**2023 Procuratorial White Paper on Intellectual Property in Shanghai Released by Shanghai People’s Procuratorate**

As the intellectual property (hereinafter referred to as the “IP”) is a key element of the new quality productive forces, the IP protection must be strengthened in development of such forces.  At present, Shanghai is witnessing acceleration of construction of an international center for technology and innovation as well as building of the IP protection highland and that of an international IP central city. The procuratorate will perform the high-quality and high-efficiency procuratorial functions to enable new achievements in IP protection so that innovative vigor can be motivated and an innovative environment can be created. Today (April 23), Shanghai People’s Procuratorate holds a press conference to release the 2023 Procuratoral White Paper on Intellectual Property in Shanghai in the Chinese and English version. Based on an analysis of the criminal, civil, administrative, public-interest IP litigation cases handled by the propcuratorates in Shanghai in 2023, we study new changes and trends occurred in the IP development and protection to suggest counter-measures and recommendations on consolidation of the comprehensive judicial IP protection with a view to providing powerful procuratorial guarantee for cultivating and developing of the new quality productive forces as well as for serving the innovation-driven development.

**I. Basic Situation of the IP Cases in Shanghai**

**(I) Overall Situation**

**1. The IP-infringement crime is approaching historical height and application of the coercive measures was continuously optimized.** The procuratorates in Shanghai took cognizance of 1,369 IP-infringement criminal cases involving 2,810 perpetrators[[1]](#footnote-0) in 2023, including 425 cases for examination and arrest involving 738 perpetrators where the number of cases and that of perpetrators rose 144.3% and 123.0% respectively in comparison with the previous year; as well as 944 cases for examination and prosecution involving 2,072 perpetrators where the number of cases and that of perpetrators rose 53.2% and 49.9% respectively in comparison with the previous year. The arrest rate of suspects was basically the same as in 2022 in that the procuratorates focused more on accurate implementation of the criminal policy of combining leniency with severity, resulting in stabilization of the arrest rate approved by the procuratorates.

The average handling time of the first-instance IP public prosecuted cases in Shanghai was 56.63 days in 2023. 29.5% was substantially optimized in comparison with 2022. Comprehensive examination of the IP cases was strengthened, leading to prosecution of 20 persons on suspicion of the IP infringement in other criminal cases. In terms of the effective judgments rendered by the court, those who were sentenced to minimum three-year fixed-term imprisonment accounted for 43.9%, indicating strengthening of the property-related penalty.

**2. Significant changes in the IP-infringement criminal structure. Firstly**, although the number of the trademark-infringement cases still ranked the top in criminal cases, its proportion further dropped to 88.8%. Among other things, there were 873 cases of selling commodity with counterfeit registered trademarks involving 1,579 perpetrators, ranking the top in various trademark-infringement charges. There were also 298 cases of counterfeiting registered trademarks involving 744 perpetrators and 45 cases of illegal manufacture and sales of illegally produced registered trademarks and logos involving 124 perpetrators **Secondly**, the “quantity relative ratio” of the copyright-infringement cases rose unanimously, accounting for 9.4% from 5.3% in 2022 in criminal cases. Among other things, there were 105 cases of copyright infringement involving 261 perpetrators, the number of which rose by 1.8 times in comparison with 2022. There were 24 cases of sales of pirate copies involving 46 perpetrators, the number of which rose by five times in comparison with 2022. **Thirdly**, cases of infringement of business secrets were on the rise, accounting for 1.8% in criminal cases. There were 24 cases of infringement of business secrets involving 56 perpetrators, the number of which rose by 60% in comparison with 2022. The first case of illegal spying and provision of business secrets for overseas organizations was handled in Shanghai as of implementation of the Amendments (XI) to the Criminal Law. Changes in the criminal structure were caused by, on one hand, frequent occurrence of new-type cases such as the copyright and the business secret infringement resulted from increasing development in the new economy and high technology; on the other hand, improvement in the judicial organs’ powerfully professional capabilities of cracking and handling of cases as well as gradual manifestation of achievements in the services for science and technology innovation centers and the cultural prosperity and innovation.

