



IP: Patent enforcement in China is on the upswing

AS THE CHINESE GOVERNMENT PUSHES ITS CITIZENS TO SEEK THEIR OWN PATENTS, THE COUNTRY'S PATENT ENFORCEMENT SYSTEM WILL GET STRONGER

Some multinational companies hoping to do business in China have assumed all along that China does not protect patents and ignored the procurement of patents in China. Recently, there has been a significant development that bodes well for the enforcement of patent rights in China—and which should serve as a clarion call to the multinational companies doing business there.

In November 2010, the State Intellectual Property Office (SIPO) of China issued a National Patent Development Strategy that included a five-year plan to increase the number of patent applications filed in China by Chinese residents from 1.2 million in 2010 to 2.5 million by 2015. Among the various actions the government is taking to encourage patent filings by Chinese citizens is subsidizing the costs of patent applications filed by Chinese residents.

When the Chinese patent law was enacted in 1985, it marked the beginning of Chinese patent history. Previously, patents and their

attendant exclusivity rights were foreign concepts not conducive to Chinese culture. The Chinese did not appreciate that the inventive technologies described in patents and published patent applications were intended to be protected by law. People in China found that these efficiently catalogued and freely accessible publications were a good resource for uncovering useful technologies. They delved into such documents and began using the useful technologies in their research and production. Hence, China garnered its reputation for not respecting patent rights.

Over time, though, the Chinese government became more aware of the importance of protecting innovation as a way to encourage the country to advance from a manufacturing economy to an innovation-based economy. China strived to become, and eventually became, a member of the World Trade Organization with promises to safeguard intellectual property rights. Now, the Chinese government is determined to push the

Chinese citizenry to innovate and seek their own patents. This development will certainly lead to increased understanding and awareness of patents as property rights. But something more profound is just a likely to ensue from this new patent-protection paradigm emerging in China, one that aggressively encourages the building of a patent portfolio there.

If more and more Chinese entities apply for their own patents, then it seems likely more and more Chinese entities will become embroiled in patent enforcement activity. As the Chinese become frustrated with having their patent rights infringed, certainly political pressure will build to provide a strong, reliable system for patent enforcement because China's own domestic industries will come to rely heavily on the protection of their patents in the marketplace. The result should be an invigorated and robust process for patent enforcement in China.

However, Chinese-owned patents can be obstacles to foreign competitors seeking to do business in China. So, if it is predictable that Chinese patents will be enforceable, it is now good business for foreign companies to build up their own patent portfolios in China.

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