Adjudication of Administrative Cases Involving Patent Grant and Affirmation by Courts in Beijing in 2013

The IP Tribunal of the Beijing Higher People's Court

The administrative cases involving patent grant and affirmation are exclusively under the jurisdiction of the Beijing No. 1 Intermediate People's Court and the Beijing Higher People's Court[1]. Adjudication of this type of cases is of great significance to the healthy and effective operation of the patent system and to promotion of technical innovation in China. 2013 was the first year for comprehensive implementation of the spirit of the 18th National Congress of the Communist Party of China. To ensure the implementation of the National Innovation and Development Strategy and the two-way driving Strategy for Technical and Cultural Innovation of the Capital City, the Courts in Beijing further intensified their work on adjudication of administrative cases of patent grant and affirmation, performed their function of judicial adjudication under law, regulated the administrative actions performed in the administrative cases involving patent grant and affirmation, and gave strong protection to the legitimate rights and interests of interested parties. In 2013, the courts in Beijing, by way of strengthening study and guidance of adjudication of administrative cases involving patent grant and affirmation and clarifying relevant adjudication rules and regulations, standardized and unified the practice of adjudication of cases of the type, and promoted the development and amplification of the rules for adjudication of administrative cases involving patent grant and affirmation.

I. Practical situation of adjudication of administrative cases of patent grant and affirmation

1. Cases received and adjudicated

In 2013, the Beijing No. 1 Intermediate People's Court received a total of 641 administrative cases involving patent grant and affirmation, of which 133 were administrative cases involving disputes over patent grant, and 508 patent right affirmation. In the year, altogether 694 administrative cases of patent grant and affirmation were adjudicated, of which 158 were administrative cases involving patent grant, and 536 patent right affirmation. From 2009 to 2012, the number of administrative cases involving patent grant and affirmation received by the Beijing No. 1 Intermediate People's Court constantly increased by around 10%.

In 2013, the Beijing Higher People's Court received 411 administrative cases involving patent grant and affirmation, representing 16% increase from the 353 cases received in 2012, and adjudicated a total of 397 administrative cases of the type, representing 5% increase from the 379 cases adjudicated in 2012.

In 2013, the administrative cases of patent grant and affirmation were characterized by the following aspects. First, the rate of cases involving administrative decision on patent grant and affirmation was relatively stable, with about 6% of them being lawsuits brought in direction to administrative decisions on patent grant, and about 25% involving administrative decisions of patent right affirmation, without showing a constant rise in the two types of cases. Second, the administrative cases involving patent right affirmation were more than those involving patent grant. While the number of the latter was on a constant rise in recent years, its total number was less than that of the administrative cases involving patent right affirmation. In recent years, the number

of the administrative cases involving patent right affirmation was roughly three times that of the administrative cases involving patent grant. Third, the rate of appellant cases among the administrative cases involving patent grant and patent right affirmation was high. The administrative cases of patent grant and affirmation handled in 2013 were basically the same as those in 2009, with the cases of appeal amounting to about 50%.

2. Main characteristics of these cases

1) Types of involved patents

Except one case that involved administrative dispute over reexamination of a rejected utility model patent application, all the first-instance administrative cases of patent grant closed in 2013 were cases of dispute over reexamination of rejected invention patent applications. Of the administrative cases of patent right affirmation adjudicated in the first instance, about 210 were administrative cases involving invention patent invalidation, taking up 45% of the administrative cases of patent right affirmation; about 190 were administrative cases of dispute over invalidation of utility model patents, accounting for 40% of the administrative cases of patent right affirmations; and about 80 were administrative cases of dispute over invalidation of design patents, amounting to 15% of the administrative cases of patent right affirmation. This was basically true for cases of appeal involving all the types of patents.

