

**HAI
WEN**
海问律师事务所

INTRODUCTION TO IP Practice in China|2026

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About Haiwen

Founded in **1992**
as one of **the earliest private law firms** in the PRC

Full Service

We share knowledge and resources across practices and offices and bring the collective expertise of the entire Firm to help our clients navigate uncertainty and seize new opportunities.

100+ partners
300+ professionals



About Haiwen

5 Offices in China

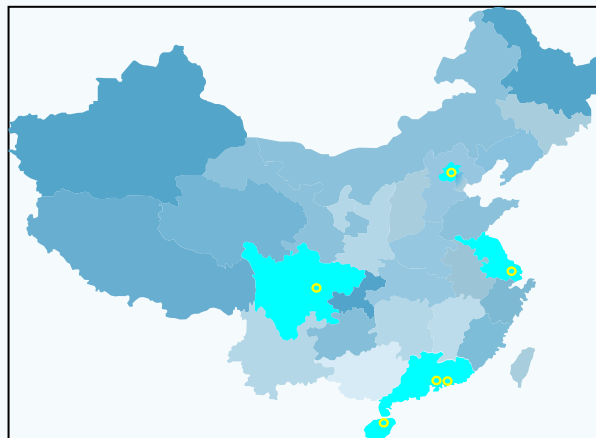
- Beijing
- Shanghai
- Shenzhen
- Chengdu
- Hong Kong

- Germany
- Switzerland
- UK
- France

Global Perspective

- Germany
- Switzerland
- UK
- France
- Netherland
- Belgium
- US
- Canada
- Australia
- Mexico
- Singapore
- Thailand

- Netherland
- Belgium



- US
- Canada
- Mexico

- Singapore
- Thailand
- Australia

Why Choose Haiwen

Innovative Spirit

We are at the forefront of many precedent-setting matters, and provide innovative and business savvy solutions for our clients. Many of the transactions that we have worked on are the first-of-its-kind in China, on which we assisted the clients in devising and implementing innovative structures that later became the precedents for the market to follow.

Fully Integrated Team

We are a fully integrated partnership, providing seamless services across practice areas and offices. Our collegial culture and integrated system ensure that all our clients have access to the talents and resources of the entire firm with no internal barriers.

Combination of Local Knowledge and Global Perspective

Most of our partners received education from both China and overseas, and over 40% of them have working experience with leading international law firms. Our lawyers are capable of offering unique local insights and global perspectives to our clients. Handling cross-border transactions involving multiple cultures and languages has been a distinctive strength of Haiwen since our inception.

Client-centric and Cost-effective Approach

With a dedication to quality, our partners stay on top of all critical issues throughout the representation. Our lawyers at all levels respond promptly to client requests, and have the ability to balance effectiveness and attention to detail.

Honours and Awards



Capital Markets
Corporate/M&A
International & Cross-Border
Transactions
Private Equity
Investment Funds
TMT



M&A
Private Equity
Capital Markets: Debt
Capital Markets: Equity



Capital Markets
Corporate and M&A
Private Equity
Tax
TMT
Investment Funds
Life Sciences and Healthcare
Regulatory/Compliance
Intellectual Property (contentious)
Intellectual Property (non-contentious)
Private Wealth



Capital Markets
M&A
PE & VC
IP
Dispute Resolution
Fintech & Blockchain
Healthcare, Pharma & Life Sciences
Insurance & Reinsurance
Consumer & Retail
Technology & Telecoms



Capital Markets
M&A Rankings
China IP Rankings



Capital Markets
Corporate and M&A
Private Equity

Introduction to Haiwen IP Practice

- Haiwen boasts a **comprehensive IP practice**, providing expert advice on a wide range of matters, including patents, trademarks, copyrights, trade secrets, and industrial designs. Our dedicated IP team delivers end-to-end services, encompassing prosecution, enforcement, dispute resolution, management of IP assets, as well as technology licensing and monetization strategies tailored to our clients' needs.



- Many of our attorneys are educated and licensed to practice law in both **China and overseas**, with prior experience at top international law firms or IP departments of Fortune 500 companies. We have a strong track record of **representing multinational corporations** and are skilled in managing cross-border transactions and litigation across **diverse judicial systems, cultures, and languages**.

- All of our patent attorneys have dual expertise in law and science/technology, with some having served as examiners at the National IP Office or as judges in courts. This allows us to offer **profound insights into both the legal and technical dimensions** of the matters we handle.

- Haiwen's IP lawyers have successfully handled numerous high-profile intellectual property cases, earning client praise for their professionalism and dedication. Several of our cases have been recognized as **exemplary cases by the Supreme Court of China**. We have also been awarded "China IP Rankings (Patents)" by ALB in 2020-2021 and listed in "IP: PRC Firms (contentious and non-contentious)" by Legal 500 in 2022.

Introduction to Haiwen IP Practice

Patent
Prosecution/Enforcement

Due Diligence

Infringement Litigation
Before Courts

Reexamination
Invalidation
Opposition

FTO

Administrative
Enforcement
Before Local IP Office

Trademark
Prosecution/Enforcement

Prior Art
Search

Trade Secret
Protection

Administrative Appeal

Competitor
Surveillance

Technology Licensing
and Negotiation

Comprehensive, One-Stop, and High-Quality Legal Services

IP Partner Profile



JIA, Yuanyuan (Yolanda)

Partner, Beijing

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- Mobile: (+86) 189 1096 2353
- WeChat: 18910962353

Admissions

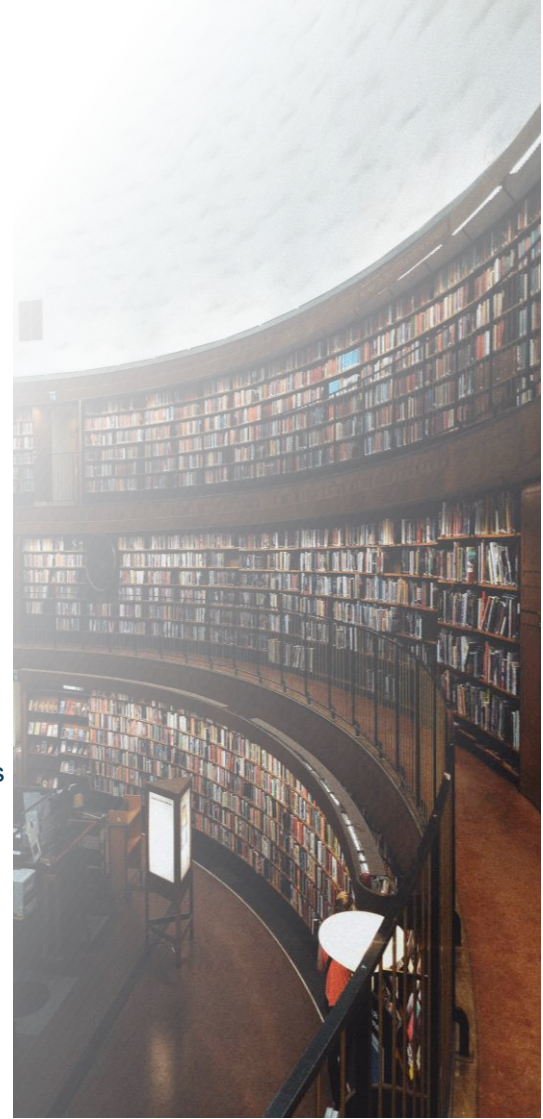
- State Bar of California in U.S.
- National Bar of P.R. China
- Patent Agent with the Chinese Patent Office

Education

- Ph.D. in physics from Univ of North Carolina-Chapel Hill in U.S.
- Postdoc in Medical School of Univ of Pittsburgh

Recognitions

- 2026, Chambers Greater China Region Guide, Leading Lawyer: IP Contentious
- 2026, China Business Law, The A-List: Growth Drivers
- 2020-2026, The Legal 500 Asia Pacific, Next Generation Partners
- 2025, LegalOne, Stellar Accolade: Intellectual Property
- 2024, IAM, Strategy 300 Global Leaders
- 2022, ALB China, Top 15 IP Lawyers
- 2021, The International Financial Law Review (IFLR), Rising Star Asia Pacific
- 2021, Women in Business Law Asia Awards, Rising Star (IP)



Our Strengths

■ Experience in Similar Cases

We have extensive experience in handling patent invalidation and infringement cases across fields such as electronic engineering, telecommunications, foods, chemical engineering, medical device, and computer hardware/software. Several of our cases have been recognized as exemplary by the Supreme Court or IP courts in China.

