

# 海南法院知识产权司法保护状况

( 2023 年度 )

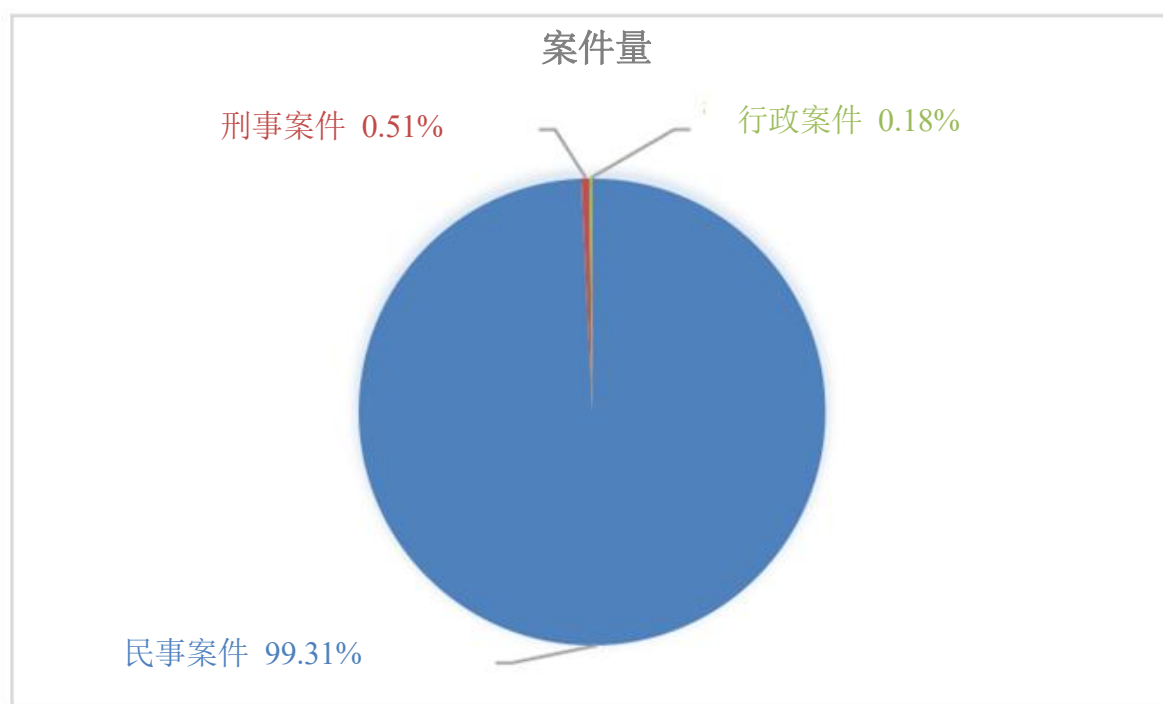
## 前 言

2023 年是全面贯彻落实党的二十大精神开局之年，在省委坚强领导、省人大及其常委会有力监督和最高人民法院精心指导下，在省政府、省政协及社会各界关心支持下，海南法院坚持以习近平新时代中国特色社会主义思想为指导，全面贯彻习近平法治思想，深入学习贯彻党的二十大精神，深刻领悟“两个确立”的决定性意义，增强“四个意识”、坚定“四个自信”、做到“两个维护”，全面落实新时代党的建设总要求，扎实开展学习贯彻习近平新时代中国特色社会主义思想主题教育，立足“两个大局”，心怀“国之大者”，锚定海南“三区一中心”的战略定位和“一本三基四梁八柱”战略框架，围绕“公正与效率”主题，加强知识产权司法保护，以审判工作现代化为中国特色海南自由贸易港建设提供坚实的司法服务保障。

### 一、海南法院知识产权审判总体情况

海南法院坚持以执法办案为第一要务，充分发挥知识产权

审判“三合一”机制效能，准确认定事实，精准适用法律，依法公正高效审理各类民事、行政、刑事知识产权案件。2023年海南法院共受理知识产权案件5388件，与2022年相比，增长40.6%。其中，民事案件5351件，刑事案件28件，行政案件9件。



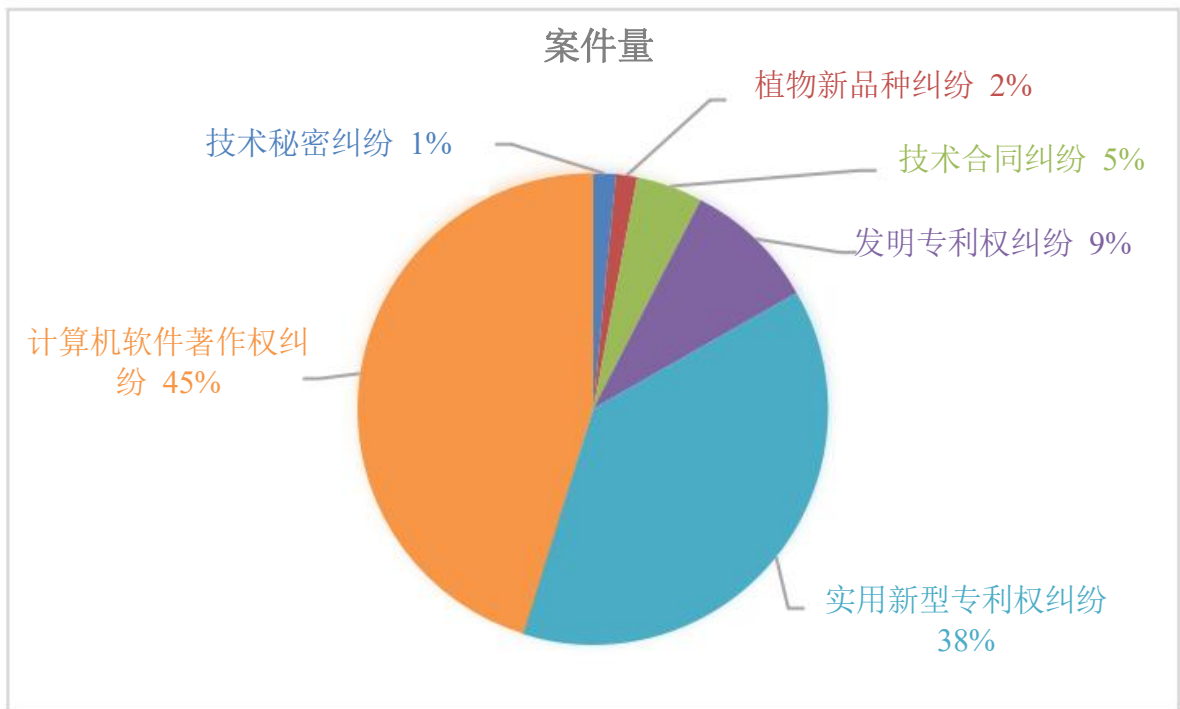
(2023年海南法院受理各类知识产权案件类型图)

