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# Analysis Report on Judicial Protection Data of Beijing Intellectual Property Court (2016)

Analysis Report on Judicial Protection Data of Beijing Intellectual  
Property Court

(2016)

Compiled by IPHOUSE Judicial Data Research Center

## Statement on Compilation

As one of the three intellectual property courts first established in China, Beijing Intellectual Property Court has always played the role of pioneer, leader and pilot field in the reform of judicial judgment of intellectual property in China. The analysis on the judicial data of Beijing Intellectual Property Court is the objective evaluation of a court, analysis on the current situation in the judicial protection of intellectual property in Beijing, and the analysis on the current situation in the judicial protection of the most advanced and top-level intellectual property in China. Therefore, we pay more attention to the "significance" behind the data upon the analysis; in the meantime, we hope to objectively analyze the facts for the most cutting-edge judicial protection of intellectual property in China, learn the latest results for the protection of intellectual property in China and prospect the protection of intellectual property in the future.

Along with the idea of analysis above, the analysis report on the data has the following characteristics on the content and structure:

1. Emphasizing the "normality" in the analysis of data, and excluding the interference of special data. For example: for the analysis of civil cases in the first instance, focusing on the analysis of patents, software copyrights and other technical cases, cases involving affirmation of well-known trademarks, monopoly-related cases and other cases governed by Beijing Intellectual Property Court according to the applicable laws and regulations;
2. Emphasizing the "legal significance" in the analysis of data, for example: for the analysis of duration of the trial, excluding the cases involving the foreign parties and parties from Taiwan, Hong Kong and Macao regions of China to compare with the *Civil Procedure Law* and *Administrative Litigation Law*;
3. Emphasizing the "practical significance" in the analysis of data. For example: the analysis on the relevant substantial meaning shall be excluded from this analysis as it is a purely procedural problem for the disposal of case related to the dispute over jurisdiction;
4. Emphasizing the significance of "reference" and "guiding the future" in the analysis of data, especially the provisions, such as *Notice of the Supreme People's Court on the Jurisdiction of Cases by Intellectual Property Courts and Other Issues* regarding jurisdiction are gradually defined before and after establishment of intellectual property courts; therefore, the changes in the jurisdiction are involved; data related to the cases not under the jurisdiction of the intellectual property courts shall not be analyzed as this analysis focuses on the data after defining the jurisdiction.

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# Part I General Analysis

## Statement on the Scope of Jurisdiction of Beijing Intellectual Property Court

### I. As stipulated in the *Provisions of the Supreme People's Court on the Jurisdiction of Cases by Beijing, Shanghai and Guangzhou Intellectual Property Court*:

1. The civil and administrative cases related to the patents, new varieties of plants, layout designs of integrated circuit, technical secrets and computer software in Beijing; administrative cases related to the lawsuit filed against the administrative activities carried out by the department of the State Council or the local people's governments above the county level which involve the copyright, trademark, unfair competition, and civil cases involving the affirmation of well-known trademarks shall be under the jurisdiction of Beijing Intellectual Property Court.
2. Dissatisfaction with the ruling or decision by the department of the State Council for the authorization and affirmation of intellectual properties such as patents, trademarks, new varieties of plants and layout designs of integrated circuit, dissatisfaction with the decision by the department of the State Council for the compulsory license for patents, new varieties of plants and layout designs of integrated circuit as well as ruling on the royalties or remunerations for compulsory license, and dissatisfaction with other administrative activities carried out by the department of the State Council for the authorization and affirmation of intellectual property shall be under the jurisdiction of Beijing Intellectual Property Court.
3. The appeal lodged by the parties against the civil and administrative judgment and ruling of first instance made by the basic people's courts in the city where the intellectual property courts are located on the intellectual properties such as copyrights, trademarks, technical contracts and unfair competition shall be tried by the intellectual property courts.

### II. *Notice of the Supreme People's Court on the Jurisdiction of Cases by Intellectual Property Courts and Other Issues*

1. Major cases of first instance related to the intellectual property that involve foreign parties or those exerting major influence under the jurisdiction of basic people's courts in the city where the intellectual property courts are located may be tried in the superior courts according to Article 38 of Civil Procedure Law.

Cases of first instance related to the intellectual property under the jurisdiction of basic people's courts in the city where the intellectual property courts are located may be submitted to the intellectual property courts for trial in case they are required to be tried therein.

2. Case of first instance related to civil disputes over monopoly under the jurisdiction of intellectual property courts in the municipal district.
3. The parties may apply to the basic people's courts or intellectual property courts for retrial of the civil and administrative judgment, ruling and mediation agreement with legal effect made by such basic people's courts in the city where the intellectual property courts are located according to law.

The parties may apply to the intellectual property courts or high people's courts where such intellectual property courts are located for retrial of the civil and administrative judgment, ruling and mediation agreement with legal effect made by such intellectual property courts according to law.

## I. Overall Data

Beijing Intellectual Property Court newly accepted 10,638 cases in total and concluded 8,111 cases in 2016, 49.3% higher than those (5,432 cases) in 2015.

### 1. Administrative Cases

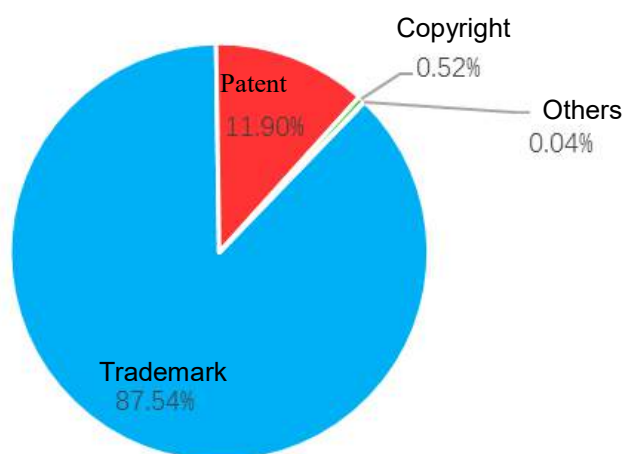
#### (1) General Situation

Beijing Intellectual Property Court newly accepted 7,071 administrative cases of first instance in total and concluded 4,976 cases in 2016, 39.7% higher than those (3,561 cases) in 2015. Among which, there are 4,840 administrative cases about authorization and affirmation, representing 97.3% of the total ones. The details are as follows:

Distribution List of type of Administrative Cases

Type	Number
Trademark	4,356
Patent	592
Copyright	26
Others	2
Total	4,976

Distribution of Type of Administrative Cases

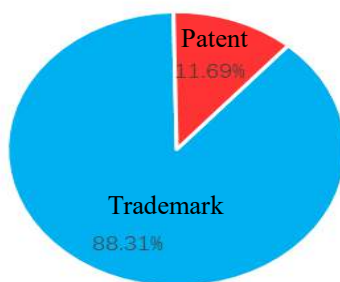




### Distribution List of Type of Administrative Cases about Authorization and Affirmation

Type	Number
Trademark	4,274
Patent	566
Total	4,840

### Distribution of Type of Administrative Cases about Authorization and Affirmation



#### (2) Result of Judgment

Among the administrative cases about authorization and affirmation, there are 4,397 cases concluded through judgment, among which there are 1,006 cases about administrative activities of administrative authority cancelled by the court through judgment, making the cancellation rate 22.9%<sup>1</sup>, 5.6% higher than that in 2015; there are 443 cases concluded through ruling, among which there are 394 cases withdrawn<sup>2</sup>, 18 refused to be accepted, 29 rejected and 2 concluded, making the withdrawal rate<sup>3</sup> of administrative cases about authorization and affirmation 9.0%.

## 2. Civil Cases

#### (1) General Situation

Beijing Intellectual Property Court newly accepted 3,567 civil cases in total and concluded 3,135 cases in 2016, among which there are 1,160 cases about dispute over jurisdiction concluded. We will specially analyze the cases about dispute over jurisdiction in the part "V. Comprehensive procedure" to analyze the characteristics of judicial judgment on intellectual property more intensively, and exclude the data about ruling on and conclusion of cases about dispute over jurisdiction from the statistics in other parts hereof (unless otherwise specially stated).

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<sup>1</sup>Cancellation rate = number of cases with administrative activities of administrative authority cancelled / total number of administrative cases about authorization and affirmation concluded through judgment.

<sup>2</sup>Including the cases disposed by withdrawing the litigation.

<sup>3</sup>Withdrawal rate = number of cases withdrawn / total number of cases.

### Distribution List of Type of Civil Cases

Type	First Instance	Second Instance	Retrial Applied for	Total
Trademark	26	80	2	108
Patent	444	8	0	452
Copyright	320	767	3	1,090
Unfair competition	10	37	0	47
Others	180	97	1	278
Total	980	989	6	1,975

#### (2) Result of Judgment

In the civil cases of first instance concluded by Beijing Intellectual Property Court in 2016, there are 299 cases concluded through judgment, and the plaintiff's winning rate is 46.8%; there are 593 cases concluded through ruling, among which there are 556 cases withdrawn, 8 refused to be accepted, 27 rejected, 2 cases about property preservation before litigation; 87 cases concluded through mediation, making the rate of mediation and withdrawal 65.6%.

In the civil cases of second instance, there are 572 cases concluded through judgment, 294 concluded through ruling, 123 concluded through mediation, and rate of commutation and remandment is 9.8%; in the cases concluded through ruling, there are 281 cases withdrawn, 5 remanded for retrial, 2 remanded for trial, 6 cases with ruling of first instance maintained, making the rate of mediation and withdrawal 40.8%.

## II. Duration of Trial<sup>4</sup>

Duration of trial may reflect the efficiency of courts in the trial in a certain extent. The following table is the comparison of average duration of trial of various cases in 2016 and 2015.

### 1. Average Duration of Trial

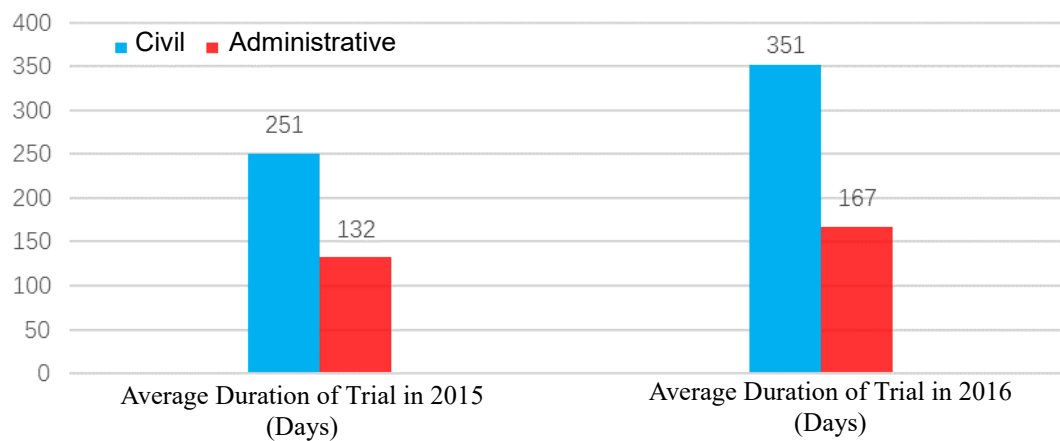
Comparison Table of Average Duration of Trial of Various Cases

Level of Trial	Nature of Case	Average Duration of Trial in 2016 (days)	Average Duration of Trial in 2015 (days)
First instance	Civil	351	251
	Administrative	167	132

<sup>4</sup>In accordance with applicable laws and trial facts, the analyzed data are only included in the data about cases involving non-foreign parties (including the parties other than those from Taiwan, Hong Kong and Macao regions of China) and concluded through judgment to make the analysis full of actual value for reference, while the civil cases are only included in the cases about infringement and disputes over ownership, the same below.

Second instance	Civil	108	67
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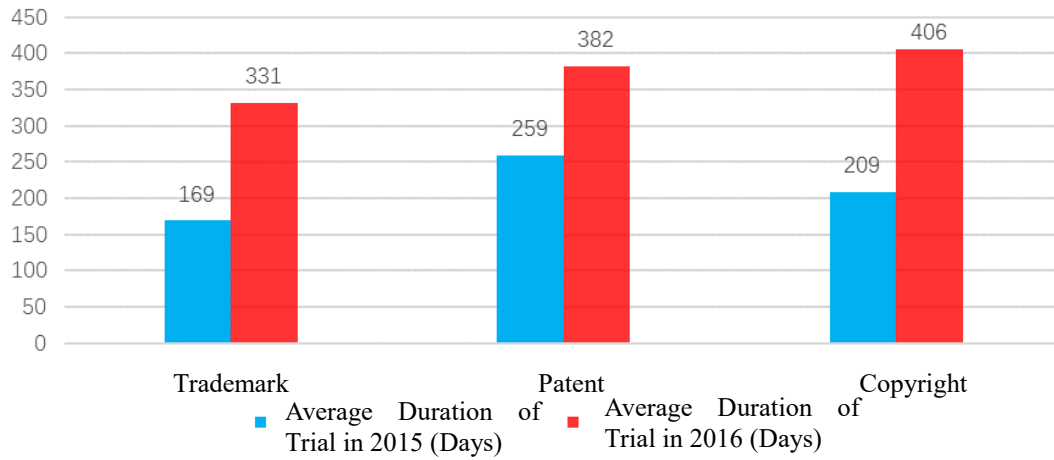
Annual Comparative Analysis of Average Duration of Trial of Cases of First Instance Concluded (by Nature of Cases)



Comparison Table of Average Duration of Trial of Civil Cases

Level of Trial	Type	Average Duration of Trial in 2016 (Days)	Average Duration of Trial in 2015 (Days)
First Instance	Trademark	331	169
	Patent	382	259
	Copyright	406	209
	Unfair Competition	493	-
	Monopoly	326	-
Second instance	Trademark	116	80
	Copyright	103	63
	Unfair Competition	167	-

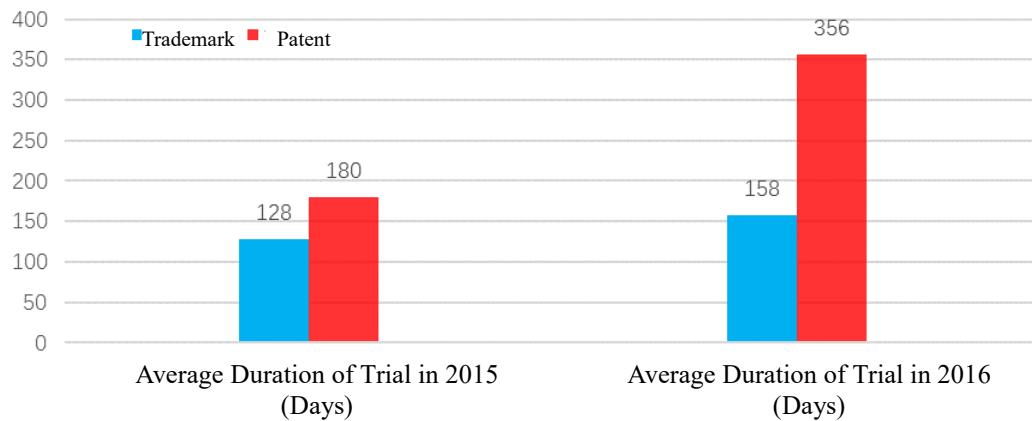
**Annual Comparative Analysis of Average Duration of Trial of Civil Cases of First Instance Concluded (by Type of Cases)**



**Comparison Table of Average Duration of Trial of Administrative Cases**

Level of Trial	Type	Average Duration of Trial in 2016 (Days)	Average Duration of Trial in 2015 (Days)
First Instance	Trademark	158	128
	Patent	356	180

**Annual Comparative Analysis of Average Duration of Trial of Civil Cases of First Instance Concluded (by Type of Cases)**



(1) Trademark

Type	Nature of Case	Average Duration of Trial in 2016 (Days)	Average Duration of Trial in 2015 (Days)
Trademark	Retrial of Rejection	109	104
	Retrial of Dispute	393	179
	Retrial of no Registration	125	-5
	Request for Announcement of Invalidation (Dispute)	273	166
	Retrial of Revocation	283	192

Type	Cause of Action	Average Duration of Trial (Days)
Speedy Trial Troup	Retrial of rejection	90
Non-speedy Trial Group	Retrial of Rejection	165

(2) Patent

Type	Nature of Case	Average Duration of Trial in 2016 (Days)	Average Duration of Trial in 2015 (Days)
Patent	Retrial of Rejection	325	179
	Announcement of Invalidation	373	181

From the above data, it can be seen that the average duration of trial of cases by Beijing Intellectual Property Court in 2016 is longer than that in 2015 as a whole, which is affected by many factors as follows:

- (1) Year 2015 is the first year when Beijing Intellectual Property Court was established. 1/3 of the cases concluded in 2016<sup>6</sup> were accepted before 2016, which is the major reason for the long average duration of trial of cases concluded in 2016;

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<sup>5</sup>"Retrial of no registration" is the nature of case stipulated upon implementation of *Trademark Law* in 2014, and such cases have not appeared in the cases concluded in 2015. The details are seen in the *Opinions of Beijing High People's Court about Normalization of Nature of Cases about Trademark-related Administrative Litigation* (Jing Gao Fa Fa [2014] No. 392).