■ Attorneys with Dual Technical and Legal Expertise

Our team members possess both technical and legal backgrounds. This dual expertise enables us to thoroughly understand the patents in question and effectively apply relevant laws, including patent law and civil procedural law.

■ Same Team, Full Service

The same team of attorneys, combining technical and legal expertise, will manage all aspects of your case. From potential invalidation proceedings to infringement litigation, we ensure a consistent and strategic approach. We oversee every step, from initiating cases and drafting pleadings to representing clients in oral hearings, while providing timely updates on major developments.

■ Combining Local Knowledge with a Global Perspective

Many of our attorneys are educated and licensed to practice law in both China and overseas, with prior experience at leading international law firms or IP departments of Fortune 500 companies. We are adept at representing multinational corporations and handling cross-border litigation involving multiple judicial systems, cultures, and languages.

■ Appraisal Center and Technical Experts

We have extensive experience collaborating with appraisal centers and technical experts. We maintain long-term relationships with professors from top Chinese universities to establish testing environments and design testing schemes for evaluating the electronic functionality and performance of accused products.

■ Visualization

We are experienced in using visualization tools, if needed, to explain the technology to the review panel.

- ◆ Animations used in a patent invalidation to demonstrate prior art

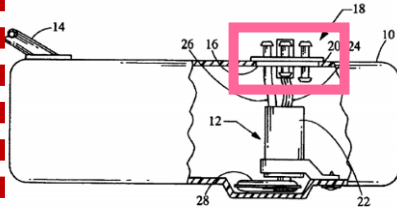
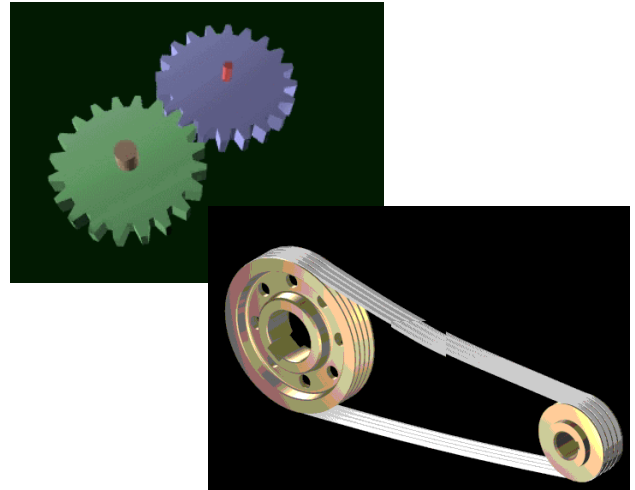


Fig. 1



- ◆ Animations used in a patent infringement to demonstrate accused product

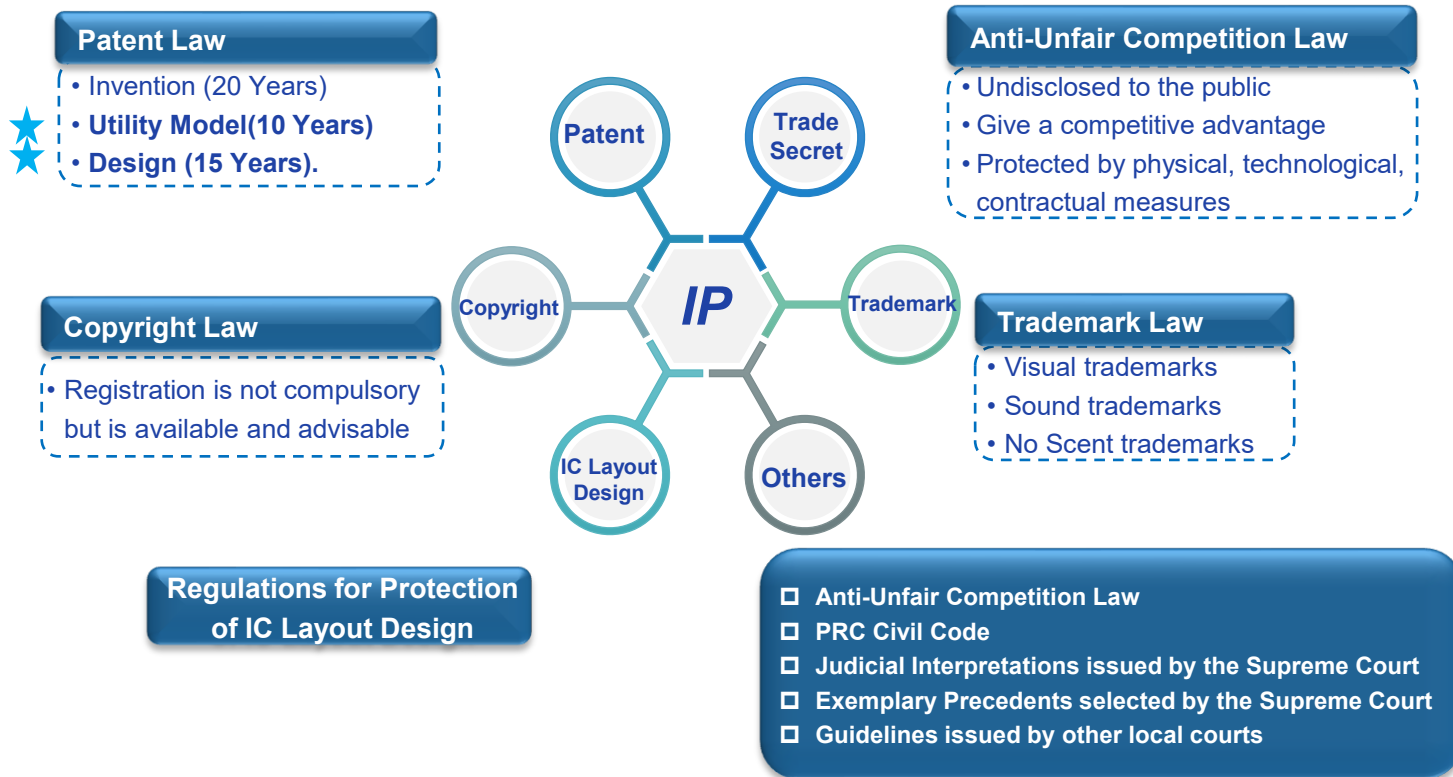


Our Clients



IP Legal System in China

In General, Only Registered IPR is Protected



IP Legal System in China

China is one of the members of the WIPO and a party to international agreements on the protection of IPR, like European Union (“EU”) Member States. Therefore, the scope of IPR protection—including the types of rights, duration of protection, geographical coverage, and basic protection requirements—is generally comparable between China and the EU.

China has developed a comprehensive system of IP protection including patents, trademarks, trade secrets, copyrights, IC layout design, and others.

Patents

The *Patent Law* in China provides three different types of patents: invention patents (20 years), utility model patents (10 years), and design patents (15 years).

Unlike the EU, where designs can be protected under both unregistered Community designs and registered designs, China requires designs to be registered as design patents to receive legal protection.

Copyrights

According to the *Copyright Law* in China, the protection of copyright starts automatically at the point of creation in China. Registration is not mandatory but is recommended for evidentiary purposes.

