Development of Chinese Patent System
– From the International Perspective

Conference Celebrating the 50th Anniversary of CEIPI
– Perspective for the Intellectual Property System in a Globalized World

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Shen Changyu (SIPO) & Benoît Battistelli (EPO) signed cooperation working plan for 2015, (Brussels, Nov. 12, 2014)

Europe and China in strategic partnership for patents
I. PPH between SIPO and other Patent Offices

I. Expanding PPH Network
PPH: Development in China
Number of PPH Requests in SIPO

PPH: 4386

PCT-PPH: 1216

As of 31st of December, 2013
Number of PPH Requests in SIPO per month

From November 2011 to December 2013
Percentage of PPH Requests in SIPO on the basis of IPC

As of 31st of December, 2013
Number of PPH Requests by Chinese Applicants to other Patent Office

PPH: 197

PCT-PPH: 628

As of 31st of December, 2013
Implications to International Patent System

- Expeditious Examination
- Reduction of Cost
- Higher Grant Rate
- Learn from Each Other and Share Experience
Expeditious Examination

Average Period from PPH Request to First Examination Notice (Month)  
Jul-Dec 2013

Average Period from PPH Request to Final Decision (Month)  
Jul-Dec 2013
Reduction of Cost

Average Number of Examination Notices
Jul-Dec 2013
Higher Grant Rate

Grant Rate
Jul-Dec 2013

Grant Rate after First Notice
Jul-Dec 2013
Thinking & Discussion

- Important role of the IP5: Standard suggestion? & Training program for patent examiners?
- Position of WIPO: Standard making?
- PCT + PPH: Work together & Support each other?
- Towards "world patent granting system"?
II. IP Courts in Mainland China

Background

- On August 31, 2014, the “Decision of the National Standing Committee of the People’s Congress” regarding the establishment of specialized IP courts in Beijing, Shanghai and Guangzhou was passed.
- On November 6, 2014, China's first intellectual property court has been officially opened in Beijing.
Three specialized IP Courts

Why these three cities?

- These three cities are economically developed, with a higher demand for judicial protection.
- Almost half of China's IP disputes are brought in these three places.
- Courts in these three places have had specialized tribunals focusing on IP cases.
Beijing IP Court

- 4 Trial courts
- 1 general affairs office
- 2 Judicial auxiliary institutions

- 22 judges (4 chief judges, no deputy chief judges)
- 15 judicial administrative personnel
- 51 judicial assistants
Jurisdiction
- Supreme Count Regulation (Oct. 27, 2014)

Beijing High People's Court (IP division)

Shanghai High People's Court (IP division)

Guangdong High People's Court (IP division)

Beijing IP court

Shanghai IP court

Guangzhou IP court

Intermediate people's court in other cities in Guangdong

Local basic people's courts

Local basic people's courts

Basic people's courts of Guangzhou

Basic people's courts in other cities in Guangdong
General First Instance Jurisdiction

Jurisdiction of IP courts for first instance of IP cases

1. Civil and administrative cases which are technically complex

2. Administrative cases, to the administrative actions done by the departments under the State Council or Governments above county level, related copyright, trademark or unfair competition.

3. Civil cases involving the well-known trademarks
General Appellate Jurisdiction

Appeal cases from the basic level court in their respective cities over civil and administrative IP cases

Trademark, copyright, technology contracts, unfair competition

Exclusive First Instance Jurisdiction

The Beijing IP Court has exclusive jurisdiction for the first instance over administrative cases on appeals to the administrative decisions made by SIPO
Key points on jurisdiction

- ‘IP Court’ has just the **same level as intermediate courts** in Chinese judicial hierarchy.
- Appeals to the first instance decisions made by a IP court will be judged by the **high court** of the province or city where the IP court is located.
- Jurisdiction for IP cases in other provinces and municipalities directly under the Central Government has not be changed.
The significance of building specialized IP Courts in China

- Specialization
- Helps to unify judge standards for IP cases and improve the quality of judicial protection of IPR
- Specialty team of judges can efficiently, consistently and effectively handle IP cases
Thinking & Discussion

- Implementing TRIPS, Arts 41, 42 etc. + stimulated by IP right holders inside of China.
- Norms for specialized IP courts and judges should be required by international IP Law (say TRIPs)?
- Is China's freedom to re-structure its IP court system an important example of national flexibility offered by the broad standards required by TRIPs?
Thank you!

Merci!

谢谢！

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