

## 田力普在英中知识产权研讨会上的发言

SIPO Commissioner Tian Lipu's speech at the UK-China IP Symposium

## The Creation, Utilization and Protection of Intellectual Property

—Practice and experience of China

Her Excellency Baroness Wilcox,  
His Excellency Sir David Brewer,  
His Excellency Chargé d'affaires  
Mr. Qin Gang,  
His Excellency Mr. John Alty,  
Distinguished Speakers,  
Dear Friends,  
Ladies and Gentlemen,

On behalf of the Chinese delegation, I would like to extend my congratulations on the convening of the UK-China IP Symposium. I would also like to extend my sincere gratitude to Sir David Brewer, Mr. John Alty and your team, as well as the China-UK Business Council for all the efforts to make the Symposium possible. My thanks also go to all the speakers today for all your input to the Symposium. Last but not least, I would like to thank all the audience here, for your participation in the Symposium. I believe that this Symposium will provide you with a more thorough, objective and in-depth understanding of China's IP system.

The Symposium today is one of the achievements of the visit of Chinese Premier, Mr. Wen Jiabao, to the United Kingdom this June, which was reaffirmed in the China-UK Economic and Financial Dialogue between Vice Premier, Mr. Wang Qishan and the British Chancellor of the Exchequer George Osborne in September. The joint commitment of the two governments makes today's Symposium significant.

The United Kingdom and the People's Republic of China both have centuries-old histories of intellectual innovation, and have both made momentous contributions to the evolution of human civilisations.

The British Industrial Revolution launched the modernization course of human civilisations, with the UK is home to many great inventions such as steam engine, television and penicillin, and also to many innovative and creative inventors and scientists such as Walt, Newton, Darwin and Faraday. Today, wonderful inventions are still being created by British inventors. This is evidenced by the dynamic patenting activities of British applicants in China. By the end of October, the number of patent applications filed by British applicants reached 20,510, making UK the 8th among all the major economies, and the number is still growing.

China is also a nation that has a long history of innovation, invention and creation. Companion of Honour Mr. Joseph Needham mentioned a great amount of ancient Chinese creations and innovations in his classical work "Science and Civilisation in China", including papermaking technique, gunpowder, compass and movable type printing. These creations and innovations have contributed significantly to the progress of human civilisations, as well as the development of countries all around the world. However, due to historical reasons, the Chinese civilisation began to fall behind since the industrial revolution. It was not until 1940s that things started to change. In particu-

lar, the creation and innovation of the Chinese people has been revitalized since the implementation of reform and opening-up policy in 1978, thanks to the establishment of intellectual property system. Since the beginning of the 21st Century, intellectual property has become one of the most important pillars for the progress of science and technology, the prosperity of culture and the growth of economy. Therefore, the implementation of IP system and the fostering of an IP culture in China have raised IP awareness of the 1.3 billion Chinese people. This, I think, is a new contribution that China has made to the international community, which has been justly applauded and appreciated by a lot of friends from UK and other countries.

However, some media have shown questionable professionalism by covering IP-related issues in China with lots of distorted and false information. I got such an impression that if you want to draw attention in the western media, point your finger at China. And if you want to draw even more attention, point your finger at the intellectual property protection in China. I recently read a popular German book named "Chinese Trap". The author warns the EU enterprises that to invest in China is like falling into a giant Chinese trap. Also the western politicians have been constantly complaining about the issue of intellectual property protection in China.

This overwhelmingly negative perception has somewhat puzzled me. So I would like to take this opportunity to share with all the friends here today some basic facts, which will help you understand more objectively and comprehensively China's IP development.

As commissioner of the State Intellectual Property Office, I have been working in this field for over 30 years. Interestingly enough, I sort of stumbled into IP in the end of 1970s. Why I said interestingly? Because the reason for me to take on IP as my career is that I knew nothing about intellectual property back then which, looking back, is quite incredible. Although it was curiosity and hastiness that prompted my decision: curiosity of a graduate student about new things, and hastiness of a young man to act before think it through, I am glad to have entered the then completely unknown territory and been working in the area ever since.

I believe that the 800 million people in China then had the same understanding of IP as I: none. For us, intellectual and property were two totally different things, and there was no way to link them together. On the contrary, at that time, people believed that knowledge should be disseminated and utilized with any restraints and free of charge, that knowledge should be shared by the whole society and even the whole world, and that the idea of treating knowledge as a type of property and putting a price on it was simply incomprehensible.