Trademarks

According to the *Trademark Law* in China, only trademarks that are made up of words, graphics, letters, numbers, 3D marks, color combinations, and sound or any combination thereof are recognized in China. China does not recognize scent trademarks.

Trade Secrets

China does not have a standalone trade secret law. Instead, trade secret misappropriation is addressed under the Anti-Unfair Competition Law.

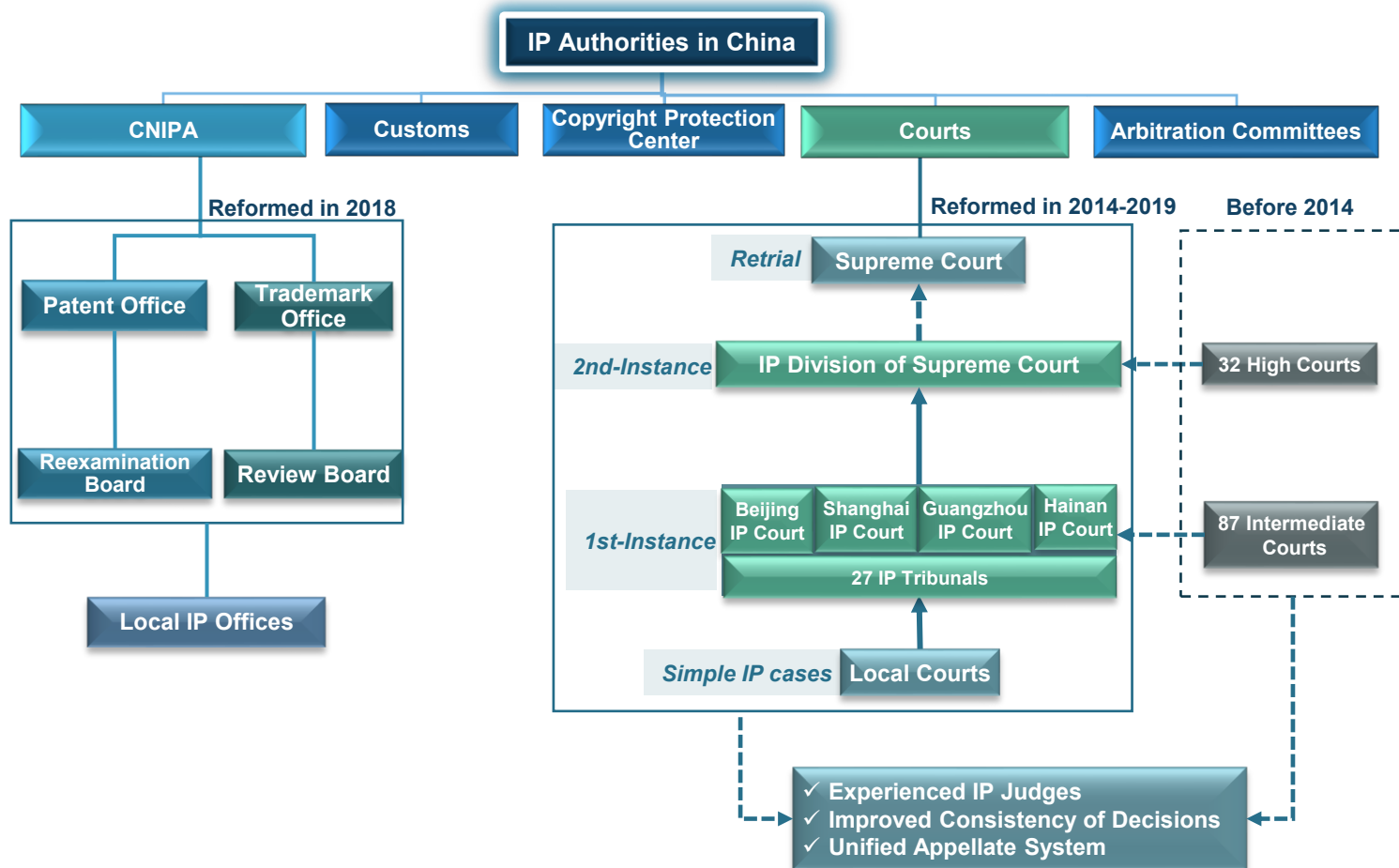
According to the *Anti-Unfair Competition Law*, both technical and business information can be protected as trade secrets if (i) it is not publicly known, (ii) it has commercial value and provides a competitive advantage, and (iii) it is subject to reasonable protective measures, such as physical, technological, or contractual safeguards.

Others

IC Layout Design is protected by Regulations for Protection of IC Layout Design.

Also, the PRC Civil Code, Judicial Interpretations issued by the Supreme Court, Exemplary Precedents issued by the Supreme Court, and Guidelines issued by other local courts all contribute to the robust IP protection landscape in China.

IP Protection System in China



IP Protection System in China

In China, the IP landscape is governed by a constellation of **five key authorities**, each with distinct yet complementary responsibilities. These entities include **China National Intellectual Property Administration (CNIPA)**, **Courts**, **the Copyright Protection Center**, **Customs**, and **Arbitration Committees**. Here's an overview of their roles:

III CNIPA

Following a significant restructuring in 2018, CNIPA has expanded its scope from managing patents to overseeing both **patents and trademarks**:

- **Patents:** 1) **The Patent Office** handles patent prosecution, administrative enforcement, patent compulsory licensing, and the recording of patent licensing agreements; 2) **The Patent Reexamination Board of the Patent Office** handles patent invalidation, patent application reexamination.
- **Trademarks:** 1) The Trademark Office manages trademark registration, renewal, modification, assignment, the licensing of registered trademarks, and administrative enforcement; 2) The Trademark Review Board of the Trademark Office handles trademark rejection reexamination, opposition, invalidation, and cancellation.

III Others

- **Copyright Protection Center** handles copyright registration;
- **Customs** play a critical role in safeguarding IP rights at the import and export stages. It has the authority to seize products suspected of infringing IP rights.
- **Arbitration Committees** deal with disputes involving IP contracts with arbitration clauses.

