

Thoughts on China's IPR Strategy

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I. Overview of China's IPR strategy

1. Development of the strategy

In January 2005, China's State Council set up the State IPR Strategy Leading Team, headed by Wu Yin and comprised of 33 ministries, committees and governmental organs including the Ministry of Science and Technology (MST), Ministry of Culture, Ministry of Commerce, Ministry of Education, State Development and Reform Commission (SDRC), State-owned Assets Supervision and Administration Commission (SASAC), Supreme Court, Supreme People's Procuratorate, State Intellectual Property Office (SIPO), State Administration for Industry and Commerce (SAIC), General Administration of Quality Supervision, Inspection and Quarantine of P.R.C (AQSIQ), China Customs, and National Copyright Administration (NCA). Headquartered in SIPO, the team had its first meeting on June 30 of the same year and started developing an IPR strategy.

2. Content of the strategy

China's IPR strategy consists of a synopsis and 20 subjects. The synopsis mainly includes the meaning, positioning, principle, objective, guideline, key tasks and main measures of the national IPR strategy, while the subjects deal with research in the following five aspects – macro issues on national IPR strategy, main types of IPR, legal construction for IPR, important sections of IPR, and main industries of IPR.

3. Timeline for the strategy

The 20 subjects in China IPR strategy were completed at the beginning of this year, and the Synopsis is expected to be completed within this year.

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II. Strategic background

A. International background

1. Human society enters a new knowledge economy era in the 21st century

Knowledge and globalization are typical features of this century, in which human society will move from the industrial age to the knowledge age, from an industrial economy to a knowledge economy, and from an industrial society to a knowledge society. Looking into this century, major breakthroughs will appear in the diversification of global technology, which will fundamentally change the way people live and produce. A global IPR system will be quickly developed and perfected, and become the common symbol and behavioral code for human civilization.

2. China enters the WTO

In 2001, China became a member of the WTO, enjoying the rights of being a WTO member as well as fulfilling its obligations. Now that it has entered the same arena as foreign countries, China is faced with both opportunities and great challenges.

3. IPR strategies of the US, Japan and Korea benefit China

1). The US has developed a 21st-century-oriented IPR strategy that aims to establish a patent system that is able to preserve the competitive edge of American inventors and make the Patent Administration into a quality-centered, market-sensitive, and market-driven IPR organization.

2). Japan has developed a 21st-century-oriented IPR strategy that has four pillars – creation, protection, application and talent cultivation. Based on the *IPR Basic Act*, Japan set up an IPR strategy headquarters and developed an IPR strategy program in order to strengthen IPR macro management and achieve the goal of national development through IPR.

3). Successful in IPR strategy application, Korea's main experiences are in the timely introduction of technology from overseas, furthering its own independent research and technological innovation through learning, absorption, and improvement.

Korea is a latecomer in IPR, and the experiences of all countries mentioned above are worth learning by China.

B. Background

1. The first 50 years of the 21st century are an important opportunity for China to realize the “three step” strategy put forth by Mr. Deng Xiaoping

First step: The GNP of 1990 is double that of 1980 and the problem of food and clothing has been fundamentally solved;

Second step: The GNP of 2000 is double that of 1990 and people live a well-off life;

Third step: By 2050, China will reach the level of a medium-developed country and primarily realize modernization.



2. In the first two decades of the 21st century, China will realize the goal of comprehensively constructing a well-off society

In the first two decades of this century, we will pull together all resources and construct a well-off society at a higher level that benefits China's one billion population characterized by a more developed economy, more sound democracy, more advanced science and education, more prosperous culture, more harmonious society, and more abundant resources.

3. In the first two decades of the 21st century, China will become an innovative country

By 2020, China will strengthen its ability to have independent innovation, economic development through science and technology, national order, and comprehensive study basic sciences and cutting-edge technologies. It will also achieve major S&T findings and become a country of innovation.

II. Strategic thought

1. Take the road of strengthening the nation through IPR and become a global HR power

China is the largest power in the world with regards to population and workforce, but not in human resources. According to World Bank data, the Chinese population and the workforce took up 20.9% and 25.9% of the world's total in 1999, equivalent to 4.58 and 5.40 times that of America respectively, whereas its percentage of HR was only 44.3% that of America due to the difference in productivity between Chinese and American HR, which is 10.9. To increase the average workforce productivity, much effort must be made to develop HR, change the population advantage into HR advantage and then change it into an IPR advantage, thus embarking upon the road of strengthening the country through IPR.

