

The theme: “ How Going Global Changes Technology and Innovation Policy-Making: New Types of Governance Needed?”

Mr. Zhao Hongrui’s Speech in Panel Discussion of Session III----

***IPR Challenges in Current Chinese Science and Innovation System - Law, Policy & Practice***

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TEXT & PPT VIRSION

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Honorable Chairman Dr. Jakob Edler,  
Ladies and Gentlemen,  
Good Morning!

I am very pleased to come to Helsinki attending this distinguished international conference. Finland is renowned as a country of innovation, and Helsinki is a beautiful coastal city in Northern-Europe. First of all, please allow me to extend my sincere thanks to all of the Organizer and Sponsors for their cordial invitation.

Being a Chinese IPR scholar and a practicing lawyer, and in my impartial position, my presentation will focus on the IPR Challenges in today China.

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- The damages to IPR in current China;
- The governmental efforts on IPR-protection and the related policy-making;
- The public IPR-awareness, especially of entrepreneurs and citizens in China.

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My speech covers three perspectives: first, the damages to IPR in current China; second, the governmental efforts on IPR protection and the related policy-making; third, the public IPR-awareness, especially of entrepreneurs and citizens.

Let me starting the first one with a news story. From May 21<sup>st</sup> to 23<sup>rd</sup>, German chancellor Merkel officially visited Beijing, China, and emphasized Chinese IPR-protection issues in the May 23<sup>rd</sup> media conference.

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#### The damages to IPR in current China

- German Chancellor Merkel's concerns  
----IPR-Challenges in Current P. R. China



After about 3 months, on Sept. 5th, at another press conference that took place ahead of Chinese Premier Wen Jia Bao's trip to Finland, the United Kingdom, Germany and Tajikistan, a German media DPA's journalist mentioned to Chinese Premier Wen Jiabao that:

“In May you promised German Chancellor Merkel that China will better protect intellectual property, and Merkel intends to make the issue a priority in dealings with China during Germany's presidency of the European Union”.

The journalist's key-questions are as follows:

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DPA's [Deutsche Presse-Agentur] journalist's key-questions:

- "Is China's failure to act decisively against piracy damaging its international credibility?"
- "Could this damage Sino-German relations? And"
- "could this overshadow other issues you will discuss with Britain and Finland?"

"Is China's failure to act decisively against piracy damaging its international credibility?"

"Could this damage Sino-German relations? And"

"Could this overshadow other issues you will discuss with Britain and Finland?"

Dear friends, the above-said questions aroused my thinking deeply. To be honest, there are at least 5 typical phenomena on IPR-infringements in China: disc-piracy, KTV-copyright infringements, illegally-installed software, illegitimate pornography and illegal publication.

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"Five IPR-Sins" in current China

- disc-piracy,
- KTV-copyright infringements,
- illegally-installed software,
- illegitimate pornography, and
- illegal publication.

These five phenomena are just like what a Chinese traditional phrase said: "there are five sorts of sin emerged in the same time".

The "Five IPR-Sins" should be recognized as instances as the IPR-challenges in current China. They undermine China's science and innovation system; discourage Chinese people and company's enthusiasm and investment for R&D. Fundamentally speaking, violation of IPR concerns Chinese government and people not less than it concerns western countries and Chancellor Merkel.

What have been done to improve the situation, by Chinese government, by Chinese society?

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Chinese Premier Wen's newest reply  
---New Chinese Governance for IPR-Protection:  
law, policy, & Practice



In response to Chancellor Merkel's concerns, Chinese Premier Wen Jia Bao addressed official answers at Sept. 5<sup>th</sup> media conference. Being well-prepared, candid and confident, he said:

"Frankly, it is only in recent years that we have given priority to the protection of intellectual property rights (IPR) as a matter of strategic policy."

This has something to do with the level of development China has achieved, and China should be given some more time. But what I wish to stress is that no one should fail to see the Chinese Government's commitment to protecting IPR and the steps it has taken.

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## New Governance of IPR-Protection in China

- First, IPR protection strategy & the national innovation strategy.
- Second, a national leading group for IPR protection has been set up.
- Third, adopted and revised a number of laws and regulations on IPR protection.
- Fourth, law enforcement is being strengthened.
- Fifth, to raise public awareness of the importance of IPR protection.
- Sixth, to take an active part in international cooperation, and to have ongoing dialogue with the EU on IPR protection.

First, the IPR protection strategy is being pursued with the same importance to the national innovation strategy.

Second, a national leading group for IPR protection has been set up to exercise overall leadership and coordination over IPR protection efforts in China.

Third, we have adopted and revised a number of laws and regulations on IPR protection. Of them, the most important three laws are: the Patent Law, the Copyright Law and the Trademark Law. We will continue to improve the relevant laws and regulations and lower the threshold for prosecuting IPR-related offences.

Fourth, law enforcement is being strengthened. Both administrative and judicial protection are provided, which complement each other. We have launched special national operations against IPR infringement activities, and 50 centers have been set up across China for handling IPR violation complaints to step up fight against copyright infringement and piracy.

