

CURRENT STATE OF CHINA'S PARTICIPATION IN THE WORLD INTELLECTUAL PROPERTY ORGANIZATION

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This article focuses on the main forms of the China's participation in the WIPO from the perspective of developing the global intellectual property law. The authors examine the difficulties China faces in improving its national intellectual property system. The study finds trends of the China's growing activity in WIPO, as well as its growing role in promoting international intellectual property order.

Keywords: the World Intellectual Property Organization; intellectual property; international protection of intellectual property; global intellectual property governance system.

СОВРЕМЕННОЕ СОСТОЯНИЕ УЧАСТИЯ КИТАЯ ВО ВСЕМИРНОЙ ОРГАНИЗАЦИИ ИНТЕЛЛЕКТУАЛЬНОЙ СОБСТВЕННОСТИ

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В статье рассматриваются основные формы участия Китая в ВОИС с точки зрения развития глобального права интеллектуальной собственности. Авторы рассматривают трудности, с которыми сталкивается Китай в деле совершенствования национальной системы интеллектуальной собственности. В исследовании выявлены тенденции повышения активности Китая в ВОИС, а также усиления его роли в продвижении международного правопорядка интеллектуальной собственности.

Ключевые слова: Всемирная организация интеллектуальной собственности; интеллектуальная собственность; международная охрана интеллектуальной собственности; глобальная система управления интеллектуальной собственностью.

The globally recognized World Intellectual Property Organization (WIPO) commits to boosting international cooperation in protecting and promoting intellectual property rights. With the rise of globalization and the quickening of scientific and technological progress, intellectual property rights become essential in empowering nations to enhance their competitive advantage and spur economic expansion [1, p. 56—67]. As a leading global economy, China has recently shown dynamic engagement in the WIPO's operations, enhancing its importance in worldwide intellectual property markets [2, p. 198].

Founded in 1967, the WIPO aimed to foster creativity and innovation through creating an internationally balanced and efficient system of intellectual property. As the foremost global entity in intellectual property matters, the WIPO is tasked with establishing worldwide regulations, offering services, and fostering worldwide intellectual property collaboration. Being the globe's second-largest economy and a hub for innovation, China's involvement in global intellectual property collaboration is growing.

Lately, China has been actively engaged in the WIPO's efforts, showcasing its optimistic perspective and expanding influence in global intellectual property matters. Key factors driving China's involvement in the WIPO include:

Firstly, as China's economy grows swiftly and its industrial framework evolves and advances, the significance of intellectual property rights in China has escalated.

Enhanced protection of intellectual property will aid in fostering technological innovation, bolstering enterprise competitiveness, and advancing China's transition from a manufacturing force to a leader in innovation. Moreover, the establishment of international intellectual property norms and criteria holds immense importance for Chinese companies to engage internationally and enter global contests.

The WIPO, as the creator and orchestrator of global intellectual property regulations, serves as a crucial stage for China to engage in the management of intellectual properties internationally, secure its rights and interests, and foster the creation of rules.

Ultimately, as the process of globalization hastens, the tendency to internationalize intellectual property disagreements is increasingly apparent. It's essential for China to engage proactively in the WIPO's operations to address the growing global complexities in intellectual property matters and preserve its economic benefits and creative power.

In recent years, China's active participation and contributions in the WIPO sector have progressively grown, showing clear positive advancements in multiple dimensions. It is essential to highlight that China is gradually increasing its influence and participation in the administrative framework of the WIPO [3, p. 45–57]. The 2017 election of China as the Director General of the WIPO distinguished it as the first director general from a developing country, underscoring its growing influence and prominence in the worldwide intellectual property arena [4, p. 21]. In the WIPO structure, China holds various crucial positions, including Vice President of the WIPO General Assembly and Chairman of the Special Committee, greatly aiding in the progression and triumph of the global intellectual property system [5, p. 105–106].

China plays actively a role in various worldwide agreements and treaties of the WIPO, committed to advancing the creation of an international legal realm for intellectual property rights. In chronological order of accession, China has to date become a party to the following international treaties: The Paris Convention for the Protection of Industrial Property (19.03.1985), The Madrid Agreement Concerning the International Registration of Marks

(04.07.1989), The Washington Treaty on Intellectual Property in Respect of Integrated Circuits (01.05.1990), The Berne Convention for the Protection of Literary and Artistic Works (15.10.1992), The Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (05.01.1993), The Patent Cooperation Treaty (PCT) (01.10.1993), The Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (05.05.1994), The Trademark Law Treaty (TLT) (28.10.1994), The Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure (01.04.1995), The Locarno Agreement Establishing an International Classification for Industrial Designs (17.06.1996), The Strasbourg Agreement Concerning the International Patent Classification (17.06.1996), The Singapore Treaty on the Law of Trademarks (29.01.2007), The WIPO Copyright Treaty (09.03.2007), The WIPO Performances and Phonograms Treaty (09.03.2007), The Protocol relating to the Madrid Agreement concerning the International Registration of Marks (04.05.2000), The Beijing Treaty on Audiovisual Performances (26.06.2012) [6].

