

IP in China

Demos – Atlas of Ideas

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Intellectual Property Institute

Mission: Increasing the contribution of IP to economic well-being by timely, relevant and authoritative research and informing policy makers and public debate.

Members:

- **UK Patent Office**
- **UK judiciary**
- **IP-based companies eg AstraZeneca, BAT, BP, BTG, GE, GSK, IBM, InterDigital, Microsoft, Nestlé, Pfizer**
- **Law/Patent Firms – 17 UK & US-based**
- **Universities: Oxford, Cambridge, Edinburgh, QMW, IC**



IPI – China Programme

- ***Research Programme*** - data collection and collation
- ***China IP Conference*** – organised for the EPO
- ***“China & IP”*** IPI Conference for UK managers
- ***IP Awareness seminars for Chinese business*** – Jan 2007
- ***Hosting Chinese IP delegations*** to the UK
- ***Arranging China IP visits/itineraries for IPI members***
- ***IPI’s China Programme Director*** – Dr Victoria Wang
 - victoriawang@ip-institute.org.uk
 - <http://www.ip-institute.org.uk>



China in its IP structural evolution

- **Legal structure**
- **Acquisition of rights**
- **Enforcement of rights**



China in its IP structural evolution

- **Legal structure**
 - 1984/92 laws introduced modern IP structure
 - 4 subsequent modification/updates – more underway
- **Acquisition of rights**
 - Good quality – better for foreign than domestic
 - Reasonable cost and time
 - 1/3 number of examiners necessary – training underway
- **Enforcement of right**
 - Improving but patchy – strong regional differences
 - Sophisticated judgements – excellent Supreme Court
 - Training underway for IP judges



China IP Litigation: 2004 dominated by Chinese companies

- **More patent litigation in China than any other country including the USA**
- **98%* of cases are Chinese vs Chinese company**
- **Of the 2% foreign companies 90% win their cases**
- **Only 30 – 40% of foreign companies win their cases in the USA**

Foreign companies are 2 – 3 more likely to win their patent case in China than in the USA

***Excluding cases related to Hong Kong & Macau (111) and Taiwan (58)**

Sources: Jianyang Yu-Liu (Shen & Associates) 2005; SIPO Report on IP Rights Protection in China in 2004; IH estimates



“Invention patent” enforcement costs in China are not high

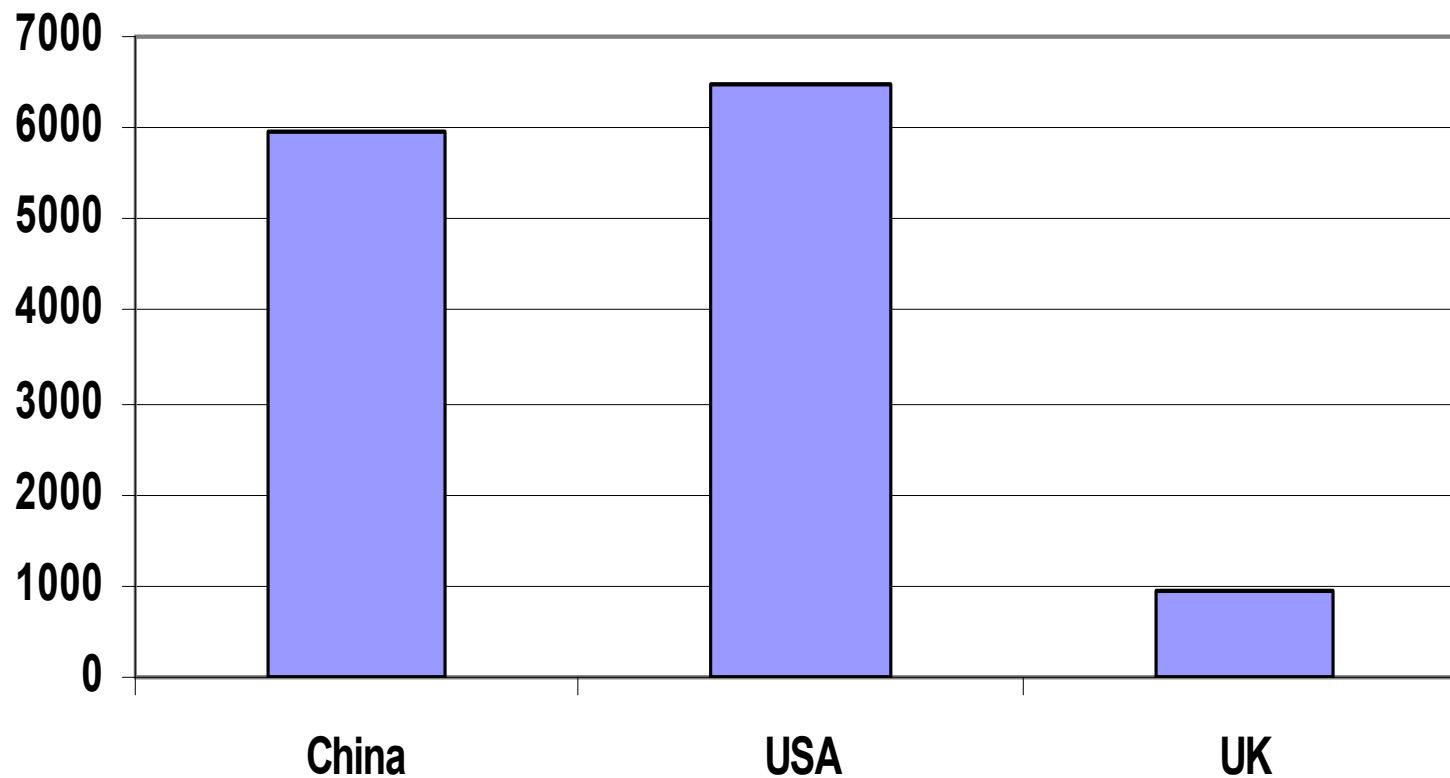
- **Litigation: filing suit to enforcement** **\$65 – 120k**
12 – 14 months
- **Administrative route:** **<\$20k**
weeks/months