### (一) 知识产权民事案件情况

2023年海南法院共受理5351件知识产权民事案件。排名前五案由分别为侵害商标权纠纷2316件、著作权权属、侵权纠纷872件、侵害作品信息网络传播权纠纷787件、侵害作品放映权纠纷441件、侵害外观设计专利权纠纷360件，上述五类

案件占全年收案总数的 89.25%。知识产权审判质效指标运行良好，一审案件法定审限内结案率 95.12%，二审案件法定审限内结案率 95.47%，案件以撤诉方式结案 2023 件，以调解方式结案 647 件，调撤率为 62.63%。

海南法院审理技术类案件 197 件，有力支持技术创新，案由以计算机软件著作权纠纷和实用新型专利权纠纷为主。如下表所示。



(2023 年海南法院受理技术类知识产权案件情况图)

## (二) 知识产权刑事案件情况

2023 年海南法院共受理 28 件知识产权刑事案件，审结 26 件。主要涉及非法经营罪、生产、销售伪劣产品罪、侵犯商业

秘密罪、销售假冒注册商标的商品罪。

### **（三）知识产权行政案件情况**

2023年海南法院共受理9件知识产权行政案件，以判决方式结案7件，以撤诉方式结案2件。主要涉及行政处罚、滥用行政权力排除、限制竞争行为的合法性审查案件。

## **二、聚焦审判职能发挥，务实有力服务自由贸易港建设大局**

海南法院充分发挥知识产权司法保护职能，推进科技创新和产业创新的深度融合，努力营造法治化、国际化、便利化一流营商环境，服务经济社会高质量发展。

### **（一）加大重点领域保护，积极服务创新驱动发展战略实施**

一是利用技术类案件集中管辖优势，持续加大对关键核心技术保护的知识产权保护。公正高效审理技术类案件197件，精准保护科技创新。自贸港知识产权法院在某光电公司与某医疗科技公司、某医疗器械公司侵害实用新型专利权纠纷案中，通过比对认定被控侵权产品包含了专利权利要求中记载的全部技术特征，落入专利权的保护范围，充分保护了企业的自主创新成果。完成专利案件情况分析报告，召开数字经济与知识产权保护研讨会，精准服务保障创新发展。二是加强商业标志权益保护。举办第三次展会知识产权司法保护研讨会，加强展会

知识产权保护的重点难点问题研究。召开地理标志司法保护问题专家论证会，研究总结相关情况，加强提升司法保护能力。出台《海南自由贸易港知识产权法院地理标志司法保护问答》，明确司法规则，统一裁判尺度。**三是**加强种业知识产权保护。依法公正高效审理植物新品种权纠纷案件，受理全国首例涉“实质性派生品种保护”的侵害植物新品种权纠纷案。完成2023年度人民法院知识产权审判重大研究课题——《人民法院为健全种业关键核心技术攻关新型举国体制提供司法服务和保障问题研究》，并被评为优秀课题。同崖州湾科技城管理局等部门联合出台《南繁植物新品种保护联合行动方案》，强化知识产权全链条保护，“三亚崖州湾科技城深化知识产权机制改革，推动种业知识产权高质量发展”案例入选知识产权强国建设第二批典型案例。知识产权法院与有关单位共同申报的《知识产权“五合一”综合管理体制改革》案例入选第十六批海南自由贸易港制度集成创新案例。**四是**加强文学、艺术和科学领域的著作权保护。召开“知识产权：助力非遗传承 加速创新创造”座谈会，探讨非遗保护路径。在中国与世界知识产权组织合作五十周年之际和世界知识产权日期间，策划和帮助黎锦技艺传承人制作作品《“锦”上添花》参加世界知识产权组织视频竞赛，在来自72个国家参赛者提交的180多件作品中获得第一名。**五是**加强新技术、新业态、新产业案件审判及研究。高度重视

数字技术、数字经济业态下的新类型著作权案件，妥善审理涉体育赛事直播、网络游戏、短视频、NFT 数字作品侵权等案件。就涉数字藏品案件进行深度调研，完成相关分析报告受到高度关注，为加强行业规范管理，防范化解风险提供司法决策参考。形成相关案件审理工作会议纪要下发各法院，加强对下指导，着力防范诉讼风险、化解矛盾，促进新业态规范发展。

## **(二) 加大打击和制裁力度，彰显知识产权司法保护威慑力**

发挥刑事、行政、民事“三合一”审判职能，增强整体保护合力。一是依法审理涉及侵犯商业秘密罪、销售假冒注册商标的商品罪等刑事案件，有力打击犯罪行为。二是通过行政审判工作有力支持行政职能部门打击侵权、规制市场的监管行为，行政审判上诉率、一审息诉服判率等指标运行良好。自贸港知识产权法院在审理某服饰店与某市政府等行政处罚及行政复议上诉案中，主动开展行政争议化解工作，根据各方调解协议，出具行政调解书，推动行政机关在行使行政处罚自由裁量权时正确平衡合法性与合理性问题，实质性化解群众切身利益的行政争议问题。三是适用惩罚性赔偿原则，强化打击侵权、保护创新的司法导向。如在某侵害作品发行权纠纷案中，对恶意侵权行为依法按 2 倍确定惩罚性赔偿数额，起到有效惩戒作用；在某红酒公司侵犯商标权一案中，根据侵权情节依法适用 5 倍

惩罚性赔偿判决侵权人承担赔偿责任，平等保护外国当事人的合法权益。

### **（三）加强反垄断和不正当竞争司法，维护公平竞争秩序**

加强反不正当竞争、反垄断等案件审理，发挥典型案例示范效应，营造公平竞争的市场法治环境。依法审理反垄断和反不正当竞争案件 38 件，涉及技术秘密纠纷和擅自使用他人有一定影响的企业名称、包装、装潢纠纷，涵盖互联网平台、文化消费、消防安全检测等领域，准确把握竞争政策，保护竞争活力，促进公平竞争，彰显司法营造公平竞争法治环境的鲜明立场。充分发挥司法建议的引导及治理作用，如知识产权法院在审理案件中发现入驻某电子商务平台的店铺存在刷单等不正当竞争行为，及时向平台主体发出司法建议，建议平台主体履行监管责任，杜绝商家刷单行为，得到积极回应。

### **（四）加强涉外知识产权纠纷化解，提升国际影响力**

2023 年，全省法院新收涉外知识产权案件 42 件，包括商标侵权纠纷 40 件和计算机软件著作权侵权纠纷 2 件，涉及美国、法国、英国、荷兰、芬兰等国家。省高院专题调研涉外知识产权案件管辖和审理情况，推动涉外知识产权审判机制创新。省高院与世界知识产权组织仲裁与调解中心在替代性纠纷解决领

域签署交流合作协议，健全涉外知识产权纠纷多元化解机制。协议签订后，知识产权法院向世界知识产权组织仲裁与调解上海中心委托调解涉外知识产权案件3批，已成功调解部分案件。