2) Characteristics of involved interested parties

In 2013, of all the 641 administrative cases involving patent grant and affirmation the Beijing No. 1 Intermediate People's Court received, 230 were cases involving foreign interested parties; and of the 694 cases closed in the year, 249 cases involved foreign interested parties. Cases involving foreign interested parties of all the first-instance administrative case of patent grant and affirmation took up 35%, and the percentage was roughly the same as that of the second-instance cases. Most cases involving foreign interested parties involved foreign patentees of invention patents. The interested parties involved in these cases were mostly from technological powers, such as the United States, Japan, and Germany.

3) Main issues of law

Most administrative cases of patent grant and affirmation in the litigation stage involved issues of validity of patents mainly in the following aspects:

First, on inventiveness. 60-70% of all the administrative cases of patent grant and affirmation involved determination of patent inventiveness. About 60% of all the first-instance and second-instance cases where the courts revoked the involved administrative decisions were cases where administrative decisions were revoked for erroneous inventiveness determination.

Second, on novelty. Disputes over novelty mainly involved construction of patent claims and understanding of whether the technical field of, technical problem solved by, the involved technical solutions and the expected effect of references were substantially the same.

Third, on sufficient disclosure in descriptions and support of descriptions to claims. Disputes in the cases of the kind mainly involved understanding of the relations between description and claims, the ability and knowledge level of those skilled in the art and construction of technical solutions.

Fourth, on amendments going beyond scope of disclosure of patent applications and patent documents. Disputes along the line were mainly over how to apply the standards relating to amendments made to patent applications, whether the rules for amendments to descriptions and those to claims should be differentiated, whether generalisation could be made when amending claims before patent grant and whether amendments to the claims after patent grant must be made in the three forms prescribed in the Guidelines for Patent Examination.

Fifth, on the issues of procedure and evidence. Disputes over them were mostly related to matters of Patent Reexamination Board's (PRB) compliance with the request and oral hearing rules, and the correctness of determination as to the evidential force of evidence and standard of proof.

3. Judicial review results

1) Number and percentage of cases where first-instance court revoked administrative decisions

In 2013, there were altogether 73 administrative cases of patent grant and affirmation where the Beijing No. 1 Intermediate People's Court revoked the PRB's administrative decisions, of which 9 were administrative cases involving patent grant and 64 patent affirmation. All the mentioned 9 administrative cases of patent grant where the administrative decisions were revoked involved invention patent applications. Of the above 64 administrative cases of patent affirmation, 26 cases involved invention patents, and 27 utility model patents, and 11 design patents. In 2013, the number of cases where the Beijing No. 1 Intermediate People's Court revoked patent-related administrative decisions took up 11%

of all the cases closed, with about 6% of the patent grant administrative cases where the involved administrative decisions were invoked, and 12% of patent affirmation administrative cases where the involved administrative decisions were revoked, with the latter obvious higher than the former.

2) Reversal by second-instance court of first-instance court's and administrative decisions

In 2013, the Beijing Higher People's Court revised the first-instance decisions in 42 administrative cases involving patent grant, taking up 11%. Of these cases, 6 were administrative cases involving patent grant and 36 patent affirmation. In these revised cases, the Beijing Higher People's Court reversed the first-instance decisions and maintained administrative decisions in 12 cases, and meanwhile, reversed both in 30 cases.

Calculated on the basis of all the cases adjudicated by the Beijing No. 1 Intermediate People's Court and the Beijing Higher People's Court, the people's court finally revoked administrative decisions in altogether 91 cases, taking up 13% of the 694 administrative cases of patent grant and affirmation adjudicated thereby. Of the 91 cases, 15 were administrative cases involving patent grant, representing 11% of all the 133 administrative cases of the kind; 76 were administrative cases of patent affirmation, taking up 15% of all the 508 administrative cases involving patent affirmation.

3) Characteristics of cases where administrative decisions were revoked

First, the reversal rate of patent grant cases was lower than that of the patent affirmation cases.

Second, the second-instance court well functioned to rectify first-instance court's erroneous decisions. Of all the cases where the second-instance court remanded the cases included not only cases involving reversal of the PRB's administrative decisions, but also the 12 cases where the first-instance decisions were reversed and the PRB's administrative decisions maintained in 2013.