**3. Deeper fulfillment of the legal supervision of the criminal proceedings.** Pre-intervention in the front end of hard cases was fully implemented aiming at the features of the IP-infringement criminal cases, i.e. easily perishable evidence and timeliness of evidence collection. Relying on mechanisms including the office of investigation supervision and collaboration, we supervised registration of 283 cases as well as pursuit and prosecution of 213 perpetrators, 72 of whom were sentenced to minimum three-year fixed-term imprisonment. Transfer of 52 cases on suspicion of the IP infringement to the police by the administrative authorities was suggested, 50 of which was registered for investigation. Two criminal cases were protested. Judgment against one of them was amended.

**4. Solid progresses were made in civil and administrative IP supervision and the IP public-interest litigation was steadily expanded.** There were 28 civil supervision cases including two cases where procuratorial suggestions on a retrial were made and 15 cases where procuratorial suggestions on rectification of violation of the law were made. Moreover, there were two cases involving supervision of non-litigation administrative enforcement where procuratorial suggestions on rectification of violation of the law were both made. In addition, there were 17 IP public-interest litigation cases including 11 civil cases and six administrative ones. Pre-litigation procuratorial suggestions were made in five cases where the administrative authorities have all taken rectification measures and performed duties in accordance with the law.

**5. Comprehensive performance of procuratorial functions in the IP realm was fully deepened, featuring increasingly diverse means.** The comprehensive procuratorial functions were performed in handling of 129 cases by the procuratorates in Shanghai, including 115 cases reversely transferred to administrative authorities for punishment after *nolle prosequi*, 11 cases of incidental civil actions, two prosecution-supported cases and two cases of public-interest administrative litigation. Our performance of procuratorial functions displayed features of reliance on criminal cases, connection between the administrative law enforcement and the criminal justice, and increasing diversified performance means, extending to civil, administrative and public-interest litigation cases.

 **(II) Case features**

**1. Significant correlation between the IP cases and development of the new quality productive forces**. In terms of the case number, the growth trend of the IP cases in recent years is closely related to development in the industrial economy and high and new technology. In regions featuring advanced technological industries, the number of cases was among the highest in Shanghai. The narrowing gap in the number of cases in different regions reflected the balanced development in the innovative source capacity therein. In terms of the case characteristics, those involving artificial intelligence, high-end manufacture, digital copyright, and malicious litigation were on the rise; proportions of the copyright and business secret-related cases increased continuously; and the supervision cases in the matter of patents began to emerge.

**2. Features of cyber-based, chain-like and interweaving IP-infringement crimes became apparent and the amount of money involved became considerable.** Cyberization of the criminal means was manifested not only in operation and sales by means of the web, but also in the online space where more and more criminal acts occurred aiming at infringement of digital business secrets and copyrights. The criminal acts were mainly in the form of the joint crime with an explicit trend towards chain-like, scalable, and industrialization model. The internal division of labor was so complex and meticulous that the difficulty of punishment throughout the entire chain was greater. Cases with interweaving and concurring charges were on the rise where the criminal infringements endangered both the right-owners’ intellectual property and the web and data safety at the same time. The total amount of the majority of cases reached the criteria of huge amount. Cases worth more than RMB 100 million were on the rise.

**3. The number of the civil, administrative and public-interest litigation cases rose, revealing more awareness of the IP interest subject to seek supervision and relief.** As criminal cases provided more sources of clues for comprehensive performance of functions including the public-interest litigation, features of the integrated performance of the procuratorial functions in the IP realm became more notable. In civil and administrative supervision and public-interest litigation cases, focuses were not only on protection of rights and interests of the IP owners, but also on that of the social and public interests, as well as the rights and interests of other subjects including the licensees and the party accused of infringement. The willingness of parties to apply for civil and administrative supervision increased and the strength of procuratorial supervision was significantly enhanced, meaning that the subjects of IP interests were more inclined to comprehensively use various supervision channels to seek relief. Moreover, new economic enterprises such as the nesting zone for technological innovation industries laid more and more emphasis on protection of the important competitive advantages by means of the criminal relief, so their wish to provide the judicial authorities with criminal clues became stronger.

**4. A number of influential cases emerged, indicating increasing improvement in the capacity of procuratorial innovation supporting the overall innovation.** Successful handling of a number of influential cases including the first ever case of copyright infringement by means of avoiding technical measures in the country, the first ever “commercial espionage” case in Shanghai, the case of infringement of the copyright of a murder mystery game and that of infringement of the integrated circuit trademarks manifested certain demonstrative effects in terms of clue discovery, law application and IP governance. Based on case handling, the procuratorates in Shanghai, in conjunction with multiple authorities such as the regulatory departments and industrial associations, formulated and released the procuratorial service products including the *Guidelines for Protection and Compliance of Technological Measures on Enterprise Digital Copyrights* and the *Tips for Enterprise Employees to Prevent Legal Risks of Business Secrets*. Through promotion of our innovation ability, we formed the work mode of “case handling – procuratorial innovation – joint support for innovation” to assist and enrich the underlying system of full support for innovation and to enhance cultivation and development of the new quality productive forces.

