



IP NEWS

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Jiaquan IP Law

IP NEWS

THE THEME

IP update - IP Courts and Tribunals in China

Patent practice - \$6 Million for Patent Infringement?

IP update - IP Courts and Tribunals in China

HinsLi

Our foreign clients and colleagues have frequently asked questions about the Chinese IP court system. Over the past two decades, the rapid development of both society and economy in China has led to a sharp increase in the amount of IP cases. This has also generated more difficulties when solving IP related disputes. However, in the past eight years, the Supreme People's Court (SPC) has established an improved jurisdiction system to provide faster and better service regarding IP cases.

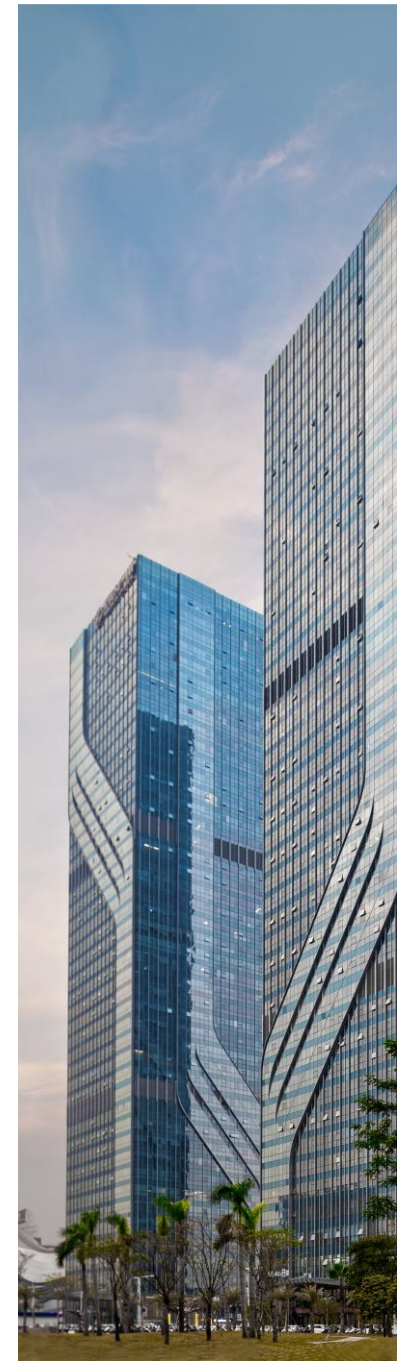
- In 2014, three new specialized IP courts were established in Beijing, Shanghai, and Guangzhou.
- Since 2017, IP tribunals have been set up by intermediate people's courts in over 20 cities.
- In 2019, the Intellectual Property Court of the

Supreme People's Court (SPCIPC) was formally inaugurated, instituting a national-level appeal mechanism for Chinese IP cases. The SPCIPC hears appeal cases related to high-tech patents and other IP rights nationwide. According to published data, the SPCIPC received 5,218 cases in 2021, and 10% (523 cases) of them were cases involving foreign entities.

IP courts, IP tribunals, and intermediate people's courts hear cases in the first instance, while the second instance is appealed to the SPCIPC.

For your reference, see below for a list of courts with jurisdiction over the first instance of patent disputes. Should you have any specific questions, please do not hesitate to let us know.

