

A background image of a white ceramic tea set on a light blue surface. The set includes a teapot and several teacups, some containing tea with orange slices and green leaves. The scene is softly lit, creating a calm and elegant atmosphere.

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Newsletter Autumn 2018

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- A close-up photograph of three mooncakes on a white ceramic plate. The mooncakes are round and have a decorative, embossed pattern on top. One is light green, one is pink, and one is purple. Fresh green tea leaves are scattered around the plate, adding a touch of natural color and texture to the scene.

Happy Mid-Autumn Festival to all our clients and associates



Welcome to our Mid- Autumn Festival Newsletter

We wish to share with you our experience and provide general guidance on a number of topics that are relevant for Intellectual Property in Europe.

How to speed up the progress of your European patent applications at the EPO using the EPO's PACE programme

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The European Patent Office (EPO) offers various options for Applicants who wish to speed up the patent application process. These options include the PACE programme which can be used to accelerate issuance of the extended European search report by (1) requesting PACE for accelerated search; and (2) by requesting PACE for accelerated examination.

We are pleased to provide the following information on the current PACE programme at the EPO:

1. PACE requests must be filed electronically using the official EPO form 1005. Requests made in an accompanying letter or on paper will NOT be processed.
2. A PACE request filed for accelerated search will NOT result in accelerated examination; therefore, a further PACE request must be filed to obtain accelerated examination.
3. A European patent application will be removed from the PACE programme if the PACE request is withdrawn. Once PACE is withdrawn, accelerated processing for that particular stage of the process i.e. search or examination stage.
4. Importantly, from a practical point of view, PACE ceases for a European application if an extension of a time limit is requested. It is not possible to restore PACE, nor to file a second, replacement request for PACE processing.
5. Accelerated prosecution under PACE will be suspended if a renewal fee is not paid by the normal due date. If the renewal fee is then paid within the six-month grace period, then PACE will recommence.
6. If a deadline set for the European application is not met and the "Further Processing" procedure under Art 121 EPC is requested to enable the European application to proceed, then PACE accelerated processing will not be continued by the EPO for that particular European application.
7. PACE requests can only be filed for one European patent application at a time. If an applicant has a large number of applications and has a policy of requesting PACE for all or most of its applications, the EPO may require the applicant to limit the number of PACE requests by making a selection to only those which are the most urgent.

At Hanna Moore + Curley, we actively manage the progress of our client's European patent applications so that, for those applicants who wish a speedier processing at the EPO, we recommend making use of the options available from the EPO including by filing PACE requests when appropriate to match our clients' IP strategies for competitive advantage.

If you would like to discuss more about the PACE programme or about European patent procedure in general, please contact Yan Guo or Marie Walsh at China@hmc-ip.com with any questions that you may have and it will be our pleasure to assist you.

General Note on Oral Proceedings before the Examining Division of the European Patent Office

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An applicant can be summonsed to attend at Oral Proceedings before the Examining Division of the EPO if the EPO Examining Division considers that the written procedure of responses to Search Opinion and/or Examination Reports is not progressing the application towards allowance.

Then the EPO can issue a Summons to Oral Proceedings though there is also then just one last chance to submit amended claims and written arguments by filing **Written Submissions** by the deadline that is set out in the Summons.

The term, "Oral proceedings", refers to formal proceedings within the meaning of Art.116 EPC where the Applicant's European Attorney appears before the 3 Examiners of the Examining Division with the aim of achieving an allowable set of claims so that the application.

Thus, the term “Oral Proceedings”, does not include informal personal interviews or telephone conversations, such as can often occur during the examination process.

Format of Oral Proceedings before the Examining Division

Oral Proceedings before the Examining Divisions are not open to the public though the Minutes of the Oral Proceedings will be made available publicly after the Oral Proceedings.

The Oral Proceedings are conducted in English since the patent specification was filed in English and English is one of the 3 official languages of the EPO (i.e. English, French and German).

Oral Proceedings before the Examining Division are conducted before a three-member board, made up of the Primary Examiner who has been the Examiner for the application and two other Examiners, one of whom performs the role of Chairman and another Examiner has the role of recording the Minutes of the Proceedings.

