

China Supreme Court Sanctions Obstruction of Litigation (2021)

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Even though the defendant successfully convinces the appellate court that the technical features of the alleged infringing equipment does not fall into the protection scope of the plaintiff's patent, which leads to the repeal of the first-instance judgment, it is still sanctioned for its act of obstruction of litigation during the proceeding.

Facts

Dongguan Yicheng Intelligent Equipment Co., Ltd. (Yicheng) filed a patent infringement suit before the Shenzhen Intermediate Court against Shenzhen Xinhui Electromechanical Equipment Co., Ltd. (Xinhui), claiming that the equipment manufactured and sold by the defendant infringes its patent right, requesting permanent injunction and compensation.

In order to ascertain the technical features of the alleged infringing equipment, the trial judge went to the defendant's storage place to conduct on-site inspection. However, the legal representative of Xinhui refused to provide the power on password of the equipment, instructed the staff to remotely invalidate the password and kept thwarting the court staff in employing alternative approaches to start the machine, which resulted in the failure to identify the technical solution of the defendant's equipment.

Moreover, in defiance of the court order on fulfilling the burden of proof, Xinhui refused to submit evidence on the operating condition and technical features of its equipment.

Thus, the first-instance court found infringement, ordered cessation and damages of RMB 200,000 yuan.

Xinhui appealed to the Intellectual Property Court of the Supreme People's Court ("IP Court") and submitted evidence showing the technical features of the alleged infringing equipment. Yicheng raised no objection to the authenticity of the evidence. The evidence adduced by Xinhui in the second instance is no new evidence *per se*, but rather evidence pertinent to the

fundamental facts of the case, long overdue because of Xinhui's deliberate withholding. The IP Court therefore found the evidence admissible and overturned the first-instance decision.

Although the final decision is favorable to Xinhui, its act of obstructing litigation cannot be exempt from civil liability. On 17 March 2021, the IP Court issued a penalty decision, finding that:

the defendant obstructed the court investigation in the first-instance proceeding, which should be sanctioned. The IP Court therefore imposed a RMB 100,000 fine on Xinhui and a RMB 50,000 fine on its legal representative; and the defendant deliberately provided evidence long overdue in the second-instance proceeding without providing a reasonable explanation, which should be imposed a fine of RMB 50,000.

Comments

It is intriguing that the amount of the total fine is equivalent to the damages awarded by the trial court. Xinhui may be off the hook in terms of patent infringement, but it surely did not expect a fine for deliberate withholding evidence and obstruction of litigation.

It seems that the IP Court is using this case to make a point that good faith principle should be observed by litigating parties throughout the process of intellectual property civil litigation.