

Development and Promotion Strategies of Chinese Agricultural Products in the Context of International Trade: Based on the Perspective of Intellectual Property Protection

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Abstract: In today's globalized economy, the means of economic competition between countries has shifted from relying primarily on tariffs and quotas to relying on talent, intellectual property rights and technical standards. The decisiveness and influence of international intellectual property rights on international trade is becoming increasingly obvious. As a big agricultural country, China possesses a large number of special agricultural products and is also a big exporter of agricultural products, so the protection of intellectual property rights of Chinese agricultural products is particularly important. Since the promulgation of the Agreement on Intellectual Property Rights (IPR), the United States will be linked to international trade and intellectual property protection and as a reason to continuously improve the international intellectual property protection standards. At present, China's agricultural products in international trade there are still many difficulties, from the perspective of intellectual property rights, mainly manifested in the lack of protection of agricultural patents, agricultural products, geographical indications. This paper will start from the beginning, with intellectual property protection as the entry point, analyse in the new situation of international trade in China's agricultural products development and promotion strategy.

Keywords: Intellectual Property Rights; Agricultural Products; International Trade; Geographical Indications.

1. Introduction

After the signing of the TRIPS Agreement of the World Trade Organization on 1 January 1994, the international economy has gradually replaced the traditional international trade with international intellectual property rights trade, which has now become the main trade mode. China is a big agricultural country, accelerating the protection of intellectual property rights for agricultural products not only helps to improve the competitiveness of agricultural exports, but also helps to optimise the structure of agricultural export trade, which is of great significance to China's international trade in agricultural products. Thus, China's international trade in the world market there are still a lot of problems about the protection of intellectual property rights of agricultural products.

2. Some Realities of Intellectual Property Protection for Agricultural Products in International Trade

2.1. Impact of Intellectual Property Protection on China's International Trade in Agricultural Products

Firstly, the protection of intellectual property rights for agricultural products can improve the competitiveness of China's agricultural exports. Intellectual property protection can effectively protect the brands, trademarks, geographical indications and other intellectual property rights of agricultural products, prevent others from counterfeiting agricultural products in the international market, and improve the market competitiveness of agricultural products. Secondly,

it can promote technological innovation and variety improvement. Intellectual property protection can incentivise agricultural research institutes and enterprises to carry out technological innovation and variety improvement, and protect their R&D achievements so that they can obtain reasonable returns. This will promote the improvement of the quality and yield of agricultural products and enhance the competitiveness of agricultural products in the international market. Once again, it can lead to the optimisation of the structure of agricultural export trade.

2.2. Protection of Geographical Indications

The protection of geographical indications for agricultural products in China started later than in some European and American countries, and there are still many problems in practice. At the legislative level, domestic laws supporting international trade in agricultural products are still lacking, and China's support for geographical indications is also relatively weak in the existing laws related to international trade in agricultural products. In terms of departmental management, the protection of geographical indications in China is managed by three equal departments, namely, the General Administration for Industry and Commerce, the General Administration of Quality Supervision, Inspection and Quarantine, and the Ministry of Agriculture. Though each department protects the products from different aspects, such as trademarks, origin, and registration systems, the protection of geographical indications by the three departments may cause some management problems, such as the intersection of powers and responsibilities, which may easily lead to the protection of geographical indications being not up to the standard. In terms of international market influence, China's geographical indications started late, and the market recognition and brand effect of many products are far less

than that of products from some EU countries.

2.3. Patent Protection

China's agricultural product patent protection mainly exists the following aspects of the problem: First, from the level of government functions, China's high-tech patent protection of the legislative process is relatively slow, part of the provisions of the law has not been realised with the docking of the relevant international laws, the business of law enforcement personnel and the quality of the phenomenon of uneven, the lack of special law enforcement supervision departments, and there is no relevant non-standard law enforcement of the responsibility for the accountability and Secondly, from the level of agricultural patent applicants, the parties themselves lack the awareness of protection of rights and interests, do not apply for patents in the right way, and do not carefully screen the types of patents applied for, thus making it difficult to obtain comprehensive protection; thirdly, the patent applicants do not attach enough importance to the choice of application date, do not have a comprehensive understanding of the relevant national laws and in-depth study, and do not have a comprehensive understanding of patents related to the import and export trade of agricultural products. Thirdly, patent applicants do not pay enough attention to the date of application, do not have a comprehensive understanding and in-depth study of the relevant national laws, and do not make international patent applications for patents related to the import and export trade of agricultural products, which makes it difficult to realise the comprehensive protection of their own rights and interests; fourthly, the monopoly of patents in many developed countries brings about the phenomenon of abusing the patent protection, which greatly hampers the competitiveness and influence of China's agricultural products in international markets.

3. Solution Paths for the Protection of Intellectual Property Rights of Agricultural Products in International Trade

3.1. Pathways for the Protection of Patent Rights in Agricultural Products

3.1.1. Improve the Legislation Related to Patent Rights for Agricultural Products

In addition to the principal provisions in the Constitution, China's laws and regulations on the protection of patent rights are mainly found in the Patent Law, the Anti-Monopoly Law, the Anti-Unfair Competition Law and other relevant laws. Comprehensive examination of China's patent-related laws and regulations, we can find that there are many shortcomings in China in regulating the abuse of patent rights: the relevant provisions are scattered in various laws and lack of systematic and complete provisions; the legal provisions of the principle is strong, the operability is weak; the legal norms and measures of the system is not perfect. China can learn from the relevant legislation of other countries on the protection of agricultural products patent rights to improve the relevant laws. First of all, the Patent Law should be improved. Improve the relevant principles of the Patent Law, although China as a statutory law country cannot play the case law countries as the abuse of the patent rights of the maximum effect, but it can still be relevant to China's law-making and the judge in accordance with the limits of the statutory law

within the discretion to play a guiding role. Therefore, the author suggests that the Patent Law should explicitly provide for the principle of prohibiting the abuse of patent rights and clearly explain important concepts. At the same time, improve the compulsory licensing system sector of the start-up procedures and the elements, so as to make it more feasible. It is also worthwhile to learn from the US patent abuse defence mechanism, which can be added to the current Patent Law of China [1]. With regard to the Anti-Monopoly Law, the Anti-Monopoly Law Guidelines on Patent Abuse should be issued as soon as possible to improve the anti-monopoly law and make specific provisions, so as to achieve a more comprehensive legal coverage of patent abuse. The Anti-Unfair Competition Law should be improved on the basis of the Anti-Monopoly Law, so that the Anti-Unfair Competition Law can be used as a backstop when patent abuse does not comply with the provisions of the Anti-Monopoly Law [2].

3.1.2. The Government Plays its Role to Create a Good Environment

The government should firstly accelerate the legislative process of agricultural high-tech patent protection, and endeavour to promote the docking of Chinese patent law with international patent law, so as to provide a safe environment for patent research and development and protection for all kinds of agricultural products in China. Secondly, the government should start from the law enforcement personnel, strengthen the education and training of the law enforcement personnel, improve the comprehensive quality of the law enforcement personnel and their ability to enforce the law, strengthen the supervision of the law enforcement personnel on this basis, set up a special department in charge of supervision by playing its own function, and introduce the accountability for not enforcing the law according to the standard as well as the relevant compensation mechanism, so as to create a favourable policy environment for the protection of intellectual property rights for the agricultural products. The government can establish a special intellectual property protection agency, responsible for the registration, review and protection of agricultural patent rights. This can improve the efficiency of patent application and protection, and provide professional legal support and consulting services. A specialised intellectual property protection agency can be established to be responsible for the registration, examination and protection of patent rights for agricultural products. This can improve the efficiency of patent application and protection, and provide professional legal support and consulting services. In addition, the government can actively participate in international intellectual property organisations and agreements, and engage in cooperation and exchanges with other countries. By strengthening international cooperation, the Government can raise the level of international protection of agricultural product patent rights and provide better safeguards for international trade in agricultural products.

3.1.3. Patent Applicants Use the Law to Protect Themselves

From the point of view of the applicant of agricultural products patent, in order to make their own rights and interests not to be infringed upon, they should make full use of legal means to protect their own rights comprehensively [3]. In this regard, applicants for agricultural product patents can file applications through the relevant organizations or directly with the local patent administration organizations. It should be noted that before submitting the application, the

applicant must carefully screen the type of patent applied for, which is more conducive to the combination of their own patent quality to choose the most appropriate patent protection. At the same time, the applicant should pay attention to the choice of filing date. The relevant Chinese laws stipulate that a patent applicant shall not amend the patent beyond the scope of the original specification after filing the patent application. In this regard, a patent applicant should apply for a patent after its invention has been completed and perfected, and should also clarify the scope of protection of its patent. In addition, patent applicants should make full use of diversified means of patent defence. Firstly, the patent applicant should establish the awareness of patent application as the first priority, and give priority to occupying the technical market, so as to obtain all-round protection for the technology which is easy to be imitated by others and developed by the peers, meanwhile, the right applicant should pay more attention to the importance of the first time application; secondly, the patent applicant should study the competitor's technical barriers in-depth to find out the competitor's technical shortcomings and deficiencies, and at the same time, organize its own strength; secondly, the patent applicant should study the competitors' technical barriers in depth, find out the shortcomings and defects of the competitors' technology, and at the same time, organize its own strength to conduct in-depth research; and strive to achieve breakthroughs on the basis of the competitors' technology, so as to form its own technological advantages. Finally, patent applicants should look for trading partners according to the characteristics of their patents, so that they can not only transform their patents into benefits, but also seek more comprehensive protection for their patents, so as to better detect and resist various infringement behaviors.