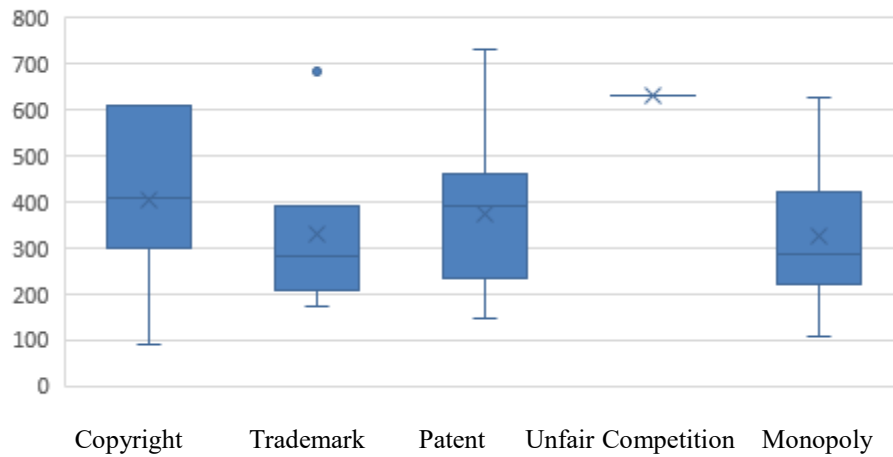
<sup>6</sup>Cases included in the statistics of data about duration of trial.

- (2) In the cases concluded by Beijing Intellectual Property Court in 2016, there are more than 1,300 technical cases (patents, computer software and new varieties of plants), more than 2 times the technical cases concluded in 2015, which is also the major factor affecting the average duration of trial.

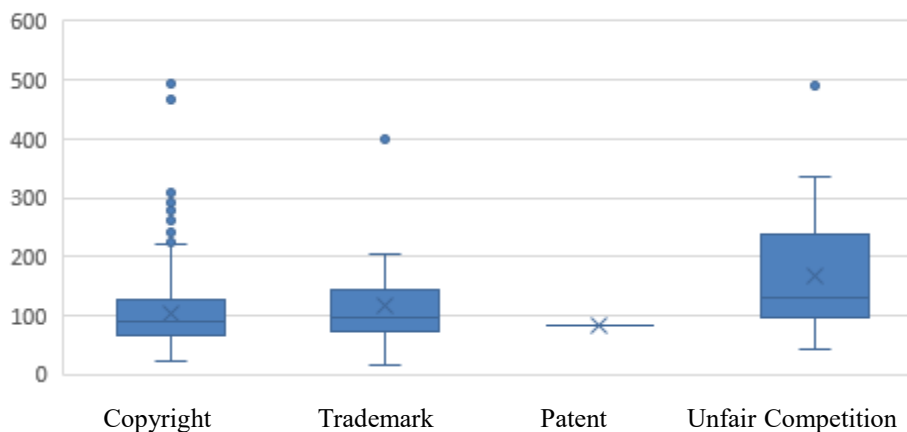
One of the highlights for the trial of cases by Beijing Intellectual Property Court in 2016 is the establishment of speedy trial group<sup>7</sup>. Upon establishment of speedy trial group, the average duration of trial of cases about retrial of rejected application for trademark is saved by 45.5%, therefore, the efficiency in the trial of cases has witnessed great improvement.

## 2. Distribution of Duration of Trial

Civil Cases of First Instance

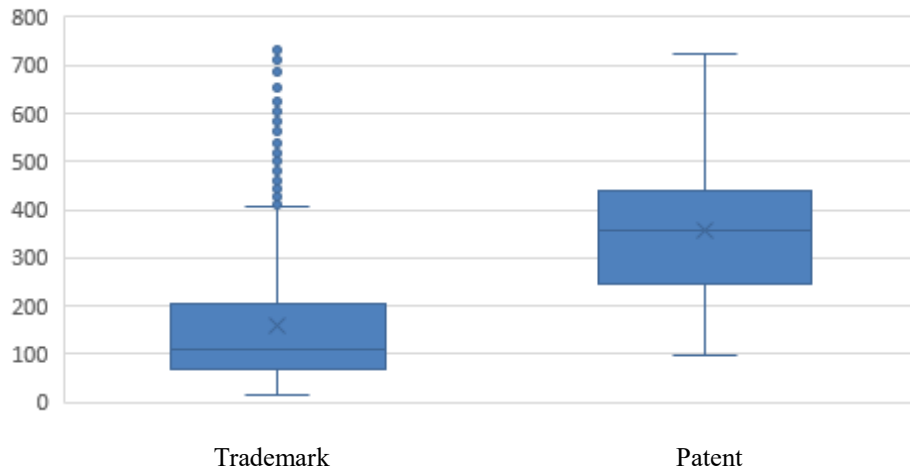


Civil Cases of Second Instance

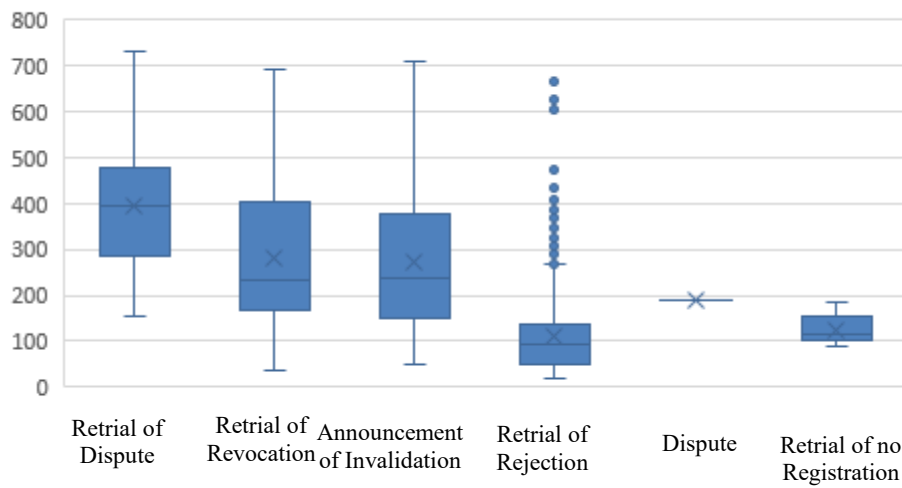


<sup>7</sup>Operating on February 25, 2016 and specially trying the cases about administrative disputes over retrial of rejection of trademarks applied for.

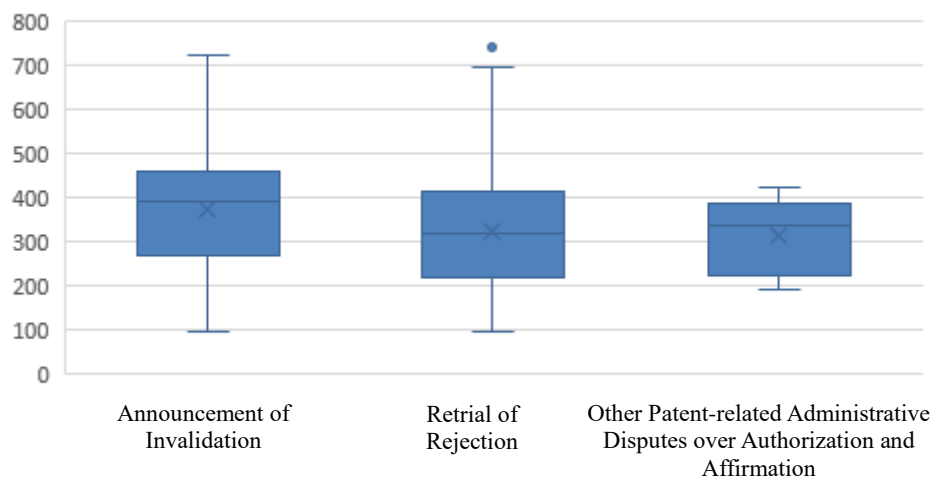
## Administrative Cases



## Trademark-related Administrative Cases



## Patent-related Administrative Cases



From the data above, it can be seen that the duration of trial of 50% of civil cases of first instance concluded by Beijing Intellectual Property Court in 2016 falls into the range from 227 to 431 days (i.e. 1/4 cases are tried for more than 431 days, while 1/4 cases are tried for less than 227 days, the same below), of which the median is 355 days (long), which explains the overall duration of trial is long; the duration of trial of 50% of civil cases of second instance falls into the range from 69 to 128 days, of which the median is 91 days (short), which explains the overall duration of trial is short; however, the difference between them is small, which explains the duration of trial is relatively equally distributed.

The duration of trial of 50% of administrative cases of first instance falls into the range from 76 to 252 days, of which the median is 126 days (short), which explains the overall duration of trial is short.

### III. Compensation Judged<sup>8</sup>

In accordance with *Provisions of the Supreme People's Court on the Jurisdiction of Cases by Beijing, Shanghai and Guangzhou Intellectual Property Court* and *Notice of the Supreme People's Court on the Jurisdiction of Cases by Intellectual Property Courts and Other Issues*, the normal jurisdiction of Beijing Intellectual Property Court of civil cases is as follows:

First Instance	Technical cases (patents, new varieties of plants, layout designs of integrated circuit, technical secrets and computer software)
	Cases involving affirmation of well-known trademarks
	Monopoly-related cases

<sup>8</sup>The statistical data are only included in the data about cases concluded through judgment, related to infringement and in which the court supports the plaintiff's claim for compensation in whole or in part, the same below.



Second Instance	Cases on appeal under the jurisdiction of basic people's courts
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To make the analysis of data objective and significant in reference, the compensation judged in the cases concluded by Beijing Intellectual Property Court in 2016 and 2015 will be compared and analyzed based on the said jurisdiction in this part.

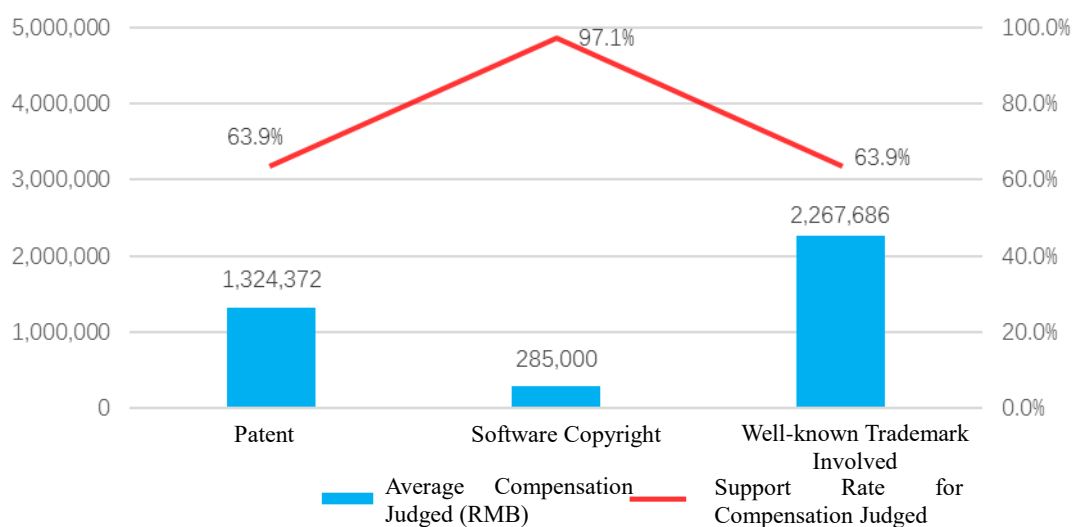
## 1. Case of First Instance

### (I) General Situation

Content Year Type	Average Compensation Judged (RMB)		Support Rate for Compensation Judged	
	2016	2015	2016	2015
Patent	1,324,372	449,916	63.9%	46.6%
Software Copyright	285,000	220,000	97.1%	77.2%
Well-known Trademark Involved	2,267,686	620,000	63.9%	78.5%

Content Year Type	Median of Compensation Judged (RMB)		Maximum Value of Compensation Judged (RMB)	
	2016	2015	2016	2015
Patent	112,500	250,000	50,000,000	3,000,000
Software Copyright	57,000	220,000	900,000	320,000
Well-known Trademark Involved	350,500	135,000	10,000,000	3,000,000

## Type Analysis of Compensation Judged in the Cases about Civil Infringement



From the data above, it can be seen that the compensation judged in the cases of first instance concluded by Beijing Intellectual Property Court in 2016 is higher than that in 2015, among which the compensation judged in the patent-related cases is 2.9 times that in 2015, that in the cases about software copyrights is 1.3 times that in 2015, while that in the cases involving affirmation of well-known trademarks is 3.7 times that in 2015. Moreover, the support rate for compensation judged in the cases about patents and software copyrights has witnessed a substantial increase.