4. Adjudication organisation

In 2013, to meet the practical needs of adjudication of administrative cases of patent grant and affirmation, the Beijing Higher People's Court and the Beijing No. 1 Intermediate People's Court intensified their efforts on training more judges and other staff for building a team of better qualified and capable patent judges. In 2013, there were altogether 11 panels in the IP Tribunal of the Beijing No. 1 Intermediate People's Court with a total of 70 staff members, including one Tribunal President, two Vice-Presidents and 40 judges. In the IP Tribunal of the Beijing No. 1 Intermediate People's Court, 7 judges received their college education in science and engineering, 4 judges got their PhD degree and 80% of the judges received their post-graduated education. In 2013, there were 6 panels in the IP Tribunal of the Beijing Higher People's Court, with a total of 37 staff members, including one Tribunal President, one Vice-Presidents and 20 judges. In the Beijing Higher People's Court, 4 judges received their college education in science and engineering, 6 judges got their PhD degree and 90% of the judges received their post-graduated education. By the end of 2013, to reinforce the adjudication of administrative cases of patent grant and affirmation, the IP Tribunal of the Beijing No. 1 Intermediate People's Court was further divided into IP Tribunals One and Two, with the latter having the sole jurisdiction over administrative cases of patent grant and affirmation, to ensure that a fewer judges were assigned to adjudicate cases of the kind, which was conducive to implementation of the consistent adjudication standards or benchmarks.

5. Investigation and research

In 2013, besides adjudicating cases, the courts in Beijing made extensive investigation and research on issues encountered in their adjudication of administrative cases of patent grant and affirmation. The IP Tribunal of the Beijing Higher People's Court undertook the project of research on adjudication of administrative cases of patent grant and affirmation, one of the important research projects, making investigations many times, visiting the PRB and the Department for Design Examination of the State Intellectual Property Office (SIPO) and holding the Symposium on Issues of Law in Administrative Cases of Patent Grant and Affirmation. In the year, the Beijing No. 1 Intermediate People's Court completed the key research project, A Study on the System for Involving Specialized Technical Personal in Patent Adjudication, and prepared the Research Report. Also in 2013, judges of the Beijing Higher People's Court and the Beijing No. 1 Intermediate People's Court published many academic papers in IP newspapers and journals, such as the Intellectual Property News, China Patents & Trademarks, and China Intellectual Property, and judges of the Beijing Higher People's Court created a special column in the China IP magazine to publishing treatises and papers on adjudication of administrative cases of patent grant and affirmation. The theoretic research on the adjudication of administrative cases of the nature improved the judges' ability to make investigation and research and their judicial capability to adjudicate such

cases.

II. Beijing Courts' main experience and practice in adjudication of administrative cases of patent grant and affirmation

1. Constantly focusing on serving the general goals of the nation and giving judicial support to the construction of an innovation nation

2013 was the first year for comprehensive implementation of the spirit of the 18th National Congress of the Communist Party of China, and a critical year for continued implementation of the Twelfth-Five-Year Plan. In the year, the Beijing courts' work on adjudication of administrative cases of patent grant and affirmation was at a new historical starting point, in which the National Innovation and Development Strategy and the two-way driving Strategy for Technical and Cultural Innovation of the Capital City were comprehensively implemented, with great importance attached to the unique role of the administrative cases of patent grant and affirmation in bringing changes in the mode of economic development, maintaining the healthy, regular market order, and developing an "upgraded version" of IP protection. Besides, the courts in Beijing continued to attach importance to both procedure and substance, reinforced judicial review, strictly fulfilled China's WTO commitments, made great efforts to protect the legitimate rights and interests of the administrative respondents, supervised and supported the performance of administrative authorities under the law, and took pains to create an advanced IP rule system and enforcement system compatible with the international mainstream in line with the new round of economic globalisation and changed mode and upgraded development of the domestic economy and innovation.

