3191 件（不包括计算机软件著作权），占 31.56%，专利权纠纷案件 3166 件，占 31.31%，计算机软件著作权纠纷案件 1750 件，占 17.31%，商标权纠纷案件 990 件，占 9.79%，不正当竞争纠纷案件 373 件，占 3.69%。另外还有特许经营合同纠纷案件 357 件，技术合同纠纷案件 86 件，垄断案件 15 件，其他案件 183 件。（见图 2）

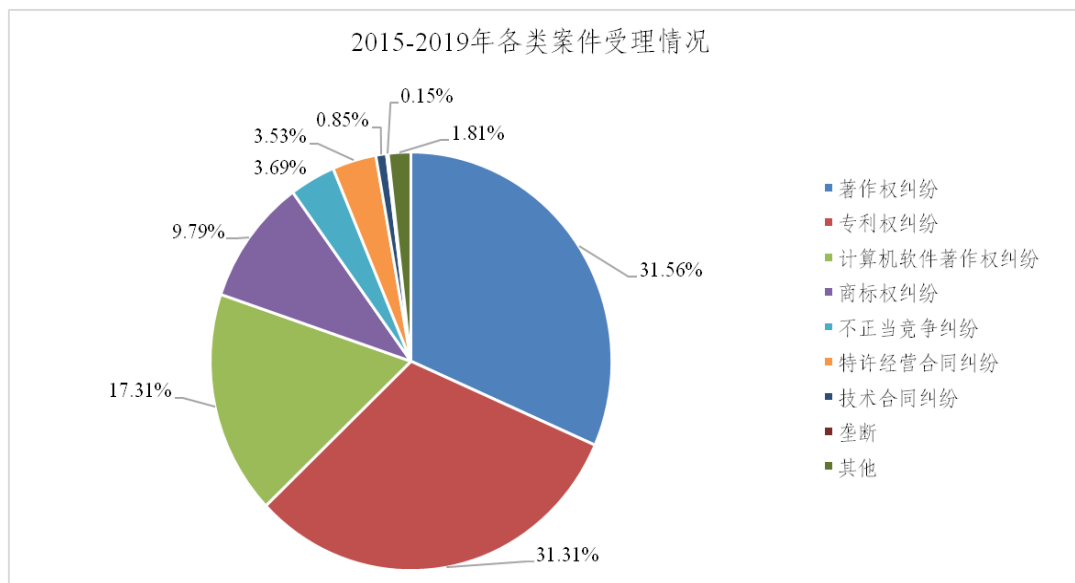


图 2

在受理的一审案件中，专利、计算机软件、技术秘密、集成电路布图设计纠纷等技术类案件共 4994 件，占一审案件数的 97.29%，这些案件大多涉及软件开发、技术研发、成果转移以及产业化等科技创新中的利益分配、成果归属、权益保护等问题。（见图 3）

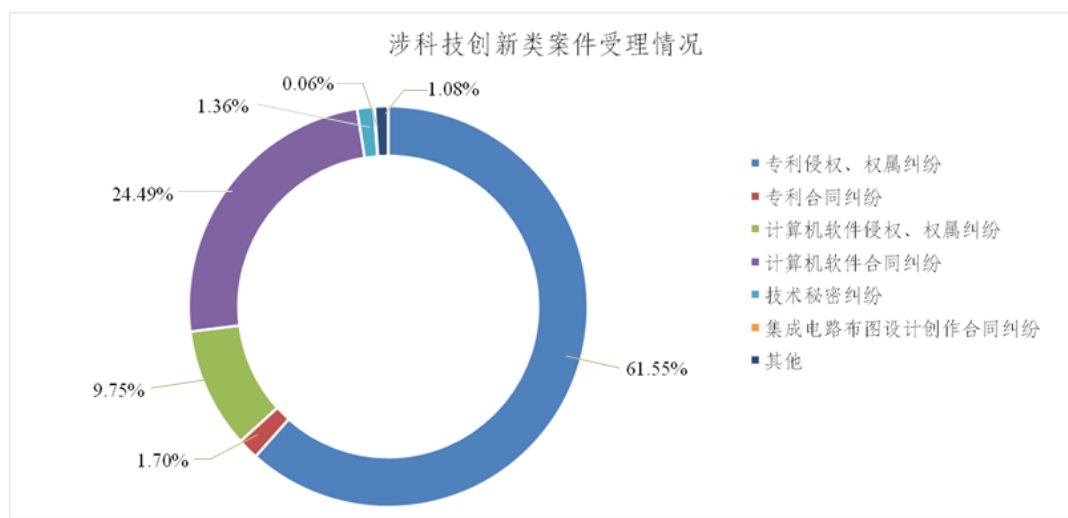


图 3

从受理案件的诉讼标的额来看，诉讼标的额超过 100 万元的案件共 758 件，占收案总数的 7.49%，其中有 158 件案件的诉讼标的额超过 1000 万元。诉讼标的额最大的是红五新加坡私人公司诉联系公司、齐飞公司等著作权许可使用合同纠纷案，诉讼标的额达 10 亿元。

从受理的涉外、涉港澳台案件来看，涉外（当事人注册地在国外）案件 1069 件，涉港澳台案件 234 件，两者共占案件总数的 12.98%。涉外案件当事人主要涉及美国、德国、日本、韩国、法国、瑞典、瑞士、芬兰、意大利等国家。（见图 4）

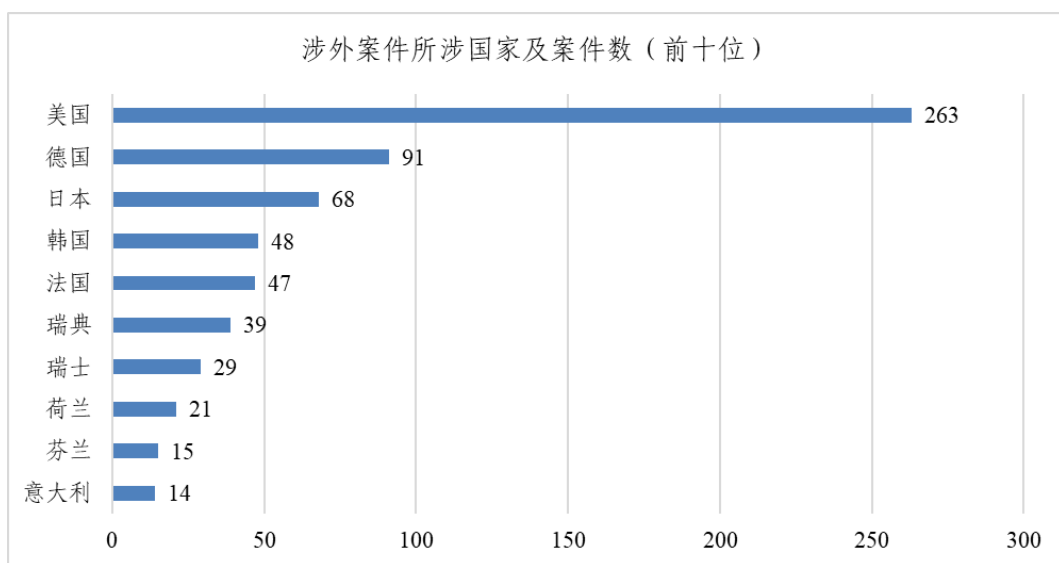


图 4

（二）结案情况

2015-2019 年，上海知识产权法院共审结各类案件 9177 件，年均增长率为 19.78%，基本实现案件收结良性循环。（见图 5）

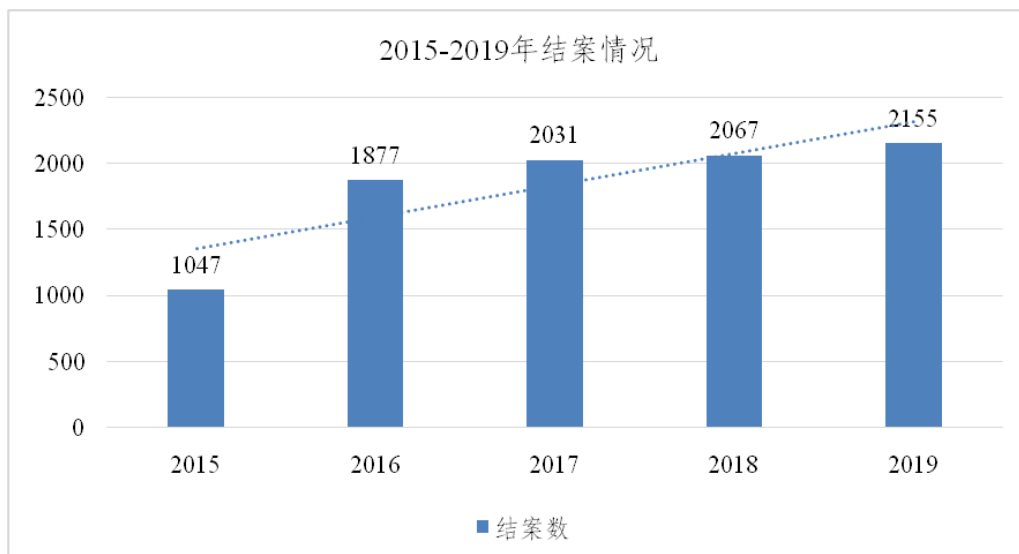


图 5

在审结的案件中，以调解、撤诉方式结案的案件共 3398 件，占结案总数的 37.03%，既有效化解知识产权纠纷，又通过调解和当事人和解促进知识产权市场价值的充分实现。

