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## **Serious IPR Infringers to Be Listed in China's Credit System**

By Ms. Haiyu Li and Mr. Tingxi Huo

On 30 July 2021, the State Administration for Market Regulation (SAMR) released in its Order No 44 The Rules on Adminstrating the Seriously Illicit or Dishonest List in Market Supervision and Administration, which take effect from 1 September 2021. The Rules are made to enhance credit supervision and administration and honest self-discipline.

According to the Rules, parties that have received the AMR's heavy penalties will be put into the Seriously Illicit or Dishonest List to be published through the national enterprise credit system and shared with other organs.

### **Seriously illicit and dishonest conduct**

Seriously illicit and dishonest conduct covers areas such as: the safety of food, medicines, medical devices, and cosmetics; product quality; infringement of consumers' rights and interests; fair competition; and market order. In addition, the list will include: unfair competition, trade secret infringement, willful IPR infringement, abnormal patent filing, bad-faith trade mark filing, and seriously illicit patent and trade mark agents.

The Rules provide a list of factors to be thoroughly considered in deciding bad nature, serious scenarios and big social harms. These factors include: subjective bad faith, illicit frequency, duration, types of penalties, amounts of fines, product value, harm to people's lives and health, asset loss and social influence, unless the relevant parties have sufficient evidence to prove the lack of subjective bad faith.

The AMRs will decide whether to include the parties into the list when making decisions on administrative penalties and will publish the relevant information within 20 working days of decisions.

The parties will be kept on the list for three years if no appeal or request for

earlier removal is initiated. Listed parties will face stricter and more frequent inspections and cannot receive AMR awards.

**Tips: The Rules will not take effect until September and they are a potential heavy blow to illicit and dishonest parties. Legitimate IPR holders should take the opportunity to warn bad-faith trademark filers and agents and serious IPR infringers and press for favorable results immediately.**

**After the Rules come into effect, rights holders should use this new weapon to better combat IPR infringers and bad-faith filers.**