

China Competition Policy & IP

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Meetings/Seminars/Projects

CPC Central Committee Holds Press Conference Highlighting China's Antitrust Achievements over Past Decade

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On July 28, 2022, the Publicity Department of the Communist Party of China (CPC) Central Committee held a press conference to introduce the achievements of China's rule of law in the last decade.

Gan Lin, Deputy Director General of the State Administration for Market Regulation (SAMR) and Director of the National Anti-Monopoly Bureau, delivered a speech highlighting how China's antitrust work over the past ten years has fostered an improved competitive environment and a broader space for all types of market players to thrive. She also highlighted the fact that China has joined the US and the European Union (EU) as one of the world's three major antitrust jurisdictions.

Ms. Gan outlined the accomplishments of China's antitrust work in the following four ways:

- 1. Construction of fair, transparent, and predictable competition rules.** In the past decade, to satisfy new needs arising from the evolving market economy, China finalized the first amendments to the Anti-Monopoly Law, revised the Anti-Unfair Competition Law twice, and formulated seven supporting regulations and eight antitrust guidelines for areas such as the platform economy and intellectual property rights. The CPC also issued the first-ever "Opinions on Strengthening Anti-Monopoly and Deepening the Implementation of Fair Competition Policy," which sets the tone for the strategic direction of antitrust work and improves the transparency and predictability of regulatory enforcement.
- 2. Construction of an efficient and orderly market competition landscape.** SAMR has investigated and handled 794 monopoly cases and 234,000 unfair competition cases, and concluded 3,822 cases of concentrations of undertakings – involving areas such as the platform economy, pharmaceuticals, and public utilities – over the past ten years. SAMR has fully implemented the fair competition review system and reviewed 4.68 million policy documents during the decade, of which 53,000 were repealed or revised. The fair competition review system facilitated the creation of a favorable environment for the harmonious development of all types of enterprises.
- 3. Reform of the institutional mechanism for competition regulation.** The National Anti-Monopoly Bureau was officially launched in 2021. Additionally, the Anti-Monopoly Commission of the State Council has established an inter-ministerial joint meeting system for the

department of anti-unfair competition and the department of fair competition review to reinforce the cooperation between the central and local authorities.

- 4. Engagement in global competition governance.** In the past decade, China has signed cooperation agreements with 35 countries and regions, including the US and the EU; established a special provision on competition policy in 10 free trade agreements, such as the Regional Comprehensive Economic Partnership (RCEP); and successfully hosted the 7th BRICS International Competition Conference. Together with the US and the EU, China has become one of the three major antitrust jurisdictions in the world.

Anti-Monopoly Law Amendment and Analysis Seminar Successfully Held Online

[Read the Chinese version here](#)

On June 30, 2022, the Seminar on Analysis of the Amendment of the Anti-Monopoly Law was successfully held online with more than 200 attendees. The seminar was jointly organized by the Competition Policy and Law Professional Committee of the China Society for World Trade Organization Studies (CWTO) and the Industrial Policy and Competition Policy Professional Committee of the China Macroeconomic System Reform Research Association. Shang Ming, Director of the Committee on Competition Policy and Law of the CWTO, chaired the seminar, and Li Qing, Vice President of the China Macroeconomic System Reform Research Association, delivered a speech.

At the seminar, experts and practitioners interpreted the highlights of the amendment from various perspectives, including the background and purpose of the amendment, the strengthening of the basic position of competition policy under the new law, the introduction of the fair competition review system, the improvement of the review system for concentrations of undertakings, the supervision of platform companies, and the refinement of monopoly agreements.

The seminar concluded that the amendments to the Anti-Monopoly Law have provided more clear, detailed, and precise enforcement rules and methods for the national anti-monopoly enforcement agencies and are expected to greatly improve the efficiency and quality of China's anti-monopoly law enforcement. The seminar's content will serve as a reference for the correct understanding of the amendments, the construction of corporate compliance, and the improvement of supporting anti-monopoly rules.

Regulatory News

Hainan Yishun Pharmaceutical Fined by Hainan AMR for Monopoly Agreement

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On July 22, 2022, SAMR published the administrative penalty decision imposed by the Hainan Administration for Market Regulation (Hainan AMR) on Hainan Yishun Pharmaceutical Co., Ltd. (Yishun) for resale price maintenance.

