

The 4th Annual US-China IP Conference

The Reform of Chinese Intellectual Property Trial Mechanism

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2015/10/09

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Background of the Establishment of Intellectual Property Court



The Background

Two turning points:

The strategy on innovation-driven development

Comprehensively promoting rule of law



With the support from all parties, Beijing is the first place to set up Intellectual Property Court.



The Periodic Characteristics of China IP Protection



The Periodic Characteristics

International demands > domestic demands

In initial stage of reform and opening-up, China's first task was that in order to stimulate the creativity of people and get rid of poverty it should introduce advanced technology and foreign investment by taking advantage of its labor and natural resources. Back at that time, the international community required China to strengthen IP protection, but opposite voice was loud inside China.

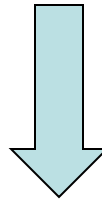


Domestic demands > International demands

According to the current practice, domestic need to protect IP has exceeded the international demand, whether it is from the government or from the enterprises. China has been fully into international competition, and aware of the crucial role of IP.



Problems in IP protection (the level of protection)



Beijing Intellectual Property Court



IP Court and Judicial Reform



The set-up of IP courts is a major initiative of judicial reform.



Measures

First, the number of the **authorized personnel** set by the central government is 100, 33 judges (3 of them are in the lead team of the court) included. In the administrative service, the court sets up a 15-person general affair office.

Measures



Second, the court has three trial tribunals and one supervision tribunal (so far No.3 trial tribunal has not been set up for personnel reason), one presiding judge in each tribunal. A judge team has one judge, one judge assistant and one clerk in the initial plan.

Measures



In addition, according to the regulation, to the president, vice-presidents and presiding judges of Beijing IP Court it should realize **normalization of handling cases**.

Measures



Compared with court system, the major difference between prior courts system and Beijing IP Court system is the way of trial management.



Some Topics Related to Beijing IP Court



Topics

Balance between the scale of accepting cases and saturation of trial

It is estimated that Beijing IP Court, only having 25 judges, will accept 12000~15000 cases every year, so each of them would hear nearly 500 cases in one year.



Unfair competition in internet

In the internet, it would be a challenge to handle with the balance among public interests, the development of technology and the righter's interests---overprotection restraining technology development, while inadequate protection leading to unfair competition.



Technical investigators

Technical investigators are mainly set for some more professional and technical civil and administrative cases, such as patents, new plant varieties, integrated circuit designs, technical secrets, computer software and so on.



Concerns about specialization

Beijing Intellectual Property Court , as a specialized court, is facing how to prevent from being cut off from the mainstream court.



Thank you !