

# Mutual Promotion Between International Science and Technology Exhibition and Intellectual Property Protection

—Comments on Innovation Enlightenment of the First China International Supply Chain Expo

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## I. Evolution of protection of intellectual property rights at exhibitions

### 1. International science and technology exhibitions boost the development of international conventions on intellectual property rights protection

The protection of intellectual property rights at international exhibitions can be traced back to the end of the 19<sup>th</sup> century. At that time, with the development of industrial technologies, the lack of international protection for industrial property rights hindered cross-national exchanges, such as exhibition and sales, of advanced technological products. In 1873, an international invention exhibition was held in Vienna, the capital of Austria (then the Austro-Hungarian Empire). Since there were no international conventions on the protection of industrial property rights, some foreign exhibitors and countries refused to attend the exhibition, fearing that their inventions would be applied for patent by others. For this reason, the government of the host country passed a special law to secure temporary protection for patents and trademarks of the foreigners participating in the exhibition. During the period of protection, no one, except exhibit owners, was allowed to apply for patents or trademarks for the exhibits. This is part of the prototype of the system for protection of intellectual property rights at international exhibitions, especially the temporary protection for

patent and trademark applications during international exhibitions. In the same year, the Patent Reform Conference was held in Vienna, in which the participants called for an international convention on patent protection in a bid to reach a global understanding as soon as possible.

During the Paris World's Fair, called an Exposition Universelle in French, in 1878, an international congress on industrial property (patent) was held, and it was agreed to set up a drafting committee for an international convention on the protection of industrial property rights. In March 1883, the first international convention for the protection of industrial property, which is also one of the fundamental conventions for the modern regime of international industrial property protection, Paris Convention for the Protection of Industrial Property (hereinafter referred to as the Paris Convention), was signed in Paris by eleven countries including France and Belgium and entered into force on 7 July 1884. The Paris Convention applies to industrial property in the widest sense, including inventions, utility models, industrial designs, trademarks, service marks, trade names, geographical indications (indications of source and appellations of origin) and the repression of unfair competition. The Paris Convention established many basic principles for the protection of international industrial property, such as national treatment, right of priority and temporary protection.<sup>1</sup> China acceded to the Paris Convention (Stockholm Act 1967) on 19 December 1984, declaring that China did not

consider itself bound by the provisions of paragraph (1) of Article 28 of the Paris Convention, and the Paris Convention entered into force, with respect China, on 19 March 1985. It can be seen that the simple desire of participants of international trade fairs, that is, to display the latest products while protecting their core technologies from infringement, fueled the birth of international conventions on intellectual property protection.

With the evolution of national legislation on intellectual property protection around the world and the conclusion of major international treaties on intellectual property protection (such as the Berne Convention for the Protection of Literary and Artistic Works, the Patent Cooperation Treaty, and the Madrid Agreement Concerning the International Registration of Marks), most exhibition host countries have taken corresponding measures to protect intellectual property rights at exhibitions. Meanwhile, organizers of large international exhibitions usually publish rules for intellectual property protection based on the characteristics of exhibitions beforehand in a bid to provide guidance to foreign exhibitors who are unfamiliar with the intellectual property protection system of the host countries, and establish a mechanism for resolving unexpected intellectual property disputes during the exhibitions quickly. For instance, Germany is the world's most popular country for exhibition, hosting about 70% of the world's trade shows.<sup>2</sup> Since 1949, the Nuremberg Toy Fair (Spielwarenmesse in German) in Germany has been the world's leading trade fair for toys and entertainment products. As of the 58<sup>th</sup> Fair in 2007, the Committee of the Nuremberg Toy Fair has established a specialized IPR council for mediating intellectual property disputes at the Nuremberg Toy Fair. The Committee was responsible for handling complaints and disputes not entering legal proceedings, clarifying whether an exhibitor's exhibit infringes the intellectual property right of another exhibitor, and prohibiting relevant activities in relation to infringing exhibits during the exhibition. By handling intellectual property disputes through the Committee, problems such as delays in dispute resolution and complicated judicial procedures can be avoided, in such a way to minimize the infringement of the legitimate rights and interests of exhibitors during the exhibition.<sup>3</sup>

## 2. Evolution of intellectual property protection at exhibitions in China

China has been strengthening the protection of intellectual property rights at exhibitions since its entry into the

World Trade Organization in 2001, especially after the Shanghai World Expo of 2010. The Protection Measures for Intellectual Property Rights During Exhibitions (the "Protection Measures") were jointly promulgated in January 2006 by the Ministry of Commerce of China, the State Administration for Industry and Commerce, and the National Copyright Administration of China and the China National Intellectual Property Administration (CNIPA). In July 2022, the CNIPA issued the Guidelines for the Protection of Intellectual Property Rights (the "Guidelines")<sup>4</sup>. In addition, provisions on the protection of intellectual property rights in China's intellectual property laws are definitely applicable to the protection of relevant intellectual property rights at exhibitions.