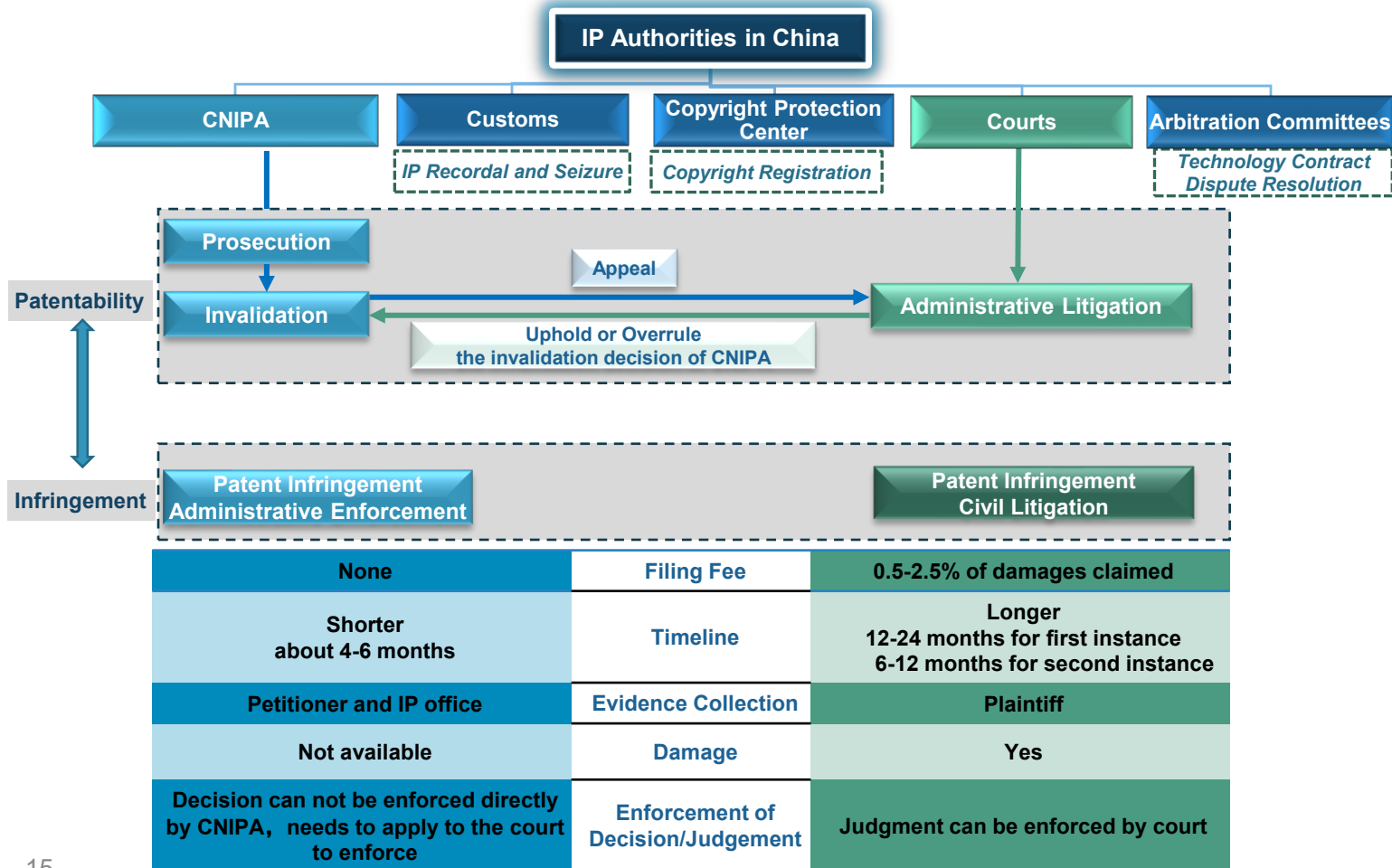
III Courts

The courts in China adjudicate patent infringement lawsuits, IP ownership disputes, trade secret infringement cases, and other IP-related matters. To enhance the handling of IP cases, China has implemented a tiered court system:

- **Local Courts:** Handle first-instance cases involving straightforward IP matters, such as trademark and copyright infringement litigation.
- **Specialized IP Courts and Tribunals:** 4 specialized IP Courts and 27 IP Tribunals collectively handle first-instance cases involving complex IP matters, such as invention patents, utility model patents, trade secrets, and software copyright infringement litigation.
- **The IP Division of the Supreme Court** collectively hears 2nd-Instance cases appealed from 4 IP Courts and 27 IP Tribunals. Before 2014, the 2nd-instance cases were heard by 32 *High Courts* in China.
- **The Supreme Court** hears retrial cases.

The establishment of a centralized jurisdiction within the court system has been instrumental in fostering a group of **experienced IP judges**, enhancing the **consistency of decisions**, and establishing a **unified appellate framework**, all of which contribute significantly to the maturation of China's IP legal environment.

IP Protection System in China



IP Protection System in China

In China, the processes of patent invalidation and patent enforcement are conducted through a dual-track system with separate procedures.

III Patent Invalidation - CNIPA

The CNIPA has jurisdiction over patent invalidation proceedings. If a party disagrees with CNIPA's decision, they may appeal to the Beijing Intellectual Property Court and subsequently to the Intellectual Property Tribunal of the Supreme Court. **While the Court cannot uphold or overturn CNIPA's decisions, it is CNIPA that ultimately determines the validity of a patent.**

III Patent Infringement – CNIPA vs. Courts

Most patentees in China opt for civil litigation to enforce their patents. However, in recent years, **administrative enforcement actions through CNIPA** have also become a viable option. Although the procedures for civil litigation and administrative enforcement are largely similar, there are some **key differences**.

■ Remedies Available:

In administrative enforcement actions, **only injunctions are available; damages cannot be awarded**. Despite this limitation, initiating administrative actions to confirm infringement quickly can strengthen subsequent civil litigation efforts to pursue substantial damages.

■ Evidence Collection:

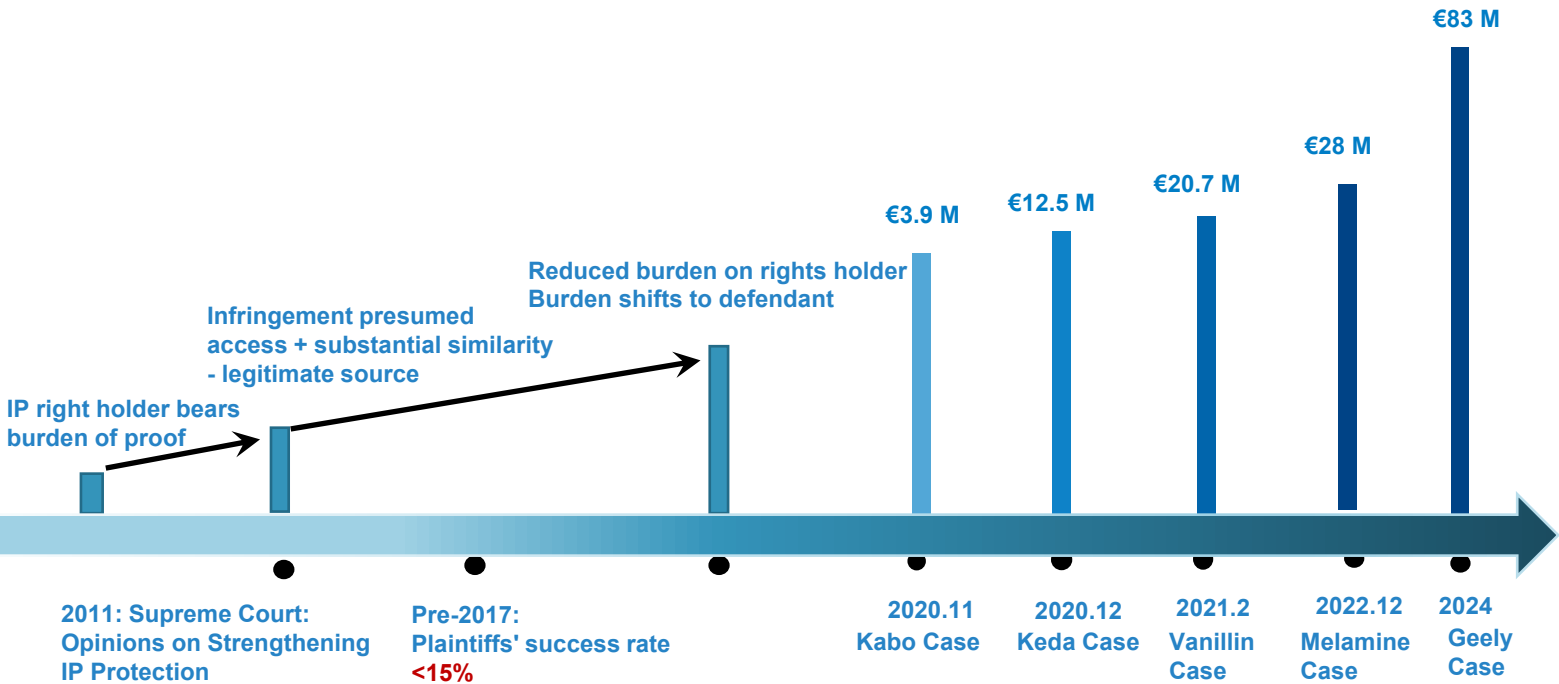
In administrative enforcement actions, **the burden of proof on the patentee is significantly reduced**. If the patentee has leads on infringement but struggles to gather evidence, they can request CNIPA to investigate and collect the necessary proof.

■ Timeline and Speed:

Civil litigation typically takes **one to two years** for the first instance and an additional **six months to a year** for the second instance to obtain a final and enforceable injunction. In contrast, administrative enforcement actions can issue injunctions **within four to six months**, but these injunctions must **undergo judicial review before taking effect**.