——五年来，上海知识产权法院审结了一批新类型案件。例如，DNA 吉诺特克公司与上海人类基因组研究中心等涉人类基因测试技术的侵害发明专利权纠纷案、麦迪韦逊医疗公司与桂林南药公司等涉药品实验和仿制药的侵害发明专利权纠纷案、丰科生物公司与鸿滨禾盛农业技术公司涉微生物基因专利技术的侵害发明专利权纠纷案、胡某与摩拜公司涉摩拜单车锁控制系统的侵害发明专利权纠纷案等。这些案件涉及新技术、新产业。又如，耀宇公司与斗鱼公司涉全国首例电子竞技游戏赛事网络直播著作权侵权及不正当竞争纠纷案、爱奇艺公司与飞益公司等涉全国首例视频刷量行为构成虚假宣传纠纷案、爱奇艺公司与聚网视公司涉全国首例视频聚合盗链绕开片前广告行为构成不正当竞争纠纷案、武汉汉阳光明公司与韩泰轮胎公司涉全国首例被告同时实施纵向垄断协议和滥用市场支配地位纠纷案、搜狗公司与爱奇艺公司涉输入法中加载“搜索候选”功能的不正当竞争纠纷案、载和公司与天猫公司涉在网页中插入标识和按钮引导交易的软件干扰行为的不正当竞争纠纷案等。这些案件涉及新商业模式、新业态。

——五年来，上海知识产权法院审结了一批有较大社会影响的案件。例如，涉“葫芦娃”“黑猫警长”“阿凡提”等角色形象著作权权属、侵权纠纷案、涉迪士尼《赛车总动员》系列动画电影及动画形象著作权侵权及不正当竞争纠纷案、涉“鬼吹灯”系列小说改编游戏著作权侵权及不正当竞争纠纷案、涉网络游戏“传奇”著作权侵权及不正当竞争纠纷案、涉微软操作系统和软件的计算机软件著作权侵权纠纷案、涉“拉菲”未注册驰名商标

认定及商标侵权纠纷案、涉恶意抢注“巴黎贝甜”商标侵权纠纷案、涉老字号“吴良材”商标侵权及不正当竞争纠纷案、涉“滴露”商标侵权纠纷案、涉“GUCCI”商标合理使用认定及不正当竞争纠纷案、涉“宝马”系列驰名商标权侵权及不正当竞争纠纷案、涉“星巴克”随行杯外观设计专利权侵权纠纷案、涉沃尔沃汽车配件外观设计专利权侵权纠纷案等。这些案件涉及知名作品、知名品牌、知名企业等。

——五年来，上海知识产权法院审结了一批确立裁判规则的**典型案例**。例如，在壮游公司与硕星公司涉“奇迹 MU”网络游戏著作权侵权及不正当竞争纠纷案中，首次认定涉案游戏整体画面构成类电影作品并构成侵权；在晨光公司与得力集团涉“笔”外观设计专利侵权纠纷案中，明确“整体观察，综合判断”原则在外观设计专利侵权案件中的具体运用；在开德阜公司与阔盛公司侵害商标权及虚假宣传纠纷案中，明确经营者为说明品牌代理销售商的变化，在善意、合理的限度内使用他人注册商标，属于商标正当使用，不构成商标侵权；在梵华公司与美旋公司等著作权侵权纠纷案中，明确了实用艺术品作为美术作品受到著作权法保护的条件以及从平面到立体的复制问题；在费希尔公司与东方教具公司涉慧鱼组合玩具模型作品著作权侵权及不正当竞争纠纷案中，认定搭建式积木玩具构成模型作品，并认定采用相同方式生产、销售模型组件的行为构成侵权；在潘某与上海国拍公司涉上海非营利性客车额度拍卖的滥用市场支配地位纠纷案中，认定拍卖服务系政府职能部门调控和管理公共资源的方式，不构成反垄断法意义上的可以竞争的商品或者服务市场，不属于反垄断

法调整范畴等。

二、服务保障国家战略和上海工作大局积极有为

建院以来，上海知识产权法院紧紧围绕实施国家知识产权战略和创新驱动发展战略，紧紧围绕上海实施“三项新的重大任务”、打造“四大品牌”和建设“五个中心”，围绕上海建设具有国际先进水平的知识产权保护高地和亚太地区知识产权中心城市，主动作为，找准法院工作与服务大局的结合点和着力点，把法院工作放在大局中谋划和推进，把司法职能延伸到上海中心工作之中。

一是出台五个“意见”。主动对接上海市委确定的重点工作，出台服务保障科创中心建设 26 条意见、服务保障国际贸易中心建设 12 条意见、服务保障营商环境建设 25 条意见、服务保障进口博览会举办 15 条意见、服务保障自贸区新片区和营商环境进一步优化 18 条意见，从加大知识产权保护力度、创新司法保护机制、延伸司法保护职能等方面提出了具体的举措，着力营造有利于促进科技创新的法治环境和营商环境。

二是设立一个“基地”。最高人民法院知识产权司法保障科技创新研究（上海）基地在上海知识产权法院设立，通过开展调研和研讨活动，及时研判涉及科技创新知识产权保护问题。自设立以来，已先后举办科技创新形势下职务发明法律问题研讨会、科技创新与商业秘密司法保护研讨会、新时代知识产权惩罚性赔偿制度研讨会等，每季度编撰《司法保障科技创新研究与参考》，有效发挥了基地的智库作用。

三是设立两个“专项审判团队”。设立涉自贸区知识产权案件专项审判团队和涉进博会案件专项审判团队，实行案件集中审

理，确保专业高效。同时，通过走访、座谈、调研等方式，深度分析涉自贸区知识产权案件和涉展会知识产权案件特点、在知识产权保护方面存在的普遍性问题并提出建议，进一步提升保护的针对性和有效性。共受理涉自贸区知识产权案件 1128 件，审结 1014 件，发布涉自贸区知识产权案件审判情况白皮书。在首届进博会召开前夕，形成《加强展会知识产权保护促进会展业健康发展》调查报告，被评为 2018 年人民法院十大调研报告。

四是设立两个“法官工作室”。立足服务全市科技创新产业发展，设立“全国审判业务专家陈惠珍法官工作室”；立足服务上海自贸试验区发展和浦东新区改革开放再出发，设立“凌崧法官工作室”。定期深入科创园区开展调研和法制宣传，促进创新创业企业尤其是中小微科创企业知识产权保护意识和能力的提升。五年来，“法官工作室”先后走访科创园区、开展专题讲座等活动共计 42 次，累计有 1600 余名企业代表参加了各类活动，“法官工作室”已经成为法院了解和回应科创企业知识产权司法保护需求的重要窗口。

三、知识产权专业化审判体系有效运行

建院以来，上海知识产权法院深入贯彻中央《关于加强知识产权审判领域改革创新若干问题的意见》和《关于强化知识产权保护的意见》精神，深入推进知识产权审判体制机制改革创新，促进知识产权审判体系和审判能力现代化。

（一）发挥知识产权诉讼制度效能，让权利得到及时有效保护

1. 充分运用临时措施。在引导当事人积极举证的基础上，形

成“法官+执行人员+技术专家”的诉讼保全新模式，提升保全效率效果，共实施各类保全 1036 件。例如，在欧特克公司申请的诉前证据保全案中，充分运用“审执联动、专家参与”的工作机制，成功对 400 台计算机中被控侵权软件进行保全；在亚拓士公司申请的诉前行为保全案中，鉴于两被申请人履行授权许可合同后可能会对共同著作权人的权利造成难以弥补的损害，依法裁定两被申请人立即停止履行合同；在鸿研公司起诉的侵害发明专利权纠纷案件中，裁定实施了诉中行为保全，将正在展会上展出的两款被控侵权产品予以下架。