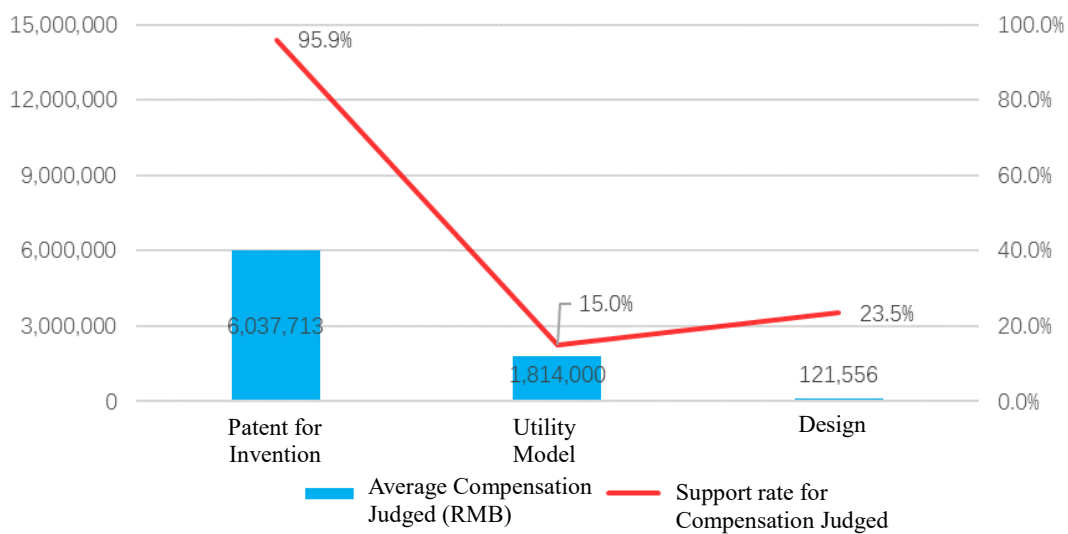
However, the median of compensation judged in the cases about patents and software copyrights in 2016 is lower than that in 2015; in the meantime, the maximum value thereof is higher than that in 2015, which explains the compensation judged in the cases about patents and software copyrights in 2016 is greatly affected by the high value. The average value, median and maximum value of compensation judged in the cases involving affirmation of well-known trademarks in 2016 are higher than those in 2015, which explains the compensation judged in the cases involving affirmation of well-known trademarks in 2016 is overall higher than that in the previous year.

### (2) Patent-related Cases

Type	Content Year	Average Compensation Judged (RMB)		Support Rate for Compensation Judged	
		2016	2015	2016	2015
Patent Invention	for	6,037,713	623,886	95.9%	52.4%
Utility Model		1,814,000	120,000	15.0%	46.7%
Design		121,556	292,271	23.5%	36.2%

Type	Content Year	Median of Compensation Judged (RMB)		Maximum Value of Compensation Judged (RMB)	
		2016	2015	2016	2015
Patent invention	for	1,013,880	627,710	50,000,000	1,562,000
Utility Model <sup>9</sup>		1,814,000	100,000	3,608,000	160,000
Design		76,123	125,000	505,176	3,000,000

Type Analysis of Compensation Judged in the Cases about Patent Infringement



From the perspective of patent type, the compensation judged in the cases about patent for invention and utility model has witnessed great increase, among which the compensation judged in the cases about patent for invention in 2016 is 9.7 times that in 2015, while that in the cases about patent for utility model is 15 times that in 2015. Moreover, the support rate for compensation judged in the cases about patent for invention has witnessed a substantial increase.

The median and maximum value of compensation judged in the cases about patent for invention and utility model in 2016 are higher than those in 2015, while those in the cases about patent for appearance design are lower than those in 2015.

<sup>9</sup>There are only 2 cases about patent for utility model with compensation judged, of which the data are only for reference.

### (3) Cases about Full Compensation Judged

Content Year Type	Number		Proportion	
	2016	2015	2016	2015
Patent	11	5	21.2%	11.6%
Software Copyright	2	0	28.6%	0%
Well-known Trademark Involved	3	3	30.0%	50.0%
Total	16	8	23.2%	15.7%

It can be seen that the cases concluded by Beijing Intellectual Property Court about full compensation judged in 2016 are twice those in 2015, and represent about a quarter of the total cases about compensation judged, which explains the proportion of cases about full compensation judged in those concluded by Beijing Intellectual Property Court in 2016 is high.<sup>10</sup>

### (4) Conclusion

In conclusion, it can be concluded as follows:

- 1) The support rate for compensation judged in the cases of first instance concluded by Beijing Intellectual Property Court about patent, software copyright and affirmation of well-known trademarks in 2016 exceeds 60%, among which that in the cases about patent and software copyright has witnessed great increase, while that in the cases about software copyright even reaches 97.1%.
- 2) In the patent-related cases, those concluded by Beijing Intellectual Property Court about patent for invention in 2016 is a highlight as the support rate for, maximum value and median of the compensation judged therein reach a new high, the highest compensation judged therein has been created since Beijing Intellectual Property Court was established, and the compensation judged therein also tops the list in the cases about infringement upon intellectual property under the jurisdiction of courts in China.
- 3) Full compensation judged is another highlight for the trial of cases concluded by Beijing Intellectual Property Court in 2016, about which cases represent about a quarter of the total cases about compensation judged, and greatly contribute to the high support rate for compensation judged, which explains the right holders' request for compensation is greatly supported in the cases concluded by Beijing Intellectual Property Court in 2016.
- 4) In general, the right holders are fully protected on the aspect of compensation judged, especially on the patent for invention, software copyright and well-known

<sup>10</sup>No comparison is made as there may be no cases about new varieties of plants, layout designs of integrated circuit, technical secrets and monopoly in those concluded by Beijing Intellectual Property Court in 2016, or no compensation judged is involved in related cases.

trademark in the cases of first instance concluded by Beijing Intellectual Property Court in 2016, which is better than that in 2015, provides the regional and social economic innovation with a good judicial guarantee, and provides a good reference for the judicial protection of intellectual property in China.

## 2. Cases of Second Instance

Comparison between compensation judged in the cases of second instance about civil infringement concluded by Beijing Intellectual Property Court and that in the first instance by basic courts:

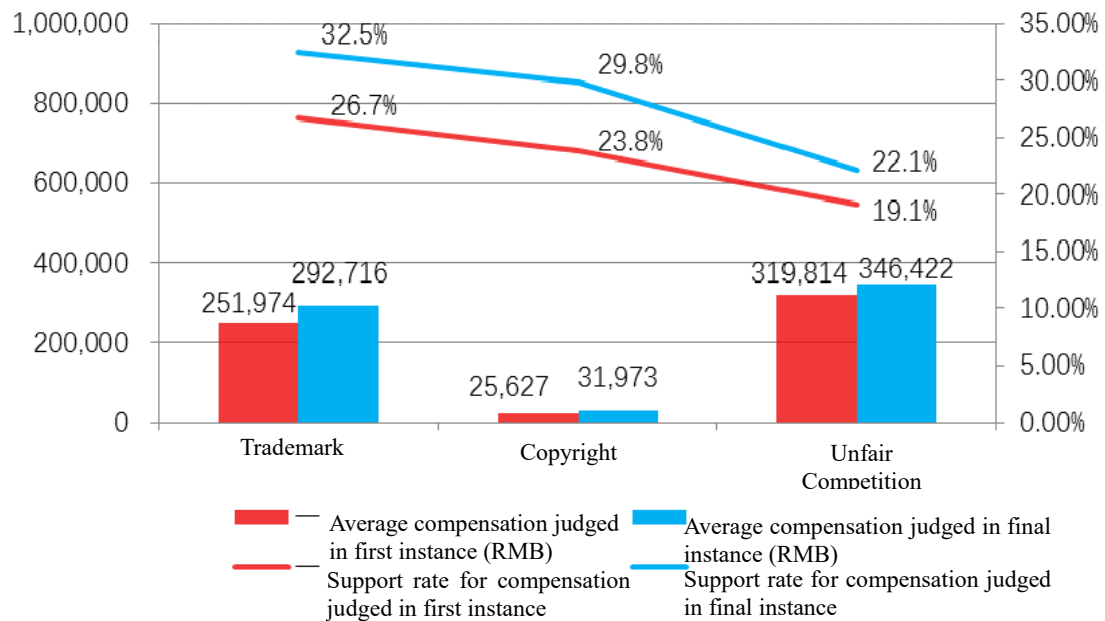
Compensation Judged in the Cases of Second Instance about Civil Infringement  
Concluded by Beijing Intellectual Property Court in 2016

Type	Average Compensation Judged in the First Instance (RMB)	Average Compensation Judged in the Second Instance (RMB)	Support Rate for Compensation Judged in the First Instance	Support Rate for Compensation Judged in the Second Instance
Trademark	251,974	292,716	26.7%	32.5%
Copyright	25,627	31,973	23.8%	29.8%
Unfair Competition	319,814	346,422	19.1%	22.1%

Compensation Judged in the Cases of Second Instance about Civil Infringement  
Concluded by Beijing Intellectual Property Court in 2015

Type	Average Compensation Judged in the First Instance (RMB)	Average Compensation Judged in the Second Instance (RMB)	Support Rate for Compensation Judged in the First Instance	Support Rate for Compensation Judged in the Second Instance
Trademark	117,079	114,177	29.3%	29.3%
Copyright	27,102	25,916	23.9%	23.7%
Unfair Competition	124,829	113,065	9.8%	8.9%

Comparison between Compensation Judged in the Cases of Second Instance about Civil Infringement Concluded by Beijing Intellectual Property Court and that in the First Instance by Basic Courts



From the perspective of comparison between compensation judged in the cases of second instance about civil infringement concluded by Beijing Intellectual Property Court and that in the first instance by basic courts in 2016, the average compensation judged and support for compensation judged in the cases appealed by basic courts to Beijing Intellectual Property Court have witnessed increase, which explains Beijing Intellectual Property Court is more inclined to the protection of high value in the protection of rights.

Such a protective measure of Beijing Intellectual Property Court is highlighted in the copyright-related cases. In case said copyright-related cases of second instance, there are 87 cases appealed by the plaintiff due to dissatisfaction with the compensation judged in the first instance, among which 38 cases are supported by the court of second instance, representing 43.7%. In the 25 typical cases such as Zhang Wei charges with Beijing Sursen Digital Library Software Technology Co., Ltd. and Liu Guanjun charges with the same, Beijing Intellectual Property Court supports the plaintiff's appeal by greatly increasing the compensation judged by the court of first instance, ranging from RMB 30 to RMB 40 per thousand words to the maximum compensation of RMB 300 per thousand words based on the facts such as popularity of the infringed works and repeated infringement. In the 8 cases such as Beijing Sanmianxiang Copyright Agency Co., Ltd. charges with sina.com.cn, Beijing Intellectual Property Court has also increased the compensation of RMB 80 per thousand words judged by the court of first instance to RMB 150 per thousand words.

From the perspective of comparison between compensation judged in the cases of second instance about civil infringement concluded by Beijing Intellectual Property Court in 2016 and that in 2015, the average compensation judged and support rate for compensation judged in the cases of second instance concluded in 2016 are higher than those in 2015, and the support rate for compensation judged in the cases of second instance slightly drops, compared with that in the cases of first instance in

2015, which, however, has witnessed great increase in 2016; especially in the copyright-related cases, the compensation judged and support rate for compensation judged in those of first instance concluded in 2016 are lower than those concluded in 2015, which, however, are respectively 23.4% and 6.1% higher upon the second instance.

## IV. Cases Involving Foreign Parties and Parties from Taiwan, Hong Kong and Macao Regions

### (I) Cases Involving Foreign Parties

Beijing Intellectual Property Court concluded 1,462 cases involving foreign parties (hereinafter referred to as "cases involving foreign parties") in total in 2016, representing 21.0% of the total cases concluded, 299 more than those (1,163 cases) in 2015. Among which, there are 58 civil cases, representing 2.9% of the total civil cases; while there are 1,404 administrative cases, representing 28.2% of the total administrative cases.

#### 1. Civil Cases

Statistical Table of Civil Cases Involving Foreign Parties in 2016<sup>11</sup>

Type	Cases with Plaintiff Involving Foreign Parties	Cases with Defendant Involving Foreign Parties	Cases with Several Parties Involving Foreign Parties	Total
Trademark	12	2	0	14
Patent	24	1	3	28
Copyright	8	3	1	12
Unfair Competition	1	0	0	1
Others	2	1	0	3
Total	46	7	4	58

From the perspective of result of judgment:

#### (1) Cases with plaintiff involving foreign parties

Type	Result of Judgment	Number	Proportion
Trademark	Foreign Parties Winning the Litigation	12	100%

<sup>11</sup>Including cases of first instance, second instance and retrial, and the identity of the parties shall be subject to the first instance.

Patent	Withdrawal of Litigation and Mediation	15	62.5%
	Foreign Parties Winning the Litigation	4	16.7%
	Rejection of Prosecution	4	16.7%
	Others <sup>12</sup>	1	4.2%
Copyright	Withdrawal of Litigation and Mediation	7	87.5%
	Foreign Parties Winning the Litigation	1	12.5%

From the above data, it can be seen that:

- 1) In the trademark-related cases, there are 12 cases with plaintiff involving foreign parties in total, which are concluded through judgment and in which the foreign parties (plaintiff) win the litigation;
- 2) In the patent-related cases, there are 24 cases with plaintiff involving foreign parties in total, most of which are withdrawn and mediated, which may be related to the strong will of foreign right holders of reconciliation; in the 4 cases concluded through judgment, the foreign parties (plaintiff) win the litigation; besides, in another 4 cases, the prosecution is rejected by the court as the patent right is announced invalid due to the defendant's application, which explains the Chinese parties' request for invalidation of patent is a major method for defense in the litigation cases involving foreign parties;
- 3) The copyright-related cases are also mainly withdrawn and mediated.

(2) Cases with defendant involving foreign parties

In the 7 cases with defendant involving foreign parties, there are 6 cases withdrawn by the plaintiff (Chinese parties); while the plaintiff (Chinese parties) loses (lose) the litigation in another case.

- (3) In conclusion, the civil cases involving foreign parties concluded by Beijing Intellectual Property Court have the following characteristics in 2016:
  - 1) Cases withdrawn and mediated represent a large proportion, no matter whether the foreign parties file a litigation or are prosecuted therein, which explains the opportunity for the parties to make reconciliation in the cases involving foreign parties is high;
  - 2) The probability for the foreign parties to lose the litigation in the cases where they take the initiative to file the same is relatively small;
  - 3) Cases with the plaintiff and defendant involving foreign parties represent a certain proportion.

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<sup>12</sup>Cases about preservation of evidence before litigation.



## 2. Administrative Cases

### (1) Distribution of Nature of Case

Type	Cause of Action	Cases with Plaintiff Involving Foreign Parties	Cases with a Third party Involving Foreign Parties	Cases with Several Parties Involving Foreign Parties	Total
Trademark	Retrial of Rejection	750	2	0	752
	No Registration	0	1	0	1
	Retrial of Dispute	12	104	10	126
	Request for Announcement of Invalidation (Dispute)	125	113	5	243
	Retrial of Revocation	77	70	19	166
	Others	12	2	0	14
	Total	976	292	34	1,302

Type	Cause of Action	Cases with Plaintiff Involving Foreign Parties	Cases with a Third Party Involving Foreign Parties	Cases with Several Parties Involving Foreign Parties	Total
Patent	Retrial of rejection	48	0	0	48
	Announcement of invalidation	23	28	2	53
	Others	0	1	0	1
	Total	71	29	2	102

## (2) Result of judgment

In the administrative cases of first instance with the plaintiff involving foreign parties concluded by Beijing Intellectual Property Court, the comparison of proportion of cases with administrative ruling revoked between 2016 and 2015 is as follows:

Content Year Type	Cases with Plaintiff Involving Foreign Parties		All Cases
	2016	2015	2016
Trademark	30.9%	25.3%	24.0%
Patent	23.0%	12.8%	12.5%

From the data above, it can be seen that the cancellation rate of cases in the trademark-related administrative cases of first instance with plaintiff involving foreign parties concluded by Beijing Intellectual Property Court in 2016 is 5.6% higher than that in 2015, while 6.9% higher than the overall data in 2016; that in the patent-related administrative cases of first instance with plaintiff involving foreign parties is 10.2% higher than that in 2015, while 10.5% higher than the overall data in 2016. It explains Beijing Intellectual Property Court is powerful in the protection of foreign parties involved in the cases concluded thereby in 2016.