Despite these differences, administrative injunctions remain valuable due to the reduced burden of proof, the availability of injunctions, and the swift process. This is particularly advantageous when infringing products are sold online and can be swiftly removed following an administrative decision.

Judicial Protection of Trade Secrets in China



2019: Amendments to Anti-Unfair Competition Law

2021: Jiangsu High Court: Trade Secret Adjudication Guidelines (Revised)

2021: Beijing IP Court: Evidence Reference for Trade Secrets

Trade Secret

In trade secret infringement cases, plaintiffs often face difficulties in completing their burden of proof. The protection of trade secrets in China has made significant progress in recent years. From the initial model of "**contact + substantial similarity - legitimate source**" to the current **shift of the burden of proof** to the defendant, and **the increasing damages** awarded year by year, these changes reflect the gradual **strengthening of trade secret protection in China**.

Shift of Burden of Proof

In cases of trade secret infringement, the plaintiff's burden of proof has historically posed significant challenges in judicial proceedings. The rights holder is required to demonstrate that the alleged infringer had access to the trade secret and that the information in question bears substantial similarity to the protected secret. Additionally, the rights holder must counter the defendant's claim of having obtained the information through legitimate means. This traditional framework, often referred to as the "**access + substantial similarity - legitimate source**" model, frequently places a heavy burden on the rights holder, complicating the process of proving infringement and securing a favorable judgment.

The 2019 amendments to the Anti-Unfair Competition Law introduced significant changes to this dynamic. According to the revised law, the trade secret holder shall initially provide **prima facie evidence** that reasonable confidentiality measures were taken to protect the trade secret and that there is a reasonable basis to believe the secret has been infringed.

Once this preliminary evidence is presented, **the burden shifts to the alleged infringer** to prove either that the information in question does not qualify as a trade secret under the legal definition or that the technology or information used by the defendant is distinct from the plaintiff's or was obtained through legitimate means. This shift in the burden of proof has substantially alleviated the plaintiff's evidentiary challenges and enhanced the likelihood of a successful outcome in trade secret litigation.

Increasing Damages

In recent years, the amount of damages awarded in trade secret cases in China has seen a significant increase. In the 2022 "Kapo" case, damages were awarded of 3.9 million euros. By 2021, this figure had surged to 20.7 million euros in the "Vanillin" case. In 2022, the "Melamine" case reached 28 million euros, and in 2024, the "Geely" case saw a dramatic rise to 83 million euros, **setting a new record for the highest compensation in trade secret cases**.

Remedy - Injunction

Permanent Injunction

- Almost default, except for “national interests and public interests”

Injunction Grant Rate

Courts	No. cases	Requests	Granted
Beijing	57	93%	89%
Shanghai	39	100%	100%
Guangzhou	49	100%	90%

Preliminary Injunction

- More often in **copyright/trademark** cases, very rare in **patent/trade secret** cases

Factors Considered

- Likelihood of success
- Irreparable harm if not granted
 - *Damage to goodwill, privacy, right to publish*
 - *Disclosing trade secrets*
 - *Losing control on spreading infringement*
 - *Significant market share loss*
- Comparing the harm to petitioner and respondent
- Public interest

Remedy - Injunction

In IP Infringement cases, injunctive relief plays a crucial role in protecting the rights of the IP owner and preventing further harm. In China, injunctions include permanent injunctions and preliminary injunctions (pre-suit and in-suit).

Permanent Injunction

In most IP infringement cases in China, courts **typically grant permanent injunctions upon the plaintiff's request** and a determination of infringement, except in cases involving national or public interests. The comparative ease in obtaining an injunction in China provides a strong reason for IP owners to consider litigation within China.

- Likelihood of success on the merits;
- Irreparable harm if not granted, such as damage to goodwill, privacy, right of publication; disclosing trade secrets; losing control on spreading infringement; and significant market share loss;
- Comparing the harm to petitioner and respondent;
- Public interests.

Preliminary Injunction

In certain situations, a preliminary injunction can be valuable in stopping the infringement and preventing further damage to the plaintiff where a permanent injunction may not provide immediate relief. When determining whether to grant a preliminary injunction, the court **considers the following factors**:



However, preliminary injunctions are more often granted in **copyright/trademark cases** but are very rare in **patent cases or trade secret cases**, since courts may be reluctant to grant injunctions due to the complexity of patent cases.

Remedy – Damage

Four Approaches to Calculate Damages

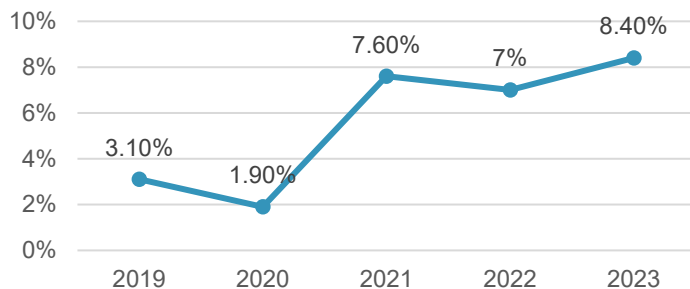
- ① Actual losses of patentee
- ② Infringer's profits
- ③ Reasonable multiples of licensing fees
- ④ Statutory damages under the court's discretion

Plus reasonable expenses (attorney fees, court costs, etc.)

Fourth Amendment to Patent Law in 2020

- **Statutory damages** up to 5 million RMB (0.7 million EUR)
- **Punitive Damages** reaching up to **5 times** the calculated damages, for willful patent infringement in case of serious circumstances

**Patent Infringement Cases
with Damages exceeding RMB 5 million**



Source: CNIPA

(2023) SPC Zhi Min Zhong No.1590

**Plaintiff
Geely**



**Defendant
WELTMEISTER**



VS.

Damages Awarded: 643 million RMB (83 million EUR)

Remedy – Damage

In recent years, China has implemented several legislative changes aimed at increasing the amount of damage awards in intellectual property cases.

Four Approaches to Calculate Damages

In China, damages are calculated using the following four approaches:

- Actual losses of the patentee
- Infringer's profits
- Reasonable multiples of licensing fees
- Statutory damages under the court's discretion

In addition to damages, the court may also award the defendant reasonable expenses, separately or combined with the damages.

Increase of Maximum Statutory Damages

The 2020 amendment to the *Patent Law* increased the maximum statutory damages from 1 million RMB (0.14 million EUR) to **5 million RMB (0.7 million EUR)**.

Introduction of Punitive Damages

The 2020 amendment also introduced “**punitive damages**,” which can reach up to **five times** the calculated damages for willful patent infringement in cases of **serious circumstances**, such as:

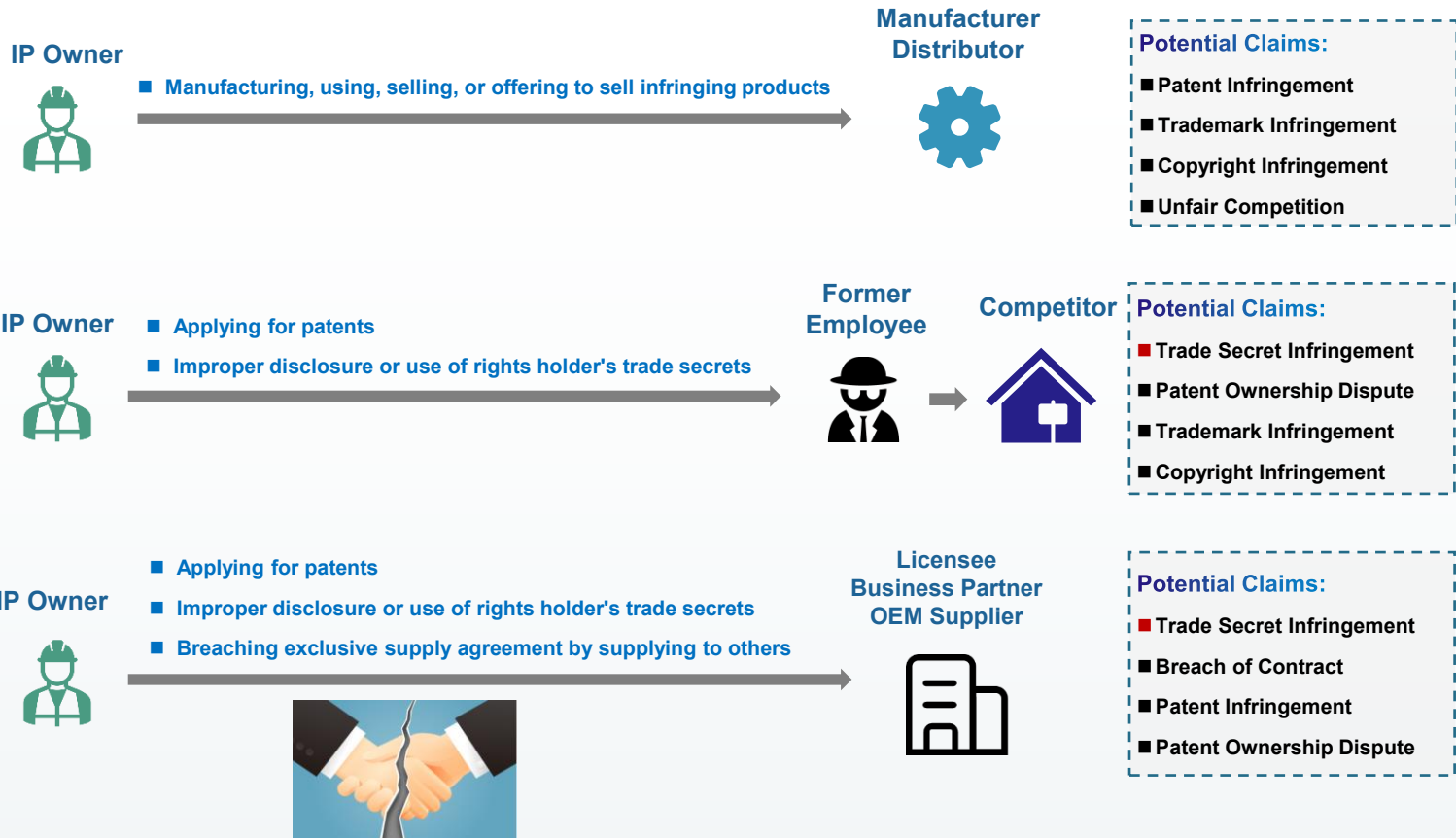
- **Repeated infringement** after being previously found guilty by a court or government agency.
- Engaging in **infringement as a profession**.
- Committing **further offenses** by forging, destroying, or concealing evidence of infringement.
- **Disobeying court preservation rulings**.
- **Profiting significantly** from illegal activities or causing substantial losses to the rightful patent holder.

Uptrend of Damage Award

This proactive stance is evident in court outcomes. According to CNIPA, the number of cases involving damages exceeding 5 million RMB (0.7 million EUR) has shown **a gradual increase** from 2019 to 2023, rising from 3.1% in 2019 to 8.4% in 2023.

In a recent high-profile patent infringement case between Geely and WELTMEISTER, the Supreme Court granted a damage award of **643 million RMB (equivalent to 83 million EUR)**.

Comprehensive Strategies in Complex Infringement Scenarios



Comprehensive Strategies in Complex Infringement Scenarios

In the current landscape, IP infringement has become increasingly complex and diversified, with infringers ranging from manufacturers/distributors of counterfeiting products to former employees, competitors, and business partners. To better safeguard the legitimate rights and interests of IP owners, it is essential to adopt **a comprehensive enforcement strategy**, including initiating **a series of IP-related lawsuits**. This approach not only exerts greater pressure on infringers but also maximizes compensation and ensures more comprehensive protection for IP rights.

Based on our experience, there are three common scenarios where such strategies are particularly effective:

III Scenario 1- Manufacturers or Distributors of Counterfeit Products :

The infringers are primarily **product manufacturers or distributors** engaged in **unauthorized manufacturing, using, selling, or offering to sell** infringing products. In such cases, the IP owner can file one or multiple lawsuits, including patent infringement, trademark infringement, copyright infringement, and unfair competition claims.

III Scenario 2- Former employees :

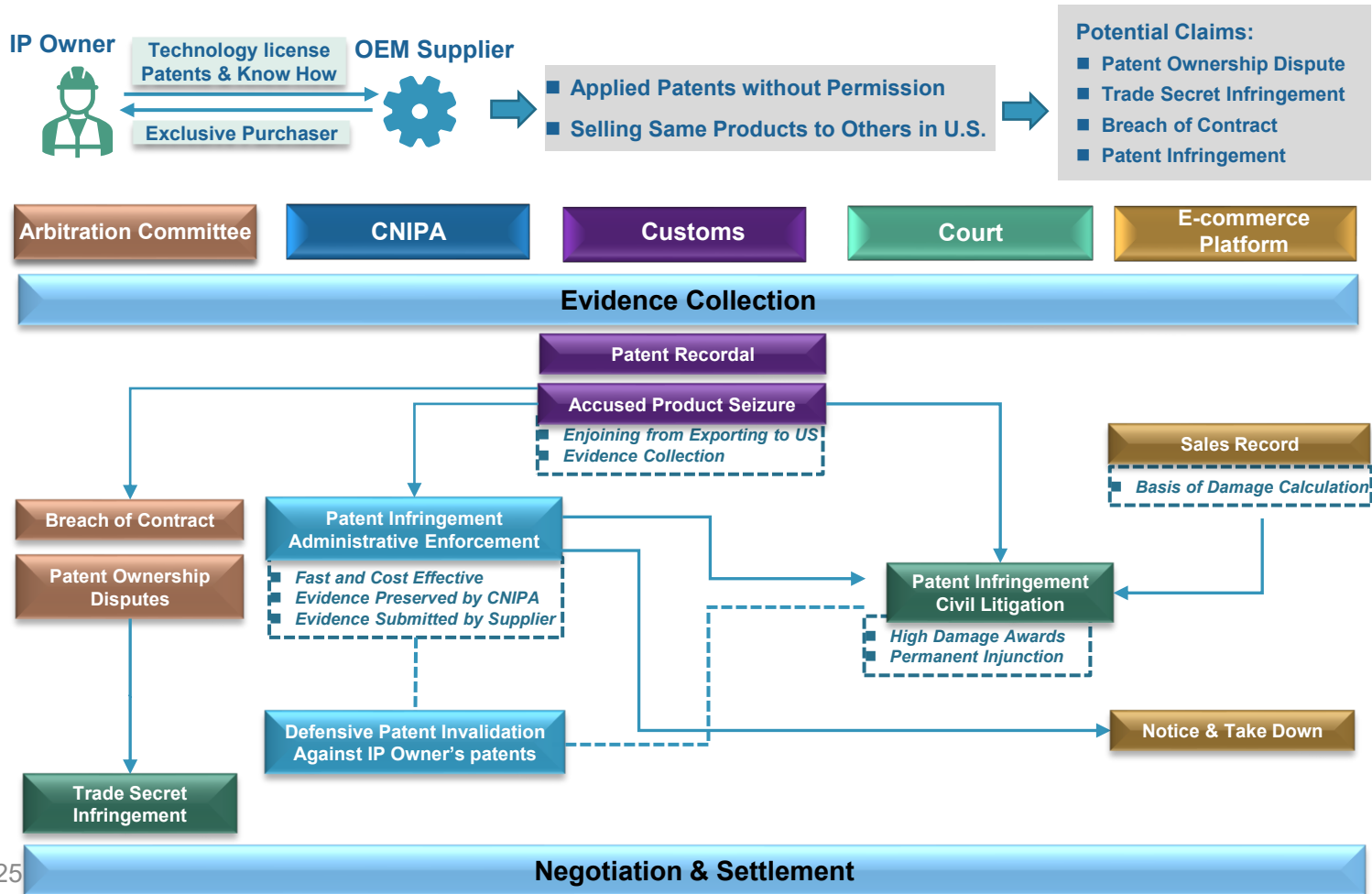
This scenario involves **former employees** who join **a competitor** and disclose the IP owner's trade secrets to the new employer. The competitor may then **file patent applications** in its own name and **use the technology commercially**. The IP owner can pursue claims such as trade secret infringement, patent ownership disputes, trademark infringement, and copyright infringement.

