

# Where is China Going on IP?

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## Outline

- China IP System – a snapshot
- What are the numbers and what do they mean?
- What is feeding these numbers?
- What's next?

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# China IP System – Snapshot

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## China IP System – Snapshot

- China's IP agencies separated into patent, trademark, copyright offices
- **News Flash** – IP Office Reorganization into the State Administration for Market Regulation (SAMR)
  - Office Re-org was approved by the National People's Congress on March 17, 2018
  - State Administration for Industry and Commerce (SAIC) is dismantled
  - State Intellectual Property Office (SIPO) to handle the examination and registration of trademarks as well as geographical indications
  - National Copyright Administration (NCA) will become a part of Central Propaganda Department

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## China IP System – Snapshot continued

- Two-track enforcement system
  - Administrative Enforcement – will be housed under SAMR but unclear what SIPO's role will be
  - Judicial Enforcement
    - Specialized IP courts in Beijing, Shanghai, Guangzhