

Study on the Current Situation, Dilemma and Way Out of International Intellectual Property Disputes of Hubei Enterprises

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Abstract. With the steady advancement of economic globalization and the rapid development of knowledge economy, the international market value of intellectual property is increasing day by day, and it has become a new weapon of competition between countries. How to avoid the risk of foreign-related intellectual property disputes and how to rationally use intellectual property rights to safeguard the legitimate rights and interests of Chinese enterprises has become a hot issue. Through case search and investigation, Hubei enterprises as a whole have strong willingness to respond to lawsuits, but their efficiency needs to be improved. On the economic level, the author thinks that we should increase fiscal and tax subsidies, establish enterprise alliances, and set up special funds; At the consciousness level, we should strengthen the publicity and training, and comprehensively improve the awareness of intellectual property protection of foreign-related enterprises in Hubei Province; At the institutional level, we should build a good IP link service platform and improve supporting laws and regulations; Improve the international competitiveness of Hubei enterprises from multiple angles.

Keywords: Intellectual property protection, international disputes over intellectual property rights, patent disputes, universal countermeasures.

1. Introduction

As the international market continues to expand, the layout of intellectual property rights also expands. The market value of domestic intellectual property rights has become more and more prominent, and the research on international disputes of intellectual property rights has become more and more active in the theoretical circles. Intellectual property scholars have now elaborated on the reasons for disputes arising from intellectual property rights overseas in the present era from multiple dimensions and put forward ideas for solutions, and have achieved more research results. On the basis of previous research, based on the background of deep participation in global intellectual property governance, this project team, with the geographical advantage of Hubei Province as a national leader in scientific research and a leader in central China, combines the profound intellectual property foundation of Hubei Province, relies on the resources of Hubei Intellectual Property Research Centre, and takes enterprises in Hubei Province as the object of research, and seeks to summarize common problems encountered in overseas intellectual property disputes, and strives to build Hubei Province into an excellent international intellectual property litigation centre, so as to provide the best solution to international intellectual property disputes and to improve the quality of international intellectual property litigation. It aims to summarize the common problems encountered in overseas intellectual property disputes, give reasonable suggestions for making Hubei Province a preferred place for international intellectual property litigation, form certain research results and explore feasible ways of transforming the results, so as to enhance the ability of handling international intellectual property disputes and improve the level of internationalization of intellectual property.

2. Current situation of hubei enterprises' response to international intellectual property disputes

2.1. An overview of international intellectual property disputes encountered by enterprises in Hubei Province

With the rapid development of high-tech enterprises in Hubei Province, technological innovation activities are increasingly frequent, innovation ability is constantly improved, the depth and breadth of foreign exchanges are constantly increasing, and the accompanying international disputes over intellectual property rights are also increasing. In terms of its internationalization situation, the United States, the European Union, ASEAN and Japan are the largest trading partners of Hubei enterprises, and the bilateral and multilateral trade value has increased significantly in recent years. However, at the same time, due to lack of risk awareness, poor overseas rights protection channels, and incomplete domestic protection laws and regulations, Hubei enterprises still face many bottlenecks in dealing with international disputes over intellectual property rights.

Prior to the analysis, we conducted a preliminary survey on the characteristics of intellectual property in Hubei Province in order to accumulate raw data for the proposal of specific programs.

2.2. Internationalization trend of intellectual property rights of Hubei enterprises

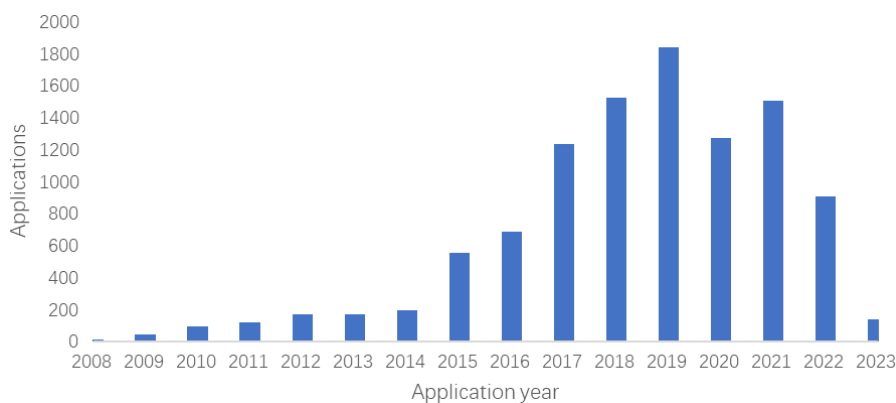


Figure 1. International patent application status in Hubei Province [1]

According to the annual statistical analysis of the international patent applications of subjects in Hubei Province, the earliest international applications in Hubei province appeared in 2008, and showed a low and steady growth trend in the following six years. Since 2015, international patent applications in Hubei Province showed a blowout growth and maintained a high growth trend until 2019. In 2019, the annual number of international patent applications in the province was the highest. In the following years, due to the impact of the epidemic and the change of the international environment, the level of international patent applications of subjects in the province showed a fluctuating downward trend, but the annual number of applications was still at the upper level.

It can be seen that under the impetus of national strategies such as innovation-driven, governments at all levels in Hubei Province actively respond to the national call and strive to build regional competitive advantages, create an open, transparent and efficient business environment, all kinds of market players flourish, and overseas trade exchanges gradually become more frequent. In this context, various market players also actively respond to market changes, pay attention to the overseas layout of intellectual property, and the internationalization trend is increasingly significant.

3. Dilemma of hubei enterprises in responding to international disputes over international property rights

Combining the above data and case practice, we can summarize the realistic dilemma of Hubei enterprises in dealing with international disputes over intellectual property rights. It is mainly manifested in the following categories.

3.1. Economic dilemmas

Responding to international disputes over intellectual property rights requires a lot of human, material and financial resources. The attraction of professional international intellectual property talents, the implementation of international intellectual property strategies, and the conduct of overseas arbitration or litigation all require sufficient financial support, and most enterprises do not have sufficient funds for the management and operation of international intellectual property rights. For example, in terms of litigation, international IPR litigation is time-consuming and expensive, and most enterprises are passive in responding to litigation. For enterprises whose intellectual property rights have been infringed, not responding to litigation means giving up the legitimate rights and interests of intellectual property rights; for enterprises infringing on the intellectual property rights of enterprises in other countries, not responding to litigation means bearing the risk of losing the lawsuits and bearing the burden of high compensation for infringement of intellectual property rights.

3.2. Dilemmas of consciousness

At present, many enterprises in Hubei Province are in an unfavourable position in international disputes over intellectual property rights not because they do not have the core technology and patents, but because of the lack of awareness of intellectual property protection and risk prevention and control. Mainly the following performance: First, intellectual property awareness is weak. China's intellectual property protection started later than developed countries, some enterprises have little awareness of intellectual property rights, did not apply for relevant international patents and trademarks in a timely manner. And foreign enterprises seize the patents and trademarks of such enterprises, and even carry out suppression and acquisition, resulting in a large loss of their characteristic intellectual property rights and reducing their competitiveness in the international market. Secondly, the willingness to respond to lawsuits is not strong. Between the high cost of responding to lawsuits and the dilemma of not responding to lawsuits to lose the market and compensate for infringement losses, enterprises only see the short-term benefits and losses, and tend to treat overseas IPR lawsuits with a negative attitude. Third, ignoring the strategic layout of overseas intellectual property rights. Overseas intellectual property strategy layout has the characteristics of long-term and instability. In the process of "going out", China's enterprises often focus on the investigation of product demand in overseas markets, ignoring the strategic layout of overseas intellectual property rights.

3.3. Systemic dilemmas

With the expanding scale of China's foreign trade and the continuous development of Hubei FTZ, the friction of foreign trade has been increasing, and the foreign enterprises of Hubei Province have been responding to the lawsuits in the field of intellectual property more and more frequently. However, according to the preliminary data, while the demand is increasing, due to the lack of linkage mechanism and service capacity of institutions, some enterprises in Hubei Province are unable to quickly find the right organ and match with the more professional institutions to deal with disputes and seek legal assistance when a crisis arises.

Specifically, the institutional dilemma is mainly reflected in the following aspects.

At the legal level, there is a lack of a unified legal system to regulate the intellectual property service market. The lack of legal regulation of the IP service industry has contributed to the mixed situation in the IP service market. At the policy level, there is a lack of a platform linking government, enterprises and intermediary service providers, and the power to deal with international disputes over

IPR is scattered. At the level of institutional service capacity, the quality of IP intermediary service institutions varies [2], and it is difficult to guarantee the professional level of practitioners in the institutions; the scope of institutional services is limited to patent and trademark applications and litigation, and it is difficult to be competent in the special services and high-end IPR services urgently needed by enterprises.

3.4. Plight of talented people

Facilitating the effective resolution of international disputes over intellectual property rights requires not only the enhancement of the soft power of enterprises, but also the strengthening of their international integration in the field of intellectual property rights. From a professional point of view, people engaged in intellectual property-related work not only need profound legal knowledge, but also need to have a considerable level of professional background, the combination of the two puts forward very high requirements for practitioners. However, in fact, there are still many enterprises in Hubei Province in the field of intellectual property rights staff lack of professional and systematic training, familiar with the rules of the WTO, proficient in foreign languages, familiar with various types of technical barriers to trade are even fewer talents.