Fifth, we are working to raise public awareness of the importance of IPR protection to encourage consumers, businesses and social groups to play their part in protecting IPR.

Sixth, we have taken an active part in international cooperation and have ongoing dialogue with the EU on IPR protection.

In short, China's IPR protection effort will carry the full force of steel, and it will definitely not be something as soft as bean curd, so to speak.

Ladies and gentlemen, compared with the former reply of Premier Wen in the May 22, 2006 media conference jointly attended with Chancellor Merkel, it should be noticed, as always, that the new governance on IPR issues in China has been emerged.

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### Public-oriented IPR-awareness in China

- The Current Chinese National IPR Strategy, germinating from the Public-oriented “Scientific Outlook of Development”

The New Governance is concerning to improve the current law, policy, & Practice. The New remarks of Wen not only address the enactment and perfection of the law and policy. He also emphasizes the importance of enforcement of law and education of the public on IPR. In my view, aside from the government’s efforts, legislation and enforcement, even beneath the policy-making level, the general public’s awareness of IPR-protection shall also be aroused. It is one of the many reasons for the weakness and difficulty of IPR-protection in today China, and it should be stressfully discussed that-- what’s the most potential causations in the weakness of IPR-protection in today China?

The poor public IPR-awareness has its historic and realistic root, but is under transformation.

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### Confucius and Chairman Mao



On the first level, the citizen's level, there is a strong traditional concept influencing people's behavior. That is "all the knowledge should be free." In China, all the people adore oracle, wise man, and philosopher, for example, Confucius and Chairman Mao. The people, educated by the wise man like Confucius, believe that the civilized knowledge shall be free of charge and gratis. The grass-roots phrase said: "All the books are readable by mean of borrowing or distributing".

On the second level of Chinese entrepreneurs, most of them are not well educated and trained to intellectual property rules. In some of their mind, the belief of developing economy is stronger than to obey market rules. Bearing in mind, intellectual property protection started to take its shape only 3 decades ago. In your country, you will say hundred years. You see the difference.

On the other hands, the relatively short period of time of market economy in China resulted in a rather small population to own intellectual property rights. Once the proprietors of IPR in China become more and more, the IPR-protection awareness shall be awoken far and wide.

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## "Scientific Outlook of Development"



On the last level of governmental policy-making, nowadays the general national development strategy in China has been named as "Scientific Outlook of Development". It pursues sustainable, comprehensive and harmonious economic development-model. Guided by this general policy, the "National IPR Strategy" is started to be constituted and emphasized at no time before. China's economy has been growing at an average annual rate of over 9% during the past three decades, in the last three years, its annual growth rate has exceeded 10%, but at the price of high consumption of resources and energy, of deterioration of environment

and of the meager welfare of millions of cheap labors. Scientific Outlook of Development is not just the policy of the government; it is also the willingness of the Chinese people. We want a prosperous economy based on innovation, based on knowledge, and based on efficiency. For a better future and a better homeland, we shall respect, value and protect intellectual assets.

Actually, nowadays the CPC has generated a new social theory of "New Social Estate", which represents 150 million populations in current China, owning more than 10,000 billion RMB assets, and donating more than 1/3 national tax revenue. I think that the upcoming representatives of Chinese "New Social Estate" would also be some of the newly-increased proprietors of Chinese IPR.

You don't build Rome in one day. However, looking at what China has achieved over the past 3 decades, you won't be pessimistic for what will happen for IPR in the upcoming decade of China.

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**Conclusion--**

**British wisdom Francis Bacon:**

- "As the births of living creatures,  
at first, are ill shapen;  
so are all innovations,  
which are the births of time!"



Ladies and Gentlemen, let me conclude my speech on Chinese IPR-challenges by quoting the famous phrase of British wisdom Francis Bacon:

"As the births of living creatures,  
at first, are ill shapen;  
so are all innovations,  
which are the births of time!"

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Thank you all very much!

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Thank you all, very much!

### **C.V. of Mr. Zhao Hongrui**

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Mr. Zhao Hongrui, graduated from Peking University, P. R. China, is a Chinese Intellectual Property Right law expert. He does a lot of legal research and academic lectures in Tsinghua University, Mundell International University of Entrepreneurship, other academic institutes and national industrial associations as a professor [part-time]. At the same time, He has been practicing Chinese IPR law in the past 12 years as a senior lawyer, being as the managing partner of Peking Li He law firm. In the past 5 years, he has been the senior director of Peking Lawyer Association.

Mr. Zhao Hongrui knows the IPR issues in both of national policy-making level and corporate strategy-making level. In the realm of IPR law practice, Mr. Zhao has abundant Chinese experiences covering trademark, patent, know-how and i.e.. He handled the "Yangtze River Three Gorges" International financing program in which many IPR problems were involved, and he was leading a Chinese lawyer team to initiate and carry on the foresight theme-- "Patent-Oriented New Time in China".

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