**II. An Analysis of Characteristics of Various IP-Infringement Criminal Cases in Shanghai**

**(I) Characteristics of the Trademark Infringement Criminal Cases**

**1. Extension of the trademark-carrier type to the high technology sector.** In the numerous criminal cases of trademark infringements in 2023, involving products such as integrated circuits, filters, reverse osmosis membranes, brand pesticides and the fetal bovine serum, the financial effects and competitive advantages brought by the relevant brand value was greater than those brought by the traditional commodity field. Severe punishment of such infringement crime was of great significance for sound development in key industries including chips, materials, seeds and biomedicine.

**2. Occasional occurrence of the synchronized infringements of the trademark and other multiple rights.** Commodity is the physical carrier of trademarks whereas the IP attached to the commodity might have multiple types not limited to common trademarks but involving geographical marks and copyrights.

**3. Enhancement to complexity and concealment of the criminal acts of trademark infringement.** Covert ways of infringement such as changes in the business contents publicity caliber and adding contents attached to the delivered products in terms of counterfeiting and sales emerged, different from the traditional means of direct marking and labeling on the products in the past.

 **(II) Characteristics of the Copyright Infringement Criminal Cases**

**1. A significant increase in hazard of the tort in the setting of the digital economy.** Criminals took advantage of convenience of web dissemination, privacy and precision of data capture to make illegal profits by means of extensive and rapid dissemination and accurate delivery of the infringing works, which caused even worse losses for the right owners.

**2. Apparent features of criminal gang-forming and enterprization**. Criminals usually formed groups with relatively fixed-number members. They also tended to perpetrate torts in the name of enterprises so that they could confuse the legal and illegal incomes through diversification of operations. In some crimes, a stereotypical upstream and downstream mode of “acquisition of the IP works – forming copy samples – entering the market for distribution” was displayed, where fixed infringement interest chains took shape.

**3. Increasingly more complicated and concurrent laws and interests infringed by the crime**. The object of the tort was gradually breaking through the single-work type as defined by the Copyright Law and changing into the multi-type and complicated rights and interests. For instance, in the copyright-infringement cases frequently occurred recently, if the software copyright mainly consists of computer codes featuring secrecy, value and confidentiality, it can also be determined as business secrets. Moreover, the “technical-measure-circumvention-type” crime was added in copyright infringement crime in the Amendments (XI) to the Criminal Law. The foregoing crime might become concurrent with the type of illegal intrusion into the computer information systems.

**(III) Characteristics of the Business Secret Infringement Criminal Cases**

**1. More diverse types and forms of the infringed business secrets**. While the technical information including technical plans and design drawings were still the commonly infringed types of business secrets, non-traditional cases such as milk tea formula and exhibition designs persistently occurred in large number. New-type business secrets infringement cases emerged in the form of the booth designs and construction services, logistics industry software codes, and the e-commerce industry advertising promotion software and services. Meanwhile, Shanghai, as a cluster of the automobile industry, saw occurrence of a number of cases involving infringement of new energy vehicles and intelligent vehicle technology in the technological realm such as intelligent driving, vehicle intelligent navigation, intelligent car boosters and electronic vacuum pumps.

**2. The internal-and-external-collusion-type crime remained to be the major tort means while new-type torts kept emerging.** It is the typical way of the “internal-and-external-collusion-type” crime that the colleagues of a perpetrator stole the business secrets of a company after the latter had quit, or persons outside the company colluded with employees of the company in acquiring the business secrets by illegal means. The “holding-type” infringement of business secrets was regulated. The case of spying and illegally providing business secrets for overseas entity perpetrated by Mr. Zheng was the first ever “commercial espionage” case in Shanghai after implementation of the Amendments (XI) to the Criminal Law. The procuratorate struck such crime by accurate application of the new charge in accordance with the law.

