The Importance of Patents in China

By Emily Shu[1]

Intellectual Property Rights (IPR or 知识产权) is a hot topic in China. The term IPR appeared on the first page of every presentation by leaders of the 10 high tech centers I visited recently as part of a 7-city tour of China with the NACSA (North America Chinese Semiconductor Association). There is at least one IPR center in every major city in China and these centers assist engineers with preparing and filing patent applications as well as resolving IPR disputes. The picture below shows the IPR Dispute Center in Suzhou Industrial Park (one hour east of Shanghai).

I returned from China with some new vocabulary words, such as “Patent Week”—a week-long conference when government, IP attorneys, professors, and leaders of enterprises gather to discuss patent policies. I observed such an event in Chengdu, a city of 10 million, where 20,000 patent applications were filed in 2008. Other new terms now in use in China include: “patent collateral loan”—a bank loan for start-up tech companies based on their foreign patent holdings; “infringement hotline”—a toll-free number to report patent or trademark infringement to the government; “patent nation”—a reference to China’s desire to become the top patent filing country; and “original-IP”—China’s preference for the “made in China” brand patents.

Official Chinese Plans to Foster IPR Protection

While some in the U.S. lament the death of the manufacturing economy, the People's Republic of China has the ambition to shift its manufacturing-based economy to a knowledge-based economy. Chinese companies are encouraged to innovate, and to protect their innovations with patents, both within China and internationally. A successful domestic policy of China’s central government to fund patent filings has

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resulted in more than one million patents being awarded to Chinese companies by SIPO (China's State Intellectual Policy Office) since 2004.

Did you know?
There are 3 types of patents granted by SIPO:

Invention Patents, or 20-year patents, which are similar to the utility patents in the U.S. and cover new technical solutions that relate to a product, a process or an improvement;

Utility Models, or 10-year patents, granted for "new technical solutions that relate to a product's shape or structure, or a combination of the two, and are also fit for practical use." Utility Model applications do not undergo a substantive examination and are granted rather quickly, typically within a year from the filing date. Utility models are a cheaper and quicker way of obtaining patent rights, but provide only a 10-year protection time.

Design Patents, which are similar to the design patents in the U.S., but provide only a 10-year protection time.

The protection provided by these patent rights begins on the day of filing. There are no patents for the protection of plants. Inventions related to plants, however, may be registered at the Department of Agriculture.

International Patent Ambitions
International patent filings by Chinese companies have also drastically surged. In 2008, China improved its PCT standing by one place and became the sixth largest user of the PCT (a position previously held by the United Kingdom). Patent lawsuits against Chinese companies seem to have only stimulated additional patent filings. For example, China's leading telecommunications company, Huawei, which was sued in 2003 for unlawfully copying a third party's patent rights, is now ranked as the largest patent applicant under the PCT with 1,737 applications published in 2008.

However, all these leaps forward have not satisfied China's ambitions. In October of 2009, the Chinese central government announced a new policy providing financial support for PCT patent filings. The policy details have yet to be revealed, but preliminary information we received during Patent Week reflects the government's commitment for full cost coverage (both filing costs and attorney fees) of PCT filing and national stage entries, including in the U.S. Based on the strong control exercised by the central government in China, orders to expand patent filings will surely be followed. Thus, we expect to see thousands of U.S. national stage applications mushroom out over the next five years, which promises to inject on the order of a hundred million dollars into U.S. patent prosecution work.

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