



China

# Monthly Anti-Trust Report

**May 2014**

Due to the general nature of its contents,

This newsletter is not and should not be regarded as legal advice.

For any questions please contact T&D Associates at:

21<sup>st</sup> Floor, Times Fortune

Shuguang Xili Jia 6, Chaoyang District,

Beijing 100028, People's Republic of China

Telephone: (8610) 58678228 Facsimile: (8610) 58678227



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## LEGISLATION

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### **MOFCOM announced the simplified cases of concentration of undertakings**

May 23, 2014

To improve transparency in administrative enforcement, the Ministry of Commerce in China (“MOFCOM”) decided to announce simplified cases of concentrations of undertakings on its official website (<http://fldj.mofcom.gov.cn/article/jyzjzjyajgs>) starting May 22, 2014. Meanwhile, any company or individual may submit suggestions based on the announced cases through the supervision email ([fldgs@mofcom.gov.cn](mailto:fldgs@mofcom.gov.cn)).

Anti-monopoly Bureau of MOFCOM issued public Guidance on Notification for Simplified Cases of Concentration of Undertakings (Trial) on April 18, 2014. According to the Guidance, Anti-Monopoly Bureau of MOFCOM will announce simplified cases of concentrations of undertakings for a 10 days’ announcement period (natural day). During the period, any company or individual (the Third Party) may submit written suggestions on whether the announced cases shall be defined as simplified cases. If the Third Party thinks that the announced case should not be defined as a simplified case, the party should submit an objection to the Anti-Monopoly Bureau of MOFCOM during the announcement period with relevant evidence and contact information provided. The Anti-Monopoly Bureau of MOFCOM will verify the suggestions and the relevant evidence provided by the Third Party. When the Third Party does not provide contact information or provides false contact information which means the suggestion and relevant evidence cannot be verified, the Anti-Monopoly Bureau of MOFCOM will not admit the suggestions and the corresponding evidence.

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# AUTHORITY

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## **MOFCOM Initiates Investigation against Regional Blockades and Industry Monopolies in the Auto Industry**

May 28, 2014

A few days ago, MOFCOM issued the “Notice on Carrying out an Investigation Questionnaire against Regional Blockades and Industry Monopolies to the China Automobile Dealers Association” (“CADA”) in order to solicit comments and appeals from the association and its member companies. This is a new investigation into the auto industry after the one which was implemented last year by the CADA and already reported to the National Development and Reform Commission (“NDRC”).

According to the questionnaire, there are seven questions. For example, (i) Are there any discriminatory charges, discriminatory charge rates or discriminatory prices for non-local enterprises? (ii) Have the non-local enterprises confronted abuse of the administrative monopoly by local government that has hindered and restricted non-local enterprises’ entry into local product or service market? (iii) Have enterprises ever seen any local government or department documents indicating regional blockades or industry monopolies?

MOFCOM indicates that the questionnaire investigation aims to obtain enterprise comments on the Work Scheme of Breaking Regional Blockades and Industry Monopolies and enterprises’ suggestions on how to protect the uniform market and fair competition.

Shen Jinjun, Senior Vice Chairman of the CADA said that this investigation focuses not only on the auto industry, but also on several other industries, and does not relate to the controversial administrative regulation “the Implementing Measures for Management of Automobile Brand Marketing.”

Last year, a monopoly in the imported luxury car industry drew significant attention. In response, the CADA started to investigate and collect relevant monopoly-related information and reported the investigation results to the NDRC. Last August MOFCOM spokesman Shen Danyang declared that it is necessary to amend the Implementing Measures on Management of Automobile Brand Marketing and that MOFCOM was focusing its efforts on different approaches for amending the bill with the NDRC and SAIC.

## **SAIC Carried out Proposed Remedial Actions Aimed at Prominent Problems in Unfair Competition for the Next 3 Years**

May 26, 2014

The SAIC issued “Notification focusing on remedying prominent problems in unfair competition”. This notification is required to determine the distribution of annual work by industry and area, and to focus on improvement and rectification of easily fixed and frequent, impactful, harmful problems in unfair competition by strengthening national competition law enforcement and restricting the frequent and high tendency of unfair competition conduct in related industries and areas, and to change the market competition order, to promote the construction of a national, unified, open, and orderly competitive market system.