**3. The crime of business secret infringement and its related crimes derived from one another.** For example, in the matter of business secret infringement, the perpetrator Yan and other persons, having concealed the fact that they had joined a new company, fabricated the unemployment certificates to defraud the original companies of the non-competition compensations. They contravened both the crime of business secret infringement and that of fraud at the same time. In another example where Mr. Zhu and other persons infringed the business secrets, the perpetrators, with a view to illegally acquiring the business secrets, illegally signed in the training account of Company A to download the personal information of tens of thousands of employees. They contravened both the crime of business secret infringement and that of infringement of citizens’ personal information simultaneously.

**III. An Analysis of Procuratorial Cases Involving Civil, Administrative and Public-Interest Litigation in the IP realm in Shanghai**

**(I) Overall Situation**

**1. Overall rebound of the number of the civil and administrative supervision cases.** The procuratorates in Shanghai took cognizance of 30 civil and administrative supervision cases in 2023, up 172.7% in comparison with the previous year. In general, the number of the IP civil supervision cases still accounted for the majority of the proportion.

**2. Expansion of coverage of the causes of civil supervision cases.** The civil supervision cases involved nine types of causes at three levels, an increase of six types in comparison with 2022. The top three causes in terms of proportion in descending order are: disputes over the franchise contract (28.6%), trademark ownership and tort (21.4%), and copyright ownership and tort (14.3%). Furthermore, new type of causes such as the disputes over the liability for damages caused by malicious IP litigation also emerged.

**3. Source of the civil and administrative supervision cases was affected by case categories**. In terms of initiation of the supervision, there were 10 cases initiated by a party applying for supervision, accounting for 33.3%, all of which involved supervision of the effective judgments, rulings and conciliation statements. There were also 20 cases where the procuratorates initiated supervision pursuant to the procuratorial functions, accounting for 66.7%, all of which involved supervision of the law-breaking acts in the enforcement or trial procedures.

**4. A diverse trend of the supervision mode of civil and administrative cases.** Decisions not to support supervision in accordance with the law were made in nine civil supervision cases and the procuratorial suggestions on retrial were made in two cases. Two cases were concluded in the form of termination of examination. Moreover, the procuratorial suggestions on rectification of law-breaking acts were made in a certain of the civil and administrative supervision cases. All of the foregoing procuratorial suggestions were accepted by the corresponding authorities.

**5. Stable expansion of the public-interest litigation in the IP realm.** The procuratorates in Shanghai took cognizance of 18 clues for IP public-interest litigation in 2023, including 11 ones in the IP realm, six in the anti-illegitimate competition field and one in the anti-monopoly field. 14 cases were convicted out of the 16 cases registered. The case registration rate reached approximately 88.9%.

**6. Derivation from criminal cases dominated the source of clues for public-interest litigation.** There were 13 cases where the clues were found out by the procuratorates in the process of handling, two provided by the news media and the public opinions and three complained by a natural person, a legal person and an unincorporated organization to the procuratorates. Among other things, 100% of the clues for civil public-interest litigation in the IP realm derived from performance of the criminal procuratorial functions. The number of the incidental public-interest litigation in the IP realm reached seven, reflecting effective implementation of the concept of “One Case, Four Investigations” in the procuratorial practice.

**7. Sound achievements in rectification of the pre-litigation public-Interest cases.** In terms of the completed civil public-interest cases, three were concluded at the pre-litigation stage and five at the examination and prosecution stage. In terms of the public-interest cases derived from the criminal ones, the procutratorates usually reached agreements with the criminal suspects through negotiations to demand that they eliminate danger, apologize in public or take other remedial measures. Generally, the criminal suspects were willing to cooperate proactively. In terms of the completed administrative public-interest cases, two were concluded in the form of negotiations at the pre-litigation stage and four in the form of procuratorial suggestions issued at the examination and prosecution stage. All administrative authorities in the foregoing cases took full and remedial measures and performed their duties in accordance with the law to effectively protect the social and public interests.

**(II) Case Features**

**1. Causes for application for supervision of civil and administrative cases concentrated on substantial issues while the single-supervision pattern was broken through.** The causes that a party applied for supervision mainly included substantial issues such composition of the IP infringement, or that of illegitimate competition, and determination of the indemnification liabilities. The reasons why such causes were difficult to be supported: on one hand, the applicant had partial understanding of the legal provisions, and the right owners were prone to ignore the reasonable defense reasons that the behavior was not sufficient to cause public confusion or misidentification, or they failed to fully perform the burden of proof; on the other hand, the case lacked the necessity for supervision. Despite certain inappropriate parts in the process of exposition in individual judgments, they had no impact on validity of the conclusions. In addition, they were rectified by the ruling of the retrial. Therefore, the criteria for supervision was not met. In a certain of cases, the procuratorates made the procuratorial suggestions on retrial to promote transformation from the single protest to diversified supervision in the civil supervision pattern.