In general, China's intellectual property laws have been developing to a higher level in terms of the protection of intellectual property rights at exhibitions. The legal system is becoming much more improved to be essentially in line with the internationally accepted rules on the protection of intellectual property rights at exhibitions.

### (1) Protection Measures for Intellectual Property Rights During Exhibitions

The Protection Measures clearly stipulate that they shall apply to the protection of intellectual property rights of exhibitors and those on the exhibited items, and the exhibition sponsor shall safeguard the legitimate rights and interests of intellectual property holders legally. Meanwhile the Protection Measures innovatively require, at that time, the exhibition sponsor shall establish, when it is believed to be required, an office in charge of intellectual property complaints and outline the procedure for resolution of complaints<sup>5</sup>, hereby creating a hybrid protection mechanism involving the offices at exhibitions, intellectual property administrative departments and judicial authorities. Such a mechanism facilitates the efficient handling of issues in relation to intellectual property rights at exhibitions by right holders and competent authorities.

### (2) Guidelines for the Protection of Intellectual Property Rights at Exhibitions

In order to further strengthen the protection of intellectual property rights at exhibitions, the CNIPA formulated and released the Guidelines, in addition to the Protection Measures. In comparison with the Protection Measures, besides further clarifying the legal responsibility of the exhibition organizers to protect intellectual property rights, the Guidelines stipulate, in a more comprehensive and elaborated manner, the protection of intellectual property rights before,

during and after exhibitions. As for the protection before exhibitions, the Guidelines clarify that the exhibition organizers shall promote the publicity of intellectual property protection, provide relevant legal and technical consultation and guidance, and, when necessary, set up a workstation to provide intellectual property related services and promote the protection of intellectual property rights. Meanwhile intellectual property administrative authorities can be further involved in the pre-exhibition protection of intellectual property rights. As for the protection during exhibitions, the Guidelines clarify that the workstation is responsible for accepting complaints of intellectual property infringement, and may coordinate with the exhibition organizers to take actions to mitigate the effects of infringement where infringement has been confirmed. As for the protection after exhibitions, the Guidelines stipulate in detail the legal responsibilities of the intellectual property authorities for the protection of intellectual property rights at the exhibitions, including, but not limited to, transferring relevant materials between the local intellectual property authorities where the exhibition was held and where the exhibitors are registered, recording, summarizing and reporting intellectual property infringements and related complaints, and cooperating and coordinating with other departments to protect intellectual property rights at exhibitions.

### (3) Intellectual property laws

The intellectual property laws in China, including the Patent Law, the Trademark Law, the Copyright Law and the Anti-Unfair Competition Law, do not provide any special provision concerning the protection of intellectual property rights at exhibitions, and such protection is mainly governed by general provisions on intellectual property protection. For example, evidence preservation before and during litigation, and temporary injunction in disputes over intellectual property infringement can also be applied to the protection of intellectual property rights at exhibitions.

Furthermore, Article 24 of the Patent Law<sup>6</sup> and Rule 30 of the Implementing Regulations of the Patent Law<sup>7</sup> are both provisions in relation to the protection of intellectual property rights at exhibitions, which respectively stipulate and specify that an invention may not lose its novelty where it was exhibited for the first time at an international exhibition sponsored or recognized by the Chinese government.

## II. Mutual promotion between international science and technology exhibition and intellectual property protection

An international science and technology exhibition involves various types of intellectual property rights, including those regarding the exhibition itself, such as its name, emblem, flag, mascot, theme words, and domain names; those of exhibits, such as patents, trademarks (including geographical indications), copyrights, trade secrets, new plant varieties, and integrated circuit layout designs; and those relating to booth design. International exhibitions and intellectual property protection promote and reinforce each other.

