



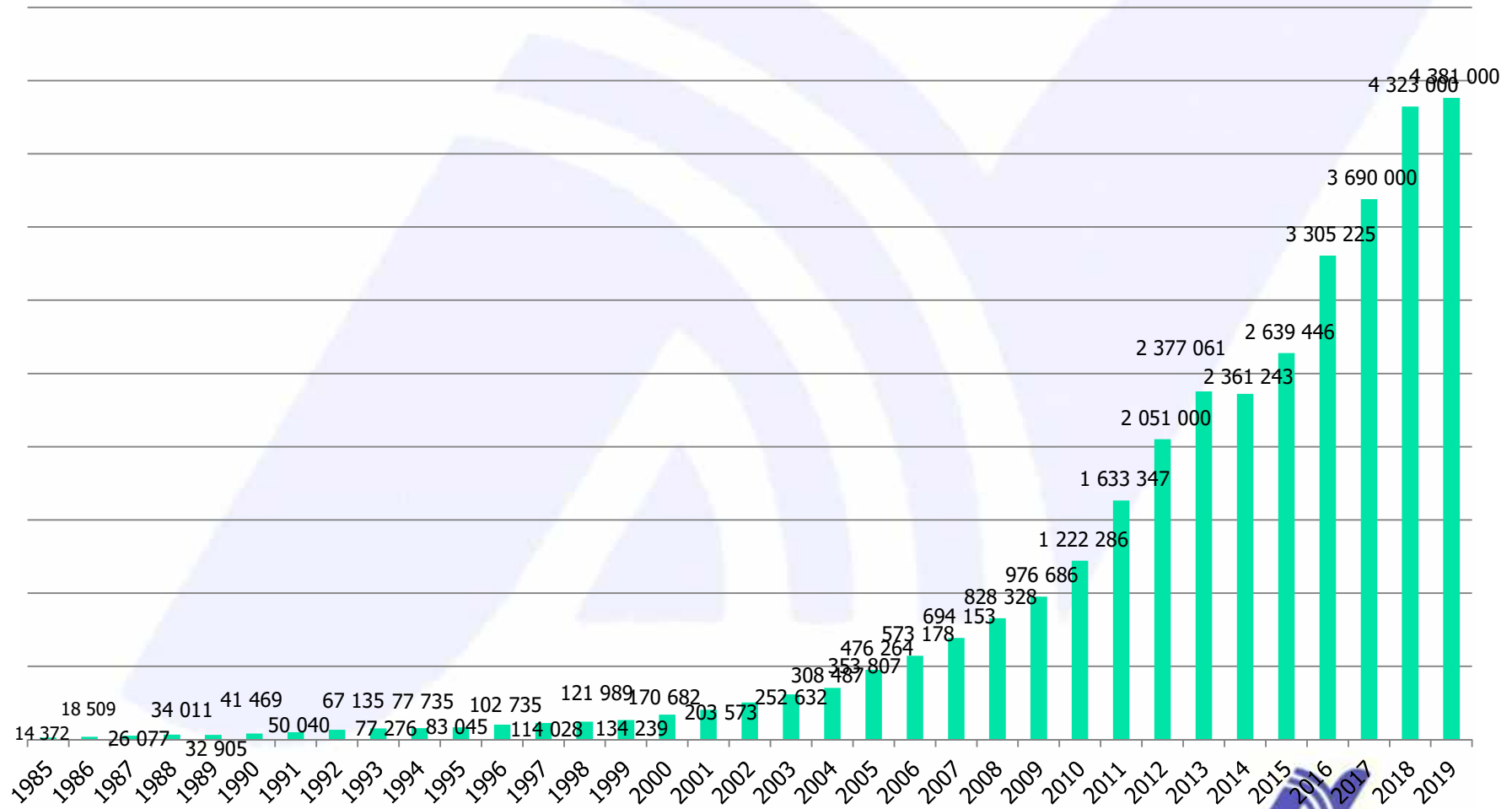
Chinese Patent Litigation Review in 2019