**2. Types of subjects applying for civil and administrative supervision were diversified and procuratorates safeguarded development of the private-sector economy in accordance of the law.** Subjects applying for supervision included not only the original right owners and the licensees, but also the perpetrators accused of direct or indirect infringements such as manufacturers and distributors involved in every IP life cycle and every link of commodity circulation. In terms of the organizational form, IP management, use and protection needs considerable costs; therefore, the subjects applying for supervision were mainly enterprises in chemical engineering, machinery manufacture, food sales and other different industries. Meanwhile, they also included “professional, skilled, special and new” businesses and high-tech companies. As Shanghai aligned itself with the global first-rate business and innovative environment under construction, as well as persistently strengthened dynamics of attracting and using foreign investments, the number of supervision of the IP cases involving foreign elements was on the rise, indicating gradual improvement in foreign enterprises’ confidence in the judicial IP protection in Shanghai.

**3. Objects of duty-based civil and administrative cases were mainly procedural defects, indicating more attention to procedural issues paid by applicants.** Supervision instituted by procuratorates pursuant to their duties and power were mainly aimed at procedural defects such as illegal service and non-compliance of the documents formulated and issued. In the cases where supervision was applied for, the applicants, in addition to suggestions on supervision of the determination of facts and application of the law, paid more attention to the procedural law-breaking issues.

**4. Hidden danger of false publicity and product quality safety in the public-interest litigation become prominent.** While clues for the IP civil public-interest litigation found in the course of performance of the criminal procuratorial functions mainly concentrated on the IP infringement, in circumstances of undermining the public interests such as infringement of numerous consumers’ legitimate rights and interests, the causes of the corresponding criminal cases were dominated by the crime of counterfeiting registered trademarks and that of sales of commodity with counterfeit registered trademarks. That is because infringement of others’ IP with a view to making illegitimate interests was normally accompanied by poor production environments, low manufacture costs and sales prices, resulting in hidden danger of the products involved in the case which might impair the consumers’ physical health and life safety. The clues for the IP civil public-interest litigation were mainly found in the field of false publicity.

**5. The procuratorial public-interest litigation focused on concerns for people’s livelihood and protection of the IP with regional characteristics.** Procuratorates focused on the quality issues of the food, medicine and daily necessities concerning people’s livelihood and interests such as counterfeit baby pacifiers, milk powder and sports drinks. Losses in the public interests were repaired, people’s wellbeing was enhanced, and the defense line of the product quality safety was consolidated by means of apology and elimination of danger by the perpetrators. We also paid close attention to new needs of the new forms of industry and urged the relevant administrative authorities to rectify false publicity including the click farming through the take-out group purchase software, the monopoly agreement on sales of an anti-metabolic and anti-tumor drugs entered into by pharmaceutical companies, the “Lianhua Qingwen Coffee” and hydrogen-production products so that the market competitive order and the legitimate rights and interests of consumers could be reliably safeguarded. Meanwhile, the procuratorates in every region focused on combining the characteristics of regional industries and helped the high-quality development of the regional characteristic economy.

**IV. An Analysis of Comprehensive Performance of Procuratorial Functions in the IP Realm in Shanghai**

Comprehensive performance of procuratorial functions in the IP realm means overall use of the procuratorial functions in terms of the criminal, civil, administrative and public-interest litigation, and comprehensive adoption of various legal supervision ways to enable in-depth integration of such functions, leading to the effect of comprehensive protection. 2023 saw excellent achievements made in that respect.

**(I) Overall Situation**

**1. Persistent increase in the** **number of cases[[2]](#footnote-1) involving comprehensive performance of procuratorial functions in the IP realm.** The procuratorates in Shanghai took cognizance of 129 cases in total involving comprehensive performance of procuratorial functions in the IP realm in 2023, an obvious increase over the previous years. Among other things, there were 126 criminally derivative cases[[3]](#footnote-2), accounting for more than 90 percent of all cases in total in this regard. There were two civilly derivative supervision cases and one administratively derivative public-interest case.