### 1. The development of international science and technology exhibitions urges improved international intellectual property portfolios

It is of great necessity for an enterprise to participate in international science and technology exhibitions so as to better fit into the global market and engage in international cooperation and competition. The exhibitions urge businesses to plan ahead for how to protect their intellectual property rights from infringement during the exhibitions and avoid their own displayed exhibits from infringing other's intellectual property rights.

The protection of intellectual property rights at exhibitions is usually integrated into an enterprise's overall protection strategies and intellectual property portfolios. Take a patent portfolio for example. First, regarding the countries where patent portfolios are built, creating the patent portfolio in advance in the country where an exhibition will be held is particularly important to an exhibitor due to the territoriality of patent protection. When developing a global patent portfolio, such as when drafting an international PCT patent application or selecting the countries and regions where the PCT application is going to enter at the national phase, the enterprise should take account of the major countries where its products are sold and countries where its competitors are located, as well as the countries where international exhibitions are held. The drafting manners and disclosure of patents shall adapt to the respective patent examination standards and procedures of different countries. Second, regarding the types of patents, it should be noted that differ-

ent countries protect different types of patents, and the subject matters eligible for patent protection, requirements for patent grant, examination methods and term of protection may vary accordingly. For instance, according to the China's Patent Law, as revised in 2020, and relevant rules of the CNIPA, the term of protection of a design patent is extended from 10 years to 15 years as of 1 June 2021.<sup>8</sup> Because of the characteristics of the patentable subject matters, a patentable design is more susceptible to being acquired and plagiarized at exhibitions. Thus, special attention shall be paid to the protection of designs of exhibits. Third, regarding the timing for filing, since the great majority of countries adopt the first-to-file principle, it is generally advantageous to file a patent application as early as possible. To have a patent application granted faster, the applicant can take advantage of the accelerated examination procedures to obtain the patent right granted in a relatively short period of time. Moreover, trade secrets have become a hot issue in intellectual property disputes in recent years due to its unique subjects and protection manner. If a new exhibit carries a technical secret that can be easily obtained through reverse engineering, it is suggested to protect the technical secret by means of applying for a patent under the principle of "disclosure in exchange for protection", before the new exhibit is displayed at the international science and technology exhibition, which is often the first time that it is disclosed. Or else, the applicant can file an application for a patent as soon as possible within the six-month grace period under the principle of "disclosure in exchange for protection" and in combination with the provisions on the grace period.

While focusing on the protection of its own intellectual property, an exhibitor shall also avoid infringement on others' intellectual property rights. As punitive damages for "willful infringement" are available in many countries, a Free to Operate (FTO) analysis or risk screening can not only effectively minimize legal risks of intellectual property disputes, but also reduce economic losses when a court awards the amount of damages according to the factors such as the nature and severity of infringement. Before releasing a new product at the international science and technology exhibition, the exhibitor is suggested to work together with a professional intellectual property agency for FTO searching and risk analysis on patents owned by major competitors in the exhibition hosting country and major targeted market countries. If the risk of infringement is as-

sessed to be high, the exhibitor may try to negotiate for a patent license or prepare in advance for defenses to infringement claims and/or for challenge to patent validity.

## **2. An improved intellectual property protection system and a commercial dispute resolution mechanism enhance the influence of international science and technology exhibitions**

An improved system for the protection of intellectual property rights at exhibitions of a host country is conducive to enhancing the influence of international science and technology exhibitions. For instance, as one of the countries where intellectual property law originated, Germany is famed for its long history of rule of law, comprehensive legal system, and high level of protection. More than half of EU's intellectual property cases are heard in Germany. Dusseldorf, Munich, and Mannheim are the three major locations in Germany where patent lawsuits are filed. Dusseldorf, with three IP chambers, is the most important venue for patent litigation in Germany. In 2022, about 50% of Germany's new actions are filed in Dusseldorf.<sup>9</sup> In addition to litigation, up to 80% to 90% of intellectual property disputes in Germany are settled through alternative dispute resolution processes such as mediation and arbitration. The intellectual property protection system and diversified dispute resolution mechanism have boosted the Hannover Messe, founded in August 1947, to become one of the largest international industrial events at present, and Hannover, the "trade fair city", is particularly significant for international industrial trade shows and science and technology exhibitions.