Yishun is a pharmaceutical manufacturer whose main products include Lianzhi anti-inflammatory dropping pills, Banlangen drops, and vitamin C for injection. Based on a preliminary antitrust investigation from August 2020, Hainan AMR officially launched an investigation on December 3, 2020 into Yishun's monopolistic conduct of restricting the minimum resale price.

According to the investigation, the relevant product market is the Lianzhi anti-inflammatory dropping pills market, and the relevant geographic market is the national market. Between 2019 and 2020, Yishun provided 40 retailers with cooperation agreements and price control agreements whereby the retail prices of 30 pills per bag and 6 bags per box, 30 pills per bag and 9 bags per box, and 30 pills per bag and 12 bags per box of Lianzhi anti-inflammatory drops were fixed at RMB 19.80 per box, RMB 29.80 per box, and RMB 36.00 per box, respectively. However, according to the relevant evidential materials, none of the retailers had implemented the stipulated agreed prices.

After careful examination, Hainan AMR found that Yishun, as a medicine manufacturer, was in a vertical relationship with its distributors in the same industry. Yishun's conduct had interfered with the price setting of downstream retailers; lessened intra-brand and, consequently, inter-brand competition; harmed the interests of consumers; and undermined the normal order of competition in the market.

On June 24, 2022, Hainan AMR concluded that Yishun had entered into, but not yet implemented, monopoly agreements with some of its retailers to restrict the minimum resale price, which violated Article 14(2) of the Anti-Monopoly Law. Accounting for the fact that Yishun actively provided evidence to cooperate with the investigation, rectified its business practices, and eliminated its negative impact, Hainan AMR ultimately decided to order the company to cease its illegal conduct and impose a fine of RMB 200,000.

Kairui Alliance Fined by Beijing AMR for Monopoly Agreement

[Read the Chinese version here](#)

On July 27, 2022, SAMR published the administrative penalty decision imposed by the Beijing Administration for Market Regulation (Beijing AMR) on Beijing Kairui Alliance Education Technology Co., Ltd. (Kairui Alliance) for imposing resale price restrictions on sub-licenses in the sale of English learning courses.

Kairui Alliance, founded in 2013, is an exclusive licensee and operator of Sesame Street English learning programs in China. It mainly engages in franchising activities for off-campus English training to children, including charging franchise fees to franchisees, authorizing them to resell their curriculum resources for training activities, and providing them with support services such as teaching materials and staff training.

On February 20, 2021, the Beijing AMR filed an investigation into Kairui Alliance's alleged monopolistic practice of restricting the resale prices of English learning courses. During the investigation, Beijing AMR collected relevant evidential material and held several meetings with experts and relevant enterprises to analyze the impact of the alleged conduct. It found that, from 2014 to 2021, Kairui Alliance reached and implemented monopoly agreements to fix course prices by signing cooperation agreements with its franchisees, issuing regulations on price adjustments, implementing regional pricing and discount programs, and unifying customer service responses on course prices inquiries. Following a cooperation agreement, franchisees were subject to Kairui Alliance's approval of course price adjustments, and any breach of price terms could result in penalties from the company.

According to the investigation, Kairui Alliance, as an upstream supplier, exerted strict vertical management by leveraging its strengths in resources. Such conduct not only eliminated and restricted the intra-brand competition among its downstream franchisees, but also lessened competition between its franchisees and operators of other brands, harming consumers' interests. The conduct violated the provisions of Article 14 of the Anti-Monopoly Law.

On July 12, 2022, despite the long duration and negative impact of Kairui Alliance's illegal acts, Beijing AMR – considering the company's positive cooperation with the investigation and its commitment to rectify its behavior – decided to order Kairui Alliance to stop the illegal acts and imposed a fine of 3% of its annual sales for 2020, amounting to RMB 942,386.47. Beijing AMR did not confiscate the illegal proceeds as they were difficult to calculate.

Water Supply Company Penalized by Guizhou AMR for Abuse of Dominant Market Position

[Read the Chinese version here](#)

On July 27, 2022, SAMR published the administrative penalty decision of the Guizhou Administration for Market Regulation (Guizhou AMR) on Guizhou Shuicheng Water Investment Weining Co., Ltd. (Weining Limited) for its monopolistic behaviors, including abusing market dominance and restricting trading.