2. Make full and effective use of invisible resources and take the path to a country of innovation

China is a large country with abundant resources. However, though it ranks 3rd in the world after America and India for natural resources, its per capita natural resources are very scarce, only 16% of America's, 7.6% of Australia's and 7.3% of Canada's. As a result, during China's socioeconomic development, there is only one right choice – exploit natural resources in a planned way, give full play to invisible resources, reasonably utilize international resources and market, and take the path of developing an innovative country.

3. Guide the development of national IPR strategy with a scientific concept of development

A scientific concept of development means a perseverance inhuman-oriented, all-sided, concerted and sustainable development.

- 1) Stick to the principle of "people first" and promote the people's comprehensive development



- 2) Stick to the principle of comprehensive development in both economy and society
- 3) Stick to the principle of concerted development and coordinate the development of economy and society, productive forces and productive relations, economic base and superstructure, and internal construction and external opening up
- 4) Stick to the principle of sustainable development, promote harmony between people and nature, reach a balance between economic development and population, resource, and environment, and persist in the road of sustainable development characterized by production, prosperity and environmental protection.

4. IPR system urges the development of the Chinese economy

- 1) Encourage the IPR system
Spark interest in talent so as to encourage production and innovation.
- 2) Effect of IPR system on optimizing allocation
Optimize resource allocation, information publication and transmission in order to construct an economical society.
- 3) Effect of IPR system on economic balance
A balance between producers and the masses is good for the construction of a harmonious society.
- 4) Effect of IPR system on knowledge transformation
Encourage the transformation from a production-based society to a knowledge-based society so as to spur socioeconomic development.

V. Strategic goals

A. Principles for the development of a national IPR strategy

1. Give sufficient consideration to IPR characteristics and laws

Invisibility, time, region, exclusion, and transformability.

2. Give sufficient consideration to China's situation

China has a large population but low per capita productivity, and rich resources but scarce per capita resources. We should give full play to IPR's invisible resources in the country's development.

3. Give sufficient consideration to trends in the global IPR system

Regarding global IPR development, developed countries are intensifying IPR protection, largely improving IPR protection level and tactics, and developing and implementing IPR strategy, thus actively pushing the reform of international IPR rules. Therefore, not only should we observe and utilize international treaties and rules, but we should also have corresponding countermeasures.



B. Status quo of China's IPR system

1. China has established a quite complete IPR system and become one of the world's IPR powers

- 1) In recent years, the number of annual registered users of new patents and labels for exterior design in China has ranked 1st in the world.
- 2) As of December 31, 2006, the cumulative number of patent applications in China exceeded 3 million (3,334,367), of which 1 million were invention patents.
- 3) As of December 31, 2006, the cumulative number of registrations for trademark approvals reached 2,774,212, while the cumulative number of applications was 4,985,959.

Since 2001, the number of trademark registration applications in China has increased by 100,000 per year, and 766,000 applications were filed in 2006 alone.

2. Existing problems in China's IPR system

- 1) Despite the rapid growth of IPR in China, China is not a powerful nation because its IPR quality needs to be improved, IPR structure adjusted, and efficiency increased;
- 2) China is weak in IPR management and services;
- 3) China urgently needs to improve the application of IPR within the country;
- 4) China's IPR education and talent cultivation cannot meet the demand;
- 5) China needs to strengthen its IPR legal system.

C. Strategic goals for 2020

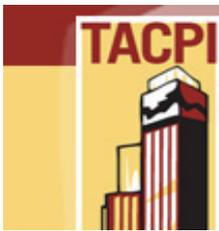
The goal of IPR in China for 2020 is to transform China's IPR advantage from size to strength, and have it become a global IPR power.

Specific objectives are as follows:

1. Increase national recognition of IPR law;
2. Increase IPR quantity and quality and become one of the best in the world;
3. Improve IPR creation, protection, application, management and talent cultivation;
4. Fundamentally restrain IPR piracy and encroachment;
5. Create a favorable IPR legal environment, policy environment and market environment.

D. Specific objectives for the next five years

1. Patent: ability to master and apply patent system and patent resources; reach the level of medium-developed countries in invention and patent output generated from R&D and investment; enter the Top 5 List for the number of overseas patent applications; add many key technological patents in essential areas.
2. Trademark: ability to master and apply a trademark system and trademark resources; increase the number of famous domestic trademarks, world famous trademarks, as well as



independent trademark use and registration of export-oriented enterprises.

3. Copyright: ability to master and apply copyright system and copyright resources; improve copyright management and create a stronger system of legal implementation; fundamentally restrain rights encroachment and piracy; create a better social environment for copyright protection; and add to the production value of core copyright industries.