Oral Proceedings at the European Patent Office are conducted with **strict procedural control** exercised by the Chairman, so that the submissions of the Applicant and the discussions are not allowed to continue if the argument is not relevant in the view of the Examining Division.

In particular, written material which has already been submitted at the earlier Written Submissions stage, before the Oral Proceedings, is not allowed to be simply read out by the European Attorney as it has already been considered by the EPO Examining Division.

Formal Opening of oral proceedings

The Chairman will ask that the details of the Attorney(s) be noted for the and their authorizations checked, where necessary. The oral proceedings are then formally opened.

If an Applicant who has been summoned to oral proceedings does not appear before the Examining Division, the Oral Proceedings can be conducted without him since an Applicant is not permitted to delay the EPO issuing a final decision simply because the Applicant or his Attorney did not appear before the Examining Division. As a matter of general courtesy, we would always recommend that we advise the Examining Division as early as possible of non-attendance at Oral Proceedings.

Opening of the substantive part of the proceedings:

The Chairman will summarize the stage reached in the proceedings and will indicate the most important matters in dispute according to the file.

Submissions by the Applicant’s European Patent Attorney:

After the introduction referred to above, the Applicant’s Patent Attorney will be invited to speak and to present the Applicant’s arguments and to make any application on procedural matters and state the grounds thereof.

Discussion of the facts and of the legal position:

A discussion will be conducted with the European Patent Attorney concerning those technical or legal questions which are relevant to the decision to be made by the Examining Division. The Examining Division follow a strict process and it is necessary to pass each of the EPO’s provisions, which are discussed in the following **specific order**:

1. **Added subject Matter (Art 123 EPC),**
2. **Clarity (Art 84 EPC),**
3. **Novelty (Art 54 EPC) and**
4. **Inventive Step (Art 56 EPC).**

For example, if the Examining Division does not accept that an amended claim set meets the requirements of having no added matter (Article 123(2)EPC) then the Applicant will not proceed to the next formal stage of the Oral Proceedings of being allowed to present arguments in favour of clarity or even novelty or inventive step.

At each step of the process, the Division will formally announce a break in the proceedings to allow the Examiners to discuss privately among themselves and formalize their joint decision on that particular issue

If the Examining Division finds that patentable subject-matter results from an amendment of the claims, it will inform the Attorney and allow the Attorney will usually be given an opportunity to submit further amended claims. If necessary, to allow the Attorney a short time to formulate amended claims, the proceedings will be paused for a short time (e.g. 20 minutes) and the Attorney may use a separate room with access to photocopying facilities, to prepare the further amendments to the claims.

Appeal from a decision of the Examining Division

It is possible to file an appeal based on a decision of the Examining Division. An appeal must be filed within 2 months of the date of the formal written decision that will be issued by the EPO and the grounds of the appeal must be filed within 4 months of the date of the decision.

This guidance note provides general information only and does not constitute legal advice. For advice, please contact [Marie Walsh](mailto:Marie.Walsh@hmc-ip.com) at China@hmc-ip.com with any questions that you may have.

EC issues a notice warning of impending changes to the .eu Top Level Domain Registry in the event of a no-deal Brexit

European Commission has confirmed by way of a [Notice to Stakeholders](#) that, as of the UK's withdrawal date from the EU (which currently stands at 29th March 2019), institutions and individuals based in the UK will no longer be able to register domains using the Top Level Domain (TLD) .eu

For those institutions or individuals who currently own such a domain, they will not be permitted to renew it. For large companies who have places of business within the remaining EU member states, this may not be problematic but for traders based only within the UK, this may be disappointing news reminiscent of the warning [Notice to Holders and Applicants of EU Trade Marks and Community Designs](#) which was issued by the European Commission in December 2017. That notice outlined the possible scenario where no deal is reached and the UK becomes a 'third country', wherein registered EUTMs (including International Registrations designating the EU) and RCDs will cease to have effect in the UK.