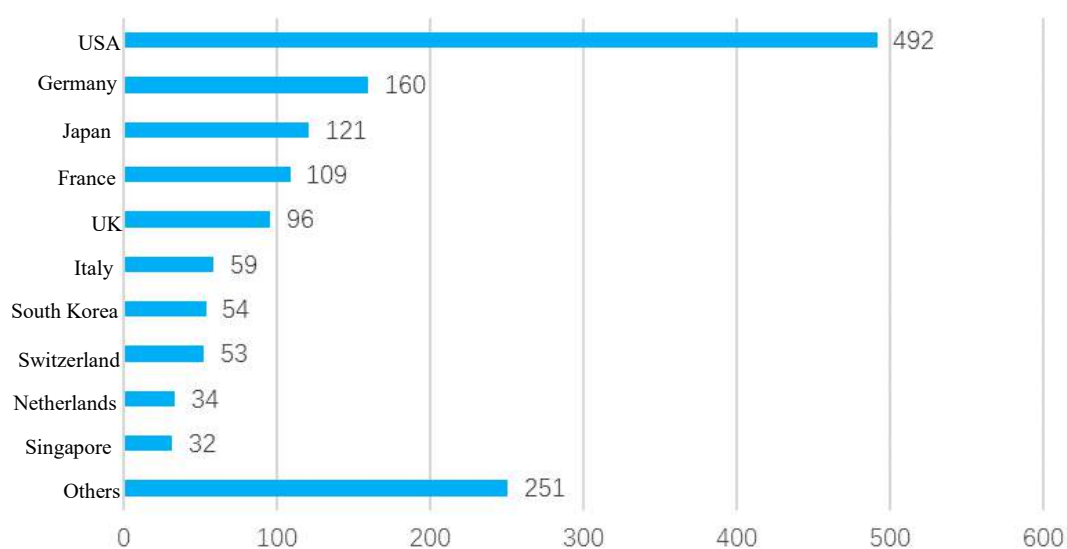
## 3. Foreign Countries Involved

In the cases involving foreign parties concluded by Beijing Intellectual Property Court in 2016, there are 59 countries (or regions) involved in total. The following is the list of 10 countries (or regions) with the most cases involved:

List of TOP 10 Foreign Countries Involved

Country	Number	Proportion
USA	492	33.7%
Germany	160	11.0%
Japan	121	8.3%
France	109	7.5%
UK	96	6.6%
Italy	59	4.0%
South Korea	54	3.7%
Switzerland	53	3.6%
Netherlands	34	2.3%
Singapore	32	2.2%

## Top 10 Countries of Foreign Parties Involved in the Cases Concluded



From the above table in which the ten countries with the most cases involved in the cases involving foreign parties, cases involving USA are the most in those involving foreign parties, representing more than 1/3 of the total cases involving foreign parties and exceeding the sum of cases involving five countries of European Union (Germany, France, UK, Italy and Netherlands) on the list, which are followed by those involving main EU countries, Japan and South Korea.

Disputes over intellectual property are generated with economic development. Closer economic relations, more rapid economic development and higher development level create more disputes over intellectual property. Moreover, the distribution situation of cases involving foreign parties concluded by Beijing Intellectual Property Court is highly consistent with that of China's foreign economy and trade at this stage.

## (II) Cases Involving Parties from Taiwan, Hong Kong and Macao Regions

Beijing Intellectual Property Court concluded 265 cases involving parties from Taiwan, Hong Kong and Macao regions of China in total in 2016, with details as follows:

### 1. Case Involving Parties from Taiwan Regions

Beijing Intellectual Property Court concluded 135 cases involving parties from Taiwan regions of China (hereinafter referred to as "Taiwan-related cases") in total in 2016. Among them, there are 5 civil cases and 130 administrative cases.

#### 1) Civil Cases

Statistical Table of Taiwan-related Civil Cases in 2016

Type	Plaintiff	Defendant	Several Parties	Total
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	Involving Parties from Taiwan Regions	Involving Parties from Taiwan Regions	Involving Parties from Taiwan Regions	
Trademark	0	0	0	0
Patent	2	0	0	2
Copyright	3	0	0	3
Total	5	0	0	5

The Taiwan-related civil cases concluded by Beijing Intellectual Property Court in 2016 refer to the cases with the plaintiff involving parties from Taiwan regions of China. From the perspective of result of judgment:

Type	Result of Judgment	Number	Proportion
Patent	The plaintiff Losing the Litigation	2	100%
Copyright	The plaintiff Winning the Litigation	3	100%

## 2) Administrative Cases

Statistical Table of Taiwan-related Administrative Cases in 2016

Type	Plaintiff Involving Parties from Taiwan Regions	Third party Involving Parties from Taiwan Regions	Several parties Involving Parties from Taiwan Regions	Total
Trademark	82	19	6	107
Patent	19	4	0	23
Total	101	23	6	130

The comparison of cancellation rate of 101 administrative cases of first instance with the plaintiff involving parties from Taiwan regions of China concluded by Beijing Intellectual Property Court in 2016 between 2016 and 2015 is as follows:

Content Year Type	Plaintiff Involving Parties from Taiwan Regions		All Cases
	2016	2015	2016
Trademark	23.5%	9.6%	24.0%
Patent	5.9%	<sup>13</sup>	12.5%

From the data above, it can be seen that the cancellation rate of cases in the trademark-related administrative cases of first instance with plaintiff involving parties from Taiwan regions of China concluded by Beijing Intellectual Property Court in 2016 is 13.9% higher than that in 2015, while 0.5% lower than the overall data in 2016; that in the patent-related administrative cases of first instance with plaintiff involving parties from Taiwan regions of China is 6.6% lower than the overall data in 2016.

## 2. Cases Involving Parties from Hong Kong Special Administrative Region

Beijing Intellectual Property Court concluded 124 cases involving parties from Hong Kong Special Administrative Region of China (hereinafter referred to as "Hong Kong-related cases") in total in 2016. Among them, there are 3 civil cases and 121 administrative cases.

### 1) Civil Cases

Statistical Table of Hong Kong-related Civil Cases in 2016

Type	Plaintiff Involving Parties from Hong Kong Special Administrative Region	Defendant Involving Parties from Hong Kong Special Administrative Region	Several parties Involving Parties from Hong Kong Special Administrative Region	Total
Trademark	0	0	0	0
Patent	0	1	0	1
Copyright	2	0	0	2
Total	2	1	0	3

From the result of judgment: 3 civil cases involving parties from Hong Kong Special Administrative Region are concluded with the result that plaintiff revokes the

<sup>13</sup>No statistic analyses are made as there are only three patent-related administrative cases of first instance with the plaintiff involving parties from Taiwan regions in 2015, which is not statistically significant.

litigation.

2) Administrative cases

Statistical Table of Hong Kong-related Administrative Cases in 2016

Type	Plaintiff Involving Parties from Hong Kong Special Administrative Region	Third party Involving Parties from Hong Kong Special Administrative Region	Several parties Involving Parties from Hong Kong Special Administrative Region	Total
Trademark	97	19	2	118
Patent	3	0	0	3
Total	100	19	2	121

The comparison of cancellation rate of 100 administrative cases of first instance with the plaintiff involving parties from Hong Kong Special Administrative Region of China concluded by Beijing Intellectual Property Court in 2016 between 2016 and 2015 is as follows:

Content Year Type	Plaintiff Involving Parties from Hong Kong Special Administrative Region		All cases
	2016	2015	2016
Trademark <sup>14</sup>	32.6%	22.9%	24.0%

From the data above, it can be seen that the cancellation rate of cases in the trademark-related administrative cases of first instance with plaintiff involving parties from Hong Kong Special Administrative Region of China concluded by Beijing Intellectual Property Court in 2016 is 9.7% higher than that in 2015, while 8.6% higher than the overall data in 2016.

### 3. Cases Involving Parties from Macao Special Administrative Region

Beijing Intellectual Property Court concluded 6 administrative cases involving parties from Macao Special Administrative Region of China (hereinafter referred to as "Macao-related cases") in total in 2016.

<sup>14</sup>No statistic analyses are made as there are only three patent-related administrative cases of first instance with the plaintiff involving parties from Hong Kong Special Administrative Region in 2015 and 2016, which is not statistically significant.

Statistical Table of Macao-related Administrative Cases in 2016

Type	Plaintiff Involving Parties from Macao Special Administrative Region	Third party Involving Parties from Macao Special Administrative Region	Several parties Involving Parties from Macao Special Administrative Region	Total
Trademark	5	1	0	6
Patent	0	0	0	0
Total	5	1	0	6

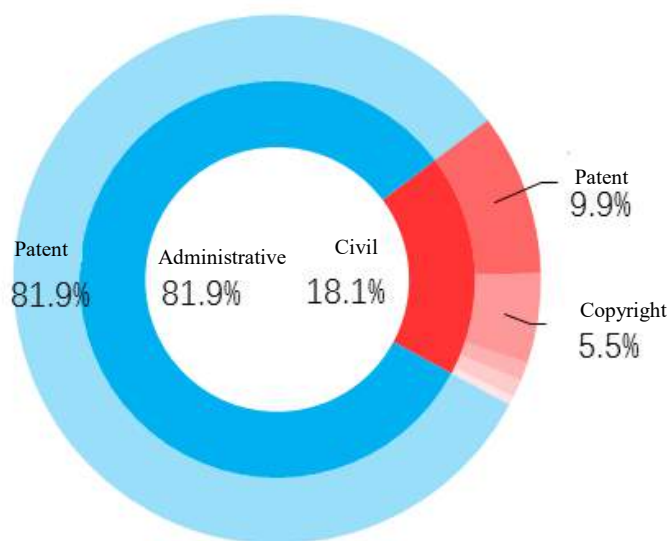
Beijing Intellectual Property Court concluded 5 administrative cases of first instance involving parties from Macao Special Administrative Region of China in 2016, among which there was 1 case with administrative ruling revoked.

## V. Participation in Trial by Technical Investigation Officer

There are 182 cases tried by technical investigation officer in those concluded by Beijing Intellectual Property Court in 2016, with details as follows:

Nature of Case	Type	Number	Proportion
Civil	Patent	18	9.9%
	Copyright	10	5.5%
	Unfair Competition	3	1.6%
	Technical Contract	2	1.1%
Administrative	Patent	149	81.9%

## Analysis on Type of Cases Participated in Technical Investigation Officer



Type	Cause of Action	Number
Copyright	Disputes over Contract regarding Computer Software	3
	Disputes over Infringement upon Right of Communication of Information of Works on Network	7
Patent	Retrial of Rejection	61
	Announcement of Invalidation	83
	Other Administrative Disputes over Patent	5

In the cases participated in by the technical investigation officer of Beijing Intellectual Property Court in 2016, there are 167 patent-related cases in total, representing 91.8% of the total cases participated in by the technical investigation officer.

From the result of judgment, the cancellation rate of cases in the patent-related administrative cases participated in by the technical investigation officer is 20.0%, 7.5% higher than the average value thereof in the court. The patent-related civil cases participated in by the technical investigation officer refer to the cases of first instance, in which the winning rate and withdrawal rate of the plaintiff is 58.3% and 27.8% respectively.



## VI. Citing of Previous Cases<sup>15</sup>

Previous cases have occurred in the 450 judgment instruments in total in the cases concluded by Beijing Intellectual Property Court in 2016. The details are as follows:

Nature of case	Type	Cause of Action	Number	Total
Administrative	Trademark	Retrial of Rejection	24	224
		Retrial of Dispute	35	
		Retrial of no Registration	2	
		Request for Announcement of Invalidation (Dispute)	92	
		Retrial of Revocation	67	
		Others	4	
	Patent	Retrial of Rejection	5	23
		Announcement of Invalidation	18	
Civil	Copyright	Disputes over Contract	2	85
		Disputes over Infringement	83	
	Trademark	Disputes over Contract	1	10
		Disputes over Infringement	9	
	Patent	Disputes over Contract	1	6
		Disputes over Infringement	5	
	Unfair Competition	--	7	7
	Technical Contract	--	3	3
	Franchising Contract	--	3	3
	Others	--	89	89

In the said cases, there are 212 cases in which the judges give comments on the

<sup>15</sup>Including cases submitted by the parties and cited by the judge on his or her own initiative.

previous cases recorded in the instruments, representing 47.1% of the total previous cases cited; among them, there are 72 cases in which the judges take the initiative to cite the previous cases, representing 34.0%.

From the perspective of the citing effect, there are 131 cases cited supportively, representing 61.8% of the total cases recorded with the judges' comments, which means there are 60% of judges adopting the facts or rules for judgment affirmed in the previous cases in the instruments recorded with the judges' comments on the previous cases.

The above data show that the previous cases are generally highly accepted in the cases concluded by Beijing Intellectual Property Court in 2016, and the number of previous cases cited by the judges on their own initiatives or the number of cases cited supportively has reached a relatively advanced level, from which the litigants and their agents can gain enlightenment that it is helpful to submit relevant previous cases to improve their winning rate.

## Part II Analysis on Case Type

### I. Copyright

#### 1. General Analysis

In 2016, Beijing Intellectual Property Court concluded 1,090 copyright-related civil cases in total. Among them, there are 320 cases of first instance, 767 cases of second instance, and 3 cases applied for retrial.

In the cases of first instance, there are 56 cases judged, among which there are 53 cases about disputes over software copyright, therefore, the winning rate of the plaintiff in the cases about software copyright is 84.9%; moreover, there are 200 withdrawal-related cases ruled, and 64 cases mediated, therefore, the rate of mediation and withdrawal of civil cases of first instance is 82.5%.

In the civil cases of second instance, there are 402 cases concluded through judgment, 259 concluded through ruling, 106 concluded through mediation, and rate of commutation and remandment is 7.7%; in the cases concluded through ruling, there are 254 cases withdrawn, 2 remanded for retrial, 1 remanded for trial, 2 cases with ruling of first instance maintained, making the rate of mediation and withdrawal 46.9%.

In 2016, Beijing Intellectual Property Court concluded 26 copyright-related administrative cases in total, which were withdrawn in the first instance.

The details for Beijing Intellectual Property Court's conclusion of copyright-related civil cases in 2016 are as follows:

First Instance	Number
Disputes over Contract	104
Disputes over Infringement	212
Disputes over Ownership	3
Disputes over Confirmation of Non-infringement	1
Total	320

Second Instance	Number
Disputes over Contract	40
Disputes over Infringement	727
Total	767

## 2. Duration of Trial

Average duration of trial at different levels is as follows:

Level of Trial	Average Duration of Trial (Days)
First Instance	329
Second Instance	103

Cases of first instance above are those about software copyright.