According to the deployment and requirements of the National Administrative Management Conference for the National Office of Industry and Commerce, the SAIC decided to carry out special enforcement actions through focusing on remedying prominent problems in unfair competition along with improving market competition order for the purpose of solving prominent problems in different industries and areas for the next three years.

2014 is the first year when the action date will be from May to November 15th. According to the unified strategy, the National Office of Industry and Commerce will focus on renovating the prominent problems of counterfeiting, misleading propaganda, restricting competition, and commercial bribery which are widely publicized and publically scrutinized and will consider the emphasis of the international automobile industry as well as component sales and overhauling, furniture and building material decoration, and public businesses. All parts of the country can improve local enforcement according to the local situation based on guidelines determined by the SAIC.

## **NDRC Suspended the Price Monopoly Investigation of IDC Co., US**

May 22, 2014

The NDRC decided to suspend the price monopoly investigation of IDC Co., US, and is continuing to supervise the fulfillment of the IDC's promises to eliminate monopolistic conduct and its results.

According to reports, the NDRC initially launched an antitrust investigation of IDC in June 2013, and obtained evidence of IDC's monopolistic price conduct. The related persons in charge of IDC came to the NDRC to participate in the inquiry twice, in July 2013 and January 2014. IDC was suspected of being involved in abusing their dominant position in the wireless communication standard-essential-patent market. This monopolistic conduct included setting unfair high licensing fees for Chinese corporations, requiring the reverse free licensing of corporations patents, bundling non standard-essential-patents licenses, and bundling standard-essential-patents, etc..

In the period of the investigation, the IDC actively cooperated with the investigation

authorities and reached a settlement agreement with Hua Wei on licensing fees and other clauses, and stated that it would negotiate with other Chinese corporations using the conditions agreed upon with Hua Wei as a standard. IDC submitted a petition to suspend the investigation and presented the specific measures for eliminating the results of monopolistic conduct, including not setting unfairly high licensing fees for Chinese corporations, not bundling the licensing of non standard-essential-patents and standard-essential-patents, not requiring the reverse licensing of patents of the corporations freely and not forcing Chinese corporations to accept unreasonable licensing conditions through direct lawsuits.

Concerning that the measures submitted by IDC can eliminate the results of the monopolistic conduct that originally invited suspicion, ensuring that Chinese corporations can compete fairly in the market and market competition order can be restored, the NDRC made the decision to suspend the investigation pursuant to Article 45 of the Antitrust Law and will ensure that IDC will fulfill its promises. NDRC will resume the investigation if IDC fails to fulfill its promises or other legal conditions occur.

## **Administration for Industry and Commerce in Heilongjiang Province Borrows “Outside Experts” to Strengthen Antitrust Enforcement**

May 17, 2014

In order to optimize the economic development environment and improve the antitrust and anti-fair competition enforcement, the Administration for Industry and Commerce in Heilongjiang province established a panel of competition enforcement experts on May 16, 2014. Members of the panel of competition enforcement experts include 78 experts from the People’s Congress, the People’s Political Consultative Conference,

the Discipline Inspection Commission, and colleges, universities, and industry associations in Heilongjiang province. The panel of experts will not only provide support and assistance for antitrust and fair competition enforcement but also will be widely involved in all the enforcement work conducted by the provincial administrations for industry and commerce through providing strategic, prospective and practical suggestions for the significant and complicated issues faced during the enforcement process.

The Director General of the Heilongjiang Province Administration for Industry & Commerce indicated that monopolistic and anticompetitive practices are characterized by invisibility and complexity, and the introduction of the panel of experts allows these experts to act as “external minds” to solve the complicated and professional issues met with during the enforcement process.

## **NDRC delegation visited South Korea and discussed competition law enforcement experience**

May 13, 2014

On May 13, 2014, a delegation from the NDRC visited South Korea and the parties discussed related experiences and hurdles related to competition law enforcement. This visit to South Korea by the NDRC is one part of KSP. The Director of Price Supervision and the Examination Antitrust office of the NDRC Xu Kunlin led the delegation in participating in the activities.

