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**Via Email:** [tiaofasi@cnipa.gov.cn](mailto:tiaofasi@cnipa.gov.cn)

Re: “Provisions of the China National Intellectual Property Administration on the Procedures for the Formulation of Regulations (Draft for Soliciting Comments)” (July 11, 2024)

Dear China National Intellectual Property Administration:

The Intellectual Property Owners Association (IPO) appreciates the opportunity to respond to the solicitation of opinions on the *Provisions of the China National Intellectual Property Administration on the Procedures for the Formulation of Regulations (Draft for Soliciting Comments)* (“Draft”) published on July 11, 2024.

IPO is an international trade association representing a “big tent” of diverse companies, law firms, service providers and individuals in all industries and fields of technology that own, or are interested in, intellectual property (IP) rights. IPO membership includes over 125 companies and spans over 30 countries. IPO advocates for effective and affordable IP ownership rights and offers a wide array of services, including supporting member interests relating to legislative and international issues; analyzing current IP issues; providing information and educational services; and disseminating information to the public on the importance of IP rights (IPR).

IPO’s vision is the global acceleration of innovation, creativity, and investment necessary to improve lives. The Board of Directors has adopted a strategic objective to foster diverse engagement in the innovation ecosystem and to integrate diversity, equity, and inclusion in all its work to complement IPO’s mission of promoting high quality and enforceable IP rights and predictable legal systems for all industries and technologies.

IPO recognizes the importance of the objective of the Draft to provide new procedures for forming regulations by the China National Intellectual Property Administration (CNIPA), thereby to improve the development of new regulations that will impact CNIPA’s operations. IPO hopes that our comments below will be helpful during the process of finalizing the Draft.

General Counsel  
**Lauren Leyden**  
Akin Gump Strauss  
Hauer & Feld LLP

Executive Director  
**Jessica K. Landacre**

## **General Comments**

IPO appreciates that the Draft standardizes the procedures for the formulation of regulations of the China National Intellectual Property Administration (CNIPA) and will improve the quality of new and revised regulations. IPO especially welcomes the increased transparency in the process for formulating new provisions. IPO's primary request is that the comment period of thirty days specified in Articles 14 and 21 be extended to at least sixty days to best facilitate stakeholder input, as discussed in more detail below. IPO hopes that our comments will be helpful during the process of finalizing the Draft.

## **Articles 12, 14, and 20**

These articles specify hearings for the solicitation of opinions. It is IPO's view that stakeholder participation in such hearings, at an earlier stage of the formulation of new and revised regulations, will help improve quality in the Chinese IP system and make consideration of stakeholder opinions easier for CNIPA.

It has been recognized by many, including CNIPA and foreign observers such as IPO, that foreign organizations are frequent and significant users of the Chinese IP system, reflecting the progress that has been made by CNIPA and others in improving the quality and effectiveness of IPR registration and enforcement mechanisms in China, for which IPO is grateful. It also reflects the importance to foreign organizations of the progress of the Chinese economy, which has grown dramatically in recent years. IPO considers its members significant stakeholders in the Chinese IP system, keenly interested in the quality of IPR registration and enforcement mechanisms in China. IPO therefore suggests that, to encourage feedback from all stakeholders, these articles provide that notifications of the hearings be provided on CNIPA's website and clarify that the hearings will be open to delegates from all relevant organizations, including foreign organizations.

## **Articles 14 and 21**

These articles provide for a period of no less than thirty days for the solicitation of opinions on published draft regulations. It is difficult for foreign organizations like IPO to provide their opinions in such a short time period. IPO has more than 100 company members, spanning over thirty countries, and it attempts to take into consideration the views of the wide array of industries represented by those members when drafting its comments. Further, once drafted by an IPO committee or working group, the comments must undergo an internal review process in order to obtain approval for submission. Moreover, in order to prepare its comments, IPO must first obtain English translations of the drafts to facilitate review by its members and, once the comments are finalized, it then must provide a high-quality translation of its comments into Chinese in order to facilitate their consideration by CNIPA. IPO believes that many other international IP organizations likely have a similar process for the preparation of comments.

IPO therefore suggests that these articles provide for a period of no less than at least sixty days for the submission of comments. IPO thinks that this extension of the period will allow for the best opportunity for stakeholders to provide helpful feedback.

**Article 17**

This article provides for compliance of draft regulations with other authorities. It is unclear to IPO whether these authorities include judicial bodies, such as the Supreme People's Court. IPO considers judicial bodies to be important to the development of the Chinese IP system, including to the registration and enforcement of IP rights, and therefore suggests that this article clearly state that the development of CNIPA's regulations should be consistent with the decisions and opinions of judicial bodies such as the Supreme People's Court.

**Article 27**

This article provides for interpretation of regulations by CNIPA, and specifies that CNIPA's draft interpretations be subject to review procedures before promulgation. However, it is unclear to IPO whether those review procedures will include the solicitation of public opinions on the interpretations. Since this article also provides that the interpretation of regulations has the same effect as the regulations themselves, IPO suggests that this article clearly state that draft interpretations will be subject to these provisions in the same manner as the regulations they interpret, including providing for the solicitation of public opinions on the draft interpretations before they are promulgated.

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IPO thanks the China National Intellectual Property Administration for its attention to IPO's comments submitted herein, and welcomes further dialogue and opportunity to provide additional comments. IPO has enclosed this letter as translated herewith.

Sincerely,



Krish Gupta  
President

Enclosure