Colleges and universities, as the main position for cultivating talents in foreign-related intellectual property rights, have problems such as irrational teaching mode and lack of composite teachers. On the one hand, the construction of intellectual property speciality is weak. In recent years, the number of colleges and universities that have set up intellectual property majors and colleges of intellectual property has gradually increased, but the number is still not considerable, and there is a lack of applied and compound teachers in the faculty. On the other hand, the teaching mode is out of touch with the needs of the times. Intellectual property courses are mostly offered in law, management and other majors, students have a single disciplinary background, which makes it difficult to carry out comprehensive and systematic intellectual property teaching, and intellectual property teaching focuses on jurisprudence and lacks practical learning, which makes it difficult to cultivate composite, high-end and application-oriented talents.

3.5. Institutional dilemmas

Intellectual property protection itself involves a large number of complex technical determinations, and the difficulty of dispute resolution is also rising with the development of science and technology, all of which put forward higher requirements for the professional level of overseas protection of intellectual property rights. As the market for intellectual property services continues to expand, a series of normative documents, such as the Norms for Patent Agency Service Providers and the Guiding Opinions on the Construction of an Intellectual Property Service Standard System, have been issued, aiming to further promote the service content and agency standards of intellectual property service intermediaries.

However, as far as Hubei Province is concerned, these national pilot policies still cannot be fully adapted to the special situation of the province, and are unable to supervise and guide the provincial IP intermediary service organizations in a timely and practical manner. The lack of guidance and links is more obvious in Hubei Province, which is mainly manifested in the small scale of intermediary institutions, non-standardized services, and the lack of recognition of service quality by various types of foreign-related enterprises, which makes more enterprises choose to set up their own IPR patent service departments, however, the cost of the talents needed to set up these departments is extremely high; at the same time, for small and medium-sized enterprises (SMEs) in the field of sensitive technologies, the mismatch between these links and the quality of the services provided At the same time, for SMEs in sensitive technology fields, the misalignment of these links and service quality may make them further lack of means to cope with overseas IPR disputes, thus making them lose the motivation to respond to and actively deal with the disputes and fall into a passive situation in the international market.

4. Policy suggestions

4.1. Economic aspects

The Government should implement proactive fiscal and monetary policies. By refining the tax reduction and exemption standards for intellectual property market owners, increasing financial subsidies, and rewarding patent application and maintenance, the government has accurately alleviated the burden on enterprises, encouraged them to attract high-end international intellectual property talents, and increased their investment in international intellectual property strategy layout; and opened an interest-free or low-interest loan green channel for enterprises suffering from international disputes over intellectual property rights and provided special relief funds to provide strong support for them to cope with international disputes over intellectual property rights. international disputes and provide special relief funds to help enterprises cope with intellectual property disputes.

Establishment of enterprise alliance and special fund. Enterprises in Hubei Province in the same field warm up together, form enterprise alliance, integrate financial advantages and talent advantages, set up a special fund for international disputes over intellectual property rights, co-financing, co-management, sharing of rights and interests, and sharing of risks. Through the enterprise alliance and special fund to build information sharing platform, establish risk prevention mechanism, attract international intellectual property talents, improve the ability of enterprises to respond to lawsuits, and joint efforts to resist the risk of international disputes over intellectual property rights.

4.2. Consciousness aspects

The Department of Commerce of Hubei Province, the Administration for Industry and Commerce of Hubei Province and other relevant departments should jointly organize regular sharing sessions on international intellectual property rights developments in Hubei Province, and invite foreign-related enterprises in Hubei Province to actively participate in them. In all kinds of activities, government departments should summarize the current status of international intellectual property rights to foreign-related enterprises in Hubei Province, and designate a number of foreign-related enterprises to share typical cases of international disputes over intellectual property rights, so as to make the foreign-related enterprises pay full attention to the international disputes over intellectual property rights; and at the same time make full use of all media and platforms to increase the publicity and training efforts, so as to comprehensively improve the awareness of intellectual property rights protection among the foreign-related enterprises in Hubei Province. Specifically, the main considerations are at the following levels:

Firstly, urging enterprises to apply for international trademarks and patents, so that they can seek protection under international law or foreign law, and clear the obstacles for further occupation of overseas markets; secondly, publicizing the advantages of responding to lawsuits, sharing the experience of responding to lawsuits, increasing the willingness of enterprises to respond to lawsuits and training them on how to collect evidence in their own favour; Thirdly, enterprises are encouraged to set up special intellectual property management organizations [3], and have special international intellectual property talents to conduct overseas intellectual property investigations and formulate overseas intellectual property strategies, so as to reduce international disputes over intellectual property rights at source.