The South Korean fair trade committee will present the primary report on IPR abuse, abuse of administrative power and the enforcement experience of economic analysis at the scheduled time. The parties will discuss improvement of and supplement to the report. The Chinese delegation requested the South Korean delegation to provide their enforcement experience relating to these three aspects. Based on supplement and

modification of the report, the parties will hold the report conference in Beijing at the end of June to summarize the findings on related competition law enforcement.

On May 14, the chairman of the South Korean fair trade committee will meet with the Chinese delegation and express the current state of affairs relating to Asian integration, regarding hot topics such as IPR competition, Chinese-Korean and the South Korean Chinese-Korean-Japanese free-trade agreement.

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## CASES

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### **Didi Taxi under investigation of unfair competition for large lottery prizes in their sales promotion**

May 28, 2014

Didi Taxi was again investigated by the Office of Industry and Commerce of Beijing because lottery prizes were in excess of the limit given by the Fair Competition Law after they stopping offering subsidies to passengers and changed their Chinese name due to a brand dispute. As reported by the Haidian Affiliate and the Mentougou Affiliate of the Beijing Industry and Commerce Office, Didi Taxi was suspected of violating the Fair Competition Law and faces probable punishment because the prizes for two lotteries held in the end of last year and in April of this year were in excess of the limit amount.

The Haidian Affiliate and Mentougou Affiliate found after investigations in the last third of April that Didi Taxi held a lottery from the 21st to the 30th (except the 26th and 27th) with Treasure Net. The prizes included several luxury brands like Audi car, Hermes, Chanel and Luis Vuitton. In addition, the consumers taking part in the lottery need to finish the calling service by using different software in order to log into the software to see the drawing interface like a corona when using Didi Taxi software to call a taxi.

The responsible person of the inspection department of the Haidian Affiliate pointed out that the approach itself was proper when the amount of the prizes were not in excess of the limit of 5,000 provided in Anti-Unfair Competition Law. Anti-Unfair Competition Law sets the upper limit restrictions especially to forbid undertakings that lead the market as a choice by consumers from taking advantage of a profiteering attitude of consumers and to encourage and promote undertakings to compete fairly in equity, price and services. According to the investigation, Didi Taxi held another

lottery from December 27th last year to January 9, 2014, with a double prize of a luxury cruise tour and iPhone5S offered.

## **Ferrari Cancelled Dealer Authorization Suddenly, Is Suspected of Violating Antitrust Law**

May 23, 2014

In March, Ferrari Maserati Automobile International Trade Co. (Shanghai), Ltd. (“Ferrari Maserati China”) delivered attorney’s papers to Jia Hong Group in which Ferrari Maserati China, announced the termination of its sales and after-sales agreements before the contract’s expiration, and offered no reason or explanation for the cancellation, astonishing the dealer group, which had invested a great amount into stores, construction, components, staff, and so on.

However, Ferrari Maserati China stated that it was a common commercial decision based on the agreements, and it complies to the clause listed in the authorization agreements signed in the ordinary course of business by the parties, i.e. this agreement shall terminate 180 business days after written notification by either party as long as it’s 180 business days prior to the date of termination. The dealers acknowledged and agreed that Ferrari Maserati China would not have to compensate in any quantity when the agreements are due.

In fact, this kind of agreements text is not the only example in Chinese automobile circulation. Since the Implementing Measures on Management of Automobile Brand Marketing (“Measures”) were promulgated in 2005, it has established a situation where finished automobile manufacturers hold the authority to authorize dealers to sell, which gives finished automobile manufacturers a lot of power in their circulation area. It has been a public secret in the industry that the relationship between finished automobile manufacturer and dealers is similar to that between landlord and farm laborers. Dealers complain about the weak position they are in as well as the difficulty

in gaining and obtaining market share on behalf of the authorities when accepting the agreements.

A person in the industry who wished to remain anonymous stated that the Measures gives strong rights to finished automobile manufacturers while the dealers become the lamb in the service of the lion. Therefore, the Measures is continuing to be reviewed.