### **（五）发挥典型案例引领作用，强化保护创新的司法导向**

深入研究知识产权新领域、新类型及疑难案件，加强对案件裁判规则的总结和提炼，有效发挥典型案例引领作用，在公正司法中做到惠民有感，达到“审理一案、治理一片”的良好效果。“都蜜5号”甜瓜植物新品种临时保护期使用费案被评为2022年中国法院十大知识产权案件，并入选最高人民法院发布的第三批人民法院种业知识产权司法保护典型案例。1篇文书、2场庭审获评第五届全国法院“百篇优秀裁判文书”“百场优秀庭审”。1篇案例荣获《最高人民法院公报》案例二等奖。

## **三、聚焦公正与效率，深入推进知识产权审判工作现代化**

海南法院把党中央、省委关于知识产权强国建设的决策部署落到实处，深化理念变革、制度创新、素能提升，在加强知识产权司法服务和保障上更有力承担起政治责任、法治责任和审判责任。



## **（一）加快推进审判理念现代化**

坚持以习近平法治思想为引领，认真贯彻落实最高人民法院张军院长在2023年7月全国大法官研讨班以及第五次全国知识产权审判工作会议上的重要讲话精神，把“能动履职”“抓前端、治未病”“双赢多赢共赢”“案结事了政通人和”等现代化审判理念贯穿于知识产权审判执行工作各环节、全过程各方面。认真践行“从政治上看、从法治上办”工作要求，引导全省法院从厚植党的执政根基的高度抓好执法办案，防止机械司法、就案办案，努力实现政治效果、法律效果、社会效果的有机统一。坚持以人民为中心，强化“如我在诉”理念，落实“惠民有感”要求，努力让人民群众感受到公平正义就在身边。

## **（二）加快推进审判机制现代化**

一是构建知识产权案件繁简分流体系，建立知识产权类型化案件快速审判机制。省高院开展知识产权类型化案件快审机制调研，于2023年8月1日向全省法院下发《海南省高级人民法院关于印发〈关于知识产权类型化案件快审机制运行规范（试行）〉的通知》，制作《诉讼要素表》《判决书样式表》，进一步提高审判效率，缓解案多人少矛盾。二是完善执行工作机制，持续推进立案、审判、执行一体化建设。“知识产权财

产性权益执行问题研究”入选 2023 年全省政法系统调研课题，研究总结知识产权财产性权益的执行规律，形成初步调研成果，提出完善工作机制的建议。积极协同推进市场监管领域严重违法失信名单管理工作，限制高消费 23 人。聚焦“惠民有感”，针对影响执行效率的节点问题，在执行立案环节启用“执行案款银行账户确认书”，实现执行案款发放“最多跑一次”，缩短执行办案周期，案款发放时间控制在 15 个工作日内。三是发挥重点园区联系工作机制，持续深化司法服务。针对重点园区联络工作不够完善问题，制定园区诉讼指引手册并发放到重点园区，研究提出“五联五融”的实施路径推动知识产权司法保护党建联动向相关重点园区深化拓展。在三亚崖州湾科技城知识产权特区审判庭开展巡回审判，持续做好轮值工作。中央政法委主要领导及省领导到知识产权法院三亚崖州湾科技城知识产权特区审判庭调研视察，对相关工作给予充分肯定。知识产权法院海口国家高新区审判庭于 2023 年 6 月正式运行，进一步增强园区保护力度。

### **（三）加快推进审判体系现代化**

一是加强总体部署。2023 年 8 月，省高院印发《关于进一步加强知识产权审判工作的意见》，意见共 20 条，从总体要求、服务大局、司法为民、制度创新、队伍建设五个层面对我省今

后知识产权审判工作做了体系化部署。二是调整管辖布局。省高院根据《最高人民法院关于印发基层人民法院管辖第一审知识产权民事、行政案件标准的通知》《海南省高级人民法院关于海南省知识产权案件管辖衔接若干问题的意见》，于2023年8月下发《关于明确第一审涉外知识产权民事案件管辖标准的通知》，明确第一审一般涉外知识产权民事案件诉讼标的额为500万元以下（不包含本数）由海口市琼山区人民法院、三亚市城郊人民法院、琼海市人民法院、儋州市人民法院管辖，500万元以上及有关专利、植物新品种、集成电路布图设计、技术秘密、计算机软件、涉及驰名商标认定及垄断纠纷的第一审涉外知识产权民事案件由知识产权法院管辖。海南法院目前已经形成以省高院知识产权审判庭为牵引，自贸港知识产权法院为示范，四个基层法院知识产权审判庭为支撑，重点园区知识产权审判庭及司法联系服务点为延伸的知识产权审判及服务保障体系。

#### **（四）加快推进审判管理现代化**

一是制定审判管理职责清单、工作机制清单，细化实化院庭长和法官职责，推动审判管理规范化、制度化。深入开展“审判执行质效提升年”专项行动，针对长期未结案积压、上诉案件移送拖延等突出问题开展专项整治。强化上级法院对下监督指导，省高院审委会通过研究重大疑难复杂案件统一裁判尺度，

规范数字藏品纠纷等类案处理，出台知识产权、涉外、海事等六类审判工作指导意见。启动法答网运行，及时解答审判实务中的疑难问题。稳步推动裁判文书阅核制度落实，保证裁判文书质量，促进司法公正。二是加强对条线法院指导，建立常态化信息通报机制。召开条线法院知识产权审判座谈会、发改案件分析会，统一裁判尺度，加强对基层法院审理的知识产权关联案件和类似案件的统筹协调，完善条线法院案件信息通报反馈机制，督促指导提高审判质效。

#### **四、聚焦凝聚保护合力，构建知识产权大保护格局**

海南法院凝聚社会各方主体力量，强化协同配合，积极构建知识产权大保护格局，厚植尊重创新、保护创造的法治氛围。

##### **（一）健全行政与司法协同保护**

一是全面落实《海南省推进设立一体化知识产权保护机制工作方案》《南繁植物新品种权保护联合行动方案》相关工作任务，加强与省“双打”工作小组其他成员单位之间的工作衔接和信息共享，提升行政和司法打击合力。二是持续构建知识产权协同保护机制。省高院与省检察院签署《防范和打击信息网络传播权领域知识产权恶意诉讼合作备忘录》，推动省高院与省检察院防范和打击知识产权恶意诉讼领域合作机制的建立。

省高院与省知识产权局等八单位共同印发《海南自由贸易港知识产权严重失信主体名单管理办法》，加快推进我省知识产权领域信用体系建设，建立健全失信联合惩戒制度。

## **（二）强化诉源治理**

强化对人民调解员指导培训，举办调解培训 45 期 7260 人次。在中基层法院组建以“法官+调解员”为主体的诉前调解团队，推行法官定点包片指导机制。知识产权法院委派委托调解案件 377 件，调解成功 335 件，调解成功率 88.86%，办结行政调解协议司法确认案件 5 件，民事调解协议司法确认案件 34 件。海口市琼山区人民法院、三亚市城郊人民法院、琼海市人民法院、儋州市人民法院与当地调解组织建立健全诉调对接机制，充分发挥多元解纷工作机制，各法院在案件审理中注重加强调解，成效显著。2023 年，海口市琼山区人民法院、三亚市城郊人民法院的调撤率分别为 66%和 67%，琼海市人民法院受案以来的调撤率为 79%，儋州市人民法院受案以来调撤率为 45%，高于该院其他民事案件的调撤率。