Wen CAO

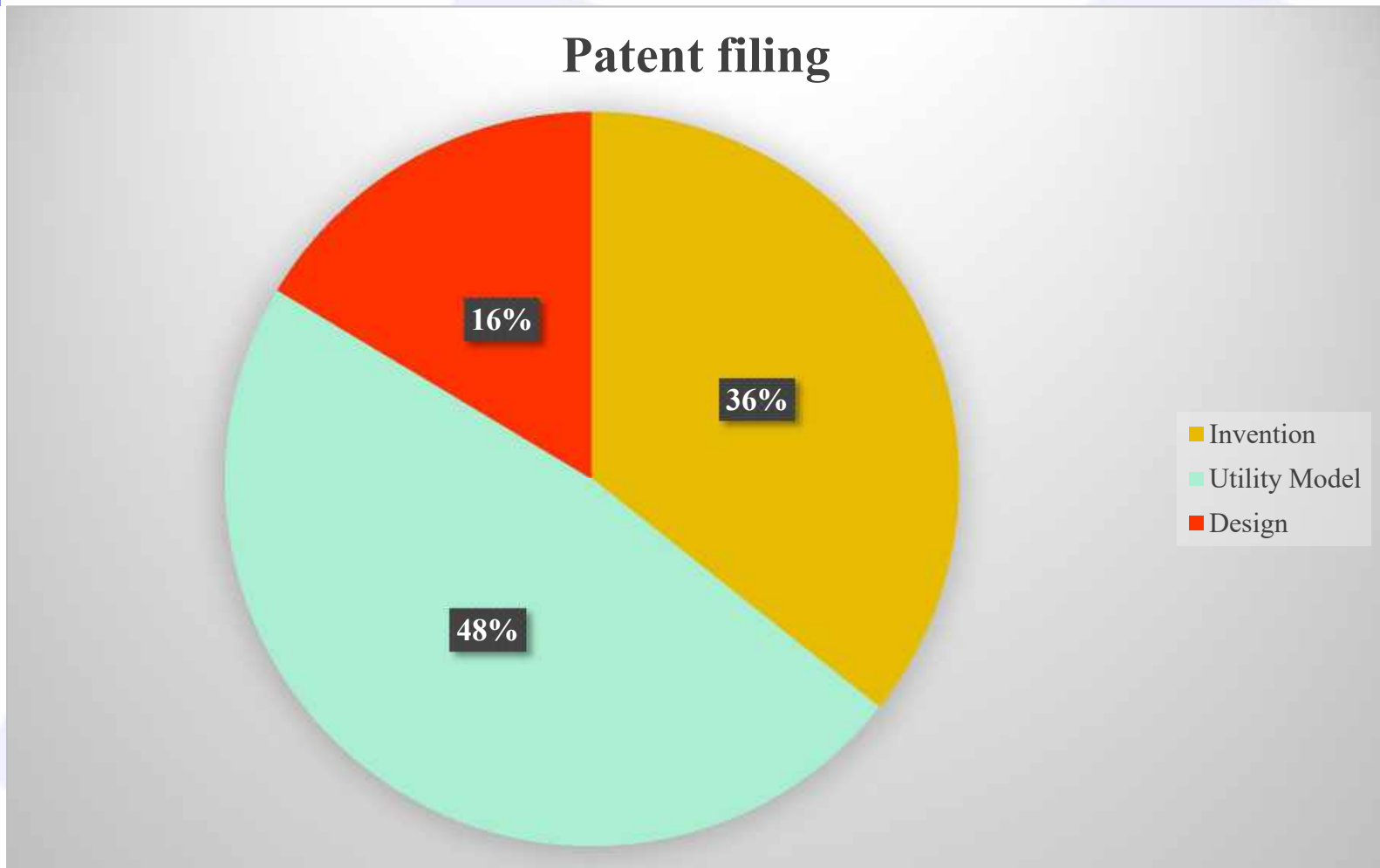
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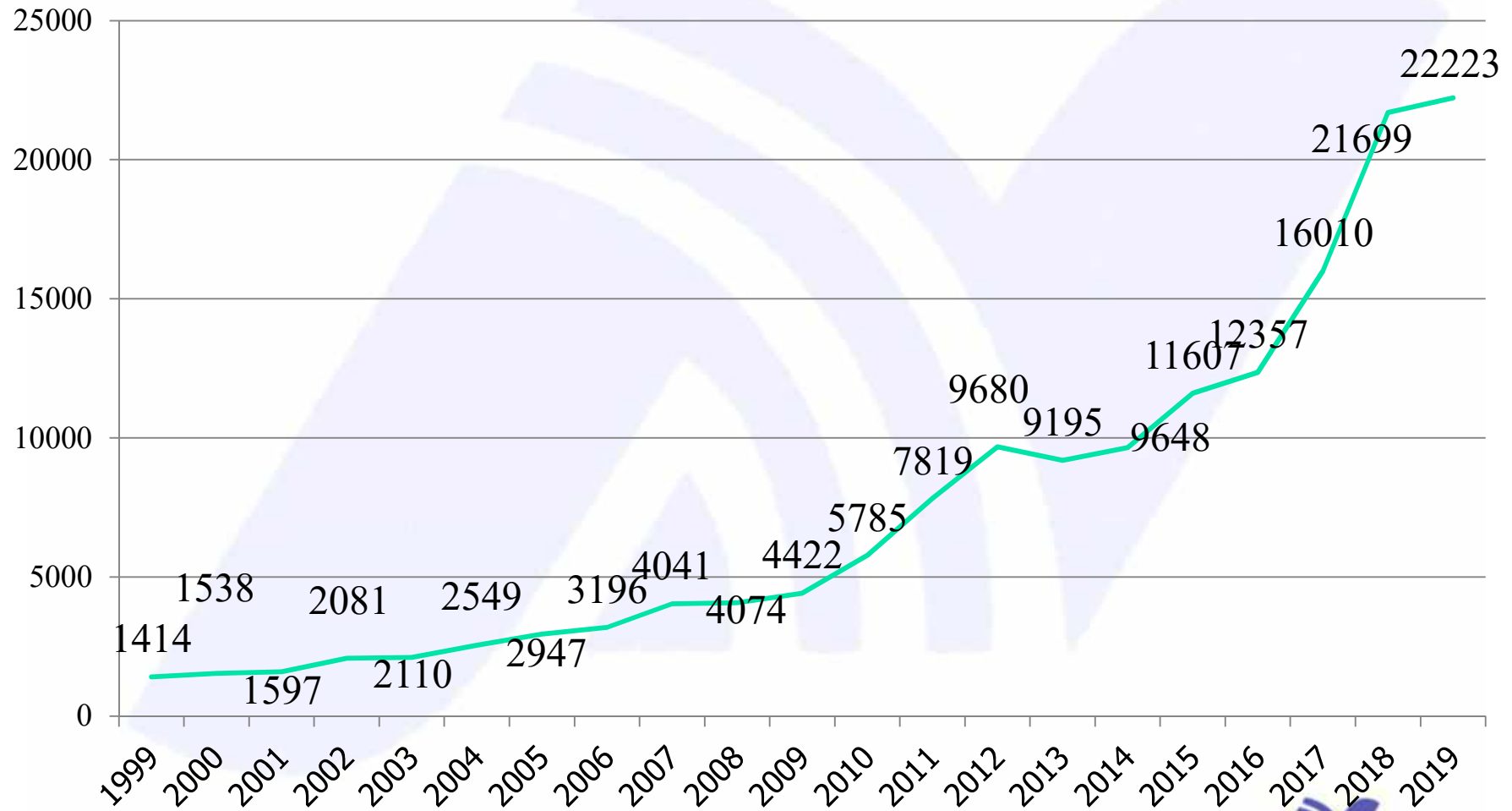
Patent Application Filing 1985-2018