On September 23, 2021, Guizhou AMR launched an antitrust investigation into Weining Limited. According to the relevant government agreement, Weining Limited has exclusive rights to the construction, management, production, and operation of water supply in Weining County. Its business covers water services for more than 240,000 residents in the Weining County area. Local real estate companies can only apply for water supply from Weining Limited, and relevant water supply projects must be reviewed and approved by Weining Limited, rendering them highly dependent on the company's water supply business. The relevant product market is therefore defined as the market for urban public tap water supply services, and the relevant geographical market is the urban area of Weining County, where Weining Limited has a 100% market share.

According to Guizhou AMR's investigation, the company has leveraged its market power in the relevant market to interfere with the construction of secondary water supply projects required for high-rise buildings. Between January 2019 and August 2021, Weining Limited entered into agreements with new real estate businesses to require them, either explicitly or implicitly, to deal only with a subsidiary construction company of Weining Limited for the design, construction, and installation of secondary water supply facilities. Guizhou AMR determined that such practices directly precluded some qualified and legitimate operators from competing in the relevant market. In addition, real estate companies were forced to agree to Weining Limited's restrictive conditions, which undermined their legitimate rights and interests.

Given that Weining Limited took the initiative to cooperate with the investigation and rectify its conduct, Guizhou AMR eventually decided – in July 2022 – to order the company to cease the illegal acts, confiscated the illegal proceeds of approximately RMB 675,000, and imposed a fine of 3% of Weining Limited's sales for the year 2020, amounting to approximately RMB 1,631,000.

Ministry of Transport Questions Four Freight Platforms on Illegal Competition

[Read the Chinese version here](#)

On July 8, 2022, the Ministry of Transport of the People's Republic of China, on behalf of the inter-ministerial joint conference for coordinated supervision of new business types of transportation,

summoned four online freight platform companies – Huolala, Full Truck Alliance, GOGO, and DiDi Freight – to question them about recent problems commonly reported by truck drivers. Reported issues included low-price competition, multiple charges, and illegal operations by internet freight platform companies. Such conduct was suspected of damaging the legitimate rights and interests of the drivers.

The authority has required these four freight platforms to immediately rectify their vicious price-cutting competition and focus on regulating their charging behavior. They should resolutely eliminate safety hazards, such as overloading and transporting contraband, and fully disclose the commission rate and the upper limit for membership fees to the public. They should also take practical and effective measures to maintain fair and just market order, protect the legitimate rights and interests of truck drivers, and sustain the safe and stable development of the industry.

Shaanxi AMR Fines 13 Cement Companies for Monopoly Agreement

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On July 9, 2022, SAMR published the administrative penalty decision imposed by the Shaanxi Administration for Market Regulation (Shaanxi AMR) on 13 cement companies – all members of the Shaanxi Provincial Cement Association – for allegedly reaching and implementing monopoly agreements that fixed prices and divided the market. Shaanxi AMR filed an investigation into the above-mentioned conduct in July 2019 and decided to impose penalties in June 2022.

The relevant product market in this case is the cement market. The 13 companies mainly sell cement in five cities in the Guanzhong region of Shaanxi Province, including Xi'an, Baoji, Xianyang, Tongchuan, and Weinan. The sale of cement is significantly confined by geographical factors such as transportation costs, so the Guanzhong region of Shaanxi Province was defined as an independent relevant geographical market.

According to Shaanxi AMR's investigation, from July 2017 to March 2019, the companies involved in the case organized industry meetings and gatherings through the Shaanxi Provincial Cement Association to negotiate the prices of cement products and agreed to jointly increase the sales prices of cement on several occasions. After a comprehensive examination, Shaanxi AMR found that the above conduct excluded and restricted competition in the cement market in the Guanzhong region of Shaanxi Province and constituted monopolistic conduct prohibited by the Anti-Monopoly Law.

Accordingly, Shaanxi AMR imposed fines of 2–3% of each company's sales for the 2018 financial year, which – for the 13 companies combined – amounts to a total of RMB 451 million.

Fujian AMR Fines Seven Concrete Companies for Monopoly Agreements

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On July 6, 2022, SAMR published the decision on the administrative penalties imposed by the Fujian Administration of Market Regulation (Fujian AMR) on seven concrete companies for reaching and implementing monopoly agreements. The seven companies are Fujian Guangxia Concrete Co., Ltd., Hangde (Jianyang) Concrete Co., Ltd., Nanping Jianyang District Huasheng Concrete Co., Ltd., Fujian Wuyi Jianda Concrete Co., Ltd., Fujian Wuyi Asphalt Concrete Co., Ltd., Nanping Jianyang District Yonggu Concrete Co., Ltd., and Fujian Yunxin Concrete Co., Ltd.