## **（三）深化知识产权国际司法交流**

一是专访世界知识产权组织仲裁与调解上海中心，调研推进多元解纷培训、合作工作。二是加强与 RCEP 成员国的司法交流。2023 年 6 月，省高院一同接待了马来西亚联邦最高法院

法官的来访，就仲裁领域等司法事项进行了深入的交流，双方达成了进一步加强交流合作的共识。三是加强与香港国际争议解决及风险管理协会的交流与合作。2023年6月，省高院接待了香港国际争议解决及风险管理协会代表团的来访，在涉外审判、多元解纷等领域进行了深入的交流。该协会表示希望深度参与海南涉外法治建设，在域外法查明平台、涉外商事纠纷等领域与海南法院开展深层次的合作。四是积极参与涉外司法论坛，展示海南法院良好形象。受邀参加中欧知识产权司法论坛、第二十九届上海知识产权国际论坛分论坛等国际会议。

#### **（四）强化知识产权法治宣传**

利用“4·26”知识产权宣传周、服务消博会、种子大会、海南岛国际电影节等节点，开展座谈会、新闻发布会、法院开放日、研讨会、法治副校长进校园宣讲等活动和多种形式的宣传。通过官方微信公众号发布涉及知识产权司法保护新闻宣传原创稿件100余篇，其中同步在中央级、省直新闻媒体发布120余篇次。

### **五、聚焦队伍建设，锻造高素质专业化法院队伍**

认真贯彻新时代党的建设总要求，持之以恒推进全面从严治党、从严治院，努力锻造忠诚干净担当的法院铁军。

坚持党对审判工作的绝对领导，切实增强“四个意识”，更加坚定“四个自信”，坚决做到“两个维护”，以党建带队建促审判，持续提升“从政治上看、从法治上办”的能力和水平。省高院民事审判第三庭、自贸港知识产权法院审判第一庭获评知识产权审判工作先进集体，4名同志获评知识产权审判工作先进个人。自贸港知识产权法院审判第一庭在主题教育中作为“立足岗位、解放思想、担当作为、开拓创新”的政法机关先进集体获得表彰。

聚焦审判主责主业，围绕干警能力短板，分级分类精准施训。省高院聚焦自贸港建设对高端涉外法治人才的需求，与华东政法大学签署涉外司法合作框架协议，联合举办第六次国际化审判团队培训班，强化知识产权刑事审判业务及涉外知识产权审判业务培训。依托“知识产权审判人才资源库”，举办全省法院知识产权审判素能培训班，围绕技术秘密保护、种业保护等专业审判领域，深入开展培训。知识产权法院与北京知识产权法院签订《合作框架协议》，强化业务交流。全年安排1位法官、2位法官助理到最高人民法院知识产权庭跟班学习。加强与RCEP成员国司法机构、大湾区调解组织交流合作，拓宽司法交流渠道。海南法院知识产权审判工作获得最高人民法院肯定，并在第五次全国法院知识产权审判工作会议中做经验交流。

## 结 语

2024年是海南自由贸易港“封关运作攻坚年”，海南法院知识产权审判工作将进一步突出以下重点工作：一是贯彻落实习近平总书记有关“新质生产力”的重要讲话及指示批示精神，妥善审理涉及新技术、新产业、新业态的知识产权案件，助力海南自由贸易港产业变革升级；二是持续推进落实《海南省推进设立一体化知识产权保护机制工作方案》，加强司法与行政衔接工作，共同推进形成“严保护”“大保护”“快保护”的一体化知识产权保护格局，进一步优化法治化营商环境；三是持续推进知识产权审判工作现代化，逐步完善与海南自由贸易港建设相适应的知识产权现代化审判理念、审判机制、审判体系和审判管理；四是持续加强队伍建设，努力打造政治立场坚定、业务能力精湛、具备国际视野、通晓国际经贸规则的知识产权审判队伍。



# Judicial Protection of Intellectual Property Rights in Hainan Courts (2023)

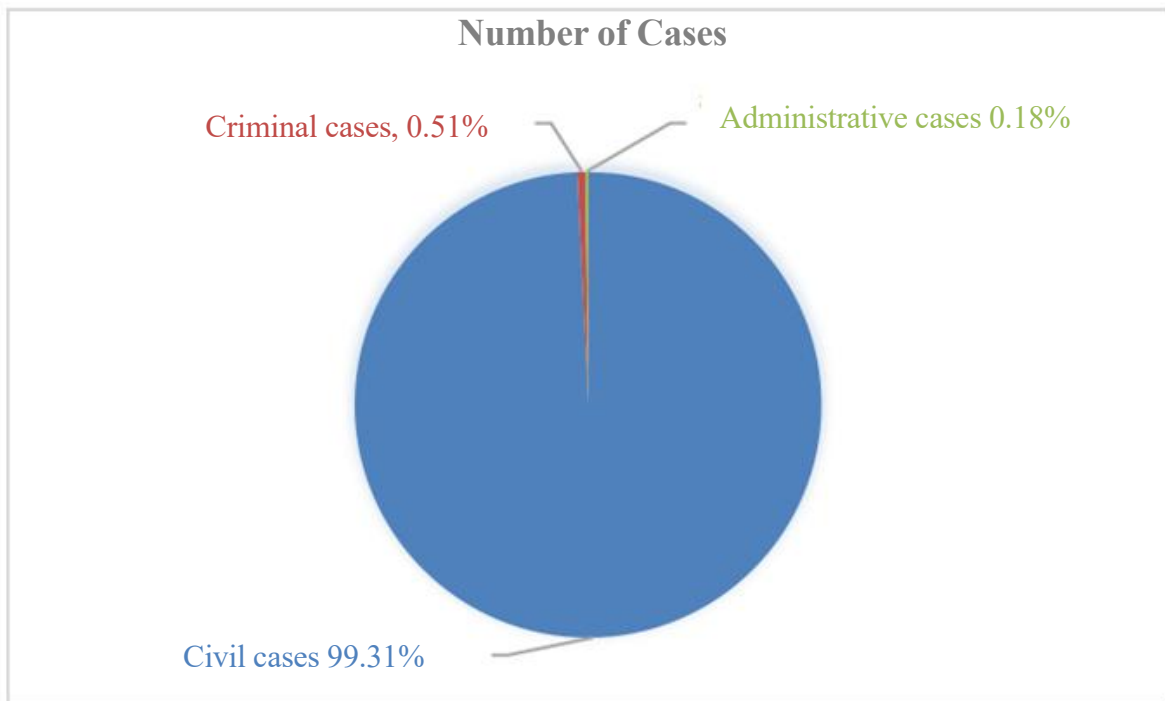
## Preface

In 2023, the starting year for comprehensively implementing the guiding principles from the Party's 20th National Congress, the High People's Court of Hainan Province ("Hainan High People's Court"), under the firm leadership of the Party Provincial Committee, the effective supervision of the Provincial People's Congress and its Standing Committee, and support from the Provincial People's Government, the CPPCC Provincial Committee and all walks of the society, and the meticulous guidance of the Supreme People's Court, adhered to Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, comprehensively implemented Xi Jinping Thought on the Rule of Law, deeply studied and carried out the guiding principles from the Party's 20th National Congress, thoroughly understood the decisive significance of establishing Comrade Xi Jinping's core position on the Party Central Committee and in the Party as a whole and establishing the guiding role of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, enhanced the consciousness to maintain political integrity, think in big-picture terms, follow the leadership core and keep in alignment with the central Party leadership, stayed confident in the path, theory, system and culture of socialism with Chinese characteristics,