2. 减轻权利人举证负担。对于当事人确因客观原因无法自行收集证据的，向其委托的律师签发法院调查令或者依职权调取证据，共签发调查令 160 余份。针对侵权获利证据由侵权人掌握，权利人无法获得，且侵权人无正当理由拒不提交的，运用证据出示令责令侵权人提交，否则依法作出不利于侵权人的事实推定。例如，在兄弟工业株式会社起诉的侵害发明专利权纠纷案中，法院依申请向国税局调取了相关销售发票，并以此为基础判令被告赔偿 100 万元；在点点乐公司起诉的侵害商标权及不正当竞争纠纷案中，法院出具证据出示令，责令被告提交营收相关证据，因被告拒不配合，遂参考原告的主张和证据，将判赔金额从一审的 20 万元提高至 300 万元。

3. 完善技术事实查明机制。针对知识产权案件技术性、专业性强的特点，建立了技术调查、技术咨询、专家陪审和技术鉴定“四位一体”的技术事实调查认定体系，为快速有效查明案件事实提供技术支撑。根据案件实际情况，选择适用合适的技术事实

查明方式。充分发挥技术调查官的作用，制定出台《技术调查官参与诉讼活动工作规则》等多项规范，为技术调查官履职提供制度保障。针对技术鉴定周期长的问题，建立鉴定周期满 45 天提示、60 天催告制度，并落实质量反馈，促进司法鉴定效率效果提升。五年来，技术调查官共出庭 461 次，出具技术审查意见书和咨询意见书 102 份，完成技术咨询、参加证据保全、现场勘验等 1064 余件次；专家提供咨询 96 次；专家陪审员参与审理案件 224 件；委托技术鉴定案件 49 件。

4. 引入先行判决机制。针对知识产权案件审理耗时长的问題，引入先行判决机制。对于侵权性质可以判定，而其他事实尚需进一步审理的案件，先行判决停止侵权行为，提升司法救济的实效性。例如，在瓦莱奥清洗系统公司起诉的侵害发明专利权纠纷案中，原告认为被告的侵权行为在案件审理过程中仍在持续，影响了原告的市场业务，请求法院先行判令被告停止侵权行为。合议庭组织双方当事人对案件技术事实进行了充分的举证、质证、辩论，并由专家陪审员和技术调查官一同对涉案侵权产品进行勘验，最终认定被诉侵权产品落入原告享有的专利权保护范围，遂一审作出先行判决，判令被告立即停止对涉案发明专利权的侵害。被告提起上诉后，该起二审案件系最高人民法院知识产权法庭开庭第一案，法庭当庭宣判维持原审判决，充分体现了机制创新对提升知识产权司法保护效率上的促进作用。

5. 制裁妨碍诉讼行为。对当事人无正当理由拒不提交或者故意毁灭证据、提交虚假证据等妨碍诉讼的行为处以罚款、拘留等制裁措施，并依法采信申请人所主张的事实。例如，在脱普公司

起诉的侵害商标权纠纷案中，作为销售商的被告称有合法来源证据，但经一审法院多次释明仍不予提交，二审中其提交了相关证据且最终导致一审被部分改判。合议庭认定被告因重大过失逾期提交证据，妨碍了民事诉讼活动的有序进行，对其作出罚款的民事制裁。在宏邦公司起诉的侵害实用新型专利权纠纷案中，因被告擅自拆解移动被司法查封的证据并致毁损，法院依法对被告单位负责人作出罚款的民事制裁。

（二）完善侵权损害责任认定规则，让权利价值得到充分体现

1. 对严重侵权行为加大苛责力度。对于属于源头侵权、重复侵权、规模化侵权以及其他严重侵权情节的，综合考虑行为危害性和主观恶意程度，依法从高确定赔偿数额，提高侵权行为人的违法成本，有效威慑和遏制知识产权侵权行为。例如，在马格内梯克公司提起上诉的侵害商业秘密纠纷案中，因被上诉人系侵权行为发生的源头，我院对一审判令侵权人赔偿经济损失 300 万元予以维持；在霍尼韦尔公司提起上诉的侵害商标权纠纷案中，我院综合考虑被告生产商的地位、侵权持续时间、曾多次受到行政处罚的事实、侵权行为对消费者的生命财产安全可能造成的影响以及权利商标的知名度等因素，在一审法院判令被告赔偿 8 万元基础上提高赔偿额至 30 万元；在德国雨果博斯公司起诉的侵害商标权及不正当竞争纠纷案中，我院综合考虑被告销售规模、侵权时间以及虚构品牌历史进行虚假宣传等因素，判令被告赔偿 492 万元，并针对被告股东通过注册多个公司实施侵权的事实，判令其承担共同侵权责任。

2. 确定与侵权情节相适应的损害赔偿数额。以实现知识产权市场价值为指引，充分考虑侵权人的法律地位，侵权行为的性质、时间、后果，以及知识产权知名度、贡献度等市场价值因素，酌情确定符合权利人市场预期、与侵权情节相适应的侵权损害赔偿数额。同时，充分发挥行业协会、中介机构在知识产权价值评估中的作用，使确定的赔偿数额更加符合知识产权的市场价值，有力保护权利人的合法权益。例如，在宝马公司起诉的侵害商标权及不正当竞争纠纷案中，综合考虑侵权人针对宝马系列驰名商标实施了体系化、立体化、全方位的模仿行为，全额支持了宝马公司要求侵权人赔偿 300 万元的诉讼请求；在本田技研工业株式会社起诉的侵害发明专利权纠纷案中，根据会计师事务所对被控侵权产品销售情况的审计意见确定被告的侵权获利，判赔 240 万元。

3. 在法定赔偿限额以上依法酌情确定赔偿数额。对于难以证明侵权损失或者侵权获利的具体数额，但能够查明原告实际损失已超过法定最高赔偿额的，结合案件具体情节在法定最高赔偿额以上酌定赔偿数额。例如，在达索公司起诉的侵害计算机软件著作权纠纷案中，综合全案证据情况，考虑原、被告提交的销售合同软件单价以及被告被行政处罚后仍扩大规模使用侵权软件等因素，判赔 900 万元；在 SAP 公司起诉的侵害计算机软件著作权纠纷案中，综合考虑两被告侵权行为的性质、持续时间、收取培训费价格，并参考原告向合作伙伴收取特许权使用费的比例等，在法定赔偿限额以上依法酌情确定赔偿数额 155 万元。

4. 依法支持权利人合理维权费用。全面支持权利人维权的律师费、公证费等合理支出费用，使其与知识产权法律服务的市场

价格相协调。在佳能株式会社起诉的侵害发明专利权纠纷案中，鉴于原告为其主张的公证费、律师费等合理费用提供了相应的证据，结合律师的工作量及工作内容被法院采纳的程度，全额支持了原告为制止侵权行为所支出的合理费用 14 万元。

（三）创新智能化集约化诉讼服务，让人民群众有更多获得感和满意度

1. 完善多元化纠纷解决机制。与软件行业协会、生物医药行业协会、工商联人民调解委员会等 14 家专业调解组织和行业协会建立合作机制，推进诉前、诉中委托调解，并引入调解员定期驻院开展调解工作，加大宣传力度引导当事人更多选择诉前调解，促进了纠纷有效分流，为人民群众提供了更多可供选择的纠纷解决方式和更加优质的司法服务。经双方当事人同意进入诉前调解的案件 471 件，调解成功 133 件，诉前调解成功率达到 28.24%；经双方当事人同意进入诉中委托调解的案件 724 件，调解成功 279 件，调解成功率达到 38.54%。在一起侵害专利权纠纷案中，我院尝试附条件调解并获双方同意，即若国家知识产权局就被告提出的无效宣告请求作出维持专利权的决定，则被告停止侵权并向原告支付款项，否则原告不再向被告主张权利，从而解决了专利确权程序时间长导致案件审理周期长的问题，亦维护了当事人的合法权益。在一起涉及在 KTV 场所内播放音乐电视侵害作品放映权纠纷案中，经法庭调解，双方不仅握手言和，还签订了授权许可协议，由诉讼转为合作、侵权变为授权，取得了案结事了、合作双赢的良好效果。

2. 建立“一站式”高效诉讼服务机制。严格落实立案登记制，

首创立案清单制度，大力推进网上立案、跨域立案，更好为当事人提供立案便利，保障基本的诉讼权利。依托上海法院律师服务平台，建立律师远程查阅案卷机制，解决了律师对在审案件阅卷难、异地阅卷难和多位律师同时阅卷难的问题。与上海市律师协会和有关高校合作，建立法律志愿者服务机制，为诉讼能力欠缺的当事人提供引导和咨询服务，同时通过律师的接待咨询解答部分当事人的诉讼困惑，促进矛盾化解。建立社会化送达和材料收转机制，邮政专递驻场提供文书收寄服务，邮政送达占 96%；在邮政无法送达的情况下，建立委托公证送达机制，有效提高送达成功率，并对无法送达的情况进行公证保全，有效缓解了“送达难”。