Cheaper & quicker than EU, UK, USA, Japan

Source: Rouse & Co, Shanghai

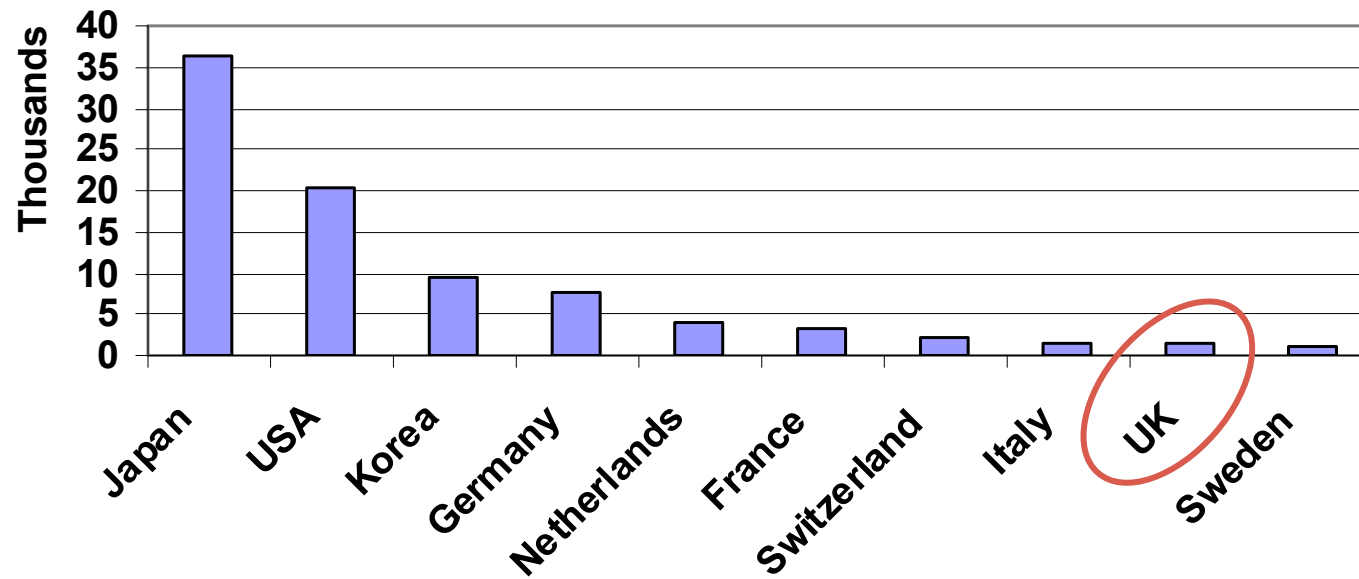


University domestic patent applications 2002: China, USA, UK



Sources: SIPO, AUTM, HEFCE

Top ten foreign countries filing patent applications in China - 2005



Source: SIPO, 2006



The self-inflicted wounds

- **Not registering rights in China**
- **Inadequate understanding of the market place and legal structures**
- **Limited or non-existent on-the-ground IP expertise**
- **No delegation and too slow**
- **“Afraid to upset the Chinese government”**



PHILIPS™ IP in China

- **11 research laboratories in China**
- **11,000 patents in China *of which 1500 generated in China***
- **Profitable business in China**
- **IP start *in situ* in China in 2001**
 - **IP creation, counseling, enforcement, licensing, standards**
 - **4 Offices, 50 employees - *47 local***
 - **IP Academies in 3 universities**
- **Planning for 50% of global inventions to come from China**

China has very little US patent protection

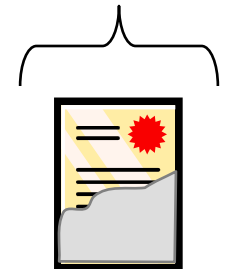


China's Patents in China



Patent applications by Chinese inventors at China's Patent Office in 2004 - ~280,000