The Hague Agreement Concerning the International Registration of Industrial Designs, which came into force in China on May 5, 2022, and The Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled are of great significance to China's economic and social development, and are also an important result of China's international cooperation on intellectual property rights. They mark a new step forward for China in its deep involvement in global intellectual property governance[6].

China's participation contributes significantly to both the international advancement and modernization of its domestic intellectual property framework and in refining the global intellectual property protection system. Marcelo di Pietro, Director of the World Intellectual Property Organization's Global Award Program, revealed that China is the largest source of applicants for the Global Award in 2023.

By funding and supporting the WIPO's international property capacity construction projects in developing countries and least developed countries, China has contributed to improving the and innovation environment of these countries.

For example, China has provided financial support to the WIPO's South to South Cooperation Fund to help developing and least developed countries strengthen infrastructure and capacity building of intellectual property. It has also provided transfer of Appropriate Technologies Program for Least Developed Countries. The program supports the identification, management, administrative, and utilization of technology and scientific information in least developed countries, with a focus on patent information, aiming to establish institutional and national capacities for promoting development through the use of appropriate technologies. For instance, in the solar coffee drying technology project in Ethiopia, the aquaculture technology project, and the solar water

distillation technology project in Rwanda [7]. Through these projects, China not only fulfills its international responsibilities as an important member of the WIPO, but also expands its influence in the global intellectual property field.

Even with China's escalating involvement and input in the WIPO, it confronts numerous obstacles. Initially, there's a necessity to enhance China's system protecting intellectual property. Despite China's significant advancements in legal frameworks, policing, and global collaboration, there remains a gap in the efficient of intellectual property violations and the sufficient enforcement of the rights and interests of rights owners.

China continues to grapple with issues like fake products, misuse of patents and trademark, all of which have somewhat tarnished its reputation and trustworthiness in the global intellectual property arena.

China's system of governance differs greatly from that of liberal Western democracies [8, p. 910]. In particular, when discussing transnational pharmaceutical patents and public health issues, China should protect and promote its own economic and technological innovation capacity on the basis of protecting the general interests of the international community.

In the WIPO process, China still faces skepticism from domestic and foreign media. In recent years, some advanced countries have questioned China's Intellectual Property Rights protection status, believing that China's Intellectual Property Rights protection performance in some aspects is poor. This pressure of public opinion is likely to have some adverse effects on China's freedom of expression and policy influence in the WIPO process. Especially the public-private partnership model, its popularization and application is expected to further promote the innovation and development of plant protection technology [9, p. 69]. Therefore, the People's Republic of China should further enhance the international community's trust and sense of belonging in our intellectual property structure by strengthening its domestic intellectual property protection capabilities.

Significant disparities exist within the WIPO between developed and developing nations regarding aspects like intellectual property rights, technology exchange, and public health.

Particularly in dialogues about international drug patents and public health, it's crucial for China to protect its economic interests and tech innovation power, all the while upholding the broader interests of the global community.

It is noteworthy that the State Intellectual Property Office of China plays an important role and exerts a driving force in organizing and implementing the national intellectual property strategy and promoting China's participation in international cooperation on intellectual property. Participating in global governance of intellectual property rights, participating in the General Assembly and various specialized committees of the WIPO and negotiating and consulting with other member states, the State Intellectual Property Office of China has been pushing for the improvement of international intellectual property rules and expanding international intellectual property cooperation.

For example, it has established stable cooperative relations with more than 80 countries and regions around the world, and has implemented more than 200 intellectual property cooperation agreements. In May this year, it successfully pushed for the conclusion of the Treaty on Intellectual Property, Genetic Resources and Traditional Knowledge of the World Intellectual Property Organization, marking the end of its 25-year negotiation history [10].

China plans to further strengthen its cooperation with the WIPO to play a more active role in the global intellectual property governance system. Deepening cooperation is not only a core component of China's intellectual property strategy, but also the only choice to enhance competitiveness of the country in the era of accelerating global integration and technological progress. In order to promote the continuous improvement of the intellectual property system at home and abroad, China plans to approach from multiple angles.

China's intellectual property system has been continuously improved, including the revision of the Patent Law, Trademark Law, Copyright Law and the improvement of patent examination policy standards in new areas. China has become an important global innovation center, and the intellectual property system provides important institutional guarantees for the world's innovation and knowledge dissemination [11, p. 58]. China is planning to further strengthen and improve its domestic intellectual property legal system. Recently, China has made remarkable progress in the enactment of laws on intellectual property rights, such as the amendments to The Patent Law, The Copyright Law and The Trademark Law, which have significantly strengthened the legal penalties for intellectual property infringement. For instance, in the backdrop of strengthening intellectual property rights protection, punitive damages ranging from one to five times have been stipulated for acts of deliberate patent infringement with severe circumstances. Meanwhile, the legal compensation for patent infringement has been increased from "between 10,000 yuan and 1 million yuan" to "between 30,000 yuan and 5 million yuan" [12, p. 62].