The adoption of the reform and opening-up policy allowed Chi-

nese policy makers to establish and implement a modern intellectual property system. However, the legislation process was lengthy and controversial. The legislation of several major IP laws took more than 10 years. But it is these laws that have enabled the unprecedented application of long-standing international IP rules in China.

By the end of October 2011, SIPO had received over 8.27 million patent applications of three kinds. In the past decade, annual applications for invention patent filed by China and other 147 countries have grown by 22% on average, 5 times the global average. From January to October this year, SIPO received 395,000 applications for invention patent, a 33% increase year-on-year, and granted 140,000 invention patents, a 23.8% increase year-on-year.

On trademark registration, in 2010, China received 1,072,000 trademark applications, up by 29.1% year on year. The number of applications designating China for territorial extension under the Madrid system was 30,889. Chinese applicants filed 1,090 applications under the Madrid System, increasing by 46% year on year.

For copyright, the legislation and the amendment processes have been accelerated. China reinforced copyright protection in the network and digital environment. A nation-wide special rectification operation against Internet infringement and piracy was also carried out, which significantly improved copyright protection in China.

The implementation of the intellectual property system has motivated the creativity of the Chinese people, and the enhanced innovation capacity in turn gives impetus to economic growth. In 2009, China's R&D investment was among the top 5 of the world, total expenditure on R&D accounted for 1.62% of the GDP, and the export of hi-tech products accounted for nearly 30% of the total export volume. The output value of cultural and copyright-related industries was over 2 trillion RMB, increasing by 15.5%.

As a matter of fact, the implementation of the intellectual property system has brought, and is bringing tangible profits to companies of different countries. They not only profit from royalty fees for patent, trademark and copyright, but also obtain enormous additional profits from branding and technology added-value by producing in China and exporting back to their home countries.

Take Apple's iPod as an example. Two U.S. researchers found that of the \$299 global retail price, 38.1%, or \$114 went to the pocket of the Apple Company for its idea, brand, designs and patents, while only 1.3% of the retail price, or \$4 went to the Chinese assembly plants. Another example is DVD player. Chinese manufacturers have to pay \$19.7 for patent royalties for each DVD player they have produced. This is 10.2 times their profits, which is only \$1.93 for each DVD player. In the year 2007 alone, the patent royalties

charged by multi-national companies from Chinese manufacturers amounted to \$2.85 billion.

Moreover, China's efforts to implement intellectual property system and promote innovation have also brought more opportunities to foreign businesses. For example, to carry out innovation activities, China needs precision analysis and testing apparatus as well as advanced manufacturing equipment and technologies, some of which can not be produced by Chinese enterprises and have to be imported from developed countries. This is a huge market demand, which can be translated into more tax revenues and jobs for these countries.

Due to differences in technology development, industrialized countries have successfully shifted the manufacturing industry at the lower end of the industrial chain to developing countries, including China to spare more space and resources for the development of knowledge-intensive industries at home, so as to take an advantageous position in the global knowledge production, and step into knowledge-based economy earlier.

The total number of patent applications filed by foreign applicants, mainly from the industrialized countries, reached 1.07 million by October 2010, of which the first 500 thousand took 20 years, while the second 500 thousand took only 5 years. If the intellectual property protection had been so inadequate, I could hardly imagine that any foreign enterprises would be willing to file their patent applications and make investment and technology transfer in China.

In 2010, European businesses invested 1,598 projects in China, and actually used \$5.57 billion, up by 6% and 8.19% respectively year-on-year. By the end of 2010, 35,459 technologies had been transferred from the EU to China with \$134.87 billion IP royalties being paid, of which UK was the 3rd largest technology provider.

European companies have already rebounded from the financial crisis, and enjoyed steady and sound development in their operations in China. In 2010, the sales revenue of European companies in China reached €300 billion, increasing by 27.3% year-on-year. According to the statistics released by the European Union Chamber of Commerce in China, in the fiscal year between 2010 and 2012, 78% of the EU enterprises surveyed reported a significant revenue increase over the previous fiscal year, 71% claimed an increase in retained profit. It seems that in the eyes of our smart entrepreneurs, China is definitely not a "pit", but a "pie".