The diversified resolution mechanism for international commercial disputes also provides a favorable guarantee for the development of international exhibitions in China. In 2014, Intellectual Property Courts were successively established in Beijing, Shanghai and Guangzhou. In 2018, the Supreme People's Court designated five international commercial arbitration institutions, including the China International Economic and Trade Arbitration Commission (CIETAC), and two international commercial mediation institutions (namely, the China Council for the Promotion of International Trade Mediation Center and the Shanghai Commercial Mediation Center) as the first group of arbitration and mediation institutions included in the "one-stop" diversified international commercial dispute resolution mechanism. The Procedural Rules of the China International Commercial Court of the Supreme People's Court (For Trial Implementation) provide for the working procedures of the China Inter-

national Commercial Court in terms of case acceptance, service, pre-trial mediation, case trial, enforcement and support for dispute resolution by arbitration, clarify the coordination and integration of litigation and mediation, as well as judicial proceedings and arbitration, and guide domestic and foreign parties to choose a dispute resolution method independently under the “one-stop” mechanism. In July 2022, the CIETAC Intellectual Property Arbitration Center was established in Beijing, which effectively satisfies the diverse needs of international intellectual property dispute resolution. All these efforts have promoted the development of the international exhibition industry in China’s mega cities. Shanghai, Beijing and Guangzhou ranked top three in the 2021 China Convention/Exhibition City Competitiveness Index Rankings released by the China Convention/Exhibition/Event Society.

### III. Innovation enlightenment of the first China International Supply Chain Expo

With the theme of Connecting the World for a Shared Future, the first China International Supply Chain Expo (CISCE) will be hosted by the China Council for the Promotion of International Trade (CCPIT) in China International Exhibition Center (Shunyi Venue), Beijing from 28 November to 2 December, 2023. As the world’s first nation-level supply chain-themed exhibition, the CISCE is an open international platform which integrates the upstream, midstream and downstream sectors, connects small, medium, and large enterprises and promotes collaboration between industry, academia, research and application, and facilitates interactions between Chinese and foreign enterprises, and is aimed to foster the construction of a stable and flexible global supply chain. The CISCE encompasses five supply chains of Smart Vehicle, Green Agriculture, Clean Energy, Digital Technology, and Healthy Life, as well as a Supply Chain Service Exhibition Area.

At a press conference held by the State Council Information Office on 9 June 2023, Ren Hongbin, the CCPIT president, introduced the preparations for the CISCE and answered questions from journalists about the differences between the CISCE and previous general expositions and specialized exhibitions. In terms of the exhibition concept, the CISCE supports enterprises from all over the world to

give full play to their complementary advantages, deeply participate in the global industrial division and cooperation, and boost the recovery of the world economy and the healthy development of economic globalization. In terms of the exhibition method, the CISCE, with the supply chain as the logic of the trade show, gathers together the most representative and distinctive enterprises in the relevant industrial chains and supply chains, showcase high-end products and cutting-edge technologies of the upstream, midstream and downstream sectors, and demonstrate professional services in the fields of, e.g., finance, logistics and law. It enables participants to see the development of modern industrial chains, supply chains and cutting-edge technologies in a live-action, interactive and immersive way, and to really understand how technologies can improve our lives and create the future. In terms of the exhibition impact, the CISCE attaches importance not only to short-term transactions, but further to long-term cooperation and mutual development, and is targeted to professional exhibitors and buyers, as well as universities, research institutions and the public.

Providing commercial legal services and protection for intellectual property rights has long been the main tasks of the CCPIT. The CISCE will make use of the traditional advantages of the CCPIT in the field of international commercial legal services to provide a full-chain, one-stop, international and diversified commercial legal services and dispute resolution methods. The CIETAC is rated as one of the five most popular arbitration institutions in the world, and has an intellectual property arbitration center. The two international intellectual property service agencies of the CCPIT are known as the vanguards in China and are leading especially in handling foreign-related patent tasks. On its website, [www.ctils.com](http://www.ctils.com), the CCPIT provides enterprises with legal consultancy services and answers their questions about transnational operations in a timely manner.