First, under the brand authorizing system under the “No Sale without authorization” rule, the automobile manufacturer strictly controls the dealers so that the dealers have to accept all orders in order to maintain the authorization.

Secondly, the added burden of investment to the dealers through the manufacturer’s strict standard of store construction places a heavy financial burden on the dealers. Moreover, the manufacturer expands the network aimlessly, apportioning high numbers of sales to dealers, placing undue hardship on their businesses.

Last August, officials from MOFCOM expressed that it is watching the discord between the automobile manufacturer and dealers, where the manufacturers force the dealers to follow the sales mode, require cash deposits for store construction, keep the products in warehouses, have tied sales, and so on. Therefore, “it is necessary to amend the Measures with related offices in order to detail related clauses and to reform the operational conduct standards.”

## **Anti-Monopoly Bureau of MOFCOM visited Corun for anti-monopoly investigation of concentration of undertakings**

May 23, 2014

The Deputy General Director of the Anti-Monopoly Bureau, Zheng Wen, together with other 3 officers visited HUNAN CORUN NEW ENERGY CO., LTD (Stock

Code:600478) for an anti-monopoly investigation involved in the concentration case in which Corun, Toyota Motor (China) Investment Co., Ltd., PEVE, Xinzhongyuan and Toyota Tsusho proposed to establish a joint venture.

The investigation included:

- 1) Field investigation on the technology and the capacity of NIMH battery;
- 2) Exchange views on the proposed conditions involved in the concentration case;
- 3) To understand the recent development of Corun after the Panasonic-Sanyo case in 2009.
- 4) Officers of the Fair Trade Department accompanied in the investigation.

## **Restricting Competition or Imposing Technology Limitations: The Case of Quanzhou Co. STB and Smart card bundling sales**

May 21, 2014

The Quanzhou Industry and Commerce Office, Fujian Province investigated and disposed of Fujian network group's Quanzhou affiliate (hereafter referred to as Quanzhou B&T) for a STB ("set top box") and smart card bundling sales case that restricted competition. At the moment, this case is at the administrative reconsideration stage.

On September 10, 2013, the Quanzhou Industry and Commerce Office launched a preliminary investigation into whether Quanzhou B&T's conduct had restricted competition. It was found in the investigation that Quanzhou B&T made STB and smart cards in pairs and when purchased, the numbers of the STB and smart cards were logged into the corporation's entrepot system. The staff then connected

subscriber data to the numbers of the STB and smart cards they purchased when the consumers applied to establish a cable television account. The serial number of the STB and smart card owned by users must be registered in the system, otherwise the establishment would fail.

On January 14, 2014, the Industry and Commerce Office organized an agency hearing according to the requirements of Quanzhou B&T.

In the hearing the party presented that STB and smart cards are offered to users in pairs due to demands made by B&T, and existing technology limitations. Unfair competition conduct damages the legal interests of other undertakings, and this can be determined by seeing whether eliminating or restricting other undertakings' competition is pursuant to the related law. The conduct of limiting the purchase of the product itself cannot be considered unfair competition conduct.

However, the Industry and Commerce Office considered that existing evidence was sufficient to show that opening the account confines users to buying the STB exclusively from that company. At the same time, the path does not explain to the consumers the condition of STB going into the net. Technically, the STB in accordance with technology standards in the market can provide varieties of service items through the smart cards when the company does not bundle STB and smart card in pairs, which deprives consumers of their right to choose the STB freely and also limits other STB undertakings' chances to compete fairly.

The Industry and Commerce Office did not accept the opinion of the party in the hearings.

On February 21, 2014, the Quanzhou Industry and Commerce Office placed an administrative penalty on Quanzhou T&B and ordered it to stop restricting competition for Quanzhou T&B's violation of Article 15(1) of the Rules for enforcing the Anti-Unfair Competition Law in Fujian Province which states that public

businesses should not restrict others to purchasing only their products.

On April 21, 2014, Quanzhou T&B applied to the Quanzhou government for an administrative review to withdraw the administrative penalty decision by the Industry and Commerce Office. At present, this case is under administrative review as the government did not reconsider its decision to conduct an administrative review.