Patent Application Filing in 2018



Patent Infringement Actions (First Instance) filed in 1999-2019



Establishment of IP Court in 2014





IP Cases Heard by the SPC in 2018

- Received IP civil cases 913, 81.51% increased;
- Ruled IP civil cases 859, 74.24% increased;
- Received IP administrative cases 642, 304.2% increased;
- Ruled IP administrative cases 581, 41.02% increased.

IPR Court under SPC in 2019

- On 1st Jan., 2019, the IPR Court under SPC established and came effective.
- As the appeal court, judging technical relevant cases on invention patents, UM patents, new varieties of plants, layout design of integrated circuits, trade secret cases, software and anti-trust cases.



Procedure of Paten Infringement Litigation

Filing Complaint in the first instant Court

Hearing

Judgment

Appeal

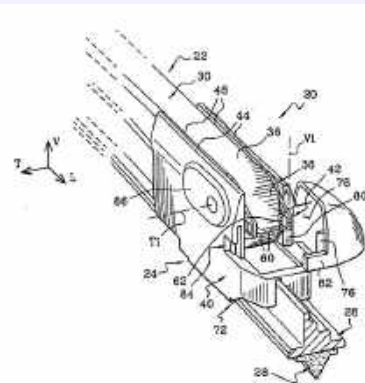
IPR Court under SPC

Final Judgment

VALEO SYSTEMES D'ESSUYAGE vs. Xiamen Lucas Auto-parts Company, etc

■ Claim 1

- 1. Windscreen wiper connector intended to provide the connection and articulation between a windscreen wiper arm and a component of a wiping blade,.....characterized in that the connector is locked in its inserted position in the arm **by a safety clasp mounted mobile between a closed position in which the clasp extends opposite the blocking element to prevent its elastic deformation and to block the connector** , and an open position that allows the connector to be released from the arm.



Timeline

2016

Valeo filed patent infringement complaint to the Shanghai IP Court

2019.01

Shanghai IP Court ruled advance injunction,

2017.08

Invalidation defense by FUKE Company before PRB, while PRB ruled valid Decision

2017

FUKE Company appealed to the Beijing IP Court

2019

Lucas appealed to the SPC IP Court

2019.02

Beijing IP Court affirmed PRB's Decision

2019.03

SPC IP Court affirmed Shanghai IP Court's Judgment



Key Issues

- Whether the technical features “**a safety clasp mounted mobile between a closed position in which the clasp extends opposite the blocking element to its elastic deformation and to block the connector**” are functional features and whether the alleged infringing products have the above features.
- If the parties apply for an act preservation to stop the alleged infringement, but also apply for an advance judgment to stop the infringement, and the Court considers it necessary to make an advance judgment to stop the infringement, it shall examine the application for preservation of the act at the same time. If the conditions for the preservation of the act are met, a ruling shall be made in a timely manner.



Ruling of the SPC

- Functional features refer to the technical features that do not directly define the structure, parts, steps, conditions or relationships between the technological schemes of invention, but limit the structure, parts, steps, conditions or relationships between them through their functions or effects in the invention and creation.
- If a technical feature has qualified or implied the specific structure, parts, steps, conditions or relationships between the invention technology scheme, even if the technical feature also limits the function or effect it achieves, it does not, in principle, belong to the functional features called in Article 8 of the Supreme People's Court's Interpretation (2) on the Application of Law in cases of patent infringement disputes, and should not be compared as functional features.



Ruling of the SPC

- The aforementioned technical features actually limit the aforementioned position relationship between the safety clasp and the locking element and imply a specific structure - "in which the clasp extends opposite the blocking element ", the position and structure play a role in "preventing the elastic deformation of the locking element, and locking the connector".
- In this case, the safety clasp of the alleged infringing product has a pair of bulges perpendicular to the side wall. When the safety clasp is in the closed position, the bulges in the side wall face towards the outer surface of the elastic element, which belongs to the form of "in which the clasp extends opposite the blocking element" as mentioned in patent claim 1, and can also achieve the function of "preventing the elastic deformation of the locking element and locking the connector".



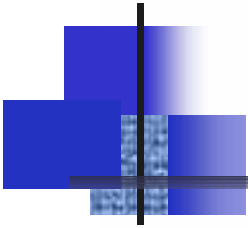
Ruling of the SPC

- The special case to be considered in this case is that although the court of first instance has made an advance judgment ordering the cessation of the infringement of the patent rights involved, it has not entered into force and the patentee continues to insist on its application for preservation of its conduct in the first instance proceedings.
- If the situation is urgent or other damages may result, the patentee shall file an application for act preservation, and if the Court of second instance is unable to make a final judgment within the time limit for processing the application for the preservation of acts, it shall deal with the application for preservation of the act separately and make a timely decision in accordance with the law.



Ruling of the SPC

- At this time, since the original judgment has found that the infringement is established, the Court of second instance may review the application for preservation of the act on the merits and do not require a guarantee.
- If the people's court of second instance is able to make a final judgment within the time limit for processing the application for the preservation of the act, it may make a judgment in a timely manner and reject the application for preservation of the act.



Thank You



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