III Scenario 3- Licensee, Business partner or OEM Supplier:

This situation arises when an IP owner **licenses its IP** to a third party, **collaborates with a business partner** on development, or **engages an OEM supplier** with an exclusive supply agreement. If the licensee, partner, or **manufacturer files patent applications** or **uses the technology commercially** without authorization, the IP owner can initiate actions for trade secret infringement, breach of contract, patent infringement, and patent ownership disputes.

By strategically combining these claims, IP owners can strengthen their legal position, deter future infringements, and secure more favorable outcomes in complex IP disputes.

Comprehensive Strategy for IP Protection - A Representative Case



Comprehensive Strategy for IP Protection - A Representative Case

As previously mentioned, the roles and procedures of each authority are different, yet they are interrelated and complementary. Therefore, it is essential to formulate **a comprehensive and integrated protection strategy** tailored to different cases in order to safeguard intellectual property effectively. This case exemplifies a comprehensive IP protection strategy **we have handled on behalf of the IP owner**.

Background

The IP Owner **licensed** their IP, including patents, and know-how to an OEM supplier, and stipulating that the supplier would manufacture and sell the products **exclusively to the IP owner**.

Misconducts of the OEM supplier

However, the OEM supplier engaged in **two distinct acts of misconduct**:

- Used the IP Owner's technology to **apply for patents** without permission
- **Sold the same products** to other companies in the U.S.

Potential Claims

After conducting a preliminary analysis, we suggest that the IP Owner may assert one or more of the following **four potential claims**:

- **Challenge to patent ownership;**
- **Misappropriation of trade secrets;**
- **Breach of contract;**
- **Patent infringement.**

Our IP Strategy

- After gathering preliminary evidence and carefully considering the **requirements, remedies, procedures, timelines, and costs** associated with different legal actions, we have developed a comprehensive strategy.
- This strategy adeptly **leverages the capabilities of various authorities**, including the Arbitration Committee, CNIPA, Customs, Courts, and E-commerce Platforms, to ensure a robust and effective approach.
- We strategically initiate a series of actions in a phased approach, using **the evidence gathered from each step to strengthen and inform the subsequent procedures**.

Negotiation & Settlement

- This methodical strategy enables our client to **swiftly and effectively** curb infringing activities.
- Moreover, our prompt and all-encompassing actions have placed **significant pressure** on the OEM supplier, and have not only **secured an advantageous negotiating position** for the IP owner but also persuaded the OEM supplier to consider a **settlement**, thereby **facilitating a resolution**.

Evidence Collection

■ No Discovery

IP Owner



Court



Infringer
Manufacturer/Distributor



Pre Filing

Plaintiff Bears Greater Burden of Proof

- ① Online Search
- ② Onsite Investigation by Private Investigators
- ③ Global Collaboration with Local Firms
- ④ Customs Data
- ⑤ Customs Seizure
- ⑥ Raid Action by Local Business Regulation Dept
- ⑦ Trade Shows
- ⑧ Public Record Search
- ⑨ Trademark Registration Information
- ⑩ Patent Registration Information

Post Filing

On-site Inspection by Judges

Investigation Order by Lawyers

Apply to the Court for Evidence
Production by Opposing Party

- *Prima Facie Evidence by Plaintiff*
- *Control of Evidence by Defendant*
- *Relevance and Importance*
- *Impact on Outcome*

Shift of Burden of Proof

Evidence to Be
Produced by Defendant

- *Account Book*
- *Vouchers*
- *Contracts*
- *Purchase Orders*
- *Invoices*

Evidence Collection

Evidence plays a critical role in IP enforcement. Strong and compelling evidence is essential to support claims of IP infringement or defend against such allegations. From documenting the patented invention to preserving records of communications with potential infringers, the quality and thoroughness of evidence can significantly influence case outcomes. As **discovery proceedings are not available in China**, it is the responsibility of the **IP Owner/Plaintiff** to gather evidence for court presentation.

Pre Filing Stage

During the pre filing stage, the IP Owner/Plaintiff should independently collect as much evidence as possible to **avoid alerting the infringers**, who might otherwise conceal or alter evidence.

Evidence can be collected through various methods, including online searches, onsite investigations, customs data, customs seizure, raid actions, trade shows, and public records searching, including trademark and patent registrations.

Private Investigators

Given the challenges of evidence collection in China and the absence of discovery procedures, engaging a **private investigator** under a disguised identity may be necessary to obtain information on infringing conduct. The legitimacy of **this approach has been affirmed by the Supreme Court under specific conditions**:

- Audio/video recordings in public places;
- No irrelevant personal privacy or trade secrets;
- No tampering with evidence;
- For litigation purpose only.

Post Filing Stage

In the post filing stage, if the Plaintiff cannot independently gather evidence, they may seek the court's assistance. Upon the plaintiff's request, the court can: **conduct on-site inspection, issue investigation order by lawyers**, or **shift the burden of proof** to the Defendant and compel them to produce evidence.

To obtain court assistance, the plaintiff must demonstrate: prima facie evidence, lack of access to the evidence controlled by the Defendant, relevance and importance of the evidence to the case, and the evidence's potential impact on the case outcome.

Based on these factors, the court may **require the Defendant to produce relevant evidence, such as account books, vouchers, contracts, purchase orders, and invoices**.

Evidence Collection

■ No Discovery

IP Owner



Infringer
Manufacturer/Distributor



Pre Filing

Plaintiff Bears Greater Burden of Proof

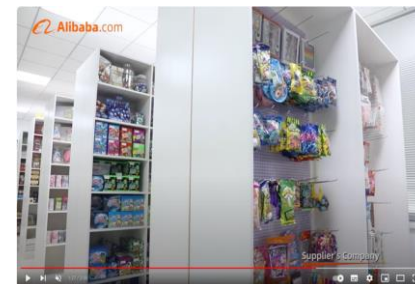
■ Online Search

□ Webpages

- ◆ Official Websites
- ◆ Third Party Websites
- ◆ Online Platforms

□ Social Media

- ◆ Many videos show infringing products and factories, which can be used as investigation clues and evidence.
- ◆ These videos are not searchable by keywords.
- ◆ Many social media apps are only in China and inaccessible overseas.



Evidence Collection

No Discovery

IP Owner



Pre Filing

Plaintiff Bears Greater Burden of Proof

Public Record Search

- ☐ Business Registration Information
- ☐ Tender and Bidding Information
- ☐ Food Production License
- ☐ Medical Device Registration Certificate
- ☐ Chemicals Production License
- ☐ Environmental Protection Permit
- ☐ Environmental Assessment Reports

Infringer
Manufacturer/Distributor



化学集团股份有限公司年产6万吨聚酯多元醇项目环境影响报告书

Environmental Assessment Report for the 60,000 Tons Per Year Polyester Polyol Project of Chemical Group Co., Ltd.