## **Antitrust Investigation has an Effect: International Big Brand Eyeglass Manufacturer Reduce Price Together**

May 9, 2014

It was reported that several eyeglass manufacturers in leading market positions alerted the public to price reductions on their websites with the stated reason of sales promotion and feedback from consumers. As disclosed by an insider, the NDRC launched an antitrust investigation into the eyeglass and bracket industry on August of last year, where the respondents concluded that 7 internationally famous eyeglass manufacturers and 5 bracket manufacturers were responsibly of these monopolistic behaviors. This price reduction is to show these companies' sincerity in rectifying and reforming.

It is understood that the 7 eyeglass manufacturers under investigation by the NDRC include TAG Heuer JP, Essilor FR, Zeiss GM, Nikon JP, Johnson and Johnson US, US, Weicon Taiwan, which are all overseas brands except for Weicon, a Chinese Taiwan brand. During Labor Day, manufactures under investigation such as TAG Heuer, Essilor, Baushe and Lomb and Nikon Zeiss concentrated on price reduction. However, Weicon and JAJ did not alert the public to price reductions on their websites.

Related insiders expressed that the NDRC has a policy of “punish first, rectify and reform second” in antitrust investigations involving emulsion, gold decorations, wine and so on. However, this time the NDRC changed its methods and permitted the corporations to correct first and then address the next steps. Therefore, the big international eyeglass brands took this action to show their sincerity to the NDRC.

NDRC Price Supervision Office agency representative Zeng Chuan said that some of the international eyeglass manufacturers reduced retail prices and some reduced the factory price by their own choice. As for the antitrust investigation, he expressed that some facts relating to the case cannot be disclosed due to the cases being incomplete.

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## Academia

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### **2014 China Antitrust Civil Procedure Forum was held in Beijing**

The 2014 China Antitrust Civil Procedure Forum was held in Beijing, co-sponsored by The Competition Law Center of UIBE and the ICT industry competition lab, and assisted by the Supreme People's Court IPR division was held in Beijing from May 24th to 25<sup>th</sup>, 2014.

More than 30 judges from the Supreme Court and Superior People's Court as well as the Intermediate People's courts of Beijing, Tianjin, Shanghai, Jiangsu, Zhejiang, Fujian, Shandong, Hubei, Hunan, Guangdong, Senior Judge of the Appellate Court of the District of Columbia (US) Douglas H. Ginsburg, FTC member Maureen K. Ohlhausen, Assistant Vice-Minister of the United States Department of Justice Leslie C. Overton, Economic Counselor of the FTC Joanna Tsai, Professor of George Washington Law School and internationally known expert in competition law William Kovacic. In total more than 200 professionals attended the forum.

During the two-day conference, the judges, scholars and lawyers communicated about professional issues regarding antitrust civil procedure and typical overseas antitrust cases. In the 4 open round table discussions, the distinguished guests discussed “antitrust judicial regulation of portrait limitation”, “antitrust regulation of IPR” and “competitive effect of MFN” and such related topics.

Antitrust civil procedure and administrative enforcements are two remedies provided in Anti-Unfair Competition Law of China. Along with the normalization of administrative enforcement and increasing civil cases, the unifying characteristic problem of the two issues is strong public notoriety. Vice director of the Price Supervision office of the NDRC Li Qing, section chief of National Industry and Commerce General Office Yang Jie, Supreme Court Judge Zhu Li and Professor of

CUPL Shi Jianzhong discussed issues like the relationship between antitrust civil procedure and administrative enforcement, whether an administrative determination can be adopted as evidence by the court, disclosure of related information in the court of promise, and leniency systems. The host, Professor Huang Yong, stated in the summary that it is likely to find cross and conflict between antitrust civil procedure and administrative enforcements in the future and we need to take the opinion of the rule of law, pay attention to the function and supervision of the court, preventing the abuse of administrative power and truly realizing the leadership of a market economy and proper implementation of competitive policies.