## 3. Type of Works

Cases of first instance mainly involve the computer software, of which the details are as follows:

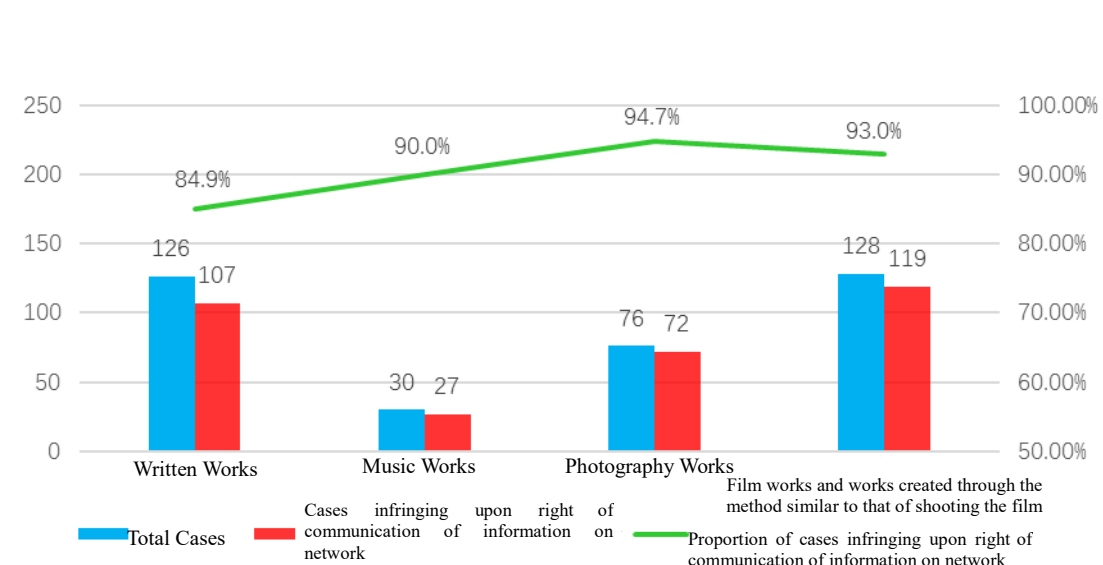
Type of works involved	Cause of Action	Number
Computer Software	Disputes over Contract	102
	Disputes over Infringement	205
	Disputes over Ownership	2
	Disputes over Confirmation of Non-infringement	1
Others	-	10
Total	-	320

Type of works<sup>16</sup> in the infringement-related cases of second instance is distributed as follows:

Type of Works Involved	Total Number of Cases	Therein, Number of Cases with Right of Communication of Information on Network Infringed upon	Proportion
Written Works	126	107	84.9%
Music Works	30	27	90.0%
Photography Works	76	72	94.7%
Film Works and Works Created through the Method Similar to that of Shooting the Film	128	119	93.0%

<sup>16</sup>The data of judgment specifying the type of works are only analyzed in this part as no detailed type of works is recorded in most of rulings.

## Analysis on Type of Works Infringing upon Right of Communication of Information on Network in the Copyright-related Cases of Second Instance



From the data above, the case about software copyright represents 96.9% of the total civil cases of first instance concluded by Beijing Intellectual Property Court in 2016, which is closely related to the jurisdiction of Beijing Intellectual Property Court.

Cases with right of communication of information on network infringed upon involved in the cases about four types of works represent 90% of the total cases of second instance, which is a significant reflection of flourishing Internet-related economy in Beijing in the recent years. According to the data statistics, the gross output of information, software and information technology sector in Beijing in 2016 represents 10.8% of the total output thereof, second only to that of financial sector (17.1%) and industry (15.6%)<sup>17</sup>.

## II. Trademark

### (I) Administrative Cases

#### 1. General Analysis

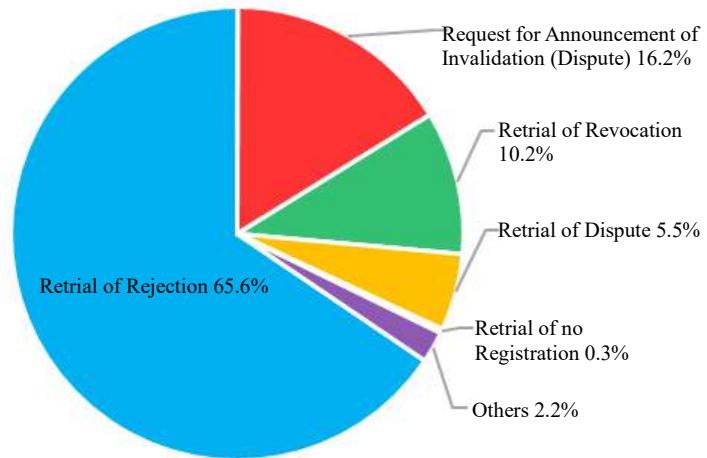
Beijing Intellectual Property Court newly accepted 5,936 trademark-related administrative cases of first instance in total and concluded 4,356 cases in 2016, 34.9% higher than those in 2015. Among them, there are 964 cases with administrative ruling cancelled, making the cancellation rate 24.0%; while there are 300 cases with litigation withdrawn, making the withdrawal rate 6.9%. The details are as follows:

Cause of Action	Number	Proportion	Judgment	Cases with Administrative Ruling Cancelled	Cancellation Rate

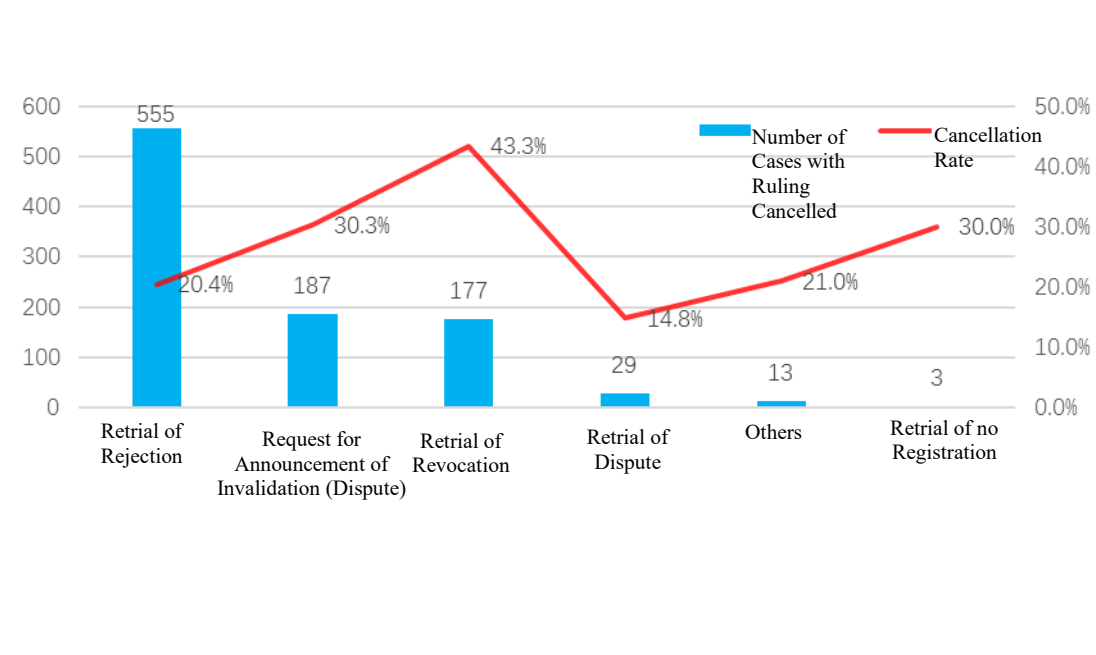
<sup>17</sup> Beijing Municipal Bureau of Statistics: *Statistical Communique on National Economic and Social Development of Beijing in 2016*.

Retrial of Rejection	2,858	65.6%	2725	555	20.4%
Retrial of Dispute	239	5.5%	196	29	14.8%
Retrial of no Registration	13	0.3%	10	3	30.0%
Request for Announcement of Invalidation (Dispute)	704	16.2%	617	187	30.3%
Retrial of Revocation	445	10.2%	409	177	43.3%
Others	97	2.2%	62	13	21.0%
Total	4,356	100%	4019	964	24.0%

Proportion of Nature of Trademark-related Administrative Cases



## Analysis on Cancellation of Trademark-related Administrative Cases



## 2. Reasons for Cancellation

There are 27 cases cancelled due to procedural issues, while 937 cases cancelled due to substantial issues in the trademark-related cases with administrative ruling cancelled concluded by Beijing Intellectual Property Court in 2016.

In the cases with administrative ruling cancelled according to the judgment by Beijing Intellectual Property Court in 2016, the substantial and procedural issues are as follows<sup>18</sup>:

Issues Involved	Number
Same or Similar Trademarks and Goods	417
Cancellation and Non-use for Three Years	164
Adverse Influence	143
Priority Rights / Preemptive Registration	122
Whether There is a Significant Feature	74

It can be seen from the data above, there is still a greater dispute over the substantial issues such as same or similar trademarks and goods, trademark use (cancellation and non-use for three years) and adverse influence.

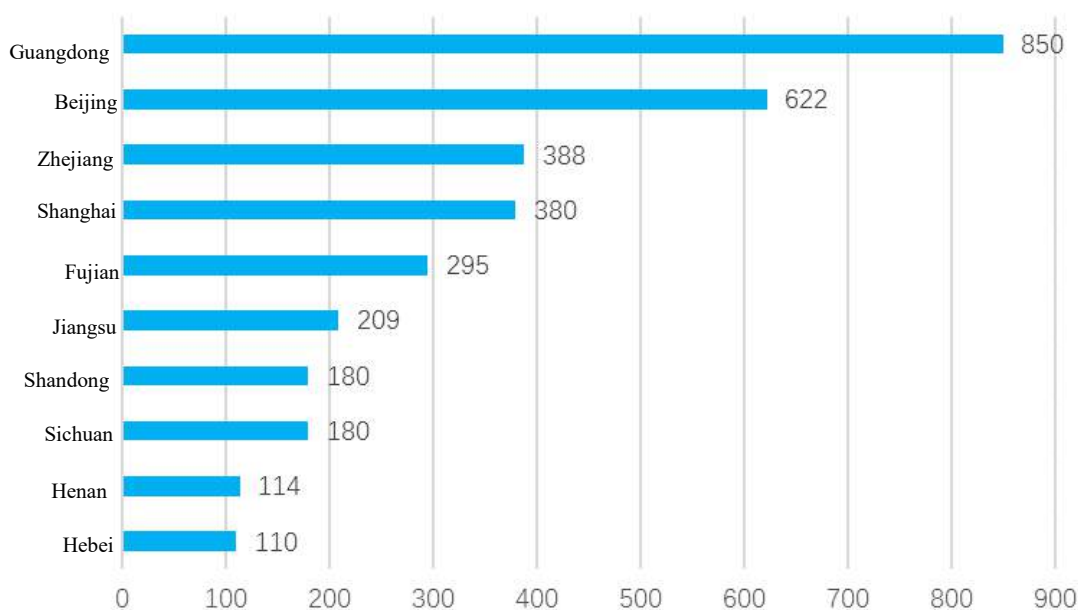
## 3. Regional Distribution of the Parties

The regional distribution of the parties in the administrative cases about authorization and affirmation of intellectual property has reflected the distribution of right holders

<sup>18</sup>This part is only concluded from the instruments involving applicable laws, and not totally equal to the issues based on which the court cancels the administrative ruling.

to a certain extent. Main regions in China of the parties (excluding Trademark Office and Trademark Review and Adjudication Board) in the trademark-related administrative cases concluded by Beijing Intellectual Property Court in 2016 are shown in the following figure:

Regional Distribution of Parties in the Trademark-related Administrative Cases in China



It can be seen from the data above, the parties involved are mainly distributed in the eastern coastal regions, where the economy is developed and manufacturing and service sector is prosperous, so there are many trademarks applied for and retained, and many cases related thereto.

#### 4. Malicious Preemptive Registration

In the recent years, "malicious preemptive registration" has become a hot topic in the protection of trademark rights. In the trademark-related administrative cases concluded by Beijing Intellectual Property Court in 2016, there are 284 cases involving malicious preemptive registration in total, representing 7.1% of the total cases judged<sup>19</sup>; among them, there are 129 cases with malicious preemptive registration affirmed by the court, representing 45.4% of the total cases involving such issue. The court provides the cases with malicious preemptive registration affirmed with judicial relief, unless such cases involve other administrative affirmation or defects in the administrative procedure, which explains Beijing Intellectual Property Court cracks down the malicious preemptive registration.

Content	Number	Proportion
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<sup>19</sup>The ruling is excluded as no substantial issues about disputes are recorded therein generally.



Involving Malicious Preemptive Registration	284	7.1%
With Malicious Preemptive Registration Affirmed by the Court <sup>20</sup>	129	45.4%

## 5. Involving Well-known Trademarks

There are 383 cases involving well-known trademarks judged in the trademark-related administrative cases. The judicial authority strictly and prudently affirms the well-known trademarks on the principle of judgment on individual cases. The proportion of cases with trademarks affirmed by judicial authority as well-known trademarks in 2016 is 11.7%.

Well-known Trademarks Affirmed or not	Number	Proportion
Yes	45	11.7%
No <sup>21</sup>	338	88.3%

In general, the judicial authority will provide the right holder with judicial relief based on the well-known trademarks affirmed, but fails to provide a few cases with well-known trademarks affirmed with the protection and relief beyond the category as the protection beyond the category of well-known trademarks is limited, and necessity for considering the scope of protection of well-known trademarks confirmed on the different goods shall be adaptive to their well-known degree.

Judicial Affirmation of Well-known Trademarks	Number	Proportion
Cases with Well-known Trademarks Affirmed and Relief Provided Based on such Affirmation	44	97.78%
Cases with Well-known Trademarks Affirmed and Relief beyond the Category not Provided	1	2.22%

## 6. Involving Service Trademark

With the acceleration of China's economic transformation, the service sector is playing a more and more important role in the China's economy. In 2016, there were 1,213 cases involving service trademark concluded by Beijing Intellectual Property Court, representing 30.2%<sup>22</sup> (about 1/3).

Involving Service Trademark	Number
Single Service Trademark	1171
Involving Service Trademark beyond the Category	42

<sup>20</sup>Cases with malicious preemptive registration affirmed by the court include those with malicious preemptive registration not involved upon judgment and with such issue not judged.

<sup>21</sup>Including constitution of no well-known trademarks upon judgment and no review.

<sup>22</sup>The data about ruling are excluded from the statistical data as no trademark-related information is recorded in most of rulings.

## 7. Involving Certification Trademark and Collective Trademark

There are only 53 cases involving certification and collective trademarks (geographical indication). However, as the special trademarks, such trademarks have also played an important role in guiding the consumers, of which the full protection can better maintain the market competition orders.

Status of Certification and Collective Trademarks	Number
Certification and Collective Trademarks as Litigation-related Trademarks	42
Certification and Collective Trademarks as Reference Trademarks	11

## (II) Civil Cases

### 1. General Analysis

In 2016, Beijing Intellectual Property Court concluded 108 trademark-related civil cases in total. Among them, there are 26 civil cases of first instance, among which 14 cases are concluded through judgment, and the plaintiff's winning rate is 92.9%; there are 10 cases concluded through ruling, among which there are 7 cases withdrawn, 2 refused to be accepted and 1 case about property preservation before litigation; and there are 2 cases concluded through mediation, making the rate of mediation and withdrawal 34.6%. There are 80 civil cases of second instance, among which 53 cases are concluded through judgment, 18 concluded through ruling, 9 concluded through mediation, and rate of commutation and remandment is 10.0%; in the cases concluded through ruling, there are 17 cases withdrawn, and 1 case with ruling of first instance maintained, making the rate of mediation and withdrawal 32.5%. And there are 2 civil cases applied for retrial. See the following table for details thereof:

First Instance	Disputes over Infringement	26
Second Instance	Disputes over Infringement	79
	Disputes over Contract	1
Retrial Applied for	Disputes over Infringement	2
Total	-	108

First Instance	Affirmed	Not affirmed <sup>23</sup>
Affirmation of Well-known Trademarks	8	3

<sup>23</sup>Including constitution of no well-known trademarks upon judgment and no review.