upheld Comrade Xi Jinping's core position on the Party's Central Committee and in the Party as a whole and upheld the Central Committee's authority and its centralized, unified leadership, fully implemented the general requirements for strengthening the Party in the new era, launched keynote education on the study and implementation of Xi Jinping Thought on Socialism with Chinese Characteristics for a New Era, gave full consideration to both domestic and international imperatives, borne in mind the top priorities of the nation, stayed focused on the "three-zone one-center" strategic positioning of Hainan and a strategic framework of "one guideline, three foundations, four beams and eight pillars", strengthened under the principle of "justice and efficiency" the judicial protection of intellectual property rights and provided sound judicial service and assurance to the development of Hainan Free Trade Port with Chinese characteristics through adjudicative modernization.

## **I Trial of IP-Related Cases in Hainan Courts**

Hainan courts where justice administration and handling cases are the top priority gave full play to the unification of jurisdiction in IP-related civil, criminal and administrative cases to precisely verify facts, accurately apply laws and lawfully, justly, and efficiently process civil, administrative, and criminal IP cases. In 2023, Hainan Courts accepted 5,388 IP cases (5,351 civil cases, 28 criminal cases and 9 administrative cases), up 40.6% in comparison with the figures in 2022.



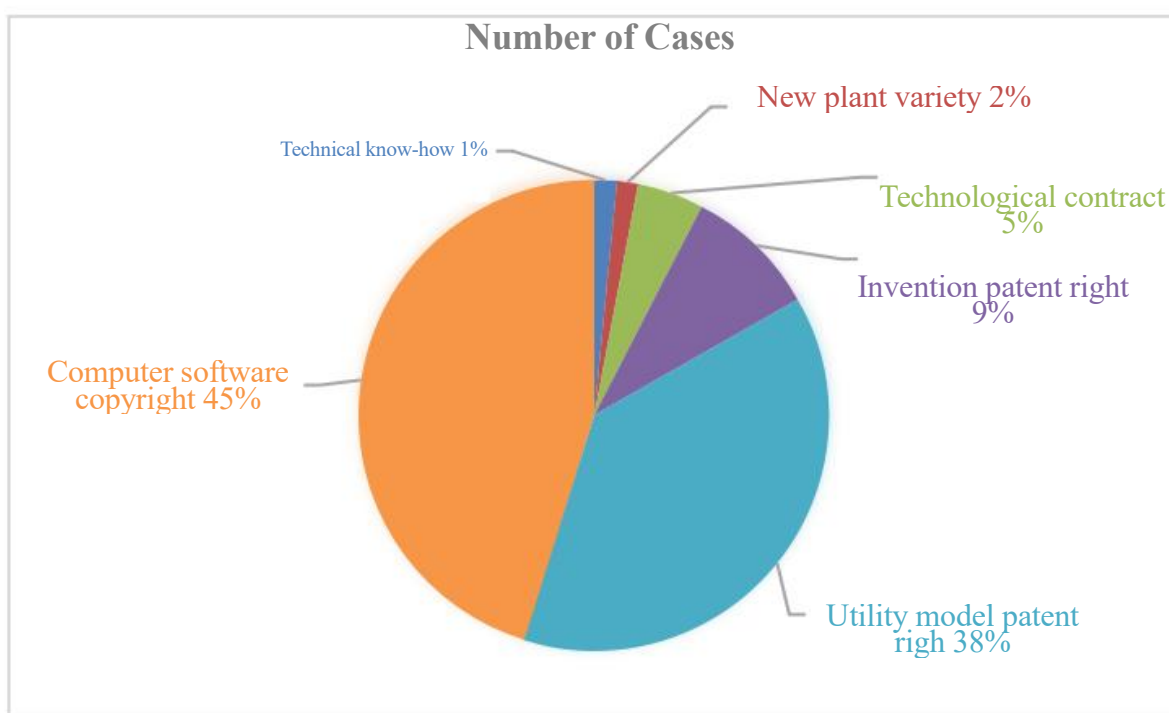
( IP-Related Cases That Hainan Courts Accepted in 2023 )

#### i Civil IP Cases

In 2023, Hainan courts accepted 5,351 civil IP cases, including 2,316 cases of trademark infringement, 872 cases of copyright ownership and infringement, 787 cases of infringement upon the rights of communication of works through information networks, 441 cases of infringement upon the showing rights of works, and 360 cases of infringement upon the design patent rights, and the top five types of cases accounting for 89.25% of the total cases accepted in the year. The IP adjudication indicators of quality and efficiency were satisfactory. 95.12% of the first instance cases were concluded within the statutory deadline, and 95.47% cases of second instance concluded within the statutory deadline. 2,023 cases were concluded

in withdrawal, and 647 in mediation, accounting for 62.63%.

Hainan courts accepted 197 technology-related cases involving disputes over the copyrights of computer software and utility model patents as shown below, affording forceful support to technological innovation.



( Technology-Related IP Cases That Hainan Courts Accepted in 2023 )

## ii Criminal IP cases

In 2023, Hainan courts accepted 28 criminal IP cases, and concluded 26, involving mainly the crimes of conducting illegal business operation, making and selling fake and shoddy products, infringing upon trade secrets, and selling commodities using unauthorized trademarks.

### iii Administrative IP Cases

In 2023, Hainan courts accepted nine administrative IP cases, where seven cases were concluded in trial and two in withdrawal, involving mainly the legal review of administrative punishments, and the exclusion and restriction of competition by abusing administrative powers.

## II Exerting Adjudicative Functions to Serve Free Trade Port

Hainan courts fully exerted the function of judicial protection for intellectual property, promoted the thorough fusion of scientific innovation with industrial innovation, and spared no efforts to create a law-based, international, and convenient business environment to serve high-quality socioeconomic development.