It was another highlight when the forum discussed the specialty of antitrust civil procedure. Distinguished guests talked about the special problems of application of economic analysis in antitrust cases and due procedure in antitrust civil procedure. Ms. Joanna Tsai gave a detailed introduction of status, effect and application methods of economic analysis in antitrust cases. Judge Douglas H. Ginsburg pointed out that we should pay attention to overcoming the delay of proceedings, keeping neutrality and independence of the decider, and safeguard cross-examination rights of the parties.

The 2014 China Antitrust Civil Procedure Forum that was held in Beijing, co-sponsored by the Competition Law Center of UIBE and the Supreme Court was the fourth such conference. Along with the increasingly mature forum arrangement and gradually increasing social effect, the advantages of wide subjects, interdisciplinary research, face to face communication, the consistent development of theory and practice of justice are more apparent. "Antitrust civil procedure" has been an international platform for communication of antitrust civil procedure judicature and enforcement, and has made great contributions to promoting the status of competition policy in economy policies and to push economic transition and economic development.

## **The 3rd China Competition Policy Forum Opened, Domestic and Overseas Authorities Discussed Antitrust Issues**

May 21, 2014

The 3rd China Competition Policy Forum hosted jointly by the Expert Advisory Panel of the Antitrust Committee of the State Council, the Antitrust Affiliate of the ABA, and the Competition Law Center of UIBE opened in Beijing on May 21, 2014.

Vice-Minister of the MOFCOM, Fang Aiqing, leader of the Expert Advisory Panel of the Antitrust Committee of the State Council, and former Vice Director of the Legislative Affairs Office of the State Council Zhang Qiong, President of UIBE Shi Jianjun, and other officers and scholars attended the forum.

The Director of the Price Supervision Office and Antitrust Office of the NDRC Xu Kunlin, the Director of the Antitrust Office of MOFCOM Shang Ming, the Director of the Antitrust Office and Competitive Law Enforcement Office of the State General Administration for Industry and Commerce Ren Airong all discussed questions relevant to antitrust law in China with officers in charge of 8 overseas competitive law enforcement authorities including the US, Germany, Singapore and others.

Vice-Minister of MOFCOM Fang Aiqing stated in the opening ceremony that the 18th third plenary session made a significant commitment to deepening reform and constructing a united open market system with orderly competition. He emphasized market reform as playing an important role in the distribution of resources in the future. He spoke of how Antitrust authorities in China need to work hard to put competition policy into practice and enforce antitrust law in a more effective way in order to further China's reform and opening up process, and to meet the new challenges presented by globalization.

Zhang Qiong stressed that it is vital to enforce competitive policies in the market economy in order to allow the market to truly play a decisive role in the distribution of resources and to push the continuous healthy development of the market. The

expert panel shall facilitate and support the relationship between competitive policy and industrial policy, and participate in related work on significant antitrust issues and cases.

The chairman of the Federal Trade Commission (“FTC”) in the US Edith Ramirez and President of University of International Business and Economics (“UIBE”) Shi Jianjun each gave high praise to the legislation and enforcement of the antitrust law in China.

Three domestic competition law enforcement authorities and persons in charge of overseas competition participated in a roundtable forum with the theme of “the impact of competitive policies in constructing a united open market system with orderly competition” in the subsequent conference presented by vice leader of the Expert Advisory Panel of the Antitrust Committee of the State Council and former Vice Director of the Legislative Affairs Office of the State Council, Professor Huang Yong of the UIBE law school.

This forum concentrated on discussing three questions: the value of competitive policies in deepening reform of the market economy, the purpose of breaking blockades, and the relationship between IPR and competition law enforcement. The persons in charge of the three domestic enforcement authorities spoke consistently about how competitive policies will be the basis of governmental economic policies and will help them to become more effective. They will focus on the abuse of administrative power pursuant to the AML, break regional blockades, and place a priority on protecting intellectual property when careful and professional analysis finds abuse of intellectual property that restricts competition.

Overseas authorities in attendance responded actively to these questions, presenting the features and experiences of their countries. During the forum, distinguished guests exchanged their ideas about questions such as coordination of competition institutions and industrial regulative organizations, administrative monopolies, antitrust lawsuits, antitrust as well as the protection of consumers, and the latest developments in known

cases like Tetrapak.