Ladies and Gentlemen, taking this opportunity, I would also like to touch a little bit on China's utility model system and industrial design system. Utility model and industrial design offer a quick and cost-effective approach to protecting small-scale innovations in order to encourage the creation and innovation of SMEs and individuals that have limited financial strength. These two types of patents not only meet the needs of China's current

situation, but are in line with the international practice. Their extensive use in China has strongly promoted SMEs to undertake innovation activities. I will not go into details as you will hear more on this topic from our Chinese speakers representing the industries later on.

Of course, the utility model system and the industrial design system have been constantly undergoing improvement. The latest amendment to the Chinese Patent Law in 2008 raised the threshold for the patentability of utility model and industrial design, and expanded the scope of preliminary examination.

Ladies and Gentlemen, candidly speaking, as a developing country with a short history of intellectual property enforcement, China still has a long way to go in terms of intellectual property protection. For example, the intellectual property system still needs to be further improved, public awareness is still not satisfying, and intellectual property infringement and abuse remains a serious issue in some regions and sectors as well as for some products.

The government of China has never tried to parry these problems. Instead, it has made unremitting efforts to solve these problems, and has achieved much progress. Last year in October, the Chinese government initiated a special rectification operation against IPR infringement and counterfeiting, and achieved notable results. Recently, China announced the establishment of a long-term mechanism for IP protection, indicating its determination to take effective measures to address the issue of IP.

However, to aggrandize and distort the issue, either intentionally or accidentally, does not only fall short of facts, but will not do businesses and the general public any good. In April last year, the US Government Accountability Office submitted to the Congressional Committees a report named "Observations on Efforts to Quantify the Economic Effects of Counterfeit and Pirated Goods". The Report draws the conclusion, based on impersonal and neutral analysis, that "the three commonly cited estimates of U.S. industry losses due to counterfeiting have been sourced to U.S. agencies, but cannot be substantiated or traced back to an underlying data source or methodology".

Also last year, a well-known global software company claimed that, of a specific software used in China, only 200 are officially authorized. This is definitely not the case. Because as far as I know, my office, the State Intellectual Property Office bought 401 sets of that authorized software in the year 2010 alone.

Ladies and Gentlemen, the Chinese government has been attaching great importance to the protection of intellectual property. In 2006, during the visit of President Hu Jintao to the Microsoft headquarters in the United States, he pointed out that the strengthening of intellectual property protection was not only a need for China to be more open to

the outside world and to improve the investment environment, but also a need for China to enhance its innovation capacity, and to achieve sound and fast development. At the Annual Meeting of the New Summer Davos Symposium convened in Tianjin, the Chinese Premier, Mr. Wen Jiabao, underlined that China had been paying great attention to the intellectual property protection, and had incorporated intellectual property as one of the national strategies. He also pointed out that China was willing to carry out exchanges and dialogues with the rest of the world on IP, and the Chinese government would adopt the principle of equal treatment on the issues of independent innovation, government procurement and intellectual property protection.

China is accelerating its transformation of economic growth mode, and carrying out strategic adjustment to its industrial structure. The reinforcement of intellectual property creation, exploitation, protection and management is an inevitable choice for China as regards to achieving sustainable development. However, at the same time, we have to realize that the establishment and improvement of any systems takes time. Industrialized countries, with the United Kingdom as one of the initiators, have spent hundreds of years on intellectual property system. For China, it has only been 30 years since the IP system was put in place. There is still much left to be done in the years to come. But I don't think it will be hundreds of years.

Of course, intellectual property protection is a global issue and challenge, as well as a long-term concern of all countries. As a U.S. official acknowledged last year at an international conference in Beijing, intellectual property enforcement is no more a U.S. issue, or a Chinese issue, but a global one. I fully agree with him. In fact, on the frequently-criticized issue of Chinese products being seized at borders for intellectual property infringements, according to a survey conducted by the Chinese Customs in 2008, 42% of the infringing goods seized were orders from overseas buyers, mainly from developed countries. Therefore, a favorable global environment for intellectual property protection calls for countries to cooperate in a proactive and constructive manner, instead of blaming and complaining each other. The Chinese government and judicial authorities will continue the efforts in cooperating with other countries and communicating with industries so as to provide quality and efficient services and protection to innovators and right holders around the world.

Before I end my speech, I would like to wish the Symposium a complete success.

Thank you for your attention.

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