### i Reinforcing protection in key fields to serve the innovation-driven development strategy

**First**, made use of the centralized jurisdiction of technology-related cases to strengthen the IP protection for critical core technology innovation. Hainan Courts justly and effectively tried 197 technology-related cases, and precisely protected technology innovation. In handling the case of xx photoelectronic company suing xx medical technology company & xx medical devices company for infringing upon its utility model patent rights, Hainan FTP IP Court compared and determined that the allegedly infringing product contained all the technical features as cited in the claim of the patent

rights, and fell within the scope of protection of patent rights, fully protecting the proprietary innovation of the enterprise. Hainan courts completed an analysis report on patent cases, and hosted seminars on digital economy and IP protection to provide precise service and assurance for innovation development; **secondly**, strengthened the protection of business logo rights. Hainan courts hosted the third seminar on the judicial protection of intellectual property to discuss hot topics and hard issues concerning the protection of intellectual property in exhibitions, convened experts in meetings on the judicial protection of geographical indications to study and sort out the relevant situation and to improve judicial protection capacities, and formulated Hainan FTP IP Court Q&A on Judicial Protection of Geographical Indications to specify judicial rules and standardize judging criteria; **thirdly**, intensified the protection of seed industry intellectual property. Hainan courts processed in a lawful, just and efficient manner disputes over new plant variety rights and accepted China's first case of infringement upon new plant variety rights concerning the "protection of essential derived variety"; finished the 2023 people's courts major research program for intellectual property trial – "A Research on People's Courts Providing Judicial Service and Assurance for Improving a New System for Mobilizing the Resources Nationwide to Achieve Breakthroughs in Core Technologies in the Key Field of Seed Industry", which was elected an excellent program; and joined Yazhou Bay Science and Technology City Administration and other authorities to issue the *Joint Action Plan for the Protection of Nanfan New Plant Varieties*, and strengthened full-chain IP protection. The project of "Sanya Yazhou Bay Science and Technology City

Deepening Intellectual Property Mechanism Reform to Promote Seed Industry Intellectual Property High-Quality Development” was included in the second batch of typical cases for building China into an intellectual property powerhouse. Hainan FTP IP Court partnered with the relevant departments and submitted the project of “Reform of the Intellectual Property 5-in-1 Comprehensive Management Mechanism”, which was included in the sixteenth batch of Hainan Free Trade Port System Integration and Innovation cases; **fourthly**, beefed up copyright protection in the fields of literature, art, and science. Hainan courts hosted the “Intellectual Property: Carry Forward Intangible Cultural Heritage, Accelerate Innovation and Creation” seminar to discuss approaches to protecting intangible cultural heritage, and, on the fiftieth anniversary of China-WIPO collaboration and during the World Intellectual Property Day, planned and helped Li brocade technique inheritor to produce a Li brocade work named “Artistic Beauty of Li Brocade”, which was signed in for the WIPO video contest and won the first prize among over 180 works from 72 countries and regions; **fifthly**, shored up the trial and research of cases concerning new technologies, new businesses, and new industries. Hainan courts gave particular attention to new-type copyright cases involving digital technology and digital economy, properly handled cases concerning sports livestreaming, online games, short videos, NFT infringement, etc., In-depth research on cases involving NFT has garnered significant attention, as it provides judicial decision-making references for strengthening industry regulations, preventing and resolving risks. The minutes of relevant case handling meetings have been issued to all courts to enhance guidance and focus on preventing litigation risks, resolving

conflicts, and promoting the standardized development of new business formats.

## ii Reinforcin crackdown and sanction in resolute judicial protection of intellectual property

Performed the adjudicative functions for criminal, administrative and civil protection, and processed by law such criminal and administrative cases as infringement upon business secrets and selling commodities using unauthorized trademarks. Hainan FTP IP Court supported by administrative adjudication administrative organs to crack down on infringement and regulate market operation, and achieved satisfactory appeal rate and first instance closing rate in administrative adjudication, winning the approval of provincial leaders. Hainan courts advocated the equilibrium of rights and market value, strengthened the judicial protection of intellectual property, and properly applied laws, regulations and judicial interpretations concerning punitive damages for intellectual property. In a case of infringement upon the right of work distribution, the court meted out by law a punitive damage of two times the amount determined of the willful act of infringement for effective punishment and deterrence. And in a case where a wine company infringed upon the trademark rights, the court meted out by law and as per the infringement circumstances a punitive damage of five times the amount determined for the infringing party to bear the liabilities, equally protecting the lawful rights of a foreign party.



### iii Reinforcin justice administration against monopoly and unfair competition to boost fair competition

Strengthened the trial of cases concerning anti-monopoly and anti-unfair competition, put up typical cases for demonstration, and created a fair and law-based market environment. Hainan courts processed by law 38 cases against monopoly and unfair competition that involved disputes over technical know-how and the unauthorized use of the business name, package, and decor of another party, and covered such fields as internet platform, cultural consumption and fire safety equipment testing. The court properly applied competition policies, protected vibrant competition and promoted fair competition, showing the clearcut attitude of the judicial authorities to build a fair, law-based competition environment. Gave full play to the guiding and rectifying role of judicial suggestions. When handling a case, the court discovered that a shop in an e-commerce platform practiced “shuadan” (an act of shop owners paying money for good comments) and other unfair competitions, and timely notified the platform owner with judicial suggestions that they should perform their supervision duties to stop “shuadan” , and the suggestions were positively accepted by the platform owner.

### iv Reinforcin foreign-related IP trial and dispute resolution to boost international influence

In 2023, Hainan courts received 42 foreign-related new IP cases involving the USA, France, UK, the Netherlands, and Finland (40 cases of trademark infringement and two cases of computer software copyright infringement). Hainan High People's Court inquired into the jurisdiction and trial of foreign-related IP cases, and promoted innovation on foreign-related IP trial mechanism. Hainan High People's Court and WIPO Arbitration and Mediation Center signed an agreement on exchange and cooperation in the field of alternative resolution of disputes to improve the diversified resolution of foreign-related IP disputes. Since the signing of the agreement, the IP court has referred three batches of foreign-related IP cases to WIPO Arbitration and Mediation Shanghai Service, and some of the cases have already been successfully mediated.

**v Providing guidance by typical cases to reassert the judicial protection of innovation**

Thoroughly researched new fields, new types, and complicated cases of intellectual property, strengthened the summary and extraction of judging rules, let typical cases play their guiding role, perceptibly benefiting the people in the administration of justice, and achieved the favorable result of "one case tried, the ruling universally applied". The case of "Dumi No. 5" melon new plant variety royalty for provisional protection period was selected into 2022 Chinese Courts Top10 Intellectual Property Cases, and was included in the third batch of the People's Courts Typical Cases of

Judicial Protection of Seed Industry Intellectual Property as released by the Supreme People’s Court. One judgement document and two court hearing sessions were awarded the titles of the Fifth Batch of Chinese Courts Top100 Excellent Judgement Documents and Top100 Excellent Court Hearing Sessions, and one case won the second prize in the Supreme People’s Court Communiqué Cases.

### **III Being Just and Efficient to Further Modernize IP-Related Trial Works**

Hainan courts fully implemented the decisions and plans of the Party Central Committee and the Party Provincial Committee on the construction of an IP powerhouse, deepened transformation in philosophy, innovation in institution, and improvement in competency, and undertook more effectively the political responsibility, legal responsibility and adjudicative responsibility in IP-related judicial service and assurance.