2. Carrying out judicial policies and ensuring integral unity of "two effects"

On the one hand, the courts in Beijing paid attention to correct understanding and application of the laws, regulations and relevant judicial interpretations, and improvement of the stability and predictability of the courts' decisions, and, on the other, attached importance to meeting the requirements of the judicial policies in specific cases to solidly implement the Supreme People's Court's Opinions on Several Issues Relating to Bringing into Full Play IP Adjudication Function to Promote Great Development and Prosperity of Socialist Culture and to Spur Autonomous, Coordinated Development of Economy and other related documents, solidly implemented the judicial policies of "strengthened protection, cases classification, and due application of law", and promoted building of self-innovation capability. In adjudication of administrative cases of patent grant and affirmation, attention was paid to properly identify the height of inventiveness of invention patents and utility model patents to accord patentees a judicial protection compatible with their technical contribution. For example, for patents for utility models made by "simple addition", more references were allowed to be cited to evaluate their inventiveness in a proper, flexible way, and a more tolerant attitude was duly taken towards flaws or errors arising in invention-creations that had indeed made technical contribution in compliance with the law provisions. For example, a proper standard was followed in cases invoking Article 33 of the Patent Law to ensure the balanced interests between patentees and the general public.

3. Strengthening team construction to strongly support patent adjudication

Constant efforts were made to provide in-service training. Judges were encouraged to make their experience accessible to the public and train themselves in adjudication of administrative cases of patent grant and affirmation by their own adjudication of these cases, involving themselves in research projects, writing research reports, publishing papers and books, attending meeting or symposiums, and giving lectures outside the court system. The courts in Beijing attached great importance to training judges dedicated to adjudication of administrative cases of patent grant and affirmation by regularly offering full-time training courses to IP judges working in all the courts in the city, sending them to symposiums on landmark cases, special lectures, and the municipal-level advanced IP training classes. These efforts were well received, and strongly improved the IP judges' ability and proficiency. The constant work on personnel training achieved remarkable results.

4. Improving adjudication quality and reinforcing judicial review function

The courts in Beijing made great efforts to constantly reinforce the judicial review function in connection with administrative cases of patent grant and affirmation, stepped up their work on judicial review, corrected, under the law, some erroneous practices of the administrative authorities, kept them to perform their function and authority under the law,

further regulated their patent grant and affirmation performance, and achieved better legal and social effects. In performing their function of judicial reviews, the courts in Beijing paid attention to improving their adjudication quality, and achieving better judicial review effect by intensifying adjudication-related study and exchange of their investigation and research, and making the adjudication benchmark consistent, so that identical or similar cases were treated alike and different cases differently. In recent years, the courts in Beijing stepped up their review of the substantial patent grant provisions, voiced their opinions on important controversial issues, made more clear rules and regulations, and improved the authoritativeness of judicial review. For example, by hearing the following cases, such as *Beijing Wansheng Drug Industry Co., Ltd. v. PRB* (the Beijing Higher People's Court's Administrative Judgment No. Gaoxingzhongzi 833/2012), an administrative case of dispute over invalidation of an invention patent, and *Daiichi Sankyo Company Limited, and Nippon Steel & Sumitomo Metal v. PRB and Li Jianxin* (the Beijing Higher People's Court's Administrative Judgment No. Gaoxingzhongzi 1754/2012), also an administrative case of dispute over invalidation of an invention patent, the courts in Beijing probed into the amendment to "Markush claims" and method for determining inventiveness in pharmaceutical and chemical fields, and into the method for evaluating inventiveness of chemical mixtures and compositions. By doing so, the courts in Beijing effectively performed their function of judicial review, and explicated the adjudica tion benchmarks.