Meanwhile, the CISCE will provide integrated solutions for the global supply chain in the Supply Chain Service Exhibition Area, in which it not only showcases logistics, Internet of Things technology and software services, automated logistics systems, etc., but also provides comprehensive services such as finance, insurance, commercial law and intellectual property, in such a way to advance the synergic and green transformation of industrial chains and promote cost reduction and efficiency enhancement in various industries. The innovative logic of exhibition at the CISCE and the diversified intellectual property dispute resolution mechanism of

the CCPIT will once again show that international science and technology exhibitions and intellectual property protection complement and reinforce each other. The full chain of intellectual property services, especially the deep integration of the patent chain with the industrial chain, supply chain, innovation chain, capital chain and talent chain, will effectively promote the robustness and resilience of the industrial chain and the supply chain. ■

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<sup>1</sup> World Intellectual Property Organization. Abstract of the Paris Convention (1883). Retrieved from [https://www.wipo.int/treaties/zh/ip/paris/summary\\_paris.html](https://www.wipo.int/treaties/zh/ip/paris/summary_paris.html). Last visit on 15 August 2023.

<sup>2</sup> Ji Yuanyuan (November 2020). Law enforcement measures and countermeasures of the infringement of intellectual property rights at German exhibitions. *China Invention & Patent*, vol. 17, Issue 11, pp. 91-97.

<sup>3</sup> The Nuremberg Toy Fair. Retrieved from <http://www.spielwarenmesse.cn/>. Last visit on 15 August 2023.

<sup>4</sup> CNIPA. The Notice of the CNIPA on Printing and Distributing the Guidelines for the Protection of Intellectual Property Rights at Exhibitions. Retrieved from [https://www.gov.cn/zhengce/zhengceku/2022-07/27/content\\_5703113.htm](https://www.gov.cn/zhengce/zhengceku/2022-07/27/content_5703113.htm). Last visit on 10 August 2023.

<sup>5</sup> Article 6 of the Protection Measures for Intellectual Property Rights During Exhibitions reads that if an exhibition lasts for 3 days or more and if the administrative department of exhibitions believes it is required, the exhibition sponsor shall establish an office in charge of IPRs complaints during the exhibition. Where an office in charge of IPRs complaints is established, the IPRs administrative department at the locality of the exhibition shall dispatch its personnel to station therein and handle the case of infringement according to law.

<sup>6</sup> Article 24 of the China's Patent Law reads: An invention-creation for which a patent is applied does not lose its novelty where, within six months before the date of filing, one of the following events occurred:

(1) where it was disclosed for the first time for the purpose of public interest when a state emergency or an extraordinary situation occurs in the country;

(2) where it was first exhibited at an international exhibition sponsored or recognized by the Chinese Government;

(3) where it was first made public at a prescribed academic or technological meeting;

(4) where it was disclosed by any person without the consent of the applicant.

<sup>7</sup> Article 30 of the Implementing Regulations of the Patent Law reads:

The international exhibition recognized by the Chinese Government mentioned in Article 24(1) of the Patent Law shall refer to the international exhibition provided for in the Convention Relating to International Exhibitions and registered with or recognized by the International Exhibitions Bureau....

<sup>8</sup> CNIPA (24 May 2021). Interim Measures for Examination Related to the Implementation of the Amended Patent Law (CNIPA Notice No. 423).

Article 5 of the Patent Law stipulates that for invention patents that have been announced and authorized since 1 June 2021, the patentee may, within three months from the date of the announcement of the patent grant, in accordance with Article 42.2 of the amended Patent Law, file a request for patent term compensation in paper form, and then pay relevant fees in accordance with the payment notice issued by the China National Intellectual Property Administration. The China National Intellectual Property Administration will review the above request after the implementation of the newly amended Implementation Regulations of the Patent Law.

Article 42 of the Patent Law is amended as follows: The duration of patent right for inventions shall be twenty years, the duration of patent right for utility models shall be ten years, the duration of patent right for designs shall be fifteen years, counted from the date of filing....

<sup>9</sup> Retrieved from <https://www.juve-patent.com/people-and-business/germanys-case-numbers-drop-but-dusseldorf-remains-most-important-patent-location/>. Last visit on 15 August 2023.

## China and WIPO Celebrate 50 Years of Cooperation in Geneva

The flagship events of the WIPO marking the China-WIPO 50<sup>th</sup> anniversary of cooperation were held in Geneva in July.

Accompanying activities included a photo show presenting the historic moments of the 50 years, presentations of traditional Chinese culture, relevant videos and innovative products, all of which have made the world take a close look at China's achievements in innovation and IPR protection.

Source: CNIPA