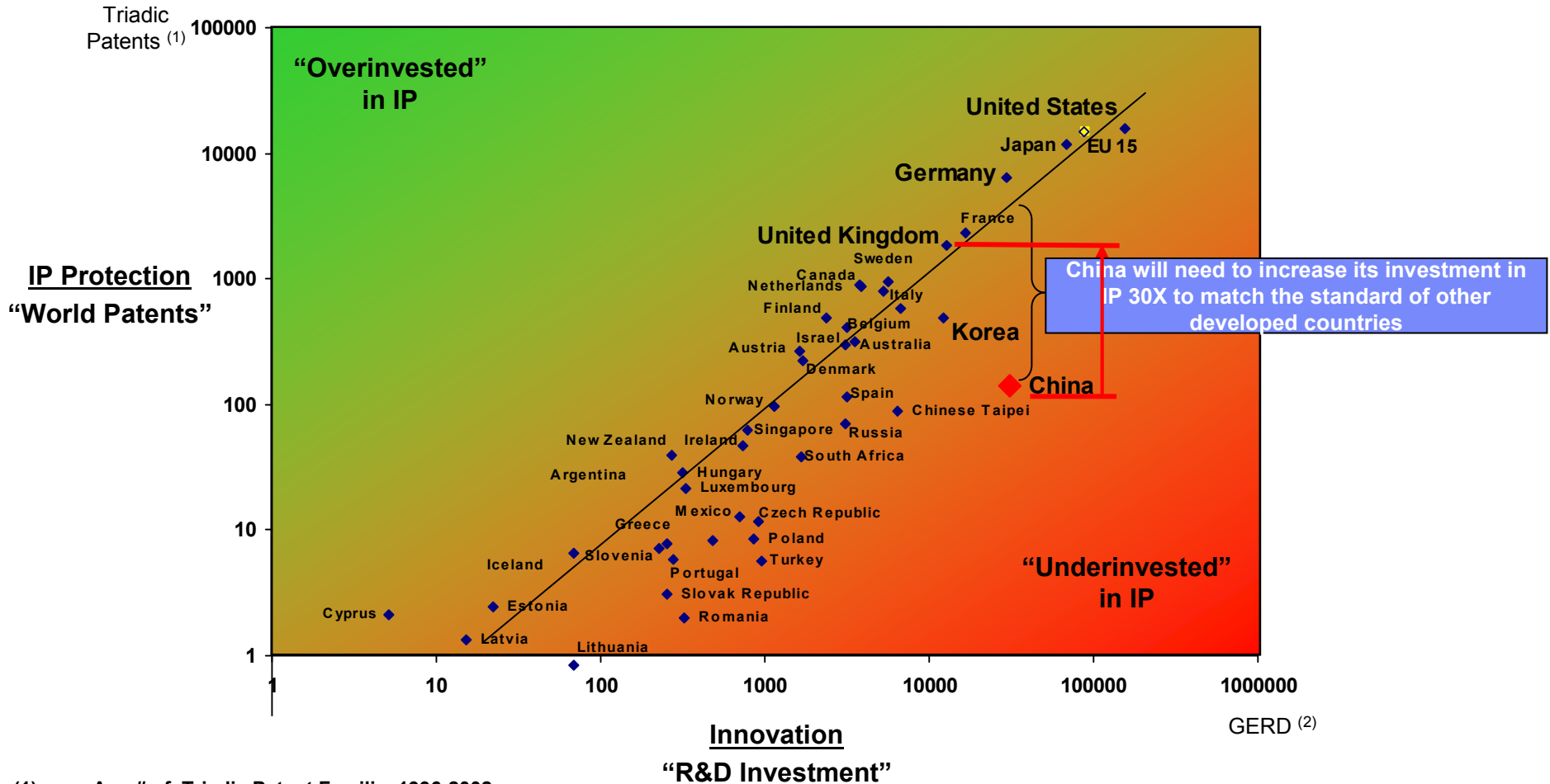
China's Patents in the USA



Patent applications by Chinese inventors at the US Patent Office in 2004 - <2,000

Note: Each icon represents 5,000 patent applications
Source: SIPO, USPTO, BCG analysis

China's underinvestment in worldwide IP rights has created the world's largest "IP Deficit"



(1) Avg # of Triadic Patent Families 1996-2002
 (2) Average Industry Financed GERD in 2000 U.S.\$ 1995-2001
 Source: OECD 2005 Compendium of Patent Statistics & IBM



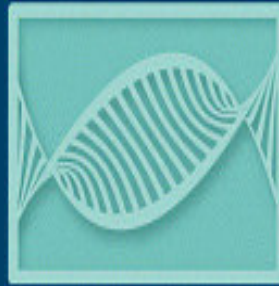
**“future competition in the
world is IP competition....”**

Wen Jiabao - Chinese Prime Minister



Strategic Implications

- **Government:**
 - Reinforce already good training for IP examiners/judges
 - With US: start IP training, stop inaccurate criticism
- **Companies**
 - Include China in IP strategy
 - Look to China for new IP
 - Look for IP partnerships within China
 - Select partnerships and geography with care
 - Engage with the government
 - Help educate Chinese companies in IP



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IBM-Lenovo: IP and market access



Zwilling J.A. Henckels AG



Sales: 2005 - €250Mio

China:

1990 - 90% of infringement Yangjiang (1300 cutlery factories)

2002/3 - 20 raid actions

2004 - no raid actions

2005 - 2 factories, 11 distributors, 6 sales offices, 136 POS