Meanwhile, supportive innovation by enterprises both at home and abroad, actively promotes the global service system of the WIPO, and steadily increases application volume in items such as Patent Cooperation Treaty international patents, international registration of industrial designs under the Hague System, and international trademark registration under the Madrid System.

Overall, during the past over 50 years, China has actively engaged in various works of the WIPO, consistently and resolutely protected the multilateral international intellectual property regime, expanded the layout of international cooperation, and constantly refined the global intellectual property partnership network, highlighting China's profound strength and responsibility as a major global economic and innovative country. Despite many difficulties and challenges, China's maturing intellectual property system and deepening cooperation with the international community are expected to play a more central role in global intellectual property management and contribute to the common prosperity of the global economy and innovation.

REFERENCES

1. Ganea, P. Intellectual Property Law in China / P. Ganea, A. Pattloch, Ch. Heath. — Kluwer Law International B.V., 2005. — 388 p.
2. Lai, E. L. C. The North's Intellectual Property Rights Standard for the South? / E. L. C. Lai, L. D. Qiu // *Journal of International Economics*. — 2003. — Vol. 59, N 1. — P. 183—209.
3. Maskus, K. E. Intellectual Property Rights in the Global Economy / K. E. Maskus. — Washington: Peterson Institute for International Economics, 2000. — 266 p.
4. Yu, P. K. The Second Coming of Intellectual Property Rights in China / P. K. Yu // *Occasional Papers in Intellectual Property from Benjamin N. Cardozo School of Law*. — 2002. — N 11. — 68 p.
5. 冯晓青。国际合作背景下我国知识产权保护成就与展望 / 冯晓青 = Feng Xiaoqing. Achievements and Prospects of Intellectual Property Protection in China in the Context of International Cooperation / Feng Xiaoqing // *Chinese Rule of Law*. — 2024. — № 2. — P. 103—107. — URL: <https://www.cnki.net/KCMS/detail/detail.aspx?dbcode=CJFD&dbn=ame=CJFDLAST2024&filename=DDSF202402021&uniplatform=OVERSEA&v=omZcIS96m-oLA7pwaqDQxxPo7pMoZ6gQeJtulEwcIBjzBzoss17EoUA7Y8ZxKoyD> (date of access: 13.09.2024) (In Chinese).
6. International treaties on intellectual property // China Intellectual Property Protection Network. — URL: <http://ipr.mofcom.gov.cn/zhuanli/law/conventions/right.html> (date of access: 13.09.2024). (In Chinese).
7. Report on the contribution of the WIPO to the implementation of the Sustainable Development Goals and their related specific objectives CDIP. — URL: https://www.wipo.int/edocs/mdocs/mdocs/zh/cdip_25/cdip_25_6.pdf (date of access: 12.09.2024). (In Chinese).
8. Brander, J. A. China and Intellectual Property Rights: A Challenge to the Rule of Law / J. A. Brander, V. Cui, I. Vertinsky // *Journal of International Business Studies*. — 2017. — Vol. 48, N 7. — P. 908—921.
9. Liu Mingna. Intellectual Property Protection in the Transformation of Plant Protection Research Achievements: Present Situation, Challenges and Prospects / Liu Mingna // *Education, Science, Technology, Innovation and Life*. — 2023. — Vol 2, N 6. — P. 66—75. — URL: <https://dx.doi.org/10.23977/law.2023.020609>.
10. The Regular Press Conference of the National Intellectual Property Administration in September 2024 // China National Intellectual Property Administration. — URL: <https://www.cnipa.gov.cn/col/col3431/index.html> (date of access: 12.09.2024). (In Chinese).
11. Athreye, S. China's Intellectual Property Regime / S. Athreye // *Journal of International Business Policy*. — 2020. — Vol. 3, N 1. — P. 58—59.
12. 魏昌东。数字经济时代知识产权刑法的供求与回应 / 魏昌东 = Wei Changdong. The Supply, Demand and Response of Intellectual Property Criminal Law in the Digital Economy Era / Wei Changdong // *Journal of National Prosecutors College*. — 2024. — Vol. 32, N 3. — P. 49—64. — URL: https://www.cnki.net/KCMS/detail/detail.aspx?dbcode=CJFD&dbname=CJFDLAST2024&filename=ZJGX202403004&uniplatform=OVERSEA&v=bCGedSnYSszVYsvF4wA_3Uk1gC1tuiSkFQ2VmrEENDbW_-hQLOXVAC4Hc7wjWIb- (In Chinese).