

Enlightenment to China Concerning Intellectual Property Development in Major Countries and Region*

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In the era of knowledge economy, the development of intellectual property rights has a great impact on a country's economy, international status and comprehensive national strength. By comparing intellectual property rights in China, Japan, the United States, South Korea and Europe, this paper makes up for the shortcomings of intellectual property rights, and finds out the existed problems about intellectual property rights in China, then reflects on how to develop China's intellectual property rights business.

Keywords: major countries and regions, Intellectual Property Office, intellectual property rights, innovation, economic growth

Introduction

In the field of intellectual property, the five largest intellectual property offices in the world today are the European Patent Office (EPO), the Japan Patent Office (JPO), the Korea Intellectual Property Office (KIPO), the China Intellectual Property Administration (CNIPA), and the United States Patent and Trademark Office (USPTO). The five intellectual property offices are the most representative offices in the world. According to *the World's Top Five Intellectual Property Statistics Report (IP5 SR)*, 91% of the world's valid patents are distributed in the regions under jurisdiction of the five offices (China National Intellectual Property Administration [CNIPA], 2018). Therefore, this paper mainly makes a comparative study of the intellectual property policies of these four countries and one region, namely China, Japan, South Korea, the United States, and Europe, so as to discuss how China will do on theory and practice in the aspect of intellectual property in the future.

Analysis on the Situation of Intellectual Property in China

Strengthening the protection of intellectual property rights and greatly improving the effectiveness of the transfer and transformation of scientific and technological achievements have been mentioned in the important document of the CPC Central Committee on the formulation of *the 14th Five-Year Plan for National Economic*

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and Social Development and the Vision For 2035 (CNIPA, 2021). That is to say, China attaches great importance to the development of intellectual property rights, which of course is also traceable. Since it became a national strategy about intellectual property rights in *the Outline of National Intellectual Property Strategy*, a series of documents have been issued one after another. So, we can see that China attaches great importance to the development of intellectual property rights, but at the same time, China still has a long way to go in becoming a powerful country in intellectual property. Although the road is blocked and long, China will achieve the goal after hard work. In line with this, a series of specific supporting laws and measures have also been implemented.

First, the review efficiency has been significantly improved in patents, trademarks, geographical indications, layout-design of integrated circuits and other intellectual property rights. In 2018, China's State Intellectual Property Office completed a restructuring successfully, improving the efficiency of its management greatly. However, it is still taking a long time to make a judgment on schedule in the application.

Second, in 2018, China made significant progress in benefiting the people about intellectual property rights, giving people a better experience of checking whether they meet patent standards, and giving the convenience of patent application. Ordinary people can more easily search and analysis to intellectual property information and the use of experience is constantly improved. In this regard, China is doing very well. Of course, there are many problems inevitably.

Third, in the field of intellectual property rights itself, there are many difficult problems in safeguarding rights, and unfair competition also often appears (Wang, 2020). In addition, the pursuit of quantity and neglect of quality in intellectual property rights business is also an important issue. All of this has led to a lot of problems. However, undeniably, the inefficiency of the review mentioned previously is the most critical point.

Analysis on the Situation of Intellectual Property in Japan

Japan attaches great importance about intellectual property rights and has a long history. Japan has promulgated *the Basic Law on Intellectual Property Rights* in 2002 and established the High Court of Intellectual Property in 2005. At present, Japan's laws dealing with intellectual property rights are *the Trademark Law, the Patent Law, the Unfair Competition Prevention Act, the Utility Model Law, the Copyright Law, the Design Law*, and so on.

As we all know, Japan has always attached great importance to the protection of intellectual property rights. As early as 1994, the Japanese government has put forward the slogan, "science, technology, and creativity to create a nation", so many high technologies have been applied and many strategies related to intellectual property have naturally been implemented. In 1995, the *Basic Law on Science and Technology* was enacted, which provided support and guarantee for the creation and innovation of science and technology in Japan. Its content involves basic research, applied research, development research, and so on. It can be seen that Japan attaches great importance to the promotion and development of the creativity of scientific researchers.

In April 2021, the *Basic Law on Science and Technology* was changed into the *Basic Law on Science and Technology Innovation* (Chen, 2021), which reflects the importance that the Japanese government attaches to innovation. In addition, Japan has enacted the *Suppliers Act* to protect the rights and interests of innovative enterprises. In order to accelerate the development of small and medium-sized enterprises, the Government of Japan adopted the "Small and Medium-sized Enterprises Technology Innovation System" in 1999. Specifically, it is to select research and development achievements that can be industrialization and to grant specific grants,

based on the designated item to determine the amount of the grant each year. It is really one area that China can learn from (Lin, 2018).

In terms of popularizing intellectual property rights, Japan's laws on the popularization of all types of intellectual property rights have also become one of the basic national policies. The degree of attention can be seen obviously, and they are really implemented, which is very valuable. For example, Article 21 of Japan's *Basic Law on Intellectual Property* provides for responsibilities of the state, in other words, major Japanese companies also regard intellectual property training as an important employee training content. We can make reference to this in China, such as the simple popularization of intellectual property rights in compulsory education, and cultivating the awareness of protecting intellectual property rights from an early age.

Of course, problems will arise inevitably in the operation of intellectual property rights in any country. The problem in Japan is that there was a deviation between the enforcement line and direction of intellectual property rights and the law enforcement, such as the national funds needed for innovative technology projects have not been implemented.

Analysis on the Situation of Intellectual Property in European Union

Since most European countries have joined the European Union (EU), intellectual property rights about European are mainly embodied in EU intellectual property rights, not only including the Union dimensions but also the member states domestic dimensions.