According to the investigation, the relevant product market in this case is the commercial concrete market. Meanwhile, the quality and cost of commercial concrete can easily be influenced by long transport distances, so it is traded with a distinct geographical characteristic. From January 2016 to November 2017, all of the seven involved companies signed multiple agreements to unify the base prices of C30 concrete at no less than RMB 320 per cubic meter from January to June 2016, no less than RMB 340 per cubic meter from June 2016 to May 2017, and no less than RMB 370 per cubic meter from May 2017 to May 2018. The agreements also included dividing the local concrete market and limiting the production quantity of each concrete company.

Fujian AMR determined that the seven companies had entered into a price-fixing monopoly agreement in violation of Article 13 of the Anti-Monopoly Law. On June 8, 2022, Fujian AMR ordered them to stop their illegal activities. Additionally, it fined Wuyi Jianda Concrete Co., Ltd. 3% of its 2018 sales and the other six companies 4% of their 2018 sales, which amounts to a total of about RMB 16,000,000.

SAMR Announces Pilot Program Delegating Certain Merger Reviews to Local AMRs

[Read the Chinese version here](#)

On July 15, 2022, SAMR announced a pilot program for the anti-monopoly review of certain concentration of undertakings cases. SAMR will implement a three-year pilot program – which will run from August 1, 2022, to July 31, 2025 – in which the anti-monopoly review for some concentrations of undertakings will be delegated to five provincial AMRs. The participating pilot AMRs are those in Beijing, Shanghai, Guangdong, Chongqing, and Shaanxi.

During the pilot period, based on work needs, certain simplified procedure cases that meet one of the following criteria will be delegated to the pilot AMRs for merger review:

1. The domicile of at least one filer of the concentration is in the relevant area that the department is entrusted to contact.
2. The operators who are acquired through the acquisition of equity, assets, or contracts are domiciled in the relevant area.
3. The operators establish a new joint venture of which the domicile is in the relevant area.
4. The relevant geographical market of the concentration is a regional market located primarily or wholly in the relevant area.
5. Other cases entrusted by SAMR.

SAMR will uniformly accept the declaration of concentrations and make a review decision based on the review opinions of the pilot provincial market regulators. The provincial AMRs shall conduct and complete the review within the specified time limit and under the unified work rules for the concentrations of undertakings of SAMR, and submit the review report and review recommendations to SAMR.

After SAMR makes the review decision, the provincial market regulators will deliver the review decision to the corresponding filers. During the pilot period, SAMR will strengthen the guidance to the pilot provincial market regulators to ensure a uniform, standard, and efficient review process.

SAMR Issues Penalties in 28 Cases for Failure to Declare Concentrations of Undertakings

[Read the Chinese version here](#)

On July 10, 2022, SAMR published administrative penalty decisions on 28 cases – involving multiple internet platform companies such as Tencent, Alibaba, and Didi – in which the parties, in violation of the Anti-Monopoly Law, failed to declare concentrations of undertakings.

Among these cases from March 2011 to July 2021, 24 were transactions in which internet platform companies acquired stakes in other companies. Tencent was involved in 12 cases, with a total fine of RMB 6 million; Alibaba was involved in five cases, with a total fine of RMB 2.5 million; and DiDi was fined for four transactions, two of which involved joint ventures. Shanghai Shentong Metro and Swedish Bombardier were fined RMB 300,000 and RMB 400,000, respectively, for single cases, while the operators involved in the remaining cases were fined RMB 500,000. The total fine for all 28 cases was RMB 17,200,000.

With the deepening of normalized anti-monopoly supervision, awareness of filing notifications about undertakings to SAMR has been continuously improved. Companies involved in concentrations have actively conducted self-examinations over historical transactions, voluntarily reported suspected un-notified concentration cases, and actively cooperated with SAMR on investigations. SAMR is

expediting the completion of existing cases in accordance with the law, and more penalties on such gun-jumping cases are expected to be publicized in the future.