V. Strategic approach

Strategic approach refers to how to realize strategic goals.

1. China lags far behind developed countries in knowledge innovation, technological innovation and S&T output

- 1) In 1995, scientific findings from China constituted only 1.6% of the world's total compared to Japan's 10.1%, Europe's 35.8%, and America's 38%.
- 2) In 2003, every 1 million Chinese applied for only 32 domestic patents, compared to Japan's 2,916 and Korea's 1,613.
- 3) In 1995, China's input/output ratio for European patents was only 2% of the world's average, and its input/output ratio for American patents was only 4% of the world's average.

2. IPR strategic approaches of Japan and Korea teach and enlighten us

Introduction of technology → digestion and absorption → technological innovation

3. China's IPR strategic approach

The path of "walking on two legs" and "leapfrog development" is planned.

"Walking on two legs" refers to the simultaneous implementation of introduced technology and independent innovation.

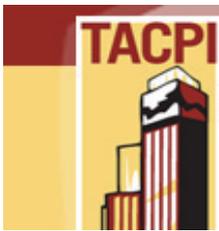
"Leapfrog development" means to jump over some phases to rapidly develop.

VI Strategic Measures

Strategic measures refer to the policies, measures and means employed to realize strategic goals.

A. IPR creation

1. Target: provide powerful support and assurance for China to become one of the world's innovative countries in 2020, and endeavor to make S&T progress in China account for 60% of economic growth.
2. Policy: increase national input in scientific research and R&D personnel to reach or approach the world's average (2.4 in 2003), whereas in 2003, China's R&D was only 1.2% of GNP. Also in 2003, only six people out of 10,000 were engaged in R&D, while the number was several scores in developed countries.



3. Measures: encourage S&T personnel to create and generate over 100 invention patents (56 now) for a 100 million USD research fund in China by 2020.

B. IPR protection

1. Target: reinforce IPR protection, increase effectiveness of the law, and fundamentally restrain rights encroachment and piracy by 2020.
2. Legislation: perfect IPR legislation, work out detailed regulations for rewards and sanctions, and enforce the deterrent effect of law.
3. Jurisdiction: improve the construction of an IPR legislative team, reform judging mechanism, and improve judging standards.
4. Execution: improve the strength and efficiency of administrative measures, perfect procedures, intensify means, and demonstrate flexibility, promptness, and low cost.

C. IPR application

IPR application means to change IPR into an actual productive force.

1. Work out proper laws and regulations; clarify the allocation of IPR, and award state-funded national scientific research plans, programs and results, as well as IPR formed thereby to organs that complete the programs. Change “whoever invests owns” to “whoever completes owns”.
2. Create proper incentives; encourage S&T personnel to actively participate in IPR application and implementation. Change “distribute according to work” to “distribute according to contribution”.
3. Enterprises are the entities that apply IPR. Encourage them to carry out independent implementation, licensed transfer, equity pricing, etc.
4. Colleges, universities and research organs are the fountainhead of IPR. Establish and perfect IPR-linked mechanisms for technological exchanges to promote the flow of achievements from colleges, universities and research institutes to enterprises.

D. IPR management

IPR management means that the government must manage according to the law so as to guarantee the efficient implementation of IPR creation, protection and application.

1. Set up a scientific innovation system; increase the state’s funding in education and scientific research; better educate the people; increase the quantity as well as quality of IPR; realize China’s transformation from a power in population resources to a power in science and technology.
2. Set up an efficient IPR management system; national IPR departments to improve their ability to inspect, serve, and manage; realize China’s transformation into an IPR power.



3. Set up an IPR transformation system; put forth related laws and policies; urge and encourage IPR industrialization; boost China's transformation from a large IPR country to a powerful IPR country.

E. IPR talent cultivation

1. Establish an IPR education and talent cultivation system

To improve China's IPR system, the first step lies in education. By 2020, China shall establish a complete IPR educational system, including IPR education in elementary schools, fundamental IPR education in middle schools, general and specialized IPR education in colleges, and continuing IPR education for adults.

2. Carry out "hundred-thousand-ten thousand project"

Carry out the "hundred-thousand-ten thousand project" by setting up an IPR department, major, institute, founding IPR secondary discipline and IPR faculty training center, etc. By 2020, hundreds of doctors will be trained, together with thousands of postgraduates and tens of thousands of undergraduates.

3. Enhance national recognition of IPR

Multiple steps will be taken to enhance national recognition of IPR. By 2020, IPR education coverage ratio for in-service personnel will exceed 50%.