The UK 'Brexit' negotiations continue and further developments are expected over the coming months. Hanna Moore + Curley recommends that our Chinese clients and associates keep up to date by following our website and WECHAT for updates. Also of course, we invite you to contact your usual Hanna Moore + Curley Attorney for advice at china@hmc-ip.com

Ms. Yan Guo of our Dalian Office attends the 2018 China International Patent Technology and Product Fair 2018

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The 2018 China International Patent Technology and Product Fair opening ceremony was held on August 24th at the Dalian World Expo Plaza for a period of three days with an exhibition area of 30,000 square meters. The Dalian International Fair has been held once every two years, and it has been the eleventh since 2002. In 2018, the special conference will feature “patent-led high-quality development of the industry”. More than 6,100 projects from 26 countries and regions including the United States, Japan, Russia, Ireland, Israel, and Singapore. Technologies Exhibitions, IP forums, project roadshows are the main forms of the Patent Fair which mean to demonstrate the current status of China's patent technology development, promoting patent technology transfer and cooperation.

Shen Changyu, director of CNIPA, Wang Binying, deputy director general of the World Intellectual Property Organization, Tan Zuoyu, member of the Liaoning Provincial Party Committee and secretary of the Dalian Municipal Party Committee, and Wang Mingyu, deputy governor of Liaoning Province, attended the opening ceremony and delivered speeches. The opening ceremony was hosted by Tan Chengxu, Mayor of Dalian Municipal People's Government.

In addition to project exhibitions and roadshows, the conference also has more than 70 forums for industry participants. HMC China Dalian Office was established in Dalian in 2011. As European patent attorney who has an office in Dalian, our representative office have regularly participated in the exhibition of Dalian Patent Fair since 2012. Hanna Moore + Curley was the only European patent attorney firm at the international patent service exhibition area, attracting the attention of many associates. Topics of interest included the handling of intellectual property rights post-Brexit, as well as European IP rights protection.

Ms. Yan Guo, who is the operations manager of our Dalian Office, addressed the International Patent Attorney Forum in the afternoon of the 24th. Ms. Guo introduced European patent application filing procedures and shared Hanna Moore + Curley's experience of acceleration of European patent applications by using PACE programme for instance.