3. 建立智能化审判新模式。全面推进电子卷宗随案同步生成和深度应用，与审判智能辅助深度融合，初步实现全流程网上办案。全面推进互联网审判，进行网上庭前会议、网上调解、网上庭审，实现与最高人民法院知识产权法庭连线远程庭审和远程示证，既减少当事人往来奔波，更提升了诉讼便利性和经济性。通过互联网远程视频方式听证、开庭、调解的案件有 256 件。庭审记录运用音字转换，庭审笔录采用电子签名，在提升庭审效率的同时，确保了庭审的完整性和流畅度，保障当事人诉权。在立案环节实现诉讼材料的电子送达，阅卷环节实现电子卷宗浏览、批注、文字识别，在庭审举证、质证环节实现无纸化示证，在文书撰写环节实现裁判文书智能辅助生成，关联案件、法条、类案智能检索推送等，初步实现办案智能化，提升了办案效率。建成知识产权审判大数据平台，为激励保护创新和审判管理决策提供数

据支持。

四、知识产权司法保护权威性影响力日益提升

（一）精品战略赢得司法公信

通过实施精品战略，培育打造了一批精品案例、优秀文书和示范庭审。五年来，有 5 件案例入选《最高人民法院公报》，12 件案件入选最高人民法院公布的中国法院十大知识产权案件和 50 件典型知识产权案例，还有 70 余件案件入选上海法院知识产权保护十大案件、上海法院精品案例、典型案例等。先后公布典型案例 100 余件，公开出版《知识产权司法保护前沿》2 辑和《上海知识产权法院裁判文书精选（中英文版）》2 辑，明晰裁判规则，树立司法权威，赢得司法公信。

（二）法治宣传展示保护成效

贯彻“谁执法谁普法”要求，突出宣传主题，创新宣传形式，彰显保护成效。每年发布知识产权审判白皮书，开展集中宣判、巡回开庭、法律宣讲、普法进校园、公众开放日等活动。打通全媒体宣传渠道，充分利用报刊、广播、电视、网站和移动新媒体，全方位宣传知识产权法院改革发展成效，宣传破解知识产权保护“三大难题”成效、技术调查官制度运行、聚焦建设国际一流知识产权法院、提升国际影响力等。

（三）国际交流发出中国声音

依托中国法院知识产权司法保护国际交流（上海）基地积极开展国际交流，共有 50 多批 700 余人次国际组织、外国和港澳台地区专业人士来院访问交流；选派法官参加国际会议或者学术交流活动，为上海国际知识产权学院等涉外知识产权培训项目进

行授课，充分展示中国法院加强知识产权保护成效。上海知识产权法院的公正高效审判得到了国际组织、跨国企业的普遍赞誉。国际商标协会、美中贸易全国委员会、日本贸易振兴机构、商业软件联盟等表示，上海是最受青睐的诉讼首选地之一，上海知识产权法院的公正判决坚定了其对中国知识产权保护的信心。法国拉菲罗斯柴尔德酒庄总裁在案件判决后专程来沪对上海知识产权法院公正审判、依法保护外国投资者和外国品牌表示感谢；沃尔沃公司授权代表在参加案件宣判后称赞上海知识产权法院“建中国高效司法环境，树全球模范保护典型”。

（四）专业打造提升审判能力

结合知识产权审判工作需要，打造一支政治坚定、顾全大局、精通法律、熟悉技术，具有国际视野的专家型、复合型的知识产权审判队伍。依托“名人讲堂”“三味学社”“英语学习园地”等学习品牌，开展论坛、讲座、沙龙等活动，定期开展审判业务知识学习和专题研讨。紧紧围绕司法改革、服务大局和审判实践，先后完成“知识产权审判领域改革与创新”“知识产权审判服务保障上海科创中心建设的路径思考”等调研课题近40个，在《人民司法》《法律适用》等刊物公开发表文章近200篇。组建特邀知识产权咨询专家库、特邀科学技术咨询专家库，形成了为审判工作和改革发展提供咨询服务的“智囊团”。

五年来，上海知识产权法院培树了一批先进集体和个人，知识产权综合审判第一庭被评为全国法院知识产权审判工作先进集体，知识产权综合审判第一庭、综合审判第二庭先后荣立上海法院集体一等功，有30多次立功受奖，并涌现了国家知识产

权专家库专家、全国法院办案标兵、全国法院知识产权审判先进个人、上海市三八红旗手、邹碧华式的好法官、上海法院十佳青年等先进人物。

2019年4月，上海知识产权法院发布了《关于深化改革创新建设国际一流知识产权法院的实施意见（2019-2021）》，确立了发展目标、工作思路和具体路径，着力打造知识产权公正专业审判高地、审判机制创新高地、司法智能运用高地、司法开放发展高地和审判人才建设高地。上海知识产权法院将在新的起点上，以习近平新时代中国特色社会主义思想为指导，始终坚持公正司法、司法为民，继续深化知识产权审判改革创新，更好发挥知识产权审判职能作用，努力建设国际一流知识产权法院，为建设知识产权强国和世界科技强国提供有力司法服务和保障。

Shanghai IP Court Judicial Protection Conditions for Intellectual Property (2015-2019)

Intellectual property protection is a basic means of encouraging innovation, a fundamental guarantee of creating essentials and a core element of international competitiveness. On December 28, 2014, Shanghai IP Court was founded for the purpose of implementing intellectual property protection and deepening the judicial reform. In the past five years, under the leadership of the CPC Shanghai Municipal Committee, the supervision of the People's Congress of Shanghai Municipality and the instruction of superior courts, Shanghai IP Court adhered to the concept that "to protect innovation, one must protect intellectual property rights", laid down a clear direction of development, seriously fulfilled its functions, served the overall interests, deepened the reform and innovation and played an active and leading role in the judicial reform and innovative development. During this period, the No. 3 Court continuously improved its capability for judicial protection of intellectual property rights, accumulated precious experiences in the reform and development as an IP court, built up the Shanghai "brand" in judicial protection of intellectual property

rights, enhanced its image and international influence in judicial protection of intellectual property rights and provided high-quality and high-efficiency judicial services and guarantees for Shanghai to develop a globally influential science and technology innovation center and a legalized business environment.

I. Fully fulfilled the function in trials of intellectual property cases

(I) Accepted cases

During 2015-2019, Shanghai IP Court seriously fulfilled its trial function and totally accepted 10,111 intellectual property cases. The number of cases accepted increased year by year with an annual growth rate of 11.05%; in 2019, the number of cases accepted increased significantly (by 20.75% from a year ago). During this period, the Court totally accepted 5,133 civil cases of first instance, 4,700 civil cases of second instance, 16 administrative cases of first instance and second instance, 134 cases of security pre-litigation and 128 other cases. (See Fig. 1)

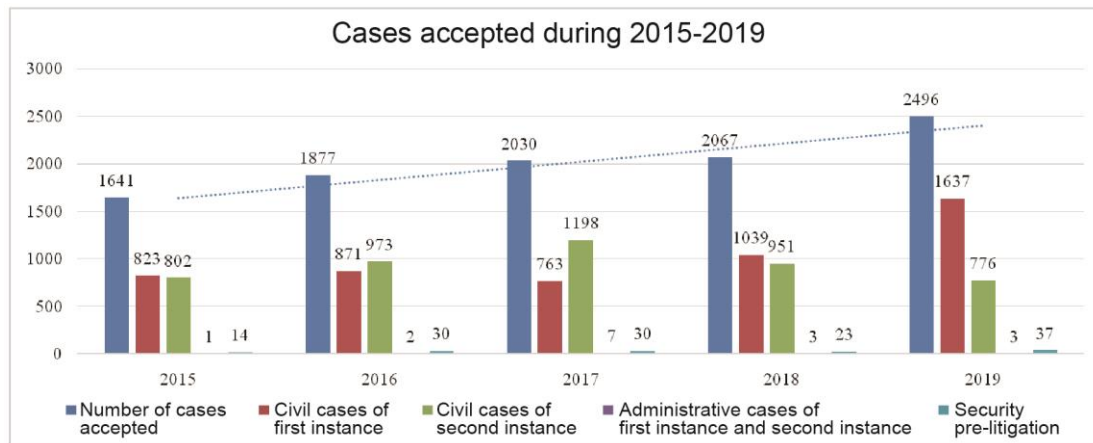


Fig. 1

The following types of cases were among the top five of all cases accepted: disputes on copyrights: 3,191 (excluding copyright of computer software), accounting for 31.56% of total cases; disputes on patent rights: 3,166, accounting for 31.31% of total cases; disputes on copyrights of computer software: 1,750, accounting for 17.31% of total cases; disputes on trademark rights: 990, accounting for 9.79% of total cases; disputes on unfair competition: 373, accounting for 3.69%. In addition, there were 357 disputes on franchise contracts, 86 disputes on technical contracts, 15 cases on monopoly and 183 other cases. (See Fig. 2)