**2. In the criminal cases of IP infringement, the proportion of cases of reverse transfer to administrative authorities for punishment after *nolle prosequi* rose dramatically.** The procuratorates in Shanghai decided on *nolle prosequi* in 153 cases involving 337 perpetrators against the IP-infringement crime in 2023. Cases of reverse transfer to administrative authorities for punishment after *nolle prosequi* exceeded 75%.

**3. Incidental civil IP litigation needed a breakthrough.** On one hand, there were disputes over the conditions for application of the incidental civil IP action; on the other hand, the right owners withdrew their applications due to difficulties in proof.

**(II) Case Features**

**1. Diverse types of cases involving comprehensive performance of procuratorial functions in the IP realm.** The source cases in this regard covered the realms of criminal and civil supervision, and the public-interest litigation. In criminal cases, **in terms of the charges**, the number of cases of reverse transfer derived from *nolle prosequi* involving infringements of the exclusive right to use trademarks, copyrights and business secrets was on the rise. **In terms of the procedure**, the cases were in the criminal, civil and public-interest litigation realms. “Zero breakthrough” was made in the procedure of the civil and public-interest cases. The number of interweaving criminal and civil cases, interweaving criminal and administrative ones, and that of the cases of enterprise compliance rectification was on the rise.

**2. Comprehensive types of the subject involved in cases with comprehensive performance of procuratorial functions in the IP realm.** In the foregoing 126 derivatively criminal cases, both the individuals and enterprises became the subject of infringement or that of the victim. In addition, the number of such case where enterprises became the subject of infringement turned out to be more. In terms of the nature of enterprises, the subject of victims consisted of state-owned, foreign and private companies. Moreover, the number of cases against the state-owned and private enterprises was gradually on the rise. In terms of the current case exposure, most of the subjects of the infringement were still private enterprises, most of which were in the printing industry.

**3. Persistent deepening of the integrated performance of procuratorial functions in the IP realm.** Strengthening the “procuratorial integration” is beneficial to full leverage of the sources and talent advantages of case handling by the superior and subordinate procuratorates as well as to consolidating vertical integration and comprehensive performance of procuratorial functions, which is the effective path in terms of development in such functions in the IP realm in the new era.

**4. Full leverage of overall effect of comprehensive function performance.** Persistent consolidation of integration and performance of functions by various departments in the procuratorates along with further perfection of the internal clue transfer mechanism could generate convergent forces and continuously strengthen coordination and collaboration with the corresponding authorities in terms of guidance for investigation and evidence collection by the police as well as case consultations, analysis and judgments with the court to promote the comprehensive performance of functions in the IP realm in an in-depth and substantial way.

**5. Positive responses for the enterprises’ needs for IP protection.** IP owners are prone to make various claims that the liabilities of the perpetrators be prosecuted; that they be compensated for their losses; and that their operation and management loopholes be found and rectified. Overall implementation of the comprehensive performance of procuratorial functions in the IP realm helped adoption of appropriate protection measures depending on specific circumstances including the basis for rights in individual cases, means of infringement and victimization of the rights. In this way, all-dimensional and comprehensive protection of the IP interests could be realized to vigorously enhance the confidence and dynamic of the market subjects in their participation in innovation and creation.

**V. Achievements and Results of the IP Protection by Procuratorates in Shanghai**

In 2023, procuratorates in Shanghai adhered to overall implementation of Xi Jinping Thought on the Rule of Law as well as to acceleration of high-quality development of the IP procuratorial work in the city pursuant to the deployment and requirements of the municipal CPC committee and the Supreme People’s Procuratorate in order to promote comprehensive performance of functions in the IP realm in an in-depth way and to create a national benchmark for the IP procuratorial work serving the innovation-driven development. One case was selected as a guiding case and four as the typical cases by the Supreme People’s Procuratorate. One team and three persons were awarded the Entities or Individuals with Excellent Work in IP Protection in the country. Four teams and six persons were awarded the Entities or Individuals with Meritorious Services in Cracking Major Infringement and Piracy Cases. Six persons were selected into the first batch of the IP procuratorial talent pool in the country.