4.3. Institutional aspects

Improvement of supporting legal and regulatory safeguards is crucial at this level. Corresponding authorities should strengthen the optimal layout of intellectual property rights in the region, further regulate and guide enterprises' technological protection and increase technological investment through laws and regulations, and urge enterprises to improve their awareness of intellectual property rights and enhance their level of risk control. Reduce the conflict between laws and regulations and align with international standards to meet the multi-level and diversified needs of the parties. Open

up the international vision and absorb the advanced legislative experience, so as to reduce international trade disputes.

Build and manage a better service platform for linking intellectual property rights. Adopt encouraging and guiding means, supplemented by financial support, to add impetus to the development of the linking platform. Establish a cooperative relationship with industry associations, or learn from advanced experience, and strengthen the governance and integration of intermediary service organizations in the head area by means of government-purchased services, so as to achieve the solution effect of complementary enhancement of professionalism. Realize technological empowerment, accelerate the construction of intelligent cloud platform, the platform according to the industry needs to build different dispute types of access portals, through personalized customization, can provide technical support for the contradiction of the source of resolution, data accumulation and analysis and resource interconnection.

Finally, it is recommended that institutional service capacity be comprehensively improved in line with international requirements. It is recommended to strengthen exchanges and communication with relevant organizations and institutions outside China, improve the quality of talents, unleash their innovative vitality, expand the scope of the agency's services, raise the level of services, and follow up on disputes throughout the entire process, from their creation to their resolution.

4.4. Talent cultivation

The training of intellectual property talents at the source is particularly important. Colleges and universities, industry associations and all walks of life should be guided to strengthen the understanding of the importance of international disputes over intellectual property, moderately increase the difficulty of teaching intellectual property, increase the depth of teaching in key areas, broaden the scope of teaching, and solidify the teaching foundation from multiple dimensions. At the same time, it can be equipped with domestic and foreign high-precision talents for joint research and study, improve foreign language communication ability, cultivate Chinese and contemporary professionals in international disputes of intellectual property rights in the context of internationalization, and give full play to the important advantages of Hubei Province as a large education province.

Secondly, it is suggested that enterprises should cultivate professional knowledge related to international disputes over intellectual property rights, and apply theories in practice. Enterprises can cooperate with universities to carry out regular exchanges and studies, which not only helps students to contact cases in practice, and turn theory into practice, but also helps employees to update their thinking and knowledge, improve risk prevention and control awareness, reduce their own intellectual property rights infringement phenomenon, and when infringed upon, they can fight back in a timely manner, and strengthen the competitiveness of the international arena.

4.5. Institutional aspects

Faced with the problem of government support at the institutional level, it is suggested that all parties should start from the following aspects:

Firstly, it is recommended to strengthen the government's orderly guidance of intellectual property intermediary service providers and regulate the intellectual property intermediary market. It is recommended to improve the mixed situation of intermediary service agencies, and to improve the quality of intellectual property services by administrative means, so as to provide support for foreign-related enterprises to cope with international intellectual property difficulties.

Second, establish risk prevention and control institutions. Led by the Department of Commerce of Hubei Province, the Administration for Industry and Commerce of Hubei Province, etc., the collection of enterprises and intellectual property intermediary service institutions to build a risk prevention and control mechanism [4], under the guidance and supervision of the government, to promote the links and cooperation between enterprises and enterprises, enterprises and service

institutions, in order to integrate the advantages of the resources and enhance the enterprise's ability to resist risks.

Finally, build an information sharing platform. Relying on the Internet and big data, according to the local characteristics of Hubei Province to build a high-end international intellectual property information resource service sharing platform, and for the key industries, the development of cutting-edge technology regularly release analysis reports [5], so as to effectively reduce the information gap in the field of intellectual property.

5. Conclusion

Under the guidance of the national intellectual property strategy, various types of pilot demonstration units of intellectual property rights have been emerging, and there has been some progress in the work of “Stronger Provinces with Intellectual Property Rights”, “Stronger Cities with Intellectual Property Rights” and “Stronger Counties with Intellectual Property Rights”, but “Stronger Enterprises” has not yet formed a complete, clear, accurate and unanimously recognized definition.

This paper not only has high theoretical value for the study of the regional economic development of Hubei Province, but also can provide the relevant departments with the basic plan for analysis and reference from various perspectives by sorting out the existing policies of national and Hubei Province on IPR-strong enterprises and making targeted modifications and improvements in combination with the existing problems.

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