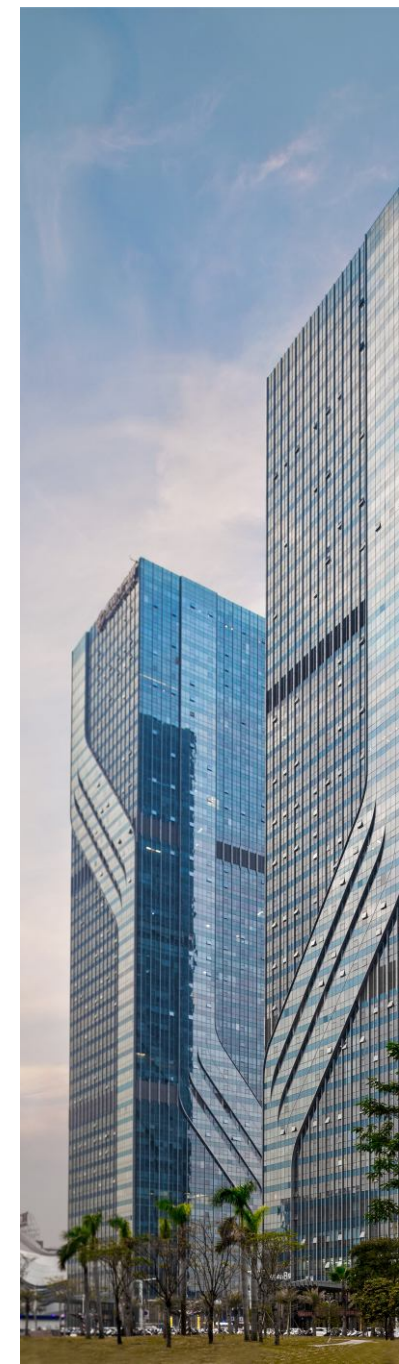
| List of Courts Having Jurisdiction Over First Instances of Patent Disputes | | |
|---|--|--|
| Intellectual Property Court of the Supreme People's Court | | |
| Beijing | Beijing High People's Court | Beijing Intellectual Property Court |
| Tianjin | Tianjin High People's Court | Tianjin Intellectual Property Tribunal* |
| Hebei | Hebei High People's Court | Shijiazhuang Intermediate People's Court |
| Shanxi | Shanxi High People's Court | Taiyuan Intermediate People's Court |
| Inner Mongolia | Inner Mongolia Autonomous Region High People's Court | Huhhot Intermediate People's Court Baotou Intermediate People's Court |
| Liaoning | Liaoning High People's Court | Shenyang Intermediate People's Court, |



| | | |
|--------------|---|--|
| | | Dalian Intermediate People's Court |
| Jilin | Jilin High People's Court | Changchun Intellectual Property Tribunal* |
| Heilongjiang | Heilongjiang High People's Court | Harbin Intermediate People's Court Qiqihar Intermediate People's Court |
| Shanghai | Shanghai High People's Court | Shanghai Intellectual Property Court |
| Jiangsu | Jiangsu High People's Court | Nanjing Intellectual Property Tribunal* Suzhou Intellectual Property Tribunal* |
| Zhejiang | Zhejiang High People's Court | Hangzhou Intellectual Property Tribunal* Ningbo Intellectual Property Tribunal* |
| Anhui | Anhui High People's Court | Hefei Intellectual Property Tribunal* |
| Fujian | Fujian High People's Court | Fuzhou Intellectual Property Tribunal* Xiamen Intellectual Property Tribunal* |
| Jiangxi | Jiangxi High People's Court | Nanchang Intellectual Property Tribunal* |
| Shandong | Shandong High People's Court | Jinan Intellectual Property Tribunal* Qingdao Intellectual Property Tribunal* |
| Henan | Henan High People's Court | Zhengzhou Intellectual Property Tribunal* |
| Hubei | Hubei High People's Court | Wuhan Intellectual Property Tribunal* |
| Hunan | Hunan High People's Court | Changsha Intellectual Property Tribunal* |
| Guangdong | Guangdong High People's Court | Guangzhou Intellectual Property Court Shenzhen Intellectual Property Tribunal* |
| Guangxi | Guangxi Zhuang Autonomous Region High People's Court | Nanning Intermediate People's Court Liuzhou Intermediate People's Court |
| Hainan | Hainan High People's Court | Haikou Intellectual Property Tribunal* |
| Chongqing | Chongqing High People's Court | Chongqing No. 1 Intermediate People's Court Chongqing No. 5 Intermediate People's Court |
| Sichuan | Sichuan High People's Court | Chengdu Intellectual Property Tribunal* |
| Guizhou | Guizhou High People's Court | Guiyang Intermediate People's Court Zunyi Intermediate People's Court |
| Yunnan | Yunnan High People's Court | Kunming Intermediate People's Court |
| Tibet | Tibet Autonomous Region High People's Court | Lhasa Intermediate People's Court |