III. Rules for application of law in adjudication of administrative cases of patent grant and affirmation by courts in Beijing

1. Developing rules for evaluating inventiveness of invention patents for chemical mixtures or compositions according to the technical characteristics of the chemical field

In hearing the relevant cases, the courts in Beijing pointed out that when the technical subject matter involved chemical mixtures or compositions, all the components and their contents were essential technical features, and should be defined in independent claims. In technical solutions of the type, change in the components or their contents would cause corresponding physical-chemical reaction, and might result in change of the effect of the whole technical solution. For this reason, in evaluating the inventiveness of chemical mixtures or compositions, when a person skilled in the art could predict the effect caused by the change of the components and their contents in the technical solution, it was possible to determine the inventiveness by using the three-step test. But, when it is difficult for a person skilled in the art to predict the effect caused by the change of the components and their contents in the technical solution, the three-step test should not be mechanically used. Whether a technical solution possessed inventiveness should be determined according to whether it would achieve unexpected technical effect.

2. Explicating rules governing amendments to Markush claims in invalidation procedure according to their characteristics

In hearing some relevant cases, the courts in Beijing concluded that when a Markush claim related to chemical compounds in parallel options, each compound was an independent technical solution, the claim generalized a set of several technical solutions, and all the elements were mutually substituted to achieve the same effect. Given that the chemical compounds covered by the claims were not all synthesized when the Markush claim was granted a patent, the patentee was allowed to amend the claim to such an extent as for the amended claim not to be a specific chemical compound not mentioned in the description. Whether in the patent grant examination or the invalidation procedure, patent applicants or patentees should be allowed to delete any option of any variable as the deletion was deletion of a technical solution, which complied with the provision of Rule 68, paragraph one, of the Implementing Regulations of the Patent Law.

3. Developing standards for evaluating inventiveness of patents in direction to the characteristics of Markush claim

In hearing the relevant cases, the courts in Beijing held that, when a Markush claim related to a compound, said claim often covered hundreds and thousands of specific chemical compounds, with a board scope of protection, and each of the specific chemical compound covered, compared with the specific chemical compounds similar to the prior art in structure, should have unexpected usage or effect. When evaluating the inventiveness of Markush claims of varied scope, certain selection should be made within the scope of Markush claims of varied scope to choose the specific Markush claims that were as similar as possible for compari-

son of technical effects. As long as the specific embodiments covered by a Markush claim, compared with the technical effect of at least one specific chemical compound, did not have unexpected usage or effect, said Markush claim did not possess inventiveness.

4. Developing standards for determining sufficient disclosure in descriptions of invention patents in chemical and pharmaceutical fields according to the technical characteristics thereof

In hearing some relevant cases, the courts in Beijing opined that the legislative aim of Article 26, paragraph three, of the Patent Law was to prevent applicants from not disclosing all necessary information of technical solutions of inventions to make it impossible for a person skilled in the art to exploit the claimed technical solutions according to the disclosure made in the description. Accordingly, the standard for determining sufficient disclosure in description was whether a person skilled in the art could exploit a claimed technical solution according to the disclosure made in the description. Regarding a patent application relating to chemical compounds, if a person skilled in the art found it difficult to expect the technical effect of the claimed compounds, the description should disclose the related experimental data to prove whether the corresponding technical effects could be achieved. It would suffice so long as the disclosure was made in the description to the extent satisfying the basic requirements of the Patent Law, without the necessity for disclosing all the experimental data. For a person skilled in the art, the least extent of sufficient disclosure was disclosure of the qualitative or quantitative data of lab experiments (including experiments on animals) or clinical tests sufficient to prove that a claimed technical solution could solve the expected technical problem or achieve the expected technical effect.

5. Developing standards for determining lack of essential technical features in independent claims in disputes over absence of essential technical features

In hearing some relevant cases, the courts in Beijing pointed out that whether a technical feature was an essential feature should be determined according to the technical problem to be solved and by considering all described in the description and the technical features in embodiments should not be directly determined as the essential technical features of a patented technical solution. Where two technical solutions in the description could solve the related technical problem and achieve the corresponding technical effect, the two technical solutions did not lack essential technical features.

