

**ENFORCEMENT OF MAINLAND
JUDGMENTS RELATING TO
INTELLECTUAL PROPERTY**
執行與知識產權有關的內地判決

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SPECIFIED INTELLECTUAL PROPERTY RIGHTS

指明知識產權

- 1) Copyright or related right 版權或有關權利
- 2) Trade mark 商標
- 3) Geographical indication 地理標誌
- 4) Industrial design 工業外觀設計
- 5) Patent 專利
- 6) Layout-design (topography) of integrated circuit 集成電路的布圖設計（拓樸圖）
- 7) Right to protect undisclosed information 保護未被披露的資料的權利
- 8) Right in respect of new plant variety 就植物新品種享有的權利

EXCLUDED INTELLECTUAL PROPERTY CASES 被排除的知識產權案件

A Mainland Judgment given in respect of an intellectual property case is enforceable except in so far as it is given in :

就知識產權案件所作出的內地判決具有強制執行力，但下列情況除外：

1) Proceedings brought in respect of a tortious dispute over an **infringement of an invention patent or utility model patent**

就關乎侵犯發明專利或實用新型專利的侵權糾紛提起的法律程序

2) Proceedings for the **determination of a licence fee rate of a standard-essential patent**

尋求釐定標準必要專利的許可費率的法律程序

3) Proceedings brought in respect of a dispute over an intellectual property right that is **not a specified intellectual property right**

就關乎不屬“指明知識產權”的知識產權的糾紛提起的法律程序

EXCLUDED RULINGS
CONTAINED IN MAINLAND JUDGMENTS
ORDERED TO BE REGISTERED
獲命令登記的內地判決書中會被排除的裁定

A ruling on **validity, establishment or subsistence** of a specified intellectual property right (“**Subject Ruling**”) is excluded and must not be registered

不得登記關於指明知識產權的**有效性**、或指明知識產權**是否成立或存在**的裁定（“**標的裁定**”）

BUT 但是

There is no prohibition on registration of a Mainland Judgment or a part thereof to the extent that it relates to **a ruling on liability based on a Subject Ruling**

凡有關判決或部分有一項關於法律責任的裁定，而該法律責任裁定是**基於標的裁定的**，則不被禁止登記

EXCLUDED RELIEF 被排除的濟助

Mainland Judgments given in proceedings brought in respect of :

在以下法律程序所作出的內地判決：

1) A tortious dispute over an infringement of a specified intellectual property right (**other than an infringement of a right in a trade secret**); or

侵犯指明知識產權（侵犯對商業秘密享有的權利除外）的侵權糾紛；或

2) A civil dispute over an act of unfair competition under Article 6 of the Mainland Anti-Unfair Competition Law;

《中華人民共和國反不正當競爭法》第六條規定的不正當競爭行為的民事糾紛，

must not be registered to the extent that it relates to relief other than **monetary damages (including punitive or exemplary damages)**.

不得登記金錢上的損害賠償(包括懲罰性或懲戒性的損害賠償)以外的濟助。

UNIQUE FEATURES OF RELIEF UNDER
MAINLAND JUDGMENTS RELATING TO
INTELLECTUAL PROPERTY CASES
內地知識產權案件判決下濟助的特點

Except in a case relating to infringement of a right in a trade secret,

only that part of a Mainland Judgment as relates to **monetary damages** is registrable so, unlike Mainland Judgments as relates to other civil or commercial matters, a judgment or part of a judgment that **requires, prohibits or restricts the performance of an act** is not registrable.

內地判決中只有與**金錢上的損害賠償**有關的部分才可以登記
(侵犯對商業秘密享有的權利除外)

因此，與其他內地民商事判決不同，**規定須履行、禁止或限制實施某一行為**的判決或部分判決是不可登記的。

BUT 但是

It is only in relation to intellectual property cases that a Mainland Judgment awarding **punitive or exemplary damages** is registrable.

內地判決判給的**懲罰性或懲戒性賠償**只有與知識產權案件相關時方可獲登記

JURISDICTIONAL REQUIREMENTS

司法管轄權的規定

Unless the following jurisdictional requirements are satisfied, the registration of a Mainland Judgment relating to proceedings brought in respect of a tortious dispute over an infringement of a specified intellectual property right or a civil dispute over an act of unfair competition under Article 6 of the Mainland Anti-Unfair Competition Law must be set aside :

除非符合以下司法管轄權的規定，否則有關侵犯指明知識產權的侵權糾紛，或有關《中華人民共和國反不正當競爭法》第六條所指的不正當競爭行為的民事糾紛的內地判決登記必須作廢：

1) The infringement or act of unfair competition was **committed in the Mainland**; and

有關的侵犯行為或不正當競爭行為是在內地作出的；和

2) The specified intellectual property right or interest concerned is **subject to protection under the law of the Mainland**.

有關的指明知識產權或權益是受內地法律保障的。

THANK YOU!

謝謝！