Professor Huang Yong pointed out in concluding remarks that the third plenary sessions' goal of the market playing an important role in the distribution of resources is as specific as competitive policies currently in effect and antitrust law in operation. The specific function of the antitrust law is to break local barriers and administrative monopolies and construct an orderly competitive market. The investigation of the administrative monopoly cases by the enforcement authorities will promote a more united, competitive, open, and orderly market.

In the introduction, the forum was presented as a place to discuss the questions in antitrust law enforcement like “the recent development of related antitrust practices on pricing”, “abuse of dominant market position and overlap of antitrust law and intellectual property”, “acquisition investigations: from declaration and negotiation to relief measures”, and “private antitrust lawsuits”.

As one of the brand activities of the expert panel, this China competition policy forum was the highest standard conference hosted in China since the antitrust law was promulgated six years ago, and the first academic conference hosted in China by the Antitrust Affiliate of the ABA.

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## FOCUS

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### **Identifying How Abuse of Intellectual Property Rights Constitute a Monopoly needs prudence**

May 26, 2014

China and Korea Market and Regulation Law Center (“MRLC”) jointly created by the Economic Law Center of Renmin University of China and the Innovation, Competition and Regulation Law Center of Korea University was established on May 24, 2014. As far as it is known, it is the first research center in China which was jointly established by scholars from two countries.

MRLC focuses on interdisciplinary and cross-sectoral academic research and aims to make contributions to developing legal research and economics between China and Korea. According to people involved in MRLC, MRLC will invite the top professionals in various sectors in both academic and practice area to actively hold international academic conferences and seminars and MRLC also expects to draft the annual study report of Intellectual Property Law and Competition Law in China and Korea.

On the same day, the first international conference named the Restructuring Trends of the Global IT Industry and the Regulations in China and Korea—Focus on the Antimonopoly and the Intellectual Property was held in Beijing. Scholars from China, Korea, Japan, American Antitrust Institute, European Competition Commission and Law School of University of Florida and the representatives of government, more than 150 in total, have attended the conference. The attending experts considered that lots of problems exist related to monopoly, competition and intellectual property in the IT industry. How could the intellectual property rights which are private property rights exclude others’ utilization be balanced with the antitrust law which protects competition? How to identify the abuse of intellectual property rights and the

standards to define unfair and monopoly? All the above questions need to be carefully studied by scholars and need to be prudently solved by the enforcement authorities, which aim to promote technological innovation, protect fair competition and further bring benefits to consumers.

## **The 4th Expert Training Session for Antitrust and Anti-Unfair Competition Enforcement**

May 14, 2014

The Fourth Expert Training Session for Antitrust and Anti-Unfair Competition of the national industry and commerce system opened on May 4, 2014. It was different from the prior 3 classes in that the participants needed not only to participate in training sessions, but also submit research reports of possible amendments to the Anti-Unfair Competition law.

The participants in the training sessions all came from the first line of enforcement and the classes covered several areas where the State Administration for Industry and Commerce (“SAIC”) invited several known domestic and overseas professors to present in addition to experts from the industry and commerce system. Not only did domestic experts introduce the current state and academic achievements of Anti-Unfair competition and antitrust law, but lawyers from the RBB economic consulting company and Freshfields Bruckhaus Deringer from the UK also explained the practice of economics in antitrust law enforcement. All of the 7 research groups participated in discussion and analysis regarding the amendment of the Anti-Unfair Competition Law and each group discussed two issues: Anti-Unfair Competition and Anti-monopoly.

The research project for Anti-Unfair Competition concentrated on researching problems in actual enforcement, including the definition of fair conduct,

counterfeiting, business discrediting, commercial bribery behavior, commercial secret protection, eliminating competition and new fair conduct. The antitrust research project concentrated on research of regulations in major fields like telecom, internet, insurance, automobiles, public business and problems like regulation of industry association monopolistic conduct, eliminating abuse of administrative power and regulations in restricting competition conduct.

In addition, this training class was also preparation for the research project of amending the Anti-Unfair Competition Law by the SAIC this year.