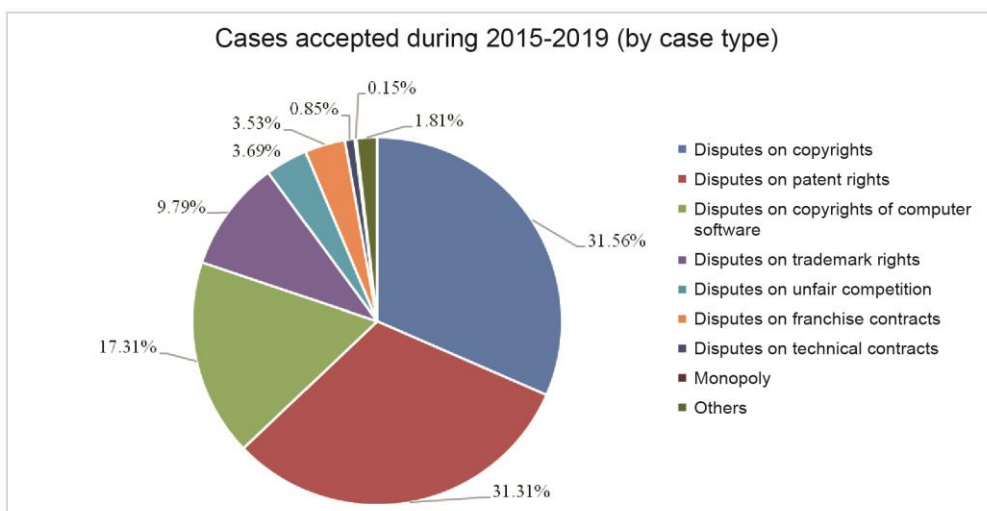


Fig. 2

In first-instance cases accepted, there were 4,994 technology-related cases on patents, computer software, technical secrets, layout designs of integrated circuits, etc., accounting for 97.29% of cases of first instance. Most of these cases were related to software development, technical R&D, achievement transfer and industrialization and other issues related to benefit distribution, achievement ownership, interest protection, etc. in technological innovation. (See Fig. 3)

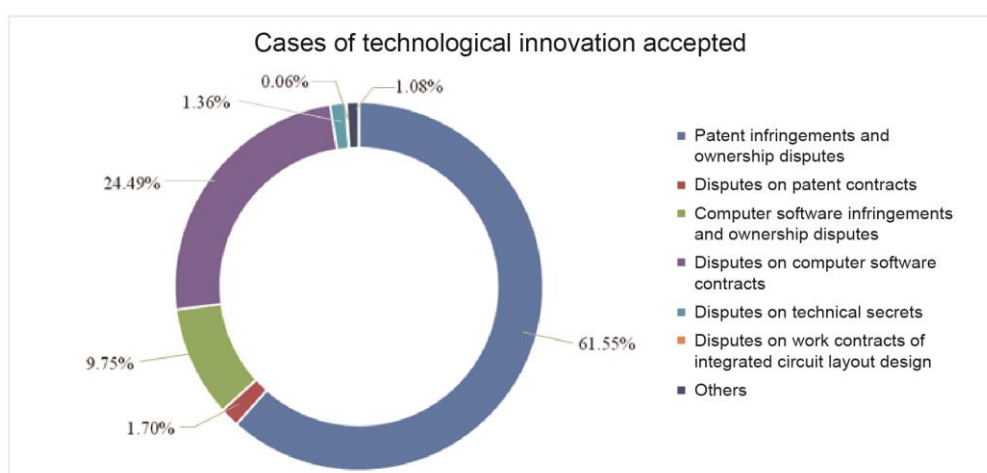


Fig. 3

In terms of the amount of object of action of cases accepted, there were 758 cases (7.49%) with the amount of object of action exceeding RMB 1 million; for 158 of these cases, the amount of object of action exceeded RMB 10 million. Among the cases, the Case of Hongwu Singapore Private Limited Company v. Lianxi Company and Qifei Company (A Distribute Case on Copyright Licensing Contract) had the highest amount of object of action--RMB 1 billion.

In terms of cases involving foreign parties or parties from Hong Kong, Macau and Taiwan, the Court totally accepted 1,069 foreign cases (with the parties concerned registered abroad) and 234 cases involving parties from Hong Kong, Macau and Taiwan), accounting for 12.98% of total cases. Most foreign parties involved in these cases were from the United States of America, Germany, Japan, South Korea, France, Sweden, Switzerland, Finland and Italy. (See Fig. 4)

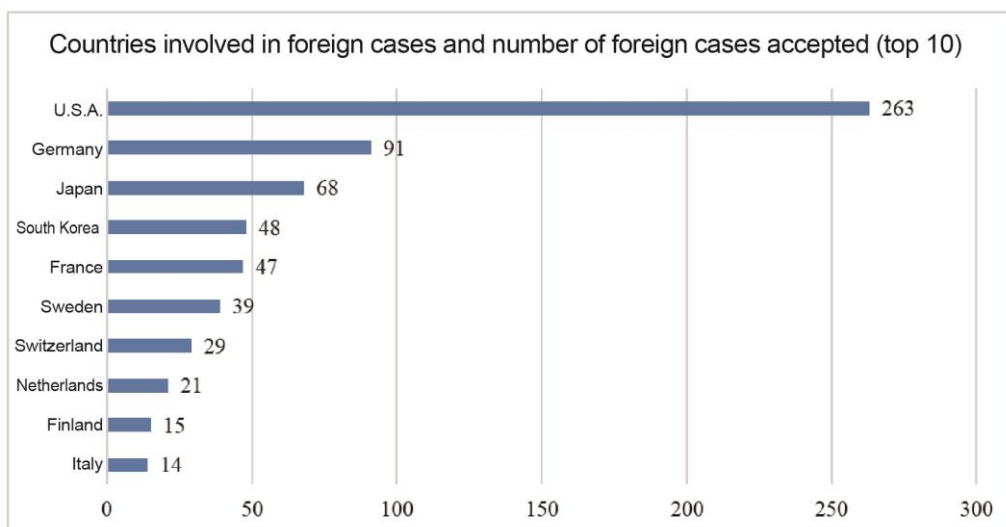


Fig. 4.

(II) Cases concluded

During 2015-2019, Shanghai IP Court totally concluded 9,177 cases, which increased by 19.78% from a year ago. In general, a positive cycle of case conclusion was realized. (See Fig. 5)

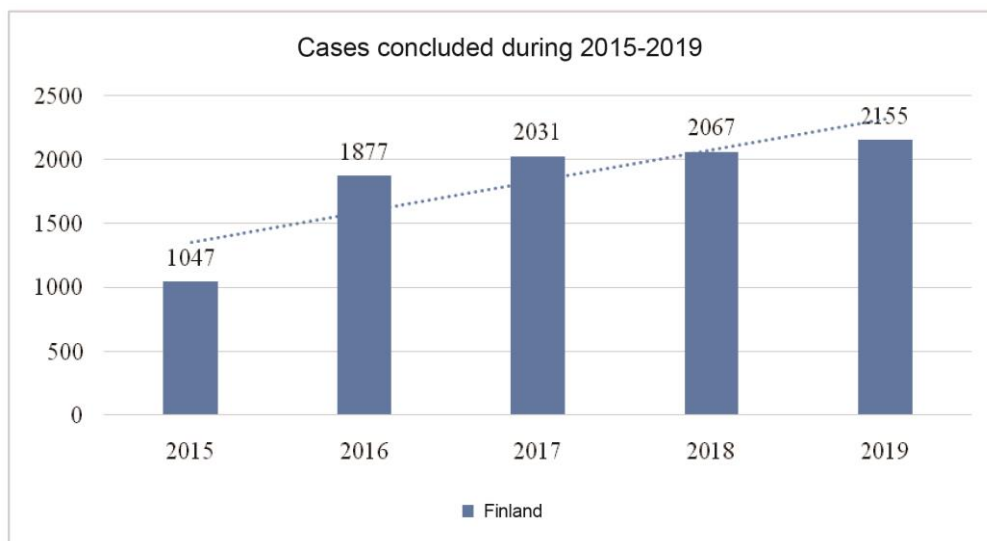


Fig.5.

In all cases concluded, there were 3,398 cases (37.03%) concluded by means of mediation or lawsuit withdrawal. In this way, disputes over intellectual property were effectively solved, and the market value of intellectual property was fully realized via mediation and reconciliation of the parties.