6. Clarifying the relations of formal and substantial supports with the available support to the claims regarding whether claims were supported by the description

In hearing some relevant cases, the courts in Beijing pointed out that a claimed technical solution was often generalized by one or more embodiments present in the description; hence, whether the claims were based on the description should be determined by examination as to whether a claimed technical solution was properly generalized from specific way of exploitation and corresponding embodiments present in the description. If, while the part of the "summary of the invention or utility model" of the description was, in form, exactly the same as what was literally stated in the claims, it was difficult for a person skilled in the art to exploit the claimed technical solution according to the contents of the claims, and the technical solution of the claims was not the same as the specific way of exploitation and its embodiments of the description, or a person skilled in the art could not derive the technical solution of the claims after reading the specific way of exploitation and its embodiments of the description, the claims should be found not based on, and not supported by, the description.

7. Making it clear to follow the entirety and three-dimension rules in evaluating inventiveness in patent inventiveness determination

In hearing some relevant cases, the courts in Beijing pointed out that the inventiveness of a patent should be determined by following the entirety and three-dimension rules. By the entirety rule was meant that whether an invention-cre ation possessed inventiveness should be determined by evaluating the whole technical solution defined in the claims without separately evaluating whether each technical feature possessed inventiveness. By the three-dimention rule was meant that whether an invention possessed inventiveness should be determined, whether directed to a technical solution in a prior art or one in the invention-creation, by considering not only the technical solution *per se*, but also comprehensively the technical problem to be solved and the technical effect to be achieved by the technical solution as an integrated whole.

8. Developing the rules for determining whether distinguishing technical features were disclosed in the prior art in patent inventiveness determination

In hearing some relevant cases, the courts in Beijing

concluded that whether distinguishing technical features were disclosed by or in the prior art should be determined by comprehensively analyzing the technical features in the technical solution to which they belonged and by considering the technical problem to be solved and the technical effect to be achieved by the technical solution in the technical solution to which it belonged, without separating said technical solution from the technical solution to which it belonged. If the reason or purpose for use of a technical feature in a technical solution disclosed in a reference was not identical with that for use of the corresponding technical feature in the patent, nor the technical problem to be solved and technical effect to be achieved were, the corresponding technical features of the patent should not be considered as disclosed in the technical solution of the reference.

9. Making rules for determining whether technical effect could be expected in evaluating inventiveness of patent

In hearing some relevant cases, the courts in Beijing concluded that if the technical effect of some technical feature in the patent involved differed from its technical effect in the prior art, it should be specially stated in the description, with experimental data to prove it if necessary, or it was possible to presume that the technical effect of said technical feature in the involved patent was identical with its technical effect in the prior art, and the technical effect of said technical feature in said patent was determined as "expected" by a person skilled in the art as the person skilled in the art could know, without undue burden, use of said technical feature in the patent achieved the corresponding technical effect. If the technical effect of said technical feature mentioned in the description of the patent differed from the technical effect in the prior art, and a person skilled in the art could not presume or predict the difference in the technical effect based on the prior art, then use of said technical feature in the involved patent to achieve the corresponding technical effect possibly required undue burden on the part of a person skilled in the art.

10. Making clear effect of theoretical explanation on sufficient disclosure in description in determining sufficient disclosure by description

In hearing some relevant cases, the courts in Beijing pointed out that when a technical solution a patent application related to was developed from an experimental fact, not based on some technical principle explaining the experimental fact, though the technical principle could not explain the technical experimental phenomenon mentioned in the description, when a person skilled in the art could realize the experimental fact and the claimed technical solution according to the prior art and what was mentioned in the description, that the technical principle could not explain the experimental fact could not serve as a basis for determining that the claimed technical solution could not be realized. Whether sufficient disclosure was made in the description should depend on whether a person skilled in the art could realize the claimed technical solution based on the experimental fact mentioned in the description, not on whether the relevant experimental fact could be fully theoretically explained.