**(I) Fully strengthen services and guarantee for construction of Shanghai Technology Innovation Center**

The *Opinions on Comprehensive Strengthening of Services and Guarantee for Construction of the Technology Innovation Center by Procuratorates in Shanghai* was released. 20 opinions in five parts were put forward to increase the dynamic of IP protection in major sectors including high-end manufacture, intelligent manufacture and the Internet industry. Judicial concepts were updated in multiple dimensions ranging from equal protection of the right to sue, application and mastering of the laws and policies, to standardization of case handling so that legal protection of the subject of technological innovation could be realized on four pathways. **Explore establishment of the procuratorial system integration serving and safeguarding the innovation-driven development.** We organized the procuratorates at all levels to establish the service and guarantee measures in line with the technological innovation chain based on the regional functions and strategic tasks in Shanghai. As a result, procuratorates at three levels in the city set up 22 IP procuratorial service stations in regions including Hongqiao International Hub, Bay Valley Science and Technology Park, Yangtze River Delta G60 Science and Innovation Corridor, Oriental Beauty Valley and West Bund Riverside Park. **Increase the weight of the rule of law for the “better and better” sixth CIIE.** The Second Hongqiao Procuratorial Forum focused on the theme of “Protecting IP Empowering Digital Economy and Escorting Grand Ceremony of the CIIE to Seek Integrated Development” in line with the supreme standard and in connection with the international rules to continuously optimize the path of judicial IP protection, and to enhance the self-protection ability of innovative entities.

**(II) Full-Chain and All-Dimensional Performance of Procuratorial Functions in the IP realm**

**The *Implementation Plan for Full Chain and Comprehensive Performance of the Four Major Procuratorial Functions in the IP realm by Procuratorates in Shanghai* was formulated.** Such plan defined the objectives and tasks for full-chain and all-dimensional performance of functions of the criminal, civil, administrative and public-interest litigation in the IP realm in terms of strengthening performance concepts, perfection of systems and mechanisms, serving the technological innovation strategy, promoting comprehensive governance, optimizing case jurisdiction and construction of professional institutions. As a result, performance of procuratorial functions extended to the links of creation, application, management and service in a self-directed way. **Persistently strengthen construction of the mechanism of IP professional case-handling organizations.** Special case-handling organizations such as the IP procuratorial offices were set up in procuratorates at all levels in Shanghai, indicating establishment of the working mode of concentrated and uniform handling of the IP procuratorial work. We also explored the upgrading jurisdiction mechanism for criminal cases of business secrets and established the system of regular exchange meetings on the foregoing cases attended by the police, the procuratorate and the court in Shanghai. **Adhere to the posture of severe strike on the infringement law-breading and crime.** We strengthened judicial protection of the digital realm, core technology trade secrets, and copyrights, guiding the police to register and investigate technology information infringement crimes involving artificial intelligence and high-end manufacture, and handling a number of influential new and difficult cases. **Persistently promote the civil and administrative supervision as well as the procuratorial public-interest litigation in the IP realm.** Special teams were established in procuratorates at three levels to strengthen the special supervision of malicious litigation. Collaborating with the well-known e-commerce platform leaders, we jointly analyzed and unearthed supervision clues for bulk complaints and lawsuits. Lawsuits for indemnity filed by IP owners in cases where the criminal judgments had become effective were supported. Centering on issues of the product quality, food and personal safety in criminal cases, we unearthed clues for compromising the social and public interests, safeguarded the legitimate rights and interests of the public by means of investigation, verification and pre-litigation negotiations.

**(III)Persistent Construction of the Grand IP Protection Pattern**

**Consolidate collaboration in cross-region IP protection.** The municipal procuratorate worked with Hongqiao International Central Business District Management Committee and the Municipal Market Supervision Administration to execute the *Agreement on Cooperation in IP Protection for Service Guarantee for the CIIE*, and joined hands with the procuratorates in Jiangsu, Zhejiang and Anhui Province to sign the *Framework Agreement on IP Protection in Digital Economy* to further deepen the cross-department and cross-region horizontal IP protection and cooperation. The Working Conference on Cross-Region Collaboration by Procuratorates in Nine Cities along the Yangtze River Delta G60 Science and Technology Innovation Corridor was organized and held. IP protection procuratorial centers and research bases were established. **Strengthen cooperation between the administrative law enforcement and the criminal justice in the IP realm.** We and the municipal IP Bureau deepened and widened business assistance, joint supervision of major cases handling and promotion of international exchanges and cooperation. The implementation method of IP appraisal in Shanghai was jointly launched. We also worked with six authorities including the municipal agriculture commission and the high court to formulate the *Opinions on IP Protection in the Seed Industry by Striking Counterfeit and Inferior Brand Cloning to Create A Sound Environment for Seed Industry Vitalization*. **Exploration of integrated and coordinated function performance based on similar cases.** We coordinated with the procuratorates, administrative authorities and industry associations in places of case occurrence to carry out traceability management and formulate the *Guide on IP compliance by Enterprises* and that of opinions on collaborative governance of IP protection in some regions.

