

**EXPECTATION ON
PROTECTION OF PATENT RIGHT**

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After entering the 21st century, human society has been witnessing new technologies coming up at an astounding speed. They are bringing unprecedented impact to the way we work and the way we live.

Nowadays, knowledge has earned a prominent position in economic development. Who has an edge in creativity and innovation, who has an upper hand in the global competition.

IP protection is an important legal tool in promoting innovation. Without effective IP protection in place, innovation may not survive.

China has established its patent system only for two decades, and therefore we is still in the stage of completing and improving the system. I think the following aspects are worth contemplating when we envision the future.

First, it is necessary to adjust the standard of patentability in accordance with the growth of innovation.

The amount of patents granted annually across the world is increasing tremendously compared with those 10 years ago. Of course this is because mainly more innovation come up, but also because, to some extent, the patentability standard is a bit loose. In some technical fields, particularly those fast-growing ones, the “density” of granted patents is quite high and the “distance” which makes the scope of those patents apart from each other is undue small.

This result is undesirable not only for the public but also for the patent holders. We should adapt the patentability standard to the level of innovations and ensure that patent right will be granted only for those inventions which are worth protecting.

Second, the quality of granted patent should be improved.

Many patent offices across the world have evolved into gigantic institutions employing a lot of examiners. However, a not small number of patents granted by these offices are declared invalid later on during the procedure of patent enforcement.

The current mode of the patent substantive examination distributes resources equally to all applications. Consequently, it leads to a lavish spending of resources on those applications which will never be used, but an inadequate spending of resources on those which will be exploited and enforced. The fast increase of patent applications makes this problem even more serious.

Overcoming this impasse to improve patent quality and therefore to earn public's trust in the system seems a common task for all of those patent offices.

Third, it is necessary to properly balance the interests of patent holders and that of the public.

Patent system should contribute to promote the wide dissemination and application of the patented technology. Meaning that, the system shall be designed not only to protect the legitimate interests of the right holders against the infringers, but also to uphold public interest and to prevent the abuse of patent rights, so as to reach a reasonable balance between their interests.

Article 7 of the TRIPs sets forth clearly such an objective. Unfortunately, specific rules executing the objective are missing. We would like to see inclusion of such rules in TRIPs revision process.

Fourth, each county should have the right to choose a patent system fit its own situation and its stage of development.

Instead of imposing a one-size-fits-all patent system on all countries, each country, in particular a developing country, should be allowed to choose a system fit and proper for its own situation and its level of development as long as its choice does not run counter to the established international agreements.

Each country should have the right to make its own rules on patentability, the principles concerning the determination of patent infringement, the reasons and procedures of granting compulsory licensing, etc.

THANK YOU
FOR YOUR ATTENTION