#### **i Advancing the modernization of adjudicative philosophy**

Adhered to Xi Jinping Thought on the Rule of Law, earnestly implemented the important speech of President Zhang Jun of the Supreme People’s Court on the national justice workshop in July 2023, and the Fifth National Court Work Conference on Intellectual Property Trials, and applied modern adjudicative concepts like “active performance of duty”, “start at the very

beginning to cure an ailment before it develops into a disease”, “win-win, multi-win, all-win”, and “case closed in benefit of smooth administration and harmony of people” throughout IP-related adjudication and enforcement. Earnestly practiced the working requirement of “start from political stance and result in the rule of law”, and guided Hainan courts to handle cases from the high stance of planting deep the Party’s governance root to prevent mechanical justice and case-for-case practice and to organically unify the political effect, legal effect, and social effect. Adhered to the people-centered philosophy, heightened the consciousness of “being in the litigant’s shoes”, and implemented the requirement of “perceptibly benefiting the people” to let people feel that justice stands by them.

## ii Advancing the modernization of adjudicative mechanism

**First**, created a system to separate simple IP cases from the complex and built a summary trial mechanism for IP cases of the same type. Hainan High People’s Court conducted a survey on the summary trial of type-based IP cases, and circulated to courts provincewide on August 1, 2023 the *Notice of Hainan High People’s Court on Issuing the Operating Specifications of the Summary Trial Mechanism for Type-Based Intellectual Property Cases*, and prepared “Schedule of Litigation Factors” and “Templates of Judgement Documents” to further boost trial efficiency and to solve the problem of insufficient staffs for case handling; **secondly**, improved enforcement mechanism and promoted the integration of case filing, adjudication, and

enforcement. The project of “A Research into the Enforcement of IP Rights as a Right of Property” was elected a 2023 Hainan judiciary investigation project. It studied and summed up the law of enforcement concerning IP rights as a right of property, created a preliminary result, proposed methods to improve working mechanisms. Earnestly assisted with the management of the blacklist of serious law-breaking or dishonest individuals concerning market regulation, and restricted the extravagant spending of 23 persons. Paid close attention to “perceptibly benefiting the people”, and, regarding bottlenecks in enforcement, initiated at the filing of enforcement cases “bank account confirmation for funds involved in enforcement cases”, thus achieving the result that the fund of enforcement cases can be released “at one visit to the bank at most”, the time spent on enforcement is reduced, and the fund involved becomes available within 15 working days; and **thirdly**, gave full play to the key park liaison working mechanism and further deepened judicial service. As the key park liaison work was not perfect yet, formulated park litigation guide and dispensed pamphlets to key parks, and studied and proposed “5-link 5-fusion” implementation approach to extend the judicial protection of intellectual property and Party building deep into key parks. In Sanya Yazhou Bay Science and Technology City Special Intellectual Property Zone, the court division conducted circuit trials, and performed the rotary duty continuously. The principal leader of the Committee of Political and Legal Affairs of the CPC Central Committee and provincial leaders paid a survey and inspection visit to the division of Hainan FTP IP Court in Sanya Yazhou Bay Science and Technology City Special Intellectual Property Zone, and fully approved their works. The division of

Hainan FTP IP Court in Haikou National Hi-Tech Industrial Development Zone came into operation in June 2023 to further intensify IP protections in the park.

### iii Advancing the modernization of adjudicative system

**First**, strengthened general deployment. In August 2023, Hainan High People's Court released the *Opinions on Further Strengthening IP-Related Adjudication*, which contains 20 articles to map out a systematic plan at five levels, i.e., general requirements, serving the big picture, justice for the people, innovation in institution and team building, for the future IP-related adjudication in Hainan; and **secondly**, adjusted the jurisdiction of cases. Hainan High People's Court, in accordance with the *Notice of the Supreme People's Court on Issuing the Jurisdiction Standards of the People's Courts for First Instance Civil and Administrative Intellectual Property Cases*, and the *Opinions of Hainan High People's Court on Several Issues Concerning the Connection of Jurisdiction of Intellectual Property Cases*, issued in August 2023 the *Notice on Specifying the Jurisdiction Standards for First Instance Foreign-Related Intellectual Property Cases*, which specifies that first instance common foreign-related civil intellectual property cases with a value of subject matter below 5,000,000 yuan (exclusive) fall within the jurisdiction of Haikou Qionghai Primary People's Court, Sanya Chengjiao Primary People's Court, Qionghai Primary People's Court and Danzhou Primary People's Court, and that first instance foreign-related civil

intellectual property cases with a value of subject matter of and above 5,000,000 yuan and/or involving patents, new plant varieties, IC designs, technical know-how, computer software, determination of well-known trademarks and monopoly disputes fall within the jurisdiction of the IP court. Hainan courts have so far formed an intellectual property adjudication and service system where Hainan High People's Court Intellectual Property Division takes the lead, Hainan FTP IP Court serves as the model, the intellectual property divisions of four grassroots courts offer their support, and the dispatched intellectual property division and judicial liaison posts extend their service into key parks.

#### iv Advancing the modernization of adjudicative management

**First**, prepared a list of adjudicative management duties and a list of working mechanisms to specify the duties of court presidents, chief judges, and judges for standard and systemic adjudicative management. Took “improving trial and enforcement quality and efficiency” action to carry out special-purpose rectification to resolve such obvious problems as long-standing accumulation of backlog cases and slow transfer of appeal cases. Fortified the supervision and guidance of higher-level courts over lower-level courts. The Adjudication Committee of Hainan High People's Court studied the unified judging criteria for major, difficult, and complex cases to standardize the treatment of NFT-related disputes and issued guidelines on the adjudication of six types of cases including intellectual

property cases, foreign-related cases, and maritime cases. Started the operation of LawAnswers Net to answer difficult questions that may arise in adjudicative practice in a timely manner. Steadily promoted the implementation of judgement document reading and review rules to ensure document quality and guarantee just administration of justice; and **secondly**, strengthened direction to lower-level courts and established routine communication mechanism. Hosted vertical court IP adjudication seminars, and organized meetings to analyze remanded cases and amended judgement to unify judgement criteria, strengthened the comprehensive coordination of IP-related cases and similar cases handled in primary courts, and improved vertical courts communication on cases to urge and direct improving adjudication quality and efficiency.

#### **IV Converging Protective Forces to Afford General Protection for Intellectual Property**

Hainan courts pooled efforts from all walks of the society, emphasized coordination and collaboration, created earnestly a general pattern for IP protection, and made it a common sense to respect innovation and protect creation.