Anhui AMR Fines Wuhu Zhongran City Gas Development Company for Abuse of Dominance

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On July 19, 2022, SAMR published the decisions on the administrative penalties imposed by the Anhui Administration for Market Regulation (Anhui AMR) on Wuhu Zhongran City Gas Development Company (Wuhu Zhongran) for abusing its dominant position in the local piped gas supply services market by implementing restrictive trading conditions.

In May 2021, Anhui AMR filed an official investigation into Wuhu Zhongran's alleged monopolistic conduct. The relevant product market in this case is the piped gas supply service market, and the relevant geographical market is the administrative region of Wanzhi District, Wuhu City. Wuhu Zhongran holds 100% of the market share in the relevant market, which has a high entry barrier for numerous reasons, including strict qualification requirements; the large initial investments required in gas pipeline networks and ancillary facilities; the high complexity of the operation and long cost recovery period; and the scarcity of natural gas. Therefore, Wuhu Zhongran was identified as having a dominant market position.

Anhui AMR found that Wuhu Zhongran exploited its dominant market position by forbidding real estate developers from dealing with other gas companies for new residential piped gas installation projects without any justifiable reasons. Such conduct harmed the legitimate rights and interests of the real estate developers and disturbed the order of fair market competition.

Based on the investigation, in July 2022, Anhui AMR decided to confiscate Wuhu Zhongran's illegal proceeds and impose a fine of 2% of the company's 2020 sales, totaling to more than RMB 8.89 million.

Henan AMR Fines Henan Credit Construction Promotion Association for Monopoly Agreements

[Read the Chinese version here](#)

On July 22, 2022, SAMR published the administrative penalty decision imposed by the Henan Administration for Market Regulation (Henan AMR) on the Henan Provincial Credit Construction Promotion Association for reaching and implementing monopoly agreements.

Since July 2019, Henan AMR has conducted an investigation into the association's suspected conduct of organizing some of its members to reach and implement monopoly agreements. According to Henan AMR's investigation, in 2015, the association issued the "Henan Province Credit Evaluation Industry Self-discipline Convention" to its members through its official website. Article 14 of the convention requires the association's members to set the price of credit assessments by referring to the fee agreement of the convention, with its appendix detailing restrictions on the fees charged for credit assessments.

From November 2018 to June 2019, the association also held multiple meetings and passed three industry self-regulatory conventions for fixing the fee levels for credit reporting services. Those conventions fix the price level of credit assessment services provided by operators with competing relationships, which is a violation of Article 13 of the Anti-Monopoly Law.

On June 24, 2022, Henan AMR ordered the association to stop its illegal acts and imposed a fine of RMB 300,000. Thirty credit evaluation companies involved were also fined 1% of their 2019 annual sales by Henan AMR for reaching and implementing the monopoly agreements.

Industry Updates

Case Involving 15 Driving Schools Selected as Typical Horizontal Monopoly Agreement Case by SPC

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On July 25, 2022, the Supreme People's Court (SPC) of China issued "Opinions on Providing Judicial Services and Guarantee for Accelerating the Construction of a Large National Market" and supporting typical cases, which included the case of 15 driving schools' horizontal monopoly agreement.

On September 27, 2018, 15 driving schools in Zhejiang Province set up a joint venture, named Taizhou Luqiao District Zhedong Driver Training Service Co., Ltd. (Zhedong), through which they reached and implemented a joint venture agreement and self-disciplinary conventions to fix the price of driving training services and restrict the flow of training vehicles and trainers across driving schools. Ancillary services such as registration and medical examinations, which were previously provided by each of the 15 driving schools, were instead all handled by Zhedong for a service fee of RMB 850.

On September 10, 2019, two of the driving schools involved – Taizhou Luqiao Geely Motor Vehicle Driving Training Co., Ltd., and Taizhou Luqiao District Chengrong Driver Training Co., Ltd. – filed a lawsuit against Zhedong for alleged monopoly, requesting the court to confirm the invalidity of the joint venture agreement and the self-disciplinary conventions.

On December 31, 2020, the district court of the first instance only confirmed the invalidity of the clauses in the joint venture agreement that constituted a horizontal monopoly agreement, thereby exempting the clauses involving the auxiliary services. The two defendants appealed against the judgment to the SPC. On December 22, 2021, the SPC made a second instance judgment, revoking the first-instance decision and confirming the invalidity of all clauses involved in the joint venture agreement.