In the civil judgment of first instance, there are 11 cases with well-known trademarks affirmed, and there are 10 cases in which the plaintiff wins the litigation, realizing a winning rate of 90.9%. Among them, there are 8 cases with the litigation-related trademarks affirmed as well-known trademarks, and the court has provided them with protection based on the well-known degree thereof; and there are 3 cases with the litigation-related trademarks not affirmed as well-known trademarks or in which the court considers they are unnecessary to be affirmed, however, in the 2 cases therein, the court has provided the right holder with protection based on other factors.

In the other 3 cases in the civil judgment of first instance, the plaintiff involves foreign parties and finally wins the litigation as the parties raise objection to the foreign jurisdiction, which, however, is not supported.

## 2. Duration of Trial

Average duration of trial at different levels is as follows:

Level of Trial	Average Duration of Trial (Days)
First Instance	331
Second Instance	116

## 3. Analysis on Network-related Litigation

With the popularization of the Internet, the offline goods and services have been transferred to the online ones. We can see that the network-related trademark litigation is actually the goods sold or services provided on the network platform involve infringement upon trademark. Therefore, it is convenient to analyze the cases about network-related trademark litigation through judging whether the defendant is the network operator or E-commerce platform. After retrieving and screening the defendant involved through the key words (such as "network", "science and technology", "information", "electronics" and "science and trade"), we have learned there are 13 network-related cases of second instance in total in the trademark-related civil cases, representing 16.3% of the total cases of second instance, and the plaintiff's winning rate in the last instance (second instance) is 83.3%.

## III. Patent

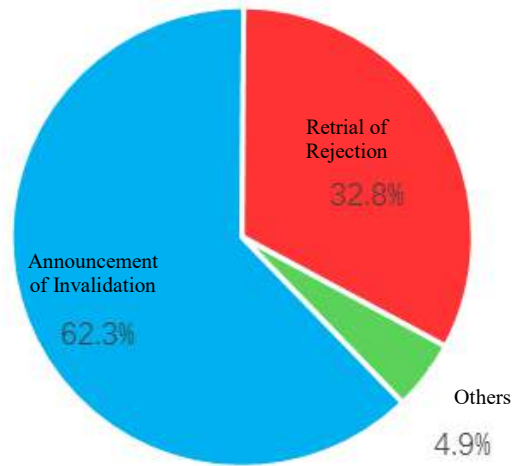
### (I) Administrative Cases

#### 1. General Analysis

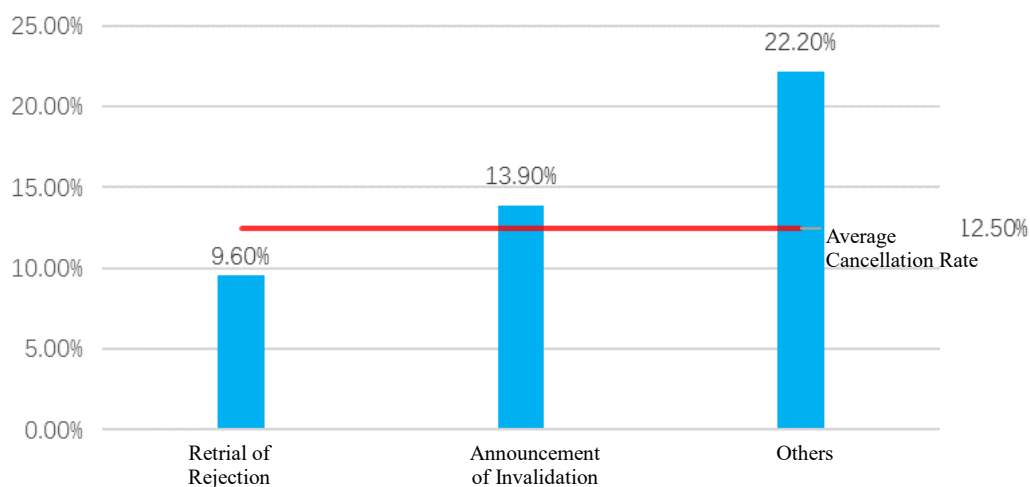
Beijing Intellectual Property Court newly accepted 1,104 patent-related administrative cases of first instance in total and concluded 592 cases in 2016, 78.3% higher than those in 2015. Among them, there are 55 cases with administrative ruling cancelled, making the cancellation rate 12.5%; while there are 122 cases with litigation withdrawn, making the withdrawal rate 20.6%. The details are as follows:

Cause of Action	Number	Proportion	Judgment	Cases with Administrative Ruling Cancelled	Cancellation Rate
Retrial of Rejection	194	32.8%	166	16	9.6%
Announcement of Invalidation	369	62.3%	266	37	13.9%
Others	29	4.9%	9	2	22.2%
Total	592	100%	441	55	12.5%

Proportion of the Cause of Action of Patent-related Administrative Cases



### Proportion of Those with Administrative Ruling Cancelled in the Patent-related Administrative Cases



Cause of Action	Category of Patent	Cases Judged	Cases with Administrative Ruling Cancelled	Cancellation Rate
Retrial of Rejection	Patent for invention	150	16	10.7%
	Utility model	14	0	0
	Design	2	0	0
Announcement of Invalidation	Patent for Invention	75	15	20.0%
	Utility Model	133	15	11.3%
	Design	58	7	12.1%
Others	Patent for Invention	6	2	33.3%
	Utility Model	3	0	0

## 2. Technical Field

The following table is the classification of Class of patent in the cases about administration:

Category of patent	Number	Proportion
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Patent for Invention	306	54.8%
Utility Model	176	31.5%
Design	76	13.6%

IPC Table of Patent for Invention and Utility Model

IPC	Number of Cases Involved
Class A Human necessities (agriculture, light industry, medicine)	93
Class B Operation; transportation	66
Class C Chemical; metallurgy	38
Class D Textile; paper making	6
Class E Fixed buildings	32
Class F Mechanical engineering, lighting and heating	49
Class G Physics	29
Class H Electricity	64

LOC Table of Patent for Design

LOC	Number of Cases Involved
Class 03 Travel accessories, cases, parasols and personal products unlisted in other categories	6
Class 06 Furniture	4
Class 07 Household articles unlisted in other categories	1
Class 08 Tools and metal instruments	2
Class 09 Package and container for transportation or loading and unloading of goods	7
Class 10 Clocks, watches, and other measuring, inspection and signal instruments	1
Class 12 Tools for transportation or lifting	9
Class 13 Equipment for electricity generation, distribution and transmission	2
Class 14 Equipment for recording, communication or information reproduction	5
Class 19 Stationery, office equipment, supplies for artists and teaching	4

materials	
Class 21 Games, toys, tents and sporting goods	1
Class 25 Building components and construction elements	10
Class 26 Lighting equipment	5
Class 30 Equipment for management and training of animals	2
Class 31 Machinery and equipment for the manufacture of food or beverages unlisted in other categories	3

### 3. Reasons for Cancellation

#### (1) Reasons for Cancellation

There are 3 cases cancelled due to procedural issues, while 52 cases cancelled due to substantial issues in the patent-related cases with administrative ruling cancelled concluded by Beijing Intellectual Property Court in 2016.

Reasons for cancellation	Number	Proportion
Procedural Issues	3	5.5%
Substantial Issues	52	94.5%

#### (2) Laws Involved

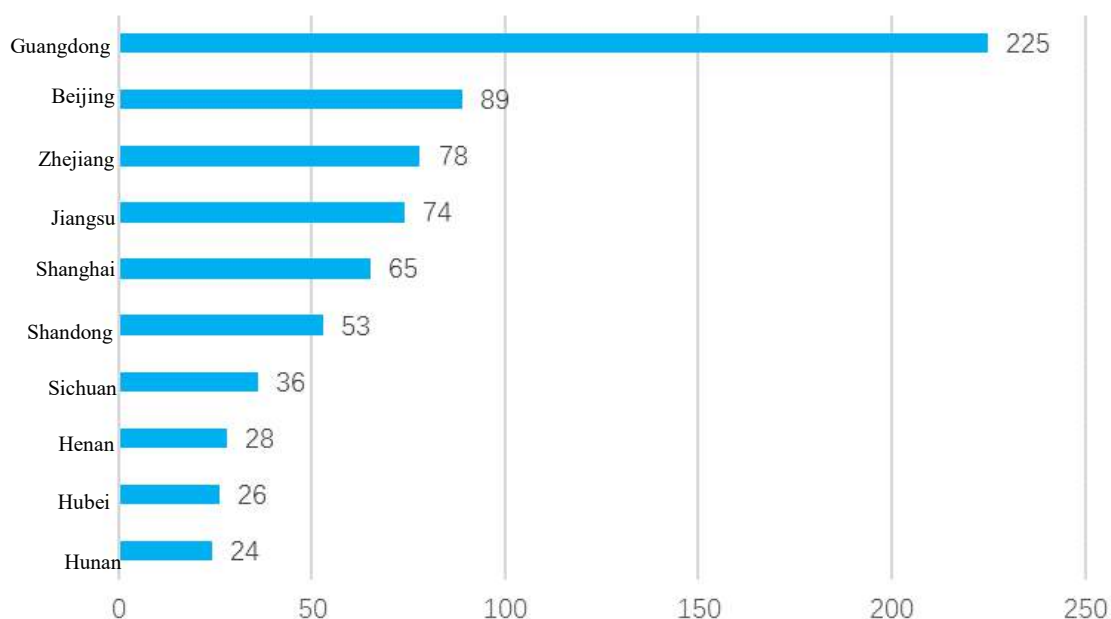
In the patent-related cases with administrative ruling cancelled due to substantial issues, cases with administrative ruling cancelled due to dispute over creativity of patent represent 83.3% of the total cases about patent for invention and utility model with ruling cancelled. It is thus clear that the "creativity" of patent is the key review point in the cases about administrative dispute over patent.

Laws applicable for cancellation of ruling	Issues Involved	Number
Article 22.3 of the <i>Patent Law</i>	Creativity	40
Article 29.2 of the <i>Patent Law</i>	Priority	1
Article 23 of the <i>Patent Law</i>	Appearance	6
Article 27.2 of the <i>Patent Law</i>	Requirement for Pictures of Appearance	1
Article 33 of the <i>Patent Law</i>	Modification beyond the Ccope	2
Article 4 of the Implementing Regulations of the Patent Law	Others	1
Article 6 of the <i>Implementing Regulations of the Patent Law</i>	Others	1

## 4. Regional Distribution of the Parties

Main regions in China of the parties (excluding Trademark Office and Trademark Review and Adjudication Board) in the patent-related administrative cases concluded by Beijing Intellectual Property Court in 2016 are shown in the following figure:

Regional Distribution of Parties in the Patent-related Administrative Cases in China



Data above highly accord with the data from trademark-related administrative cases, which jointly explain the close relations between degree of economic development and development of intellectual achievement of intellectual property.

## (II) Civil Cases

### 1. General Analysis

In 2016, Beijing Intellectual Property Court concluded 452 patent-related civil cases in total. Among them, there are 444 civil cases of first instance, among which 88 cases are concluded through judgment, and the plaintiff's winning rate is 79.5%; there are 335 cases concluded through ruling, among which there are 302 cases withdrawn, 6 refused to be accepted, 25 rejected, 1 case about property preservation before litigation and 1 case actively transferred; and there are 21 cases concluded through mediation, making the rate of mediation and withdrawal 72.7%. Besides, there are 8 civil cases of second instance concluded through judgment, among which there are 6 commuted, making the commutation rate 75.0%.

The details for Beijing Intellectual Property Court's conclusion of patent-related civil cases in 2016 are as follows:

First Instance	Number	Proportion
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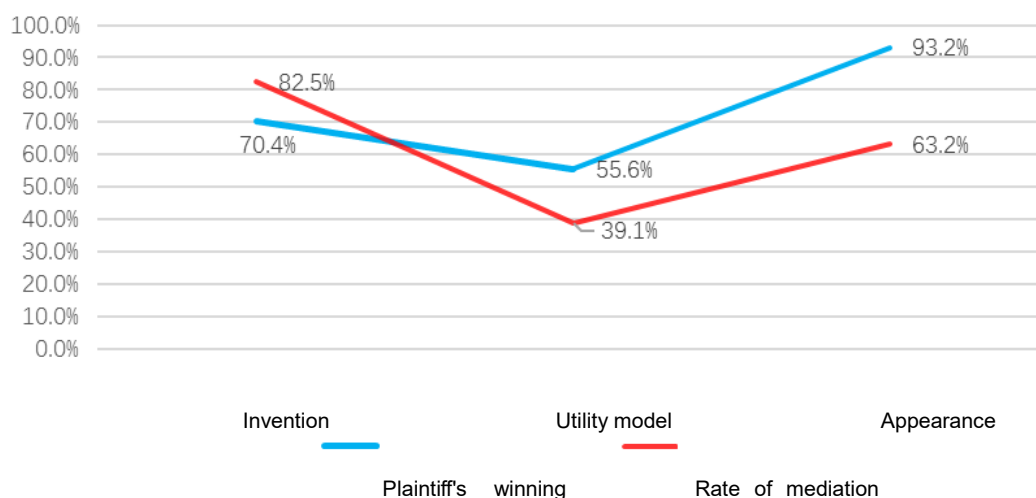
Disputes over Contract	15	3.4%
Disputes over Infringement	333	75.0%
Disputes over Ownership	92	20.7%
Disputes over Confirmation of Non-infringement	4	0.9%
Total	444	100.0%

Second Instance	Number	Proportion
Disputes over Contract	7	87.5%
Disputes over Infringement	1	12.5%
Total	8	100.0%

The details of result of judgment of patent-related civil cases concluded by Beijing Intellectual Property Court in 2016 are as follows:

Category of Patent	Plaintiff's Winning Rate	Rate of Mediation and Withdrawal
Patent for Invention	70.4%	82.5%
Utility Model	55.6%	39.1%
Design	93.2%	63.2%

## Analysis on Plaintiff's Winning Rate and Rate of Mediation and Withdrawal in the Patent-related Civil Cases of First Instance



## 2. Technical Field

The following table is the classification of Class of patent in the cases about civil infringement:

Category of Patent	Number	Proportion <sup>24</sup>
Patent for Invention	163	49.4%
Utility Model	35	10.6%
Design	132	40.0%

IPC Table of Patent for Invention and Utility Model

IPC	Number of Cases Involved
Class A Human necessities (agriculture, light industry, medicine)	15
Class B Operation; transportation	14
Class C Chemical; metallurgy	3
Class E Fixed buildings	6
Class F Mechanical engineering, lighting and heating	4
Class G Physics	6
Class H Electricity	11

<sup>24</sup>The patent-related information in some rulings is excluded as the record therefor is not clear.

### LOC Table of Patent for Design

LOC	Number of Cases Involved
Class 01 Food	1
Class 02 Clothing and costume	1
Class 03 Travel accessories, cases, parasols and personal products unlisted in other categories	3
Class 05 Textiles, artificial or natural materials and sheets	1
Class 06 Furniture	30
Class 07 Household articles unlisted in other categories	5
Class 09 Package and container for transportation or loading and unloading of goods	13
Class 10 Clocks, watches, and other measuring, inspection and signal instruments	4
Class 11 Decoration	2
Class 12 Tools for transportation or lifting	5
Class 14 Equipment for recording, communication or information reproduction	2
Class 15 Machinery unlisted in other categories	1
Class 19 Stationery, office equipment, supplies for artists and teaching materials	2
Class 21 Games, toys, tents and sporting goods	2
Class 23 Liquid dispensing equipment, sanitary, heating, ventilating and air conditioning equipment, and solid fuels	1
Class 25 Building components and construction elements	1
Class 26 Lighting equipment	2
Class 28 Drugs, cosmetics, toiletries and appliances	1

### 3. Affirmation of Infringement

There are 13 judgments on the cases of first instance about dispute over infringement upon patent for invention and utility model and affirmed as infringement-related cases made by Beijing Intellectual Property Court in 2016, and the method of infringement affirmed in the judgment on such cases is as follows:

Method of infringement	Number	Proportion
Literal Infringement	8	61.5%

Equivalent Infringement	5	38.5%
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#### 4. Reasons for Defense

There are 10 judgments on the cases of first instance about dispute over infringement upon patent and in which the plaintiff's appeal is rejected made by Beijing Intellectual Property Court in 2016, and the reasons for rejection by the court are as follows:

Reasons for Rejection	Number of Cases <sup>25</sup>
Beyond the Scope of Protection	8
Existing Design	1
Beyond the Time limit of Litigation	1
Others	1

It can be seen from the data above that the defendant in the litigation for infringement upon patent can most likely to be supported in his or her defense about argument of difference between the alleged infringing technology and the patented technology of the right holder.

