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### **Enforcement of Civil Judgments in China**

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After the Chinese courts' civil judgments come into effect, the losing parties (hereinafter referred to as "debtors") are often cooperative to comply with the judgments, but some debtors are not. If the debtors refuse or delay to comply with the judgments, the winning parties (hereinafter referred to as "creditors") are entitled to request for forcible enforcement.

To enforce the judgments, the courts are empowered to take multiple measures including prohibition of luxury consumption, judicial custody and criminal punishment against debtors. The measures are usually deterrent to the debtors, which secures the high rate of enforcement.

According to the latest statistics from the China Enforcement Information Open Network, in the fourth quarter of 2020 there were 17,691 cases in total involving the enforcement of intellectual property judgments. Of the total, 9,401 were newly received and 8,290 were old ones; and, 15,515 cases have been concluded and 2,176 cases have not, with a settlement rate of 87.7%, which proves great progress in the enforcement of court's judgments.

We would introduce the forcible enforcement of civil judgments in this article.

#### **1. Timing for request for forcible enforcement**

The creditors are entitled to request for forcible enforcement within two years after the civil judgments come into effect. From our experiences, the earlier the request is filed, the better. Otherwise, the uncooperative debtors might take time to transfer their property and/or set obstacles against the enforcement. Moreover, the changing circumstances might make enforcement more difficult,

or even impossible. For example, if the debtors go bankrupt, the creditors are supposed to declare their debts within prescribed period of time. After the deadline, the terminated debtors might have nothing to settle the debts or have disappeared.

## **2. Competent courts for enforcement**

The enforcement request should be filed with the first-instance courts or the courts at the same level in the place where the property to be enforced is located. As an exception, if the judgments are made by the three specialized intellectual property courts in Beijing, Shanghai and Guangzhou, the enforcement shall be handled by the designated courts.

## **3. Requisite documents for requesting enforcement**

- 1) Written application;
- 2) Power of attorney (POA);
- 3) Certificates of identity of both the creditors and debtors;
- 4) Courts' judgments; and
- 5) Other helpful information and documentation (e.g., clues of the debtors' property, preservation orders).

If the creditors are foreign parties, notarization, legalization and translation of relevant documents will be needed. However, if the "authorization to participate in enforcement procedure" is included in the original scope of authorization at the very beginning of the lawsuit when the POAs are provided, normally there will be no need to redo the notarization, legalization and translation. Therefore, it is important to have a broad scope of authorization in the original POAs, particularly because of the difficulty to do notarization and legalization at this hard time of pandemic when the consulates and notary public offices cannot work regularly.

## **4. Time limit to finish enforcement**

According to relevant laws and regulations, the courts shall enforce the requested judgments within six months counting from the date of receiving the written request. In practice, the courts normally need around 10 to 30 days. The entire enforcement takes around four months on average, including

potential negotiation between the creditors and debtors. However, if the debtors are insolvent or other obstacles arise, the courts may suspend the enforcement until enforcement is possible.

## **5. Courts' enforcing measures**

- 1) Search for property clues, including company bank accounts, stocks, funds, cars, real estates, etc., if the creditors cannot provide the debtors' property clues. Once the property is located, the courts may seal up, seize or freeze the property, which will bring a lot of inconvenience to the debtors' business or even heavy impact on their daily operation. It is highly advisable for the creditors and the representing lawyers to find out the clues and inform the courts to facilitate enforcement;
- 2) Restrict the debtors' and its legal representatives' luxury consumption, which can limit the debtors' travel, accommodation, and living (e.g., limitation on taking airplanes and hi-speed trains, staying in star hotels, getting bank loans);
- 3) Blacklist the debtors as dishonest parties. Such information is open to public and may heavily impact the debtors' business and reputation;
- 4) Place the dishonest debtors or their legal representatives in judicial custody, which will be more deterrent; and/or
- 5) Impose criminal punishments on the worst dishonest debtors, including imprisonment and fines.

After the courts take enforcing measures against the debtors and/or their legal representatives, the creditors will be in a stronger position to gain an upper hand in the potential negotiation. Therefore, we suggest the winning creditors request for forcible enforcement at an earlier stage, in case the debtors are reluctant to perform obligations confirmed by the effective court judgments. The sooner the better!