3.2. Path to the Protection of the Right to Geographical Indication of Agricultural Products

Trade in agricultural products is an area of high incidence of international trade disputes. The persistence of trade disputes has, to a certain extent, undermined the interests of both parties to international trade in agricultural products. With the changes in the international trade environment and the gradual reform of the multilateral trading system, developed countries have taken advantage of their familiarity with WTO trade norms and systems to set up technical and environmental trade barriers against developing countries [4]. Such trade barriers have had a negative impact on China's international trade in agricultural products. Therefore, it is necessary to further strengthen the legal system of the agricultural market system and promote the development of free trade in agricultural products. In order to improve the competitiveness of China's agricultural products in the international market and gain greater benefits in the international trade of agricultural products, China should speed up the construction of the legal system of intellectual property rights for agricultural products, and help enterprises to implement the strategy of intellectual property rights under the strong organisation and co-ordination of the government. Thus, it can restrain competitors and seize competitive advantages in the market.

3.2.1. Suggestions for Improving Legislation on Geographical Indications for Agricultural Products

Although China's geographical indication protection

system has made relevant protection provisions in this field, carried out scientific practice and exploration, and learn from the experience of many foreign countries and international conventions and formed a characteristic protection system, there are still some global problems to be dealt with. Compared with industrial products, the history of the use of agricultural product trademarks is much shorter, which has caused Chinese consumers to have less awareness of agricultural product trademarks, and also caused a series of institutional problems such as imperfect trademark system for agricultural products and imperfect protection system for agricultural products. The existence of these problems for China's international trade in agricultural products laid a hidden danger. At present, the legal protection mode of China's agricultural product trademark is based on the Trademark Law and its implementing regulations. Among the existing trademarks of agricultural products in China, geographical indication trademarks occupy the vast majority. In view of this situation, the current agricultural product trademarks should take the form of collective trademarks and certification trademarks, so that the protection system of agricultural product trademarks can be easily accepted and recognized by people. This is also consistent with the international legislative trend of the international trademark protection system for agricultural products. In addition, from the perspective of geographical indication protection, the implementation of the intellectual property strategy for agricultural product trademarks can be accepted by the World Intellectual Property Organization (WIPO), which can greatly reduce the input cost of China's geographical indication protection [5].

3.2.2. Increased Support from the Government and Related Sectors

Firstly, the government should improve the legislative work as soon as possible, construct a scientific, complete and comprehensive regulation system, and actively sign bilateral agreements on the protection of origin marking with foreign economic and trade countries. At the same time, China should also fully draw on foreign legislative models, combined with the basic domestic profile, legal gaps repair work, improve the country's laws and regulations to draw on the proximity and regulatory practices, and endeavour to include the protection of the mark of origin protection into the scope of protection. If necessary, comprehensive protection can be introduced in the name of realizing the respective responsible special laws. Secondly, the government and relevant administrative departments should improve the registration, examination and registration system of geographical indications of agricultural products as soon as possible, and give geographical indications the same rights and treatment as ordinary trademarks. At the same time, administrative law enforcement departments should also be entrusted with the task of strengthening the enforcement of the use of geographical indications, counterfeit use and other copyrights, and timely administrative and judicial means should be adopted to help the patentee recover part of the loss. The administrative department, as the main body of administrative relief, should stop the illegal behaviour of the offenders in time and give the victims a certain degree of financial compensation when the offenders are infringed upon. Judicial remedies are mainly divided into criminal penalties and civil penalties, and judicial remedies are the responsibility of judicial organs [6]. Depending on the seriousness of the infringement situation, civil and criminal proceedings

initiated by the victim will be heard, and the comprehensive supervision of the use of the indication of origin will eventually be realized. Thirdly, the government and relevant agricultural administrations should strive to standardize the labeling of origin, improve the efficiency of the relevant administrative and judicial authorities, and properly resolve problems at the legal level. In this regard, in order to effectively eliminate disputes, local governments should clarify the rights and obligations of management agencies, and set up a competent authority for the establishment of the protection of the indication of origin in the division of labour system of local administrations, which is fully responsible for the registration, auditing, enrolment and approval of the indication of origin.

4. Conclusion

A new round of industrial change and technological revolution will inevitably impact on China's international trade in agricultural products, in this context, agricultural products in the international challenges and opportunities at the same time. In this context, agricultural products encounter challenges and opportunities in the international arena. In short, in the new stage of development, we should make use of domestic and international resources and conditions to strengthen the protection of agricultural intellectual property

rights, and give full play to China's international trade in agricultural products and its own advantages and core competitiveness. and further promote the expansion of the scale of China's international trade in agricultural products.

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