#### 5. Analysis on Network-related Litigation

The patent-related civil cases will also affect the network inevitably when the offline goods and services are transferred to the online ones as the patent is attached to goods or services. Therefore, it is convenient to analyze the cases about network-related patent litigation through judging whether the defendant is the network operator or E-commerce platform.

In conclusion, we can find there are more than 110 cases related to several major E-commerce platforms and websites such as Beijing Baidu Netcom Science and Technology Co.,Ltd., Beijing Baofeng Technology Co., Ltd., Beijing Jingdong Century Trading Co., Ltd., Zhejiang Taobao Network Co., Ltd., Zhejiang Tmall Network Co., Ltd. and Beijing Suning Yunshang Sales Ltd. after retrieving through the key words (such as "network", "science and technology", "information", "electronics" and "science and trade"), representing more than 1/4 of the total cases. However, from the perspective of result of judgment, the withdrawal rate of such cases is 73.6%, which explains such cases are mainly solved by the parties through reconciliation; moreover, in the cases in which the court supports the plaintiff's appeal through judgment, the network E-commerce platform also basically bears its liabilities for cessation of infringement.

### IV.Unfair Competition

#### 1. General Analysis

In 2016, Beijing Intellectual Property Court concluded 47 cases about unfair

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<sup>25</sup>Several reasons for rejection by the court (if any) shall be calculated separately.

competition in total. Among them, there are 10 cases of first instance, among which 3 cases are concluded through judgment, and the plaintiff's winning rate is 33.3%; while there are 7 cases concluded through ruling, all of which are withdrawn, making rate of mediation and withdrawal is 70.0%. Besides, there are 37 cases of second instance, among which 30 cases are concluded through judgment, 5 concluded through ruling, 2 concluded through mediation, and rate of commutation and remandment is 18.9%; in the cases concluded through ruling, there are 3 cases withdrawn, and 2 remanded for retrial, making the rate of mediation and withdrawal 13.5%.

## 2. Distribution of Cause of Action

In the cases about unfair competition concluded by Beijing Intellectual Property Court in 2016, the nature of case is distributed as follows:

Cause of Action	Number
Disputes over counterfeit	9 <sup>26</sup>
Disputes over false publicity	9
Disputes over commercial defamation	5
Disputes over infringement upon business secrets	3
Other unfair competitions	8

In the cases about "disputes over counterfeit", the disputes mainly focus on the circumstances of "using the name, package and decoration" exclusive for the well-known goods without authorization" and "using the enterprise name or name of others without authorization", and there is only one (1) case involving the unfair competition of "counterfeiting others' registered trademarks".

"Other unfair competitions" in the statistics refer to the unfair competition stipulated according to the general provisions of Article II in the *Law of the PRC against Unfair Competition* other than that listed therein. Such cases mainly focus on field of network infringement, and mainly involve the unfair competition stipulated in Article XIV of *Law of the PRC against Unfair Competition (Revised Draft)* (published on the website of the National People's Congress on February 26, 2017).

## 3. Analysis on Network-related Litigation

In the 47 cases about unfair competition concluded by Beijing Intellectual Property Court in 2016, there are 32 network-related cases, representing 68.1% of the total cases, therefore, it is clear that the Internet sector has become the field where the disputes over unfair competition frequently occur with the popularity of the Internet and increasingly intensified competition in the sector, and is in urgent need of strengthening of standardized governance.

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<sup>26</sup>One (1) case involves the disputes over counterfeit and false publicity at the same time.

## V. Comprehensive Procedures

### 1. Injunction and Preservation

#### (1) Injunction before Litigation

In the cases concluded by Beijing Intellectual Property Court in 2016, there are 2 cases concluded through injunction before litigation, one of which is trademark-related case and the other is patent-related case.

#### (2) Injunction during Litigation

According to the data included in IPHOUSE, there are 17 cases involving injunction during litigation and preserving procedures in total in those concluded by Beijing Intellectual Property Court in 2016, which are distributed as follows:

Type	Injunction and Preservation
Patent	13
Copyright	4
Total	17

### 2. Jurisdiction Objection

Distribution List of Cases about Jurisdiction Objection

Level of Trial	First Instance	Second Instance	Total
Number	5	1155	1160

There are 1,160 cases about disputes over jurisdiction concluded by Beijing Intellectual Property Court in 2016, representing 14.3% of the total cases; in addition, according to the statistics of incomplete data, there are still 55 cases involving disputes over jurisdiction in the 6,951 cases substantially concluded. However, there are only 60 cases in which the disputes are tenable according to the result of disputes, only representing 4.9% of the total cases involving disputes.

The Internet-related cases represent about 80% of those about disputes over jurisdiction above, which explains the Internet field is the area where the cases about disputes over jurisdiction frequently occur.

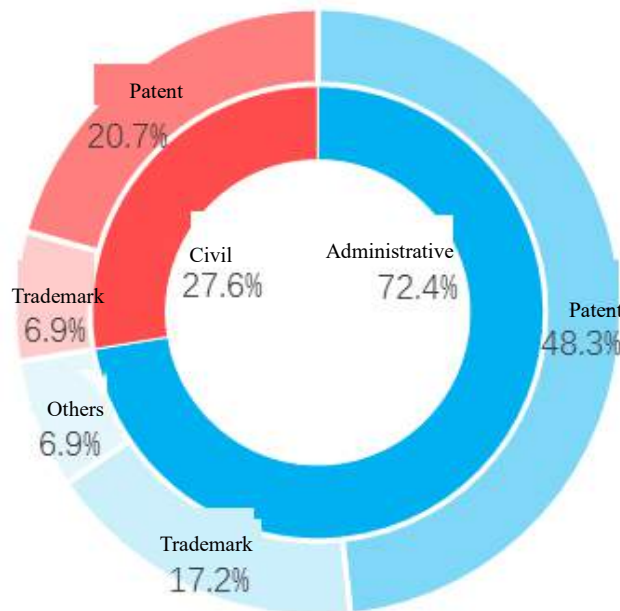
### 3. Analysis on Cases Refused to be Accepted

In 2016, Beijing Intellectual Property Court concluded 30 cases refused to be accepted in total. Most of administrative cases are refused to be accepted due to the plaintiff's prosecution beyond the legal term, while most of civil cases are refused due to jurisdiction-related issues.

Distribution List of Number of cases with Different Types that are Refused to be Accepted

Nature of case	Type	Number
Administrative	Trademark	5
	Patent	14
	Others	2
Civil	Trademark	2
	Patent	6
	Copyright	1

Distribution of Type of Cases Refused to be Accepted



Distribution List of Reasons for Refusal of Acceptance of Administrative Cases

Reasons for refusal of acceptance	Number
Prosecution beyond the legal term	12
Defects in the filing formalities	3
The plaintiff is incapable as a subject	2
Beyond the scope of acceptance by the court	1
Article 6.2 of the <i>Interpretation of Supreme People's Court on the Jurisdiction of and Laws Applicable for</i>	1

<i>Trademark-related Cases upon Decision on the Implementation of Revision of Trademark Law</i>	
Prepositive administrative procedures for disputes over administrative compensation	1
Others	1

Distribution List of Reasons for Refusal of Acceptance of Civil Cases

Reasons for refusal of acceptance	Number
The court has no jurisdiction	6
No specific facts for litigation	2
Others	1

#### 4. Analysis on Cases with Prosecution Rejected

Rejection of prosecution is often linked to the refusal of acceptance; as stipulated by laws and regulations, ruling on the cases ineligible for prosecution that has not been accepted shall not be accepted, while the prosecution shall be rejected in case the ruling thereon has been accepted. In 2016, Beijing Intellectual Property Court concluded 73 cases with prosecution rejected in total. The details are as follows:

Distribution List of Number of Cases with Different Types and Prosecution Rejected

Nature of case	Type	Number
Administrative	Trademark	30
	Patent	14
Civil	Trademark	1
	Patent	25
	Copyright	1
	Technical contract	1
	Monopoly	1

Distribution List of Reasons for Rejection of Prosecution in Administrative Cases

Reasons for rejection of prosecution	Number
Non bis in idem	12
Prepositive administrative procedures for disputes over administrative compensation	10
Prosecution beyond the legal term	7
The plaintiff fails to perform the obligation of translation	4



Article 6.2 of the <i>Interpretation of Supreme People's Court on the Jurisdiction of and Laws Applicable for Trademark-related Cases upon Decision on the Implementation of Revision of Trademark Law</i>	4
The court has no jurisdiction	3
The plaintiff is incapable as a subject	2
Defects in the procedures for entrustment	1
No specific request for litigation	1

Distribution List of Reasons for Rejection of Prosecution in Civil Cases

Reasons for rejection of prosecution	Number
The patent is invalidated	19
The plaintiff is incapable as a subject	3
The defendant has no direct stakes with the case	2
Lack of interests of litigation	2
The court has no jurisdiction	1
No specific defendant	2

In the administrative cases, non bis in idem, prepositive administrative procedures for disputes over administrative compensation and prosecution beyond the legal term occupy the first three positions of reasons for rejection of prosecution, while in the civil cases, the invalidation of alleged patent is the leading cause for the rejection of prosecution, which explains the request for invalidation of patent is a major method for the defendant to make a defense.

# Part III Analysis on Judge Team

## I. General Analysis

According to information, Beijing Intellectual Property Court currently has 45 presiding judges, each of whom averagely concludes 180 cases a year according to the cases concluded in 2016.

## II. Judge Team of President and Chief Judge<sup>27</sup>

The details of analysis of cases concluded by the president, chief judge and functional department heads of Beijing Intellectual Property Court in 2016 in this part are as follows:

### 1. Nature of Case

Undertaking Judges	Administrative	Civil	Total
Xu Chi	30	19	49
Chen Jinchuan	91	7	98
Song Yushui	79	2	81
Chen Zhenhua	33	80	113
Jiang Ying	43	42	85
Zhang Xiaojin	68	33	101
Du Changhui	7	141	148
Zhang Xiaoxia	48	53	101
Yi Jun	79	21	100
Yang Jing	72	21	93
Jiang Shuwei	59	12	71
Total	609	431	1,040

### 2. Type of Case

#### (1) Administrative Cases

Undertaking Judges	Trademark	Patent	Total
Xu Chi	27	3	30
Chen Jinchuan	78	13	91

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<sup>27</sup>Including functional departments head.

Song Yushui	69	10	79
Chen Zhenhua	33	0	33
Jiang Ying	28	15	43
Zhang Xiaojin	55	13	68
Du Changhui	5	2	7
Zhang Xiaoxia	40	8	48
Yi Jun	71	8	79
Yang Jing	69	3	72
Jiang Shuwei	55	4	59
Total	530	79	609

(2) Civil Cases

Undertaking Judges	Trademark	Copyright	Patent	Unfair Competition	Jurisdiction Objection	Others	Total
Xu Chi	0	5	0	0	0	14	19
Chen Jinchuan	0	3	2	2	0	0	7
Song Yushui	0	2	0	0	0	0	2
Chen Zhenhua	0	0	60	0	20	0	80
Jiang Ying	5	21	13	3	0	0	42
Zhang Xiaojin	11	16	5	0	1	0	33
Du Changhui	0	14	0	2	125	0	141
Zhang Xiaoxia	3	41	2	0	0	7	53
Yi Jun	2	9	0	0	0	10	21
Yang Jing	0	13	5	1	0	2	21
Jiang Shuwei	1	0	6	0	0	5	12
Total	22	124	93	8	146	38	431

We can see from the data above, the president, chief judge and functional department

heads of Beijing Intellectual Property Court concluded 95 cases per capita in 2016, with their total cases concluded representing 12.8% of the total cases concluded by the court in the year.

### III. Judge Team of Patent-related Cases<sup>28</sup>

According to information, the judge team of patent-related cases of Beijing Intellectual Property Court in 2016 included the following 11 judges, i.e. Chen Yong, Rui Songyan, Peng Wenyi, Zhang Xixin, Liu Xuanzi, Zhao Ming, Jiang Jianzhong, Zhuo Rui, Cui Ning, Wang Dongyong and Deng Zhuo.

#### 1. General Analysis

The judge team of patent-related cases concluded 1,615 cases in total in 2016, representing 19.9% of the total cases concluded by the court, and 147 cases per capita; among them, there are 574 patent-related cases, representing 55.0% of the total patent-related cases concluded by the court. The details are as follows:

Undertaking Judges	Patent	Trademark	Copyright	Unfair Competition	Jurisdiction Objection	Others	Total
Cui Ning	79	34	6	0	0	12	131
Liu Xuanzi	60	48	12	0	0	1	121
Rui Songyan	55	31	7	1	0	2	96
Deng Zhuo	54	47	12	2	0	14	129
Jiang Jianzhong	51	34	12	0	0	5	102
Chen Yong	49	16	76	3	254	3	401
Zhang Xixin	48	79	16	1	0	2	146
Wang Dongyong	46	45	9	0	1	11	112
Zhuo Rui	46	62	8	0	0	17	133
Zhao Ming	46	54	16	2	0	1	119
Peng Wenyi	44	63	14	1	0	3	125
Total	578	513	188	10	255	71	1,615

<sup>28</sup>Judge team of patent-related cases refers to the judge team focusing on trying the patent-related cases, the same below.

From the data above, we can learn Judge Chen Yong in the judge team of patent-related cases concludes more than 400 cases, which are the most and among which the cases about disputes over jurisdiction represent a large proportion; while Judge Cui Ning concludes the most patent-related cases (79).

## 2. Comparative Analysis

### (1) Nature of Case

In the patent-related cases, nature of cases concluded by each judge is distributed as follows:

Undertaking Judges	Administrative	Civil	Total
Cui Ning	49	30	79
Liu Xuanzi	27	33	60
Rui Songyan	21	34	55
Deng Zhuo	39	15	54
Jiang Jianzhong	34	17	51
Chen Yong	39	10	49
Zhang Xixin	18	30	48
Wang Dongyong	23	23	46
Zhuo Rui	27	19	46
Zhao Ming	26	20	46
Peng Wenyi	16	28	44
Total	319	259	578

From the data above, we can learn judges concluding the most patent-related administrative cases in 2016 are Cui Ning, Deng Zhuo and Chen Yong; while those concluding the most patent-related civil cases are Rui Songyan, Liu Xuanzi, Cui Ning and Zhang Xixin.

### (2) Result of Judgment

In this part, the cancellation rate of patent-related administrative cases concluded by judge team of patent-related cases is analyzed.<sup>29</sup>

Statistical Table of Cancellation Rate of Administrative Cases Concluded by Judge Team of Patent-related Cases in 2016

Undertaking Judges	Cancellation Rate
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<sup>29</sup>The result of judgment on the civil cases is not analyzed in this part as most of judges conclude few civil cases, which is not statistically significant.