##### **i Improving administrative and judicial coordination in IP protection**

**First**, fully carried out the assignments set out in the Working Plan of Hainan Province for Advancing the Establishment of an Integrated IP Protection



Mechanism and the Joint Action Plan for the Protection of Nanfan New Plant Variety Rights, and strengthened the working connection and information communication with the other member units of Hainan “Double-Crackdown” Working Group (crackdown on the infringement of IP rights and crackdown on the manufacture and sale of counterfeit or substandard goods. )to pool administrative and judicial forces; **secondly**, continued with the building of a coordinated IP protection mechanism. Hainan High People’ s Court and Hainan Provincial People’ s Procuratorate signed the Memorandum of Cooperation on Preventing and Fighting Willful IP Litigations Concerning the Right of Communication Through Information Networks, and advanced the establishment of a cooperation mechanism on preventing and fighting willful IP litigation. Hainan High People’ s Court, Hainan Intellectual Property Office, and other six authorities jointly issued the Measures of Hainan Free Trade Port for the Management of the Blacklist of Seriously Dishonest Entities in Intellectual Property to accelerate the construction of an IP credit system in Hainan, establish and improve a joint punishment system for dishonest actions.

## ii Intensifying litigation rectification at the source

Strengthened direction and training on mediators and hosted 45 sessions of mediation trainings which were attended by 7,260 people. Set up pretrial mediation teams of judges and mediators in intermediate and primary courts, and instated a tutoring mechanism in which each judge is responsible for a

designated number of communities. Hainan FTP IP Court referred 377 cases to mediation, where 335 cases were successfully mediated, accounting for 88.86%, and concluded 5 cases of judicial affirmation for administrative mediation agreements and 34 cases of judicial affirmation for civil mediation agreements. Haikou Qionghai Primary People's Court, Sanya Chengjiao Primary People's Court, Qionghai Primary People's Court, and Danzhou Primary People's Court established with local mediation organizations a mediation-litigation coordination mechanism, and gave full play to the diversified dispute resolution mechanism. The courts emphasized mediation when handling cases and have achieved significant results. In 2023, Haikou Qionghai Primary People's Court and Sanya Chengjiao Primary People's Court registered a mediation and withdrawal rate of 66% and 67%, respectively, Qionghai Primary People's Court registered a mediation and withdrawal rate of 79% since it began to accept cases, and Danzhou Primary People's Court registered a mediation and withdrawal rate of 45%, higher than the figure of other civil cases, since it began to accept cases.

### iii Deepening international judicial exchange on intellectual property

**First**, paid a visit to the WIPO Arbitration and Mediation Shanghai Service to study and promote training and cooperation on diversified dispute resolution; **secondly**, strengthened judicial exchange with RCEP member countries. In June 2023, Hainan High People's Court received judges from the Federal Court of Malaysia, and the two parties had an in-depth exchange on judicial issues concerning arbitration, and reached the consensus of

further strengthening exchange and cooperation; **thirdly**, strengthened exchange and cooperation with International Dispute Resolution & Risk Management Institute, Hong Kong. In June 2023, Hainan High People's Court received a delegation from Hong Kong International Dispute Resolution & Risk Management Institute, and the two parties had an in-depth exchange on foreign-related adjudication and diversified dispute resolution. The Institute expressed the desire to participate in Hainan's construction of foreign-related rule of law, and to collaborate with Hainan courts on platforms to ascertain foreign laws and foreign-related commercial disputes; and **fourthly**, earnestly attended foreign-related judicial forums and exhibited a sound image of Hainan courts. Hainan courts were invited to attend EU-China IP Forum, parallel sessions during the 20<sup>th</sup> Shanghai International Intellectual Property Forum, and other international meetings.

#### iv Raising public awareness of IP-related laws

Made use of April 26 IP Publicity Week, China International Consumer Products Expo, China Seed Industry Conference, Hainan Island International Film Festival, and other events to host seminars, press conferences, court open days, symposiums, legal deputy principals on campus and other activities, and circulate pamphlets. Published more than 100 publicity articles on the judicial protection of intellectual property on official WeChat account, and, at the same time, published more than 120 articles on national and provincial media outlets.

## V Strengthening Team Building to Forge High-Quality Professional Courts

Seriously implemented the general requirements for Party building in a new era, persistently advanced full and rigorous Party self-governance and court self-governance, and strenuously forged a loyal, clean, and responsible task force of courts.

Committed to the Party's absolute leadership over adjudicative works, seriously enhanced the consciousness to maintain political integrity, think in big-picture terms, follow the leadership core and keep in alignment with the central Party leadership, stayed more confident in the path, theory, system and culture of socialism with Chinese characteristics, resolutely upheld Comrade Xi Jinping's core position on the Party's Central Committee and in the Party as a whole and resolutely upheld the Central Committee's authority and its centralized, unified leadership, and, by Party building, drove team building and promoted adjudication. Hainan High People's Court Third Civil Division and Hainan FTP IP Court First Division won the title of Advanced Collectives in IP Adjudicative Work, four comrades were elected Advanced Individuals in IP Adjudicative Work, and Hainan FTP IP Court First Division was commended in keynote education as an advanced collective (political and legal organs) for their devotion to the job, emancipation in mind, courage to undertake responsibilities, and trail-blazing innovation.

Emphasized the principal duty of adjudication, focused on the weaknesses of

judges and judiciary police and conducted targeted training of different levels and categories. Hainan High People’ s Court, to meet the need for high-end foreign-related legal personnel in the construction of Hainan Free Trade Port, signed a framework agreement on foreign-related judicial cooperation with East China University of Political Science and Law, cosponsored the Sixth International Adjudication Team Training Session, and fortified training on IP-related criminal adjudication and foreign-related intellectual property adjudication. Made use of “IP adjudication talents pool” to host Hainan courts IP adjudication trial competency training sessions to train staffs on the protection of technological secrets, seed industry protection and other specialized adjudication businesses. Hainan FTP IP Court and Beijing Intellectual Property Court signed a framework agreement for cooperation to strengthen professional exchange. One judge and two judge assistants were dispatched to study with the Intellectual Property Court of the Supreme People’ s Court. Strengthened exchange and cooperation with judicial organs of the RCEP member countries and mediation organizations in the Greater Bay Area to broaden channels for judicial exchange. Hainan courts have won the recognition of the Supreme People’ s Court for their IP adjudication work, and shared their experience on the Fifth National Court Work Conference on Intellectual Property Trials.

## **Epilogue**

In 2024, a crucial year for the independent customs operation of Hainan Free Trade Port, Hainan courts will stress on the following tasks concerning IP

adjudication: first, implement the guidelines from General Secretary Xi Jinping' s important speeches and instructions on new quality productive forces, properly handle IP cases concerning new technologies, new industries and new businesses, so as to boost the industrial upgrade and transformation of Hainan Free Trade Port; secondly, continue to promote the implementation of the Working Plan of Hainan Province for Advancing the Establishment of an Integrated IP Protection Mechanism, and strengthen the connection between judicial and administrative authorities to jointly advance the formation of an integrated IP protection structure featuring relentless protection, extensive protection and timely protection, further optimizing a law-based business environment; thirdly, continue to promote the modernization of IP adjudication, and improve step by step a modern IP adjudication philosophy, adjudication system, adjudication mechanism and adjudication management; and fourthly, continue to strengthen team building to forge an IP adjudication team that is firm in political stance, proficient in judicial capacity, endowed with a global vision and well-versed in international economic and trade rules.