**(IV) Adhere to Empowered Function Performance to Improve Brand Influence of the IP Procuratorial Protection**

**Organize the Special Publicity Month for IP Protection.** We organized synchronized IP Protection Thematic Month named “Protecting Innovation in Shanghai and Spreading Real Knowledge by Procuratorates” in all procuratorates at three levels in the city. No less than 130 publicity activities such as the press conferences and theme open days were organized. Public prosecution against 69 cases concerning 126 persons and two entities was conducted in the same period. Forums focusing on themes including IP protection of time-honored enterprises, coordinated regional IP protection, and geographical marks and modern agriculture were held. **Adhere to the international perspective.** Closely following changes in the international IP rules such as the RCEP and CPTPP, we participated in construction of the system of international rules based on handing of cases involving foreign elements. We also joined hands with Tongji University to set up practice courses for the WIPO international master’s program, organized the Second IP Development Forum centering on business secret protection, and dispatched professional procurators to participate in a number of international IP forums.

**VI. Countermeasures and Suggestions on IP Protection**

**(I) Standardize the Whole Process of IP Case Handling Based on Professional Case Handling**

We should persistently optimize the concepts of procuratorial handling of IP cases, promote unification of the judicial determination standard, and continuously explore and innovate the professional mode of performance of procuratorial functions in the IP realm. Furthermore, while firmly striking the opportunistic practice engaging in law breaking and crimes in the name of innovative business models as well as extending performance of procutatorial functions to the links in IP creation, application, management and service, we ought to focus on key cases, realms, brands and personnel to further improve precision and intensity of the regulation of the criminal law. In addition, both the IP civil incidental litigation system and the IP civil-support prosecution system should be promoted, and the IP public-interest litigation system should be explored.

**(II) Portray the Extension Line of IP Judicial Guarantee Based on Integrated Function Performance**

Construction of professional performance of the procuratorial functions in the IP realm should be substantially enhanced. The joint-action mechanism between the superior and subordinate procuratorates should be perfected, and the meaningful case handling should be strengthened to enable better and optimized procuratorial service to safeguard the legitimate rights and interests of the IP owners. Moreover, we should fully sort out prevalent problems in the IP cases and formulate and release normative guidelines. We should also explore the system of the “deputy director of the rule of law for technological innovation parks”, strengthen publicity on the rule of law, develop the “menu-like” special courses, deliver procuratorial service resources to the grass-roots units, and entend judicial services to the forefront of innovation. In addition, we ought to perfect the supporting mechanism of individual case compliance, study and formulate the compliance guidance for the IP enterprises, explore application scenarios of the big data supervision model, and anchor ourselves to compliance of the whole IP industry to help the said industry find and properly solve the prevalent management problems in time.

**(III) Focus on Diversified Cooperation to Create the Grand Pattern of IP Co-Governance**

To begin with, the clue-report mechanism with the police, court and the IP regulatory authorities should be perfected, and enterprises should be proactively urged to take initiative to get involved in co-governance of IP protection to further promote the mechanism of mutual recognition of compliance by the administrative law enforcement authorities. Next, we should explore and build data classification and the step share mode, vigorously improve achievements in special supervision of malicious litigation, and increase lead digging. Last but not the least, we should consolidate cooperation between the procuratorate and the court, promote cooperation between the procuratorate and universities and optimize that with enterprises to jointly construct a new framework in IP coordination and collaboration and to build new synergy for development.

1. The number of the IP-infringement criminal cases is the sum of the number of the cases for examination and arrest and that of the cases for examination and prosecution. The same below. [↑](#footnote-ref-0)
2. In terms of the cases involving comprehensive performance of procuratorial functions in the IP realm, in principle, minimum two out of four procuratorial functions in terms of criminal, civil, administrative and public-interest litigation shall be performed simultaneously in one case, deriving a new case from it. [↑](#footnote-ref-1)
3. Criminally derivative case means the case involving other types of the procuratorial functions derived from criminal cases. The derivatively civil, administrative and public-interest litigation cases can be inferred in the same way. [↑](#footnote-ref-2)