| | | |
|--|--|--|
| Shaanxi | Shaanxi High People's Court | Xi'an Intellectual Property Tribunal* |
| Gansu | Gansu High People's Court | Lanzhou Intellectual Property Tribunal* |
| Qinghai | Qinghai High People's Court | Xining Intermediate People's Court |
| Ningxia | Ningxia Hui Autonomous Region High People's Court | Yinchuan Intermediate People's Court |
| Xinjiang | Xinjiang Uygur Autonomous Region High People's Court | Urumqi Intellectual Property Tribunal* |
| | Production and Construction Corps Branch of Xinjiang Uygur Autonomous Region High People's Court | Intermediate People's Court of the Eighth Division of Xinjiang Production and Construction Corps; Intermediate People's Court of the Twelfth Division of Xinjiang Production and Construction Corps |
| <p>Note: Intellectual Property Courts with * are divisions of intermediate people's courts, enjoying trans-administrative regional jurisdiction of technology-related intellectual property cases, such as patent cases.</p> | | |



Patent practice - \$6 Million for Patent Infringement?

Successfully Invalidating Claims

By Jiaquan and Easwayer for Client HONGSBELT

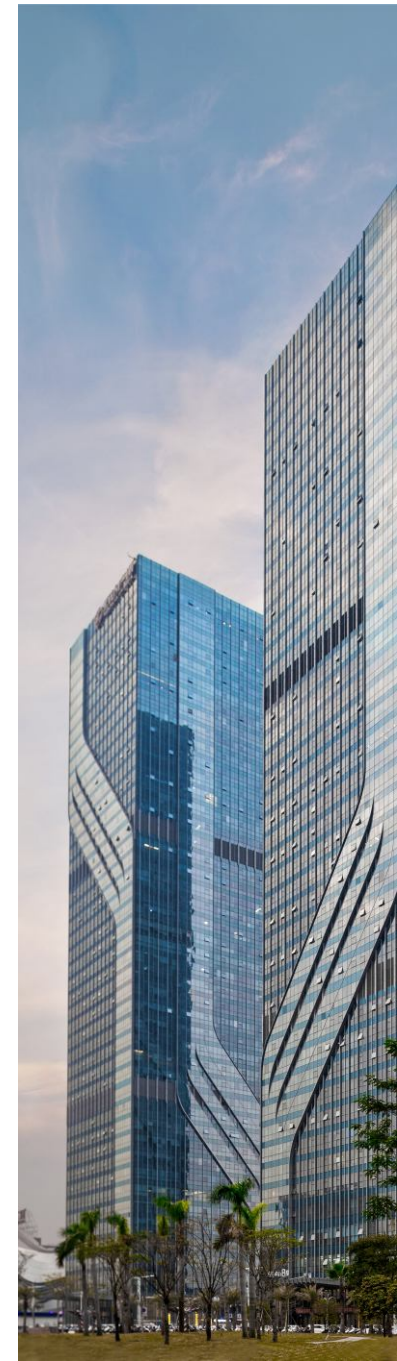
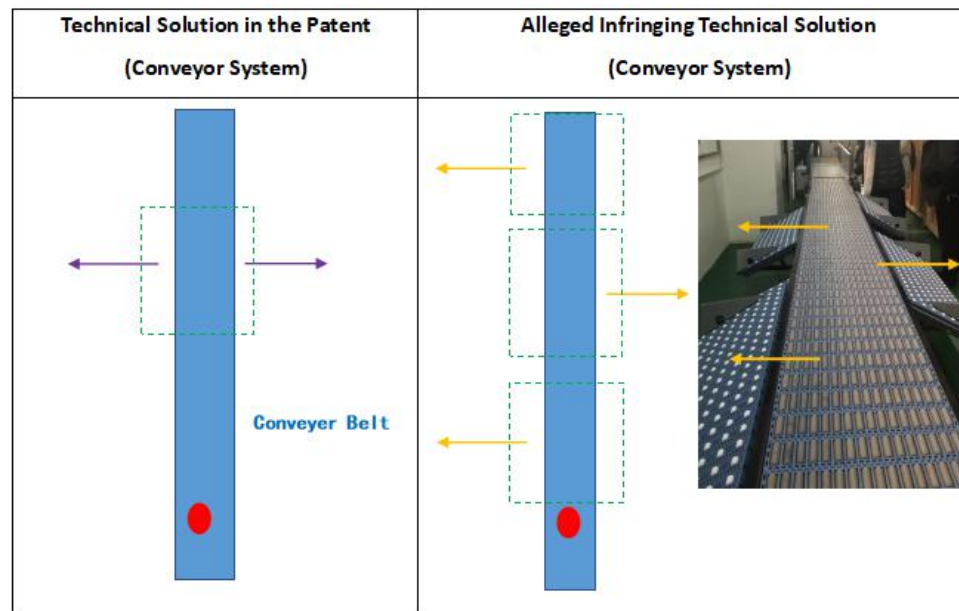
Jacky Tan