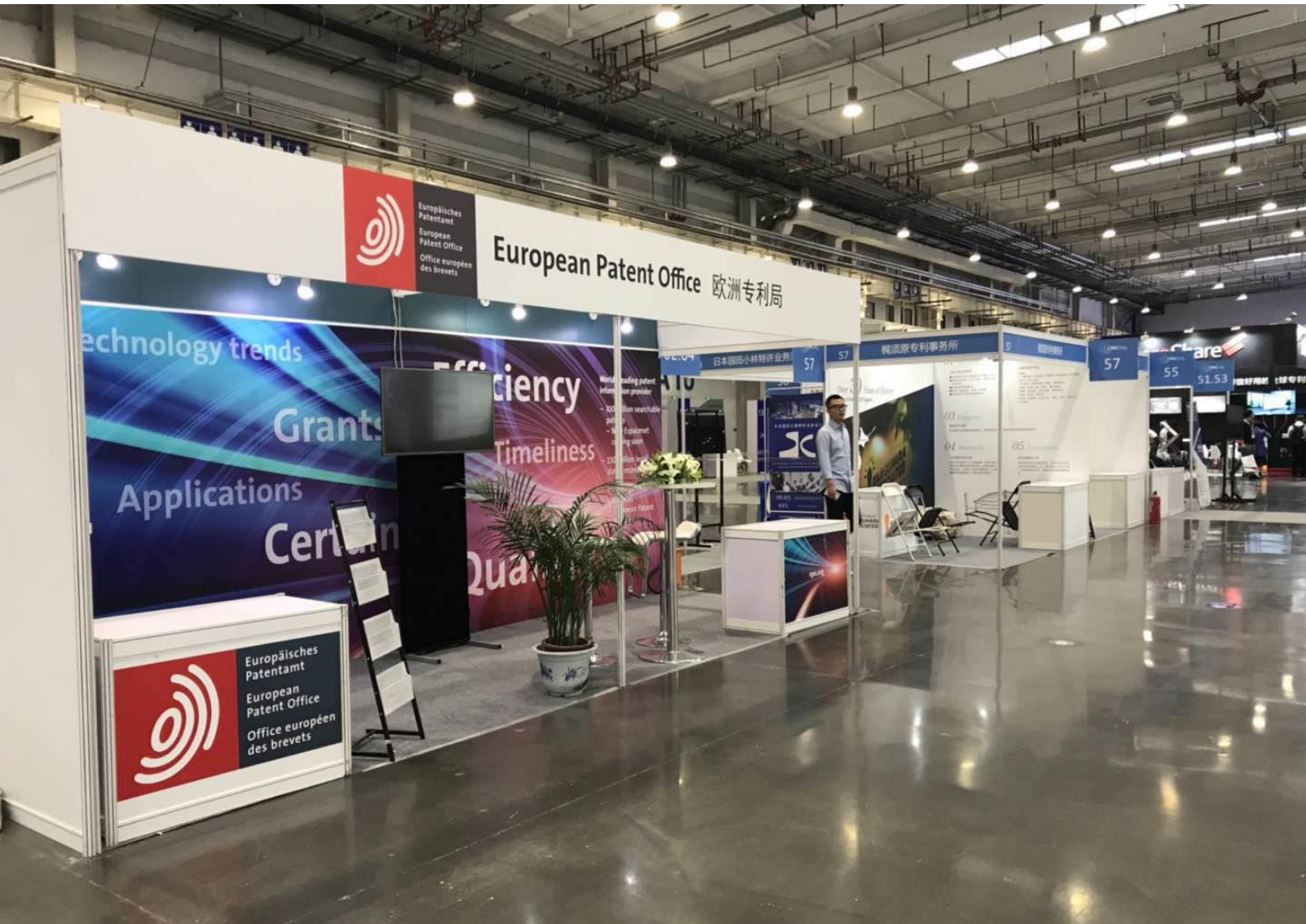


China Patent Annual Conference (CPAC) 2018 in Beijing

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On August 30th 2018, the 9th Annual Patent Conference was held at the Beijing International Exhibition Center. Ms. Yan Guo was at the Conference. The theme of this year's CPAC was "Patents, Boosting opening up" meaning opening to the world. The focus was on the new developments and changes in the patent industry, helping Chinese businesses to expand and explore the world and to be understood by the world. The forum attracted many people in the patent industry and nearly 10,000 people participate in the forum, and plenary session and 12 sub-forums.

Shen Changyu, the director of CNIPA, said at the opening ceremony that China will unswervingly implement strict intellectual property protection in the future, while deepening international cooperation in intellectual property rights and creating a better business environment. The ability to use intellectual property in Chinese manufacturing companies has improved significantly. Last year, technology contracts involves 15,000 patents in total and the relevant revenue exceeded 140 billion yuan. Total intellectual property royalty trade reached US\$33.3 billion with an increase of 32.6% from last year, and intellectual property royalty expenditure was US\$4.786 billion, an increase of 311.5%. In the first half of this year, China's total trade in intellectual property fees reached US\$22 billion, an increase of 53.6%.



2018 China International Trade Mark and Brand Conference

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The 2018 China International Trademark Brand Festival was held at Tangshan Nanhu International Convention and Exhibition Center from 1st September 2018. The main topic of this year's trademark brand festival was **"Innovation, Protection and Application"**. More than 3,000 people, including agencies, attended the meeting. These included representatives from the State Administration of Markets, the Trademark Office, CNIPA and the provincial and municipal industrial and commercial and market supervision departments of the local government, the World Intellectual Property Organization (WIPO), brand economists and entrepreneurs.

In recent years, the heavy increase in trademark filings and opposition procedures have been the main topics for brand owners and these topics were well discussed during the trademark forums. The Conference included a very detailed discussion on bad-faith registration. In the forum of "Typical Trademark Cases Review and Analysis - The Regulation of Bad-Faith Registration in the Revision of Trademark Law", Sun Ou, the Director of Legal Affairs Division of the Trademark Review and Adjudication Board suggested a review of the examination process for Chinese trademark filings on the fourth Chinese trademark law revision in order to avoid bad-faith registration of trademarks. The "Trademark Oral Review discussion" broadcasted a video of the Trademark Review and Adjudication Board's oral hearing of two trademark review cases; and presented the detailed process of the oral review case of the Trademark Review and Adjudication Board to the on-site participants. Other forums such as brand innovation and development, overseas trademark protection, and traditional and non-traditional trademark review are also related to the current issues of the industry.