This is considered a typical case of a horizontal monopoly dispute. The SPC's judgment clarifies the applicable standards of exemptions for horizontal monopoly agreements and elaborates on the general principle whereby horizontal monopoly agreements that violate the Anti-Monopoly Law should be invalidated. The scope of invalidity is not limited to the terms of the horizontal monopoly agreement itself, but also includes provisions that are closely related to it and therefore fail to establish an independent existence, as well as provisions that serve the implementation of the horizontal monopoly agreement. The judgment in this case has effectively maintained the order of

fair competition in the market and is conducive to preventing monopolistic behavior from the source.

SPC Concludes the First Anti-Monopoly Case on Sports Events

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On July 19, 2022, the SPC handed down the final judgment in China's first antitrust lawsuit regarding sports events, rejecting the appeal of the plaintiff Osports (Beijing) Culture Media Co., Ltd. (Osports) and upholding the first instance judgment. The defendants in the case are Chinese Super League Co., Ltd. (CSL) and Shanghai Imagine China Cultural Communication Co., Ltd. (Imagine China).

On December 9, 2016, CSL – operating as the agent for copyright and business resources authorized by the Chinese Football Association (CFA) – made an open call on the CFA's official website to cooperating agencies for official pictures of CSL from 2017 to 2019. Osports, Imagine China, and other bidding companies all participated in the open tender. Imagine China successfully became the official exclusive photo partner of CSL through the open tender. However, Osports hired several photographers to take pictures of the CSL matches and use them for commercial purposes. Therefore, in June 2017, Imagine China filed a lawsuit in the Beijing Haidian District People's Court against Osports for unfair competition and won the case.

In September 2018, Osports filed a counterclaim against CSL and Imagine China before the Shanghai Intellectual Property Court on the grounds of a vertical monopoly agreement and abuse of dominant market position. However, on April 23, 2021, the Shanghai Intellectual Property Court issued a first instance judgment rejecting all of Osports' claims. Osports appealed against the judgment to the SPC, requesting the SPC to order the two defendants to cease their monopolistic conduct, publish a statement on their official website to eliminate the negative impact, and compensate Osports for its economic loss of RMB 5.8 million as well as reasonable litigation-related expenses of RMB 200,000.

The Supreme Court rejected the appeal, holding that the organizer of a sports event enjoys the civil right to exclusively operate the event resources in accordance with the law, thus determining that CSL and Imagine China's conduct did not constitute an abuse of a dominant market position. Furthermore, the SPC noted that, if the granting of exclusive operating rights is commercially reasonable and reflects competition in the process of granting, it is not appropriate in principle to consider the granting of exclusive operating rights as an abuse of market dominance.

New Ruling Awarded for SEP Lawsuit and Countersuit between Iwncomm and Apple

[Read the Chinese version here](#)

On July 7, 2022, the Beijing High People's Court issued a second instance judgment in which it rejected China Iwncomm Co., Ltd.'s (Iwncomm's) appeal and did not uphold its request for joinder of the two antitrust disputes involving standard essential patents (SEPs) between Iwncomm and Apple.

Iwncomm is the SEP licensor for the WLAN Authentication and Privacy Infrastructure (WAPI) standard, the wireless local area network used in China. On November 17, 2016, Apple Inc., Apple Computer Trading (Shanghai) Co., Ltd., and Apple Electronics Trading (Beijing) Co., Ltd. sued Iwncomm in Beijing Intellectual Property Court, claiming that Iwncomm engaged in excessive pricing, discriminatory pricing, tying, and seeking injunctions in patent licensing negotiations.

Subsequently, Iwncomm filed a counterclaim, arguing that Apple had abused its dominant position in the buyer's market through conduct such as excessive underpricing and patent hold-out in the licensing negotiation process, which caused damage to innovation, restricted and excluded competition in the relevant market, and harmed the interests of consumers. Iwncomm then requested the court to joinder Apple's initial complaint with its counterclaim.

The Beijing Intellectual Property Court decided to reject Iwncomm's counterclaim in the first instance. Iwncomm then appealed to the Beijing High People's Court. The court noted that the existence of Apple's abuse of dominant position could not be affirmed or denied by a finding of monopolistic conduct by Iwncomm, nor could the existence of monopolistic conduct by Iwncomm be affirmed or denied by a finding of abuse of dominant position by Apple. The Beijing High People's Court, therefore, found that the counterclaim of Iwncomm did not meet the joinder requirements and upheld the first instance judgment.

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