The Chinese invention patent No. 2007800035278, titled "Systems and Methods for Diverting Objects", is owned by Laitram LLC and is exclusively licensed to Intralox LLC ("Intralox").

On April 1st, 2020, Intralox brought a lawsuit against HONGSBELT before Shanghai Intellectual Property Court. Intralox alleged that HONGSBELT's manufacturing of LOVCAE, offering for sell, and selling the conveyor-based sorting system, infringed Claims 1 to 3 of the aforementioned patent. Intralox requested that HONGSBELT immediately stop the infringement and pay compensation for the damages of 38 million RMB (approximately \$6 million USD).

HONGSBELT's response strategies were as follows:

1) Non-infringement defense



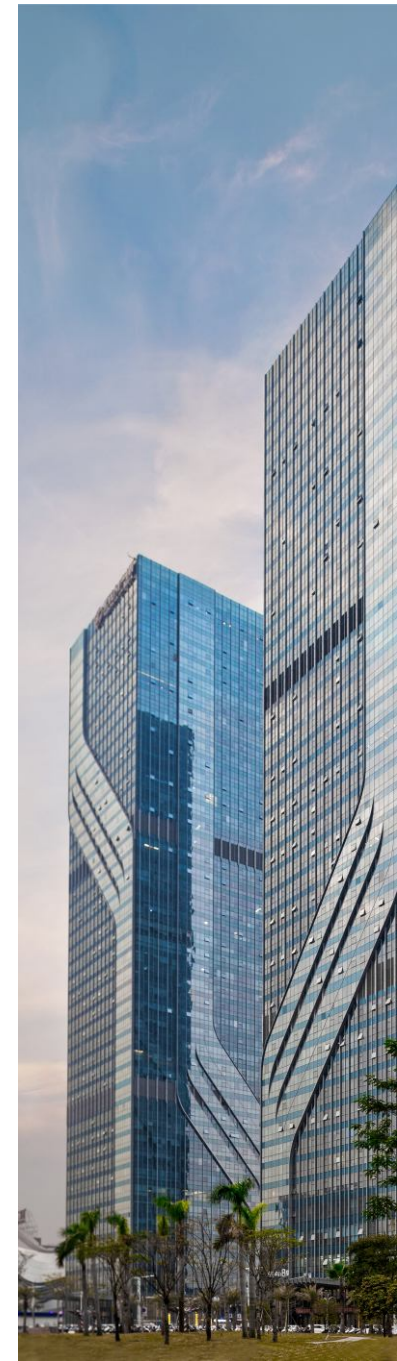
Similar to a "crossroads", adjustable drive rollers turn left or right to sort and convey items placed on the belt.