IV. Issues in adjudication of administrative cases of patent grant and affirmation and coping policies thereof

1. New requirements of National Innovation-driven Development Strategy and coping policies thereof

The National Innovation-driven Development Strategy has imposed more demanding requirements on adjudication of administrative cases of patent grant and affirmation. Rationally creating the organisation for adjudication of administrative cases of patent grant and affirmation is vital to adapting to the new situation and improving the quality of adjudication of administrative cases of patent grant and affirmation. Since administrative cases of the nature involve highly technical, professional subject matter and are very important to the normal operation of the patent system and promotion of innovations, the people's courts need to be more professionally organized to adjudicate administrative cases of patent grant and affirmation. At the Third Plenary Meeting of the 18th National Congress of the Communist Party of China, important program was made on "strengthening IP application and protection, improving the technical innovation stimulation mechanism, and exploring for the creation of IP courts". Creation of IP courts is good to improve the quality and efficiency of adjudication of administrative cases of patent grant and affirmation. The courts in Beijing will take this opportunity to establish an adjudication organisation in line with the characteristics of administrative cases of patent grant and affirmation to fulfill the higher requirements imposed by the National Innovation Development Strategy on the adjudication of administrative cases of patent grant and affirmation.

2. Pressure from rapidly-increasing number of cases and coping policies thereof

The number of administrative cases of patent grant and affirmation and other IP-related cases is on a constant rise, imposing great pressure on the courts in Beijing. Unlike other cases, cases of the kind involve rather complicated technical issues, and a judge has to put in more time and energy in each individual case. For this reason, adjudication of cases of the nature requires more adjudication resources, and insufficient adjudication resources are apt to affect the adjudication quality and efficiency. To cope with the pressure brought by the increased number of cases, it is necessary to increase the resources for the adjudication of administrative cases of patent grant and affirmation. To date, the main problems with the adjudication of administrative cases of the nature are: lack of technical proficiency on the part of judges and other related personnel. The Beijing No. 1 Intermediate People's Court set up IP Tribunals One and Two, with the latter being given the jurisdiction over administrative cases of patent grant and affirmation, which is good for establishing uniform adjudication standards. Directed to the practical situations of a constantly increased number of such cases, constantly increased pressure on adjudication, and lack of enough judges and other related staff, the adjudication mechanism will be reformed, the organisation duly adjusted and optimized, and an adequate number of staff members put in place to improve the quality and efficiency of adjudication of administrative cases of patent grant and affirmation.

3. Lack of enough technical-oriented staff and copying policies thereof

Administrative cases of the kind involve a lot of very complicated technical issues, and judges are required to be proficient in law and skillful in finding out technical facts. With the rapid development of science and technology and constant expansion of technical fields, administrative cases of patent grant and affirmation involve more and more special technical issues. To ensure the quality and efficiency of adjudication of cases of the type, adjudication organisations for this purpose in many other countries have engaged specialized technicians to assist judges in dealing with technical issues involved in such cases. To date, the relevant institution is absent in China to ensure technical assistant's involvement in adjudication of the administrative cases of patent grant and affirmation. To solve this technically difficult problem, the courts in Beijing made, in 2013, constant research to find ways to solve the problem of lack of enough technical assistants, for example, technical consultants, assigning specialized technical personnel working with a people's jury, encrusting more judges with science and technology educational background. To solve the problem once and for all, it is necessary to find new ways. Besides further playing the role of the technical fact-finding means through technical appraisal and expert consultation, it is necessary to create positions for "technical judges" or "technical investigation officials" within the court system to institutionally enable judges to adjudicate administrative cases of patent grant and affirmation.

V. Conclusion

In 2013, the courts in Beijing made certain contribution and some achievements in their work on adjudication of administrative cases of patent grant and affirmation for promoting construction of an innovative nation and protecting the legitimate rights and interests of interested parties. In the future, to realize the new reform and development goals, well adjudicate a larger number of more complicated administrative cases of the kind, and ensure the implementation of the National Innovation-driven Development Strategy, the courts in Beijing will continue to do their work on adjudication in the same style as in 2013, and, under the supervision and guidance of the Supreme People's Court, make even greater contribution to create a new situation for their work on adjudication of administrative cases of patent grant and affirmation. ■

[1] Following the establishment of the Beijing Intellectual Property Court on 6 November 2014 came the changes in jurisdiction over the administrative cases involving patent grant and patent right affirmation.