Cui Ning	11.4%
Liu Xuanzi	10.0%
Rui Songyan	16.7%
Deng Zhuo	9.1%
Jiang Jianzhong	0
Chen Yong	10.0%
Zhang Xixin	0
Wang Dongyong	15.8%
Zhuo Rui	23.5%
Zhao Ming	6.3%
Peng Wenyi	7.7%

From the data above, it can be seen that judges realizing the top three high cancellation rate in the patent-related administrative cases concluded in 2016 are respectively Zhuo Rui, Rui Songyan and Wang Dongyong.

### (3) Duration of Trial

In this part, the average duration for trial of patent-related administrative cases concluded by judge team of patent-related cases is analyzed.<sup>30</sup>

Statistical Table of Average Duration for Trial of Administrative Cases Concluded by Judge Team of Patent-related Cases in 2016

Undertaking Judges	Average Duration of Trial (Days)
Cui Ning	308
Liu Xuanzi	452
Rui Songyan	355
Deng Zhuo	282
Jiang Jianzhong	362
Chen Yong	411
Zhang Xixin	555
Wang Dongyong	318
Zhuo Rui	314
Zhao Ming	503

<sup>30</sup>The duration of trial of civil cases is not analyzed in this part as most of judges conclude few civil cases, which is not statistically significant.

Peng Wenyi	410
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From the data above, it can be seen that judges spending the top three short average time in concluding the patent-related administrative cases in 2016 are respectively Deng Zhuo, Cui Ning and Zhuo Rui.

#### IV. Judge Team of Cases about Trademark and Unfair Competition

According to information, the judge team of cases about trademark and unfair competition of Beijing Intellectual Property Court in 2016 included the following 9 judges, i.e. Wang Dong, Zhang Xiaoli, He Xuan, Mu Ying, Song Kun, Li Yanrong, Liu Yijun, Zhang Lingling and Song Xudong.<sup>31</sup>

##### 1. General Analysis

The judge team of cases about trademark and unfair competition concluded 2,010 cases in total in 2016, representing 24.8% of the total cases concluded by the court, and 223 cases per capita; among them, there are 981 cases about trademark and unfair competition, representing 21.7% of the total cases about trademark and unfair competition concluded by the court. The details are as follows:

Undertaking Judges	Trademark	Unfair Competition	Copyright	Patent	Jurisdiction Objection	Others	Total
He Xuan	138	3	2	16	0	34	193
Zhang Lingling	131	2	19	24	0	5	181
Song Kun	127	0	10	11	0	17	165
Mu Ying	122	4	13	13	1	23	176
Liu Yijun	120	4	13	21	0	30	188
Song Xudong	111	1	11	2	8	3	136
Li Yanrong	109	1	10	36	1	0	157
Wang Dong	77	4	55	12	319	7	474
Zhang Xiaoli	27	0	128	4	179	2	340
Total	962	19	261	139	508	121	2,010

From the data above, we can learn Judge Wang Dong in the judge team of cases about trademark and unfair competition concludes 474 cases, which are the most and among which the cases about disputes over jurisdiction represent a large proportion; while Judge He Xuan concludes the most cases about trademark and unfair competition

<sup>31</sup>The judge team of trademark and unfair competition will basically not try the cases about administrative disputes over retrial of rejection of trademarks applied for upon operation of the judge team for speedy trial of cases.

(141).

## 2. Comparative Analysis

### (1) Nature of Case

In the trademark-related cases, nature of cases concluded by each judge is distributed as follows:

Undertaking Judges	Administrative	Civil	Total
He Xuan	138	0	138
Zhang Lingling	125	6	131
Song Kun	125	2	127
Mu Ying	115	7	122
Liu Yijun	108	12	120
Song Xudong	104	7	111
Li Yanrong	107	2	109
Wang Dong	75	2	77
Zhang Xiaoli	25	2	27
Total	922	40	962

From the data above, we can learn judges concluding the most trademark-related administrative cases in 2016 are He Xuan, Zhanglingling and Song Kun; while those concluding the most trademark-related civil cases are Liu Yijun, Mu Ying and Song Xudong.

### (2) Result of Judgment

In this part, the cancellation rate of trademark-related administrative cases concluded by judge team of cases about trademark and unfair competition is analyzed.<sup>32</sup>

Statistical Table of Cancellation Rate of Trademark-related Administrative Cases Concluded by Judge Team of Cases about Trademark and Unfair Competition in 2016

Undertaking Judges	Cancellation Rate
He Xuan	24.8%
Zhang Lingling	30.6%
Song Kun	29.7%
Mu Ying	22.9%

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<sup>32</sup>The result of judgment on the civil cases is not analyzed in this part as most of judges conclude few civil cases, which is not statistically significant.



Liu Yijun	19.4%
Song Xudong	35.1%
Li Yanrong	26.4%
Wang Dong	10.0%
Zhang Xiaoli	12.5%

From the data above, it can be seen that judges realizing the top three high cancellation rate in the trademark-related administrative cases concluded in 2016 are respectively Song Xudong, Zhang Lingling and Song Kun.

### (3) Duration of Trial

In this part, the average duration for trial of trademark-related administrative cases concluded by judge team of cases about trademark and unfair competition is analyzed.<sup>33</sup>

Statistical Table of Average Duration for Trial of Trademark-related Administrative Cases Concluded by Judge Team of Cases about Trademark and Unfair Competition in 2016

Undertaking Judges	Average Duration of Trial (Days)
He Xuan	243
Zhang Lingling	261
Song Kun	264
Mu Ying	261
Liu Yijun	185
Song Xudong	125
Li Yanrong	341
Wang Dong	170
Zhang Xiaoli	124

From the data above, it can be seen that judges spending the top three short average time in concluding the trademark-related administrative cases in 2016 are respectively Zhang Xiaoli, Song Xudong and Wang Dong.

## V. Judge Team of Copyright-related Cases

According to information, the judge team of copyright-related cases of Beijing

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<sup>33</sup>The duration of trial of civil cases is not analyzed in this part as most of judges conclude few civil cases, which is not statistically significant.

Intellectual Property Court in 2016 included the following 6 judges, i.e. Yuan Wei, Zhou Liting, Lan Guohong, Feng Gang, Yang Jie and Zhang Jin.

## 1. General Analysis

The judge team of copyright-related cases concluded 1,187 cases in total in 2016, representing 14.6% of the total cases concluded by the court, and 198 cases per capita; among them, there are 483 copyright-related cases, representing 43.3% of the total copyright-related cases concluded by the court. The details are as follows:

Undertaking Judges	Copyright	Trademark	Patent	Unfair Competition	Jurisdiction Objection	Others	Total
Lan Guohong	137	83	11	2	0	5	238
Zhou Liting	104	66	16	1	1	3	191
Feng Gang	81	69	19	1	0	0	170
Yang Jie	75	46	0	0	0	3	124
Yuan Wei	68	76	24	2	250	1	421
Zhang Jin	18	25	0	0	0	0	43
Total	483	365	70	6	251	12	1,187

From the data above, we can learn Judge Yuan Wei in the judge team of copyright-related cases concludes 421 cases, which are the most and among which the cases about disputes over jurisdiction represent a large proportion; while Judge Lan Guohong concludes the most copyright-related cases (137).

## 2. Comparative Analysis

### (1) Level of Trial

In the copyright-related cases, level of trial of cases concluded by each judge is distributed as follows:

Undertaking Judges	First Instance	Second Instance	Retrial Applied for	Total
Lan Guohong	29	108	0	137
Zhou Liting	49	55	0	104
Feng Gang	30	50	1	81
Yang Jie	32	43	0	75
Yuan Wei	27	41	0	68

Zhang Jin	6	12	0	18
Total	173	309	1	483

Except for the 26 administrative cases of first instance concluded by Judge Yuan Wei, the rest of the said cases are the civil cases.

From the data above, we can learn judges concluding the most copyright-related cases of first instance in 2016 are Zhou Liting, Yang Jie and Feng Gang; while those concluding the most copyright-related cases of second instance are Lan Guohong, Zhou Liting and Feng Gang.

## (2) Result of Judgment

In the copyright-related civil cases of first instance concluded by judge team of copyright-related cases in 2016, the plaintiff's winning rate is 76.5% and rate of mediation and withdrawal is 88.4%.

In the copyright-related civil cases of second instance concluded by judge team of copyright-related cases in 2016, the commutation rate is 8.4% and rate of mediation and withdrawal is 37.9%.

## (3) Duration of Trial

In this part, the average duration for trial of copyright-related civil cases of second instance concluded by judge team of copyright-related cases is analyzed.<sup>34</sup>

Statistical Table of Average Duration for Trial of Copyright-related Civil Cases of Second Instance Concluded by Judge Team of Copyright-related Cases in 2016

Undertaking Judges	Average Duration of Trial (Days)
Lan Guohong	92
Zhou Liting	90
Feng Gang	77
Yang Jie	72
Yuan Wei	— <sup>35</sup>
Zhang Jin	46

From the data above, it can be seen that judges spending the top three short average time in concluding the copyright-related civil cases of second instance in 2016 are respectively Zhang Jin, Yang Jie and Feng Gang.

<sup>34</sup>The duration of trial of civil cases of first instance is not analyzed in this part as most of judges conclude few civil cases of first instance through judgment, which is not statistically significant.

<sup>35</sup>There are no data about judgment on the copyright-related civil cases of second instance concluded by Judge Yuan Wei.

## VI. Judge Team for Speedy Trial of Cases

The judge team for speedy trial of cases began to work on February 25, 2016 and specially tries the cases about administrative disputes over retrial of rejection of trademarks applied for. According to information, the judge team for speedy trial of cases of Beijing Intellectual Property Court in 2016 included the following 5 judges, i.e. Zhang Jian, Zhang Peng, Hou Zhanheng, Si Pinhua and Yang Zhao.

### 1. General Analysis

The judge team for speedy trial of cases concluded 1,880 cases in total in 2016, representing 23.2% of the total cases concluded by the court, and 376 cases per capita; among them, there are 1,578 cases about administrative disputes over retrial of rejection of trademarks applied for that are accepted and concluded upon official operation thereof (February 25, 2016), representing 55.2% of the total administrative cases about retrial of rejection of trademarks applied for that are concluded by the court in the whole year. The details are as follows:

Undertaking Judges	Administrative Cases about Retrial of Rejection of Trademarks Applied for <sup>36</sup>	Other trademark-related cases	Copyright	Patent	Unfair Competition	Jurisdiction Objection	Others	Total
Yang Zhao	446	47	0	0	1	0	0	494
Si Pinhua	415	65	1	29	1	0	5	516
Zhang Jian	282	5	3	0	0	0	0	290
Zhang Peng	273	51	7	0	0	0	0	331
Hou Zhanheng	162	54	4	28	0	0	1	249
Total	1,578	222	15	57	2	0	6	1,880

From the data above, it can be seen that Judge Si Pinhua in the judge team for speedy trial of cases concludes the most cases (516); upon establishment of judge team for speedy trial of cases, judges concluding the most administrative cases about retrial of rejection of trademarks applied for (more than 400 respectively) are Yang Zhao and Si Pinhua.

<sup>36</sup>Referring in particular to the cases about administrative disputes over retrial of rejection of trademarks applied for accepted from February 25, 2016.

## 2. Comparative Analysis

In accordance with the trial characteristics of judge team for speedy trial of cases, the administrative cases about retrial of rejection of trademarks applied for accepted and concluded upon operation of judge team for speedy trial of cases are only analyzed in this part.

### (1) Result of Judgment

In this part, the cancellation rate of administrative cases about retrial of rejection of trademarks applied for concluded by judge team for speedy trial of cases is analyzed.

Statistical Table of Cancellation Rate of Trademark-related Administrative Cases Concluded by Judge team for Speedy Trial of Cases in 2016

Undertaking Judges	Cancellation Rate
Yang Zhao	15.2%
Si Pinhua	18.3%
Zhang Jian	23.3%
Zhang Peng	18.7%
Hou Zhanheng	13.5%

From the data above, it can be seen that the judge realizing the highest cancellation rate in the administrative cases about retrial of rejection of trademarks applied for concluded upon establishment of judge team for speedy trial of cases is Zhang Jian.

### (2) Duration of Trial

In this part, the average duration for trial of administrative cases about retrial of rejection of trademarks applied for concluded by judge team for speedy trial of cases is analyzed.

Statistical Table of Average Duration for Trial of Trademark-related Administrative Cases by Judge Team for Speedy Trial of Cases in 2016

Undertaking Judges	Average Duration of Trial (Days)
Yang Zhao	76
Si Pinhua	78
Zhang Jian	59
Zhang Peng	71
Hou Zhanheng	34

From the data above, it can be seen that the judge spending the shortest average time (only about 1 month) in concluding the administrative cases about retrial of rejection of trademarks applied for upon establishment of judge team for speedy trial of cases is

Hou Zhanheng.

Considering the data above as a whole, the judge team for speedy trial of cases has outstanding advantages on the case number and average duration of trial, which makes the efficiency in concluding the case greatly improved.

## VII. Judge Team of Functional Work

Judges undertaking other functional work in Beijing Intellectual Property Court in 2016 are Xu Bo, Chen Dong and Wu Yuanmei.

### 1. General Analysis

Judge team of functional work concluded 379 cases in total in 2016, representing 4.7% of the total cases concluded by the court, and 126 cases per capita. The details are as follows:

Undertaking Judges	Trademark	Copyright	Patent	Unfair Competition	Jurisdiction Objection	Others	Total
Wu Yuanmei	106	23	8	0	0	18	155
Xu Bo	82	12	14	0	0	5	113
Chen Dong	84	10	6	2	0	9	111
Total	272	45	28	2	0	32	379

From the data above, we can learn Judge Wu Yuanmei in the judge team of functional work concludes the most cases (155), and concludes the most trademark-related cases, representing 71.8% of the total cases concluded by the team.

### 2. Comparative Analysis

#### (1) Result of Judgment

The cancellation rate of trademark-related administrative cases concluded by the judge team of functional work is analyzed in this part as the trademark-related administrative cases concluded thereby are the most and representative.

Statistical Table of Cancellation Rate of Trademark-related Administrative Cases Concluded by Judge Team of Functional Work in 2016

Undertaking Judges	Cancellation Rate
Wu Yuanmei	38.6%
Xu Bo	27.0%
Chen Dong	17.3%

From the data above, it can be seen that the judge realizing the highest cancellation rate in the trademark-related administrative cases concluded in 2016 is Wu Yuanmei.

(2) Duration of Trial

In this part, the average duration for trial of trademark-related administrative cases concluded by judge team of functional work is analyzed.

Statistical Table of Average Duration for Trial of Trademark-related Administrative Cases by Judge Team of Functional Work in 2016

Undertaking Judges	Average Duration of Trial (Days)
Wu Yuanmei	184
Xu Bo	164
Chen Dong	139

From the data above, it can be seen that the judge spending the shortest average time in concluding the trademark-related administrative cases in 2016 is Chen Dong.



As one of the first three IP courts established in China, the Beijing IP Court has been a role model in China's IP judicial adjudication reform. Therefore, the analysis of the judicial data from the Beijing IP Court is not only an objective evaluation on the court, but also an analysis of the status quo of China's most advanced and highest level of IP judicial protection. We hope, with the aid of the data from the Beijing IP Court, to objectively review the circumstances of China's most prominent IP judicial protection, to understand the latest achievements of China's IP protection, and to look forward to the future China's IP protection.

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