Similar to a "fork in the road", the item can only turn left at the first fork, turn right at the second one, or turn left at the third one.

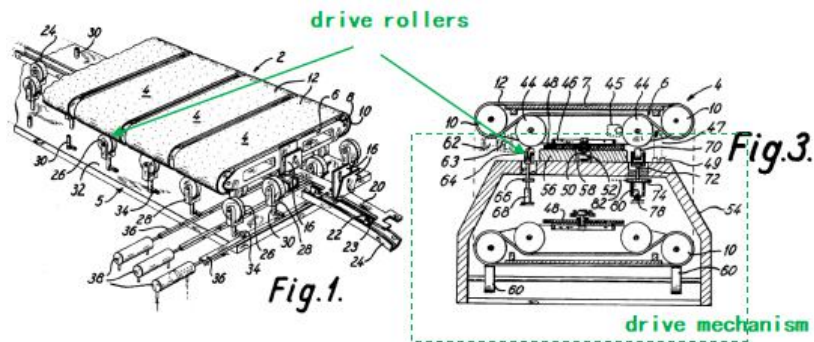
This design is not identical or equivalent to the technical feature of Claim 1: "A drive mechanism with a plurality of conveyor belt rollers".

Nor is it identical or equivalent to the technical feature of Claim 2: "the conveyor belt rollers have axes of rotation that are aligned with a direction of travel of the conveyor belt such that the conveyor belt rollers can divert objects in either transverse direction across the conveyor belt."

Although the alleged infringing technical solution takes up more space, it does not incorporate the complex "adjustable angle" drive roller structure. Thus, the solution has found increased popularity within the Chinese market due to lower failure rates, greater ease of maintenance, and higher cost-effectiveness. The technical solution in the patent does not have such benefits.



2) Prior art defense: Prior art (US4096936A)



3) Patent Invalidation Proceeding: US4096936A (Evidence 3, Novelty)

On August 6th, 2021, the Shanghai Intellectual Property Court made a decision following two trials and a site inspection hearing: the court determined that Claims 1 to 3 of Chinese Patent No. 200780003527.8 were invalid, and the Intralox lawsuit (Case Numbers: (2020) HU 73 MINCHU 353) was subsequently dismissed.

This case was not the first conflict between Intralox and HONGSBELT. In the past, Intralox had sued HONGSBELT for infringing upon two other patents (Case Numbers: (2016) HU 73 MINCHU 797 and 798). Altogether, these three cases claimed a total of 40 million RMB (more than \$6.3 million

USD) in damages. Based on the CNIPA's decisions during patent invalidation proceedings, all of Intralox's suits were either dismissed or withdrawn.

After carefully analyzing the most recent HONGSBELT case, Jiaquan and Easwayer's legal team generated a reasonable litigation strategy, responding to the Intralox lawsuit with a combination of non-infringement defense, prior art defense, and patent invalidation proceedings. Following an exhaustive search of prior art, attorneys of Jiaquan and Easwayer successfully identified favorable prior art evidence and filed a patent invalidation request with the CNIPA. Consequently, the CNIPA invalidated Claims 1 to 3 of the patent based on the evidence and arguments provided. According to the Chinese Patent Law, "Any patent right that has been declared invalid shall be deemed to be non-existent from the beginning," and "Several Rules of the Supreme People's Court on the Application of Laws When Hearing the Patent Dispute Cases(2)", the Shanghai Intellectual Property Court dismissed Intralox's lawsuit.

In this case, the legal team of Jiaquan and Easwayer represented their client HONGSBELT throughout the entire patent invalidation and patent infringement proceedings. So far, Jiaquan and Easwayer has helped HONGSBELT win three patent infringement lawsuits and successfully safeguarded the legal rights of their client.