330 pages in total

1.1 项目背景及特点

1.1.1 企业概况

化学集团股份有限公司（以下简称为“化学”）成立于1998年12月，前身为烟台化学有限公司，注册地址为烟台化学有限公司。

化学有限公司、烟台化学有限公司，是山东省第一家先改制后上市的公司，股票简称“化学”（600810）。

③超滤

Membrane Separation Technology

超滤（简称 UF）是一种膜分离技术，其膜为多孔性不对称结构。超滤过滤过程是以膜两侧压差为驱动力，以机械筛分原理为基础的一种溶液分离过程，使用压力通常为 0.01~0.3MPa，超滤膜技术的截留粒径范围为 0.002~0.1μm，截留分子量为 1000~100000 道尔顿左右。超滤装置主要去除水中部分 COD、BOD 及大部分的浊度、胶体、大颗粒物质、细菌和病毒等，经过超滤处理后的水质 SDI≤3，能够满足反渗透的进水指标，是反渗透系统常见的预处理技术，能有效确保反渗透设备的长期安全稳定运行。

Evidence Collection

No Discovery

IP Owner



Pre Filing

Plaintiff Bears Greater Burden of Proof

■ Trademark Registration Information

■ Patent Registration Information

Infringer
Manufacturer/Distributor



1 Infringing product uses
“N” trademark without
manufacturer's name



2 “N” trademark is registered
in China by X Company

X Company

3 X Company also owns
“R” trademark in China



Affiliates
Codefendants

4 Another infringing product
uses “R” trademark.



5 Manufacturer identified
as Y Company

Y Company



6 Found Y Company producing
more infringing products

Evidence Collection

■ No Discovery

IP Owner



Pre Filing

Plaintiff Bears Greater Burden of Proof

■ Onsite Investigation by Private Investigators

□ Privacy and Legal Boundaries

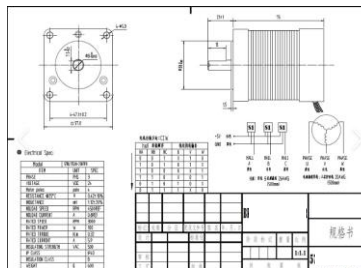
- ◆ Audio/Video Recording in Public Spaces
- ◆ No Irrelevant Personal Privacy or Trade Secrets
- ◆ No Tampering with Evidence
- ◆ For Litigation Purposes Only

□ Potential Findings

- ◆ Photos, audio, and video of infringing products, equipment and companies/factories
- ◆ Samples of infringing products
- ◆ Specifications
- ◆ Technical or promotional materials
- ◆ Clues for further investigation



Infringer
Manufacturer/Distributor



Evidence Collection

■ No Discovery

IP Owner



Pre Filing

Plaintiff Bears Greater Burden of Proof

■ Global Collaboration with Local Firms

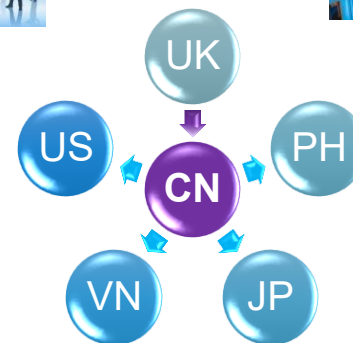
- ❑ Infringing product found at UK trade show
- ❑ Send CD Letter to UK Seller
- ❑ Identify China Manufacturer
- ❑ Start Investigation in China

■ Customs Data

- ❑ Search customs data using CN manufacturer name
- ❑ Obtain multiple sellers in the US, VN, PH, etc.
- ❑ Identified the global sales network

**Not all customs data is available for public access.*

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Evidence Collection

No Discovery

IP Owner



Pre Filing

Plaintiff Bears Greater Burden of Proof

Customs Seizure

- For infringing products manufactured in China but sold overseas

Archival Filing of IPRs

Application for Seizure by IPRs Holder

Bond Payment by IPRs Holder

Customs Seizes Suspected Infringing Goods

Notify IPRs Holder to Check the Infringing Goods

Evidence Collection for Lawsuits



- consignee and consigner
- infringing goods
- port and time of entry or exit
- means of transportation
- container number**

Infringer
Manufacturer/Distributor

深圳海关扣留侵权嫌疑货物通知书

Notice of Seizure of Goods for Suspected Infringement

深圳佳比泰智能照明股份有限公司、深圳市蚂蚁雄兵物联技术有限公司：

根据《中华人民共和国知识产权海关保护条例》第十五条之规定，应你申请，我关于 2018 年 7 月 12 日对东莞市铭皓照明有限公司 6 月 20 日向深圳海关隶属大鹏海关申报出口的涉嫌侵犯你拥有的“一种蓝牙面板灯”实用新型专利（专利号：ZL 201620504681.X；备案号：P2018-64550）（报关单号：521320180638156378）的 LED 面板灯 3110 套、LED 灯条 1200 套予以扣留。

根据《中华人民共和国知识产权海关保护条例》第二十三条之规定，自扣留之日起 20 个工作日内，你可以就上述货物向人民法院申请采取责令停止侵权行为或者财产保全的措施。如我关在上述期限内未收到人民法院协助执行通知，将依照《中华人民共和国知识产权海关保护条例》第二十四条第（一）项的规定放行上述货物。

特此通知。



Evidence Collection

No Discovery

IP Owner



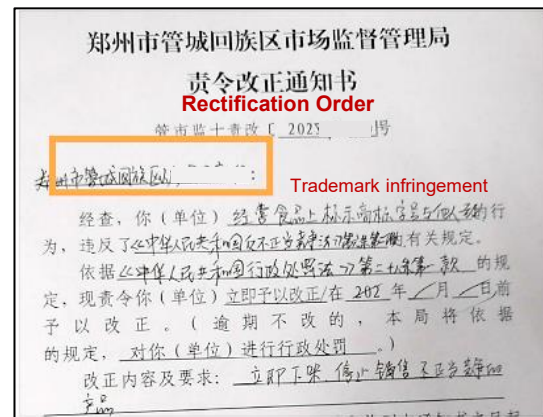
Pre Filing

Plaintiff Bears Greater Burden of Proof

Raid Action by Local Business Regulation Department

Trade Shows

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Evidence Collection

No Discovery

IP Owner



Court

Infringer
Manufacturer/Distributor

Pre Filing

Plaintiff Bears Greater Burden of Proof

Post Filing

Apply to the Court for Evidence Preservation



On-site Inspection by Judges



Investigation Order by Lawyers

Investigation Order by Lawyers

陕西省岚皋县人民法院
律师调查令

(2023)陕0902民初00000号

中国邮政储蓄银行 陕西省岚皋县人民法院 律师调查令 为查明案件事实，根据民事诉讼法相关规定，经本院审查决定，现由 律师前往你单位调取证据材料。请你单位在核对持令人姓名、身份、单位并确认无误后，在指定期限内向持令人提供下列证据材料（详见背面）。对本调查令指定调查内容以外的证据材料，你单位有权拒绝提供。如不配合调查，本院将向相关职能部门和行业主管部门通报情况，提出对有关责任人予以纪律处分的司法建议，或依照《中华人民共和国民事诉讼法》的相关规定以妨碍民事诉讼行为予以处罚。

本调查令有效期截止二〇二三年四月十一日。



Evidence Collection

■ No Discovery

IP Owner



Court



Infringer
Manufacturer/Distributor



Pre Filing

Plaintiff Bears Greater Burden of Proof

- ① Online Search
- ② Onsite Investigation by Private Investigators
- ③ Global Collaboration with Local Firms
- ④ Customs Data
- ⑤ Customs Seizure
- ⑥ Raid Action by Local Business Regulation Dept
- ⑦ Trade Shows
- ⑧ Public Record Search
- ⑨ Trademark Registration Information
- ⑩ Patent Registration Information

Post Filing

On-site Inspection by Judges

Investigation Order by Lawyers

Apply to the Court for Evidence
Production by Opposing Party

- *Prima Facie Evidence by Plaintiff*
- *Control of Evidence by Defendant*
- *Relevance and Importance*
- *Impact on Outcome*

Shift of Burden of Proof

Evidence to Be
Produced by Defendant

- *Account Book*
- *Vouchers*
- *Contracts*
- *Purchase Orders*
- *Invoices*

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