As the member of the World Intellectual Property Organization (WIPO) and the signatory to international treaties and agreements, on *Trademark Law Treaty*, they create a union in intellectual property rights also, working towards a single system of protection in intellectual property.¹

It is worth mentioning that the European intellectual property sector is advancing with the times. Recently, the Council of Europe approved a number of documents relating to intellectual property policies. Those documents focus on the role of intellectual property in helping to respond to the outbreak of new crown pneumonia and outline the importance of intellectual property for small and medium-size enterprises and their economic recovery, as well as for its green and digital transformation.

The Council also noted: "As the number of counterfeit goods in the online market remains high, we believe that the *Digital Services Act* and the forthcoming EU Anti-Counterfeiting Toolbox will help to intensify the fight against counterfeit goods".²

Analysis on the Situation of Intellectual Property in Korea

We are familiar with Korean drama, many of which are large successful adaptations from dramas with intellectual property rights, as well as many comic novels and so on. It can be said that intellectual property right has made an important contribution for the economic development of Korea. As South Korea's GDP per capita growing, the business of intellectual property is also developing.

On July 14, 2021, the Korea Intellectual Property Office announced the first half of 2021 intellectual property applications. Despite the grim situation of COVID-19, South Korea's IP applications in 2021 are still be dominated by small and medium-sized enterprises, with strong growth.

¹ EU Policy for the Protection of Intellectual Property Rights, available at <https://www.baidu.com>.

² The European Council Approves the Document on Intellectual Property Policy, available at http://www.fcgs.gov.cn/ztbd/fcgsppzs/dlbzcp/202107/t20210727_211947.html.

According to statistics, South Korea in the first half of 2021 represents a 7.8 percent higher application growth rate than in the first half of 2020 (4.5 percent), indicating that the focus and activity of Korean enterprises on intellectual property rights is in sustainable development under the economic situation of the new crown pneumonia outbreak (Luo, 2021).

Korea is also very efficient in reviewing services. The Korea Patent Office, through contract outsourcing, entrusts independent institutions to help applicants searching in advance for inventions, utility models, trademarks and industrial designs.

In 2018, the Outsourcing Independent Searching Agency (IPR) carried out 62.7% (105,589) of all applications for inventions and utility models, 43.5% of trademarks (200,341) and 43.5% (29,208) of industrial designs (CNIPA, 2018). China is faced with the problem of long review cycle, in fact, can refer to South Korea contract outsourcing and other ways to improve efficiency.

Analysis on the Situation of Intellectual Property in the United States

From the level of intellectual property protection, there are three levels in the United States: legislative, administrative and judicial level. In recent decades, the United States has continuously revised and perfected their laws relating to intellectual property rights, expanded the scope of protection, and strengthened the protection. It can be said that the intellectual property legal system has been established in the United States. For example, in terms of patent law, the United States has *the Patent Law*, *the United States Inventor Protection Act*, *the United States Invention Act*, and so on.

Because the United States attached importance to intellectual property protection, they included patents and copyrights in Article 1, Paragraph 8 of the Constitution. Congress is entitled to “guarantee the exclusive rights of authors or inventors to their respective works or inventions for a certain period of time in order to promote the advancement of science and practical arts” (Li, 2003, p. 14).

In 2018, the U.S. Patent and Trademark Office has further expanded its public service to include the Law School Clinic Certification Program to 56 universities to assist patent and trademark applicants in their applications. The program benefits law schools as well as patent and trademark applications.

This program could enable students studying law to participate in the practice of patent or trademark applications under the guidance of a practice tutor who working in Patent and Trademark Office (CNIPA, 2018). China’s colleges and universities are more and more, and can learn from this new way of thinking.

Comprehensive Analysis and Recommendations for China

Comparing the above countries and region, it is need to summarize what China should do to promote the further development of intellectual property rights.

First, China is faced with the problem of inefficient review. On this aspect, China can learn from Japan to strengthen the requirements of review cycle, and can also learn from South Korea. Outsourcing the review contract to professional enterprises, not only can stimulate economic growth but also improve efficiency. Generally speaking, professional enterprises are more efficient than administrative agency for the consideration of economic interests.

Second, China needs to broaden its approach in face of difficult problems of intellectual property protection reflected by people, as well as popularizing knowledge of rights protection. It is necessary that intellectual property rights protection become the company’s rules and obligations through learning from Japan,

putting it to a strategic height. Meanwhile, China should cultivate the awareness of intellectual property rights in compulsory education. In this way, it can be guaranteed for intellectual property protection in China.

Third, China should focus on the development of intellectual property rights in the cultural industry; in other words, can learn from South Korea. In this era of rapid development of the tertiary industry, the cultural industry can drive economic development to a great extent. Of course, the real economy should not lag behind.

Fourth, the development of intellectual property rights should be in collaboration with universities, especially with the law schools of colleges and universities, should also be combined with public welfare, becoming popularizing in the course of encouraging innovation and entrepreneurship. Even so, China should realize that the improvement of legal quality and the development of intellectual property rights protection are not only an overall development process, but also a long-term development process.

Fifth, it is important to keep up with current events, such as the epidemic outbreaks, and to revise intellectual property policies or law in light of the changes of actual situation.

Sixth, China has done a good job in strengthening international cooperation and should continue to develop in this direction in the future. A good example of more cooperation with other countries is the unification within the EU, which ensures applications are efficient and convenient and promotes economic development. In China, as far as the Belt and Road Initiative, it is believed that the development of Intellectual property business will surely flourish with continuous efforts.

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