--In the past five years, Shanghai IP Court concluded a number of new types of cases. For instance, the Case of DNA Genotek Inc. v. The Chinese National Human Genome Center at Shanghai, etc. (A Dispute Case on Infringement of Invention Patent Right Involving Human Genetic Testing Technology), the Case of Medivation, Inc. v. Guilin

Pharmaceutical Co Ltd. etc. (A Dispute Case on Infringement of Invention Patent Right Involving Drug Trials and Generic Drugs, the Case of Finc-Biotech Inc. v. Tianjin Hongbin Hesheng Agricultural Technology Development Co., Ltd. (A Dispute Case on Infringement of Invention Patent Involving Patented Microbial Gene Technologies, the Case of Hu v. Beijing Mobike Technology Co., Ltd. (A Dispute Case on Infringement of Invention Patent Right Involving the Lock Control System of Mobike, etc. New technologies and industries were involved in these cases. For instance, the Case of Shanghai Yaoyu Culture Media Co., Ltd. v. Guangzhou Douyu Internet Technology (the first Dispute Case on Copyright Infringement and Unfair Competition Involving Live Video Streaming of E-Sports Games in China), the Case of Beijing IQIYI Science & Technology Co., Ltd. v. Hangzhou Feiyi Information Technology Co., Ltd. (the first Dispute Case on False Advertising by Fake Video Clicks in China), the Case of Beijing IQIYI Science & Technology Co., Ltd. v. Shenzhen Juwangshi Technology Co., Ltd. (the first Dispute Case on Unfair Competition Involving Using Video Integrated Hotlinking to Bypass Advertising in China), the Case of Hanyang Guangming Trade Co.,Ltd. v. Hankook (the first Dispute Case on Simultaneous Exercise of Vertical Monopoly Agreement and +Abuse of Market Ascendancy by the Defendant in China,

the Case of Sogou Inc. v. Beijing IQIYI Science & Technology Co., Ltd. (A Dispute Case on Unfair Competition in Loading the "Candidate Searching" Function into the Input Method, the Case of Shanghai Gshopper Network Technology Co., Ltd. v. Zhejiang Tmall Technology Co., Ltd. (A Dispute Case on Unfair Competition Involving Conducting Software Interference of Inserting Marks and Buttons into Web Pages to Guide Transactions, etc. New business models and forms were involved in these cases.

--In the recent five years, Shanghai IP Court concluded a number of cases with great social influences. For instance, the Dispute Case on Copyright Ownership and Infringement Involving Role Images of "Gourd Brothers", "Black Cat Detective", "Avanti", etc., the Dispute Case on Copyright Infringement and Unfair Competition Involving Disney's Cars Movie Series and Relevant Role Images, the Dispute Case on Copyright Infringement and Unfair Competition Involving Game Adaptation from the *Ghost Blows Out the Light* Novel Series, the Dispute Case on Copyright Infringement and Unfair Competition Involving the *Legend* (Online Game), the Dispute Case on Computer Software Copyright Infringement Involving Microsoft Operation Systems and Software, the Identification of "LAFITE/拉菲" as an Unregistered Well-Known Trademark and Trademark

Infringement Dispute Case, the Trademark Infringement Dispute Case - the Malicious Registering Action against "巴黎贝甜 (Paris Baguette)", the Dispute Case on Trademark Infringement and Unfair Competition Involving the Time-Honored Brand "吴良材(Wuliangcai)", the Dispute Case on Infringement of Trademark "Dettol", the Dispute Case on Identification of Reasonable Use of Trademark "GUCCI" and Unfair Competition, the Dispute Case on Trademark Right Infringement and Unfair Competition Involving BMW Series Well-known Trademarks, the Dispute Case on Infringement of Design Patent Right Involving Starbucks Tumblers, the Dispute Case on Infringement of Design Patent Right Involving Volvo Automobile Parts, etc. These cases involve well-known works, brands and enterprises.

--In the recent five years, Shanghai IP Court concluded a number of typical cases that helped inception of certain adjudication rules. For example, in the case between Zhaouc and Huguen Star regarding copyright infringement and unfair competition in the online game "MU Online", it was the first time gaming image was deemed as cinematographic work and copyright infringement did happen; in the case between M&G Chenguang and Deli Group regarding patent infringement in "pen" appearance design, application of the "overall observation and comprehensive

judgment" principle in appearance design patent infringement cases was defined; in the case between K.D.F. Distribution and Aquatherm regarding trademark right infringement and false advertising, it was established that the operator's usage of another party's registered trademark, to the extent such usage is in good faith and reasonable, for the purpose of explaining the changes of the brand sales agent is deemed as legal use of trademarks and does not constitute trademark infringement; in the case between Fanhua and Meixuan regarding copyright infringement, the conditions for Copyright Law to protect practical works of art as fine art works were defined and the issue of replicating planar graph as three-dimensional graph was clarified; in the case between FISHER and Shanghai East Educational Equipment regarding copyright infringement and unfair competition in the Fischertechnik meccano model, it was established that the building block toy was a model work and the act of manufacturing and selling the model components in the same process constituted infringement; in the case between Pan and Shanghai International Commodity Auction Co., Ltd. regarding misuse of market dominance in auction of non-profit buses, it was established that the auction service was a manner of governmental departments regulating and managing public resources and was not in the competitive commodity or service

market as defined by the Anti-monopoly Law, so this case was not governed by the Anti-monopoly Law.

II. Active contributions to the national strategies and Shanghai's overall administration

Since its founding, Shanghai IP Court has made active contributions to the country's intellectual property strategy and innovation driven development strategy, the "three new major missions" of Shanghai, the endeavor to create "four brands" and "five centers" and the effort other build Shanghai into an internationally advanced intellectual property protection hub and the intellectual property center in the Asian-Pacific region; it has identified the binding points between court service and overall strategy and the priorities thereof, planned and promoted court services in the context of the overall strategy and extended the judicial function to the core functions of Shanghai.

Firstly, propose five "opinions". The court actively adheres to the priorities identified by the Shanghai Committee of the Communist Party of China; we have proposed 26 suggestions on serving and guaranteeing construction of Shanghai Technology Innovation Center, 12 suggestions on serving and guaranteeing construction of Shanghai International Trade Center, 25 suggestions on maintaining business environment, 15 suggestions on serving and

guaranteeing the Import Expo and 18 suggestions on serving and guaranteeing New Free Trade Area and further optimizing business environment; we have proposed practical measures for intensifying intellectual property protection, innovating judicial protection mechanism and extending judicial protection functions, with the focus on maintaining the legal environment and business environment conducive to technological innovation.

Secondly, build one "base". Scientific and Technological Innovation Research (Shanghai) Base on Judicial Guarantee of Intellectual Property under the Supreme People's Court has been established at Shanghai IP Court. Researches and investigations have been conducted to examine the issues concerning technological innovation and intellectual property protection. Since its establishment, the court has held the Seminar on Legal Issues Related to Service Inventions in the Context of Technological Innovation, the Seminar on Judicial Protection of Technological Innovation and Business Secrets and the Seminar on Punitive Damages for Intellectual Property in the New Era; it compiles the *Studies and References on Judicial Protection of Technological Innovation* on a quarterly basis; the base has effectively fulfilled its functions as a think tank.

Thirdly, establish two "special trial teams". The special

trial team for the Free Trade Area related intellectual property cases and the Special Trial Team for the Import Expo related cases have been established to implement concentrated trial of cases and ensure professional efficiency. Besides, we have conducted visits, discussions and investigations to profoundly analyze the characteristics of the Free Trade Area related intellectual property cases and the expo related cases, propose suggestions over the general issues in intellectual property protection and enhance the pertinence and effectiveness of such protection. We have accepted 1128 Free Trade Area related intellectual property cases and concluded 1014 of them; we have publicized the white paper on trials of Free Trade Area related intellectual property cases. Prior to the First Import Expo, we issued the investigation report titled *Strengthen Expo Intellectual Property Protection and Promote Healthy Development of Exhibition Industry*, which was rated as one of the ten best investigation reports of People's Court in 2018.

Fourthly, establish two Judge's Studio. To serve the city-wide technological innovation industry, the "Studio of Judge Chen Huizhen--Expert in Nationwide Judicial Work" has been established; to serve development of Shanghai Pilot Free Trade Zone and restart of reform and opening-up of Pudong New Area, the "Studio of Judge Ling Song" has been

established. We regularly conduct investigations and law publicity in the technological innovation parks, to enhance the intellectual property protection awareness and ability of the innovative startups, particularly the micro, small or medium-sized technological innovation enterprise. In the recent five years, the Judge Studios have conducted 42 events including visits to the technological innovation parks and special seminars, in which over 1600 enterprise representatives participated. The Judge Studios are now an important through which the courts learn of and respond to the needs of technological innovation enterprises for judicial protection of intellectual property.

III. Efficient operation of professional trial system for intellectual property

Since its establishment, Shanghai IP Court has closely adhered to the gist of *Opinions on Issues Relating to Strengthening the Reform and Innovation in Intellectual Property Trials* and the *Opinions on Strengthening Intellectual Property Protection*, and profoundly promoted reform and innovation of the intellectual property trial system, to modernize the intellectual property trial system and trial capability.

(I) Fulfill the efficiency of intellectual property litigation system, to provide timely and effective

protection of rights

1. Adequately exert provisional measures In addition to guiding the parties concerned on evidence presentation, we have established the new model of "judge+ operational staff+ technical experts" for evidence preservation to enhance evidence preservation efficiency and results. The court has accomplished 1036 cases of evidence preservation. For example, in the pre-trial evidence preservation case filed by Autodesk, we adequately utilized the "trial-enforcement linkage and experts participation" mechanism to successfully preserve the software on 400 computers that was accused of infringement; in the pre-trial evidence preservation case filed by Actoz, if the two respondents performed the licensing contract, the rights of the joint copyright owner would be irreparably damaged, so the court ruled that the two respondents must immediately stop performing the contract; in the litigation case filed by Hoyan against infringement of invention patent right, the court implemented "act preservation", where the two exhibited products accused of infringement were taken off the exhibition.

2. Ease the burden of evidence presentation of right holder. In the cases where the party concerned was unable to collect evidences due to objective reasons, the court issued investigation warrants to the attorney or obtained evidence by

its authority. The court has issued over 160 investigation warrants. In the cases where the evidence of profiting by infringement was held by the infringer and the infringer unreasonably refused to present such evidence, the court imposed the evidence presentation order to order the infringer to present the evidence, otherwise the presumption of fact would be unfavorable to the infringer. For example, in the litigation case filed by Brother Industries against infringement of invention patent right, the court granted to application to obtain the relevant sale invoices from State Taxation Administration and used the invoice to decree the defendant to pay RMB 1 million of damages; in the litigation case filed by DDLE against infringement of trademark right and unfair competition, the court issued an evidence present order to order the defendant to present the revenue related evidence, but the defendant refused to cooperate, so the court examined the plaintiff's claim and evidence and decreed the compensation amount increased from RMB 200,000 of first instance to RMB 3 million.

3. Improve the technical facts investigation mechanism. Due to the technical and professional characteristics of intellectual property cases, we have established the technical facts investigation and finding system composed of technical investigation, technical consultation,

experts jury and technical appraisal, to provide technical support for quickly finding the facts in the case. Based on the actual circumstances of a case, the applicable and appropriate method is used to find out the technical facts of the case. To fully fulfill the function of technical investigator, the *Rules for Participation of Technical Investigator in Proceedings* and other rules have been enacted, to provide institutional support for technical investigators to perform their duty. Due to the long cycles of technical appraisal, the system of reminder on 45 days of evaluation and interpellation on 60 days of evaluation and the quality feedback have been implemented, to improve judicial authentication efficiency. In the recent five years, technical investigators appeared in court 461 times, presented 102 technical review opinions or consultation opinions and completed technical consultation, evidence preservation and scene investigation in over 1064 cases; the experts provided consultation 96 times; the expert jurors participated in trial of 224 cases; technical appraisal was commissioned in 49 cases.

4. Introduce the partial judgment mechanism. Due to the time-consuming characteristics of intellectual property cases, we have introduced the partial judgment mechanism. In the cases where the nature of infringement can be identified but other facts need further investigation, partial judgment can be made to cease the act of infringement, to enhance

effectiveness of judicial remedy. For example, in the litigation case of VALEO SYSTEMES D'ESSUYAGE against infringement of invention patent right, the plaintiff claimed that the defendant's act of infringement still continued during trial of the case and this impacted the plaintiff's marketing, so the plaintiff requested the court to order the defendant to cease the act of infringement. The collegiate bench organized both parties to conduct adequate evidence presentation, cross-examination and debate over the technical facts of the case and the expert jurors and technical investigator jointly investigated the infringement product. The court eventually ruled that the accused product was within the scope of patent right protection to which the plaintiff was entitled and issued in the first instance the partial judgment that the defendant must immediately cease infringement of the invention patent right. The defendant lodged an appeal. The second instance trial was the first case accepted by the intellectual property tribunal of Supreme People's Court. The court pronounced in court that the original judgment was sustained, which adequately reflects the role of system innovation in improving efficiency of judicial protection of intellectual property.

5. Impose sanctions on the act of obstructing process.

If the respondent unreasonably refuses to present evidence, or deliberately destroys evidence or presents false evidence to

obstruct the process, the court will take the sanction measures such as penalty or detention on the defendant and will admit the facts claimed by the claimant. For example, in the litigation case filed by TOP Group against infringement of trademark right, the plaintiff as the distributor claimed to have evidence of legal source, but refused to present the evidence after the court of first instance demanded the evidence. The plaintiff presented the evidence in the second instance, so the judgment from the first instance was partially changed. The collegiate bench determined that the plaintiff had culpable negligence of delaying the evidence and obstructed civil procedure, and therefore imposed civil sanction of a fine on the plaintiff. In the litigation case filed by Hongbung against infringement of practical new patent right, the plaintiff arbitrarily unseal and moved the judicially seized evidence and resulted in destruction of the evidence, therefore the court imposed civil sanction of a fine on the responsible person of the plaintiff according to law.

(II) Improve the rules for determining the responsibility for infringement, to fully reflect the value of rights

1. Intensify penalty on severe act of infringement. For source infringement, repeated infringement, large-scale infringement and other severe acts of infringement, the amount

of damages will be increased according to law with consideration of the harmfulness and subjective malice of the act, thus increasing the cost of breaking the law and effectively deterring and precluding infringement of intellectual property. For example, in the litigation case filed by Magnetic Autocontrol against infringement of business secrets, the defendant was the source of infringement, so the court sustained the judgment from the first stance that the infringer must pay RMB 3 million for economic losses; in the litigation case filed by Honeywell International against infringement of trademark right, the court deliberated on the defendant's status as manufacturer, duration of the infringement, the fact that defendant had many times received administrative penalty, the potential impact imposed by the act of infringement on the properties and safety of consumers, notability of the trademark and other factors, and then increased the damages paid by the defendant to RMB 300,000 from the RMB 80,000 decreed in the first instance judgment; In the litigation case filed by Hugo Boss of Germany against infringement of trademark right and unfair competition, the court deliberated on the sales volume of the defendant, duration of the infringement, falsification of brand for false advertising and other factors and then ruled that the defendant must pay damages of RMB 4.92 million and, due to the fact the shareholders of the defendant committed

infringement by registering multiple companies, ruled that the shareholders must jointly bear the responsibility for infringement.

2. Determine the amount of damages commensurate to the act of infringement. To realize the market value of intellectual property, the court adequately deliberates on the legal status of the infringer, the nature, duration and consequences of infringement and the notability and contribution degree of intellectual property and other market value factors, and then determines the amount of damages commensurate to the market expectation of the right holder and the severity of infringement. Besides, the industry associations and intermediary agencies also fully play their role in evaluating the value of intellectual property, to make the amount of damages more commensurate to the market value of intellectual property and effectively protect legitimate interests of right holders. For example, in the litigation case filed by BMW against infringement of trademark right and unfair competition, the court deliberated on the infringer's systematic, comprehensive and all-round imitation of BMW trademark and then supported BMW's claim of RMB 3 million from the infringer; in the litigation case filed by Honda Motor Company Limited against infringement of invention patent right, the court reviewed the accounting firm's audit on the sales of

the product accused of infringement and verified the defendant's profiting by infringement, so the court ruled payment of damages of RMB 2.4 million.

3. Determine the amount of damages in addition to the statutory limit of damages. If it is impossible to determine the amount of loss caused by infringement or the profit from infringement but it is confirmed that the actual loss of the plaintiff exceeds the statutory maximum amount of damages, the court at its discretion may decree an amount in excess of the statutory limit based on the circumstances of the case. For example, in the litigation case filed by Dassault against infringement of computer software copyright, the court deliberated on the evidence in the case, the software unit price in the sales contracts submitted by the plaintiff and defendant and the fact that the defendant still extensively used the infringed software after receiving administrative penalty, and then ruled payment of damages of RMB 9 million; in the litigation case filed by SAP Company against infringement of computer software copyright, the court deliberated on the nature and duration of the two defendants' infringement and the training price they charged and also the ratio of the royalties charged by the plaintiff from the partners, and then the court at its discretion decreed payment of damages of RMB 1.55 million, which was more than the statutory limit of

damages.

4. Support the right holder's rights protection costs according to law. The fully supports the right holder's reasonable rights protection costs in the form of attorney fee and notarial fee etc., to make such costs compatible with the market value of the intellectual property legal services. In the litigation case filed by Canon Inc. against infringement of invention patent right, the court deliberated on the plaintiff's evidence for its claimed notarial fee and attorney fee, the workload of the attorney and the degree at which the attorney's work was recognized by the court, and then the court supported the plaintiff's claim of RMB 140,000 for the reasonable costs for the purpose of stopping the act of infringement.

(III) Innovate the intelligent intensive litigation services to grant people stronger sense of gains and satisfaction

1. Improve the diversified dispute settlement mechanism. The couture has established the cooperation mechanism with 14 professional mediation organizations and industry associations including China Software Industry Association, China Medicinal Biotech Association and ACFIC People's Mediation Committee to promote mediation before and during litigation, and has introduced mediators in the court

to conduct mediation. The court has conducted more intensive publicity to guide the parties concerned to use pre-litigation mediation, to effectively divert disputes to other settlement systems and afford the people more options of dispute settlement and higher quality judicial services. There were 471 cases where both parties agreed to resort to pre-litigation mediation and 133 cases were successfully solved, accounting for 28.24% of all mediation cases; there were 724 cases where both parties agreed to resort mid-litigation mediation and 279 cases were successfully solved, accounting for 38.54% of all mediation cases. In a case of patent right infringement, the court proposed conditional mediation and both parties agreed, i.e. if the National Intellectual Property Administration decides to sustain the patent right despite the defendant's announcement of invalidation, the defendant must cease the infringement and pay to the plaintiff the amount accordingly, otherwise the plaintiff would no longer claim anything from the defendant. This solved the problem of long cycle of trial resulting from long procedure of intellectual property authentication and also protected the legitimate interests of the parties concerned. In a case of infringement of right of showing resulting from showing music videos in a KTV, through the court's mediation, both parties made reconciliation and signed an authorization license agreement, so a litigation became

collaboration and infringement because licensing. The case was solved and both parties gained win-win cooperation.

2. Establish the "one-stop" high-efficiency litigation service mechanism. The court strictly implements the case registration system, invents the case registration list system and vigorously promotes online registration and cross-regional regional, to make case registration easier for the parties concerned and protect their fundamental litigious right. By utilizing the Shanghai courts lawyer service platform, the court has established the remote access to case files for lawyers, solving the problems in lawyers accessing files of a case under trial, lawyers accessing case files from remote locations and multiple lawyer accessing the same case files. The court has worked with the Shanghai Bar Association and relevant universities to established the legal volunteer service mechanism, to provide guidance and consultation services for those parties concerned who are less capable of litigation, and the lawyers' consultation can also answer some of the their questions about litigation, which helps dissolve disputes. The court has established the socialized materials delivery and receiving mechanism, where post office provides documents receiving and delivery service, accounting for 96% of delivered documents; If the post office is unable to deliver documents, the notary office can be commissioned to deliver, which greatly

increases success rate of deliveries, and notarized preservation is enabled if delivery fails, which alleviates the difficulties in delivery.

3. Establish new intelligent trial mode. The court fully promotes synchronous generation of electronic files of cases and its deep application and enables its integration with intelligent trial, to preliminarily enable online trial throughout the process. The court fully promotes trial through the Internet, holds online pre-trial conferences, online mediation and online trial and realizes online remote trial and evidence presentation with the intellectual property tribunal of Supreme People's Court, to reduce travels of the parties concerned and enhance convenience and economic efficiency of litigation. There have been 256 cases where hearing, trial and mediation were completed through online video on the Internet. Trial records are converted from audio to texts and trial notes bear electronic signatures, which improves trial efficiency and also ensures completeness and smoothness of trial and protects the right of action of the parties concerned. Litigation materials can be delivered electronically during case registration; electronic files browsing and commenting and text identification can be during case files viewing; evidence presentation and cross-examination during trial can be done in a paperless process; for documents preparation, adjudication

documents can be intelligently generated and intelligent retrieval of related cases, statutes and similar cases is enabled. The court has preliminarily achieved intelligent trial, thus improving trial efficiency. The court has established the big data platform of intellectual property trials, to provide data support for motivating innovative protection and for trial management and decision-making.

IV. Authoritative Influence of Judicial Protection of Intellectual Property is Increasing

(I) Judicial credibility gained through exquisite strategy

By implementing the exquisite strategy, the court has completed a number of exquisite cases, excellent documents and model trials. In the recent five years, 5 cases have been recognized by the *Gazette of the Supreme People's Court* and 12 cases included in the top ten intellectual property cases and 50 typical intellectual property cases solved by courts of China; besides, over 70 cases have been included in the top ten intellectual property protection cases solved by courts of Shanghai, exquisite cases and typical cases solved by courts of Shanghai. The court has publicized over 100 typical cases, published 2 issues of *Frontier of Judicial Protection of Intellectual Property*, and 2 issues of *Select Judgment Documents of Shanghai IP Court* (English Edition), clarified the

adjudication rules and established judicial authority, thus gaining judicial credibility.

(II) Protection results highlighted in publicity law publicity

The court implements the "law publicity by law enforcement". highlights the publicity subjects, innovates publicity methods and highlights the protection results. On a yearly basis, the court issues the white paper on trials intellectual property cases and conducts concentrated pronouncements, tour trials, law publicity, law education in schools, public open days and other activities. Through publicity on all media channels, the court uses journals, broadcast, television, websites and new mobile media to comprehensively publicize the reform and development achievements of the intellectual property court, the achievements in solving "three challenges" in intellectual property protection and operation of the technical investigator system; the court focuses on building into an International first-class intellectual property court and enhancing its international influence.

(III) China's voice in international exchange

The court initiates international exchange through the International Exchange (Shanghai) Base for Judicial Protection of Intellectual Property of Chinese Courts and so far totally

over 700 people in over 50 batches from international organizations, foreign countries and Hong Kong, Macao and Taiwan regions China have come to the court for visits and exchange; the court has assigned judges to participate in international conferences or academic exchanges and give lectures at the foreign-related intellectual property training projects such as Shanghai International College of Intellectual Property, to adequately present the results of Chinese courts' efforts to strengthen intellectual property protection. The impartial and highly efficient trials of Shanghai IP Court have been universally praised by international organizations and transnational enterprises. The International Trademark Association, U.S.-China Business Council, Japan External Trade Organization, Business Software Alliance and other organizations have expressed that Shanghai is one of the most favored places for litigation and the impartial trials of Shanghai IP Court have made them more confident about China's intellectual property protection. After a trial, the CEO of Chateau Lafite-Rothschild of France visited Shanghai to specifically express his gratitude to Shanghai IP Court for its impartial trial and legal protection of foreign investors and foreign brands; after judgment pronouncement of a case, the authorized representative of Volvo praised Shanghai IP Court for "building China's high-efficiency judicial environment and

setting a fine global example of legal protection".

(IV) Enhance trial capability through professional competence

Based on the needs in intellectual property trials, the court has established an intellectual property trial team that is politically resolute, mindful of the overall interests, proficient in laws and techniques and is composed of inter-disciplinary experts with international vision. Through the academic brands such as Celebrity Foru, Sanwei Society and English Learning Garden, the court holds forums, lectures and salons and regularly conducts trial business knowledge study and special seminars. Centered around the topics of "judicial reform, serving the overall interests and trial practices", the court has completed nearly 40 research subjects including "Reform and Innovation in Intellectual Property Trials" and "Reflection on Intellectual Property Trials Serving and Guaranteeing Construction of Shanghai Technology Innovation Center", and published nearly 200 articles on *The People's Judicature*, *Journal of Law Application* and other journals. The court has established the specially invited intellectual property consultation experts pool and specially invited science and technology consultation experts pool, which constitute the "think tank" that provides consultation services for trials and reform efforts.

In the recent five years, the Shanghai IP Court has cultivated a number of excellent teams and individuals. The first court for comprehensive trials of intellectual property is titled a national excellent team of intellectual property trials; the first court for comprehensive trials of intellectual property and second court for comprehensive trials have been conferred the collective first-class merit; over 30 individuals have been conferred awards, among them are the experts of national intellectual property experts pool, national court trial models, national excellent individuals in intellectual property court trials, March 8 red-banner holders of Shanghai, excellent judges like Zou Bihua and top ten youths of courts of Shanghai.

In April 2019, the Shanghai IP Court publicized the *Opinions on Implementing Further Reform and Innovation and Building International First-class Intellectual Property Court (2019-2021)*, which established the development objectives, concepts and approaches, to build the highland for impartial and professional trials of intellectual property, the highland for trial mechanism innovation, highland for intelligent judicial application, highland for open judicial development and highland for training of trial talents. From a new start point, the Shanghai IP Court will adhere to Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, persist in impartial justice and judicial service for the people, continue

the intellectual property trial reform and innovative, fulfill the intellectual property trial function in a better way, strive to build into an international first-class intellectual property court and provide robust judicial service and support for building a global powerful nation of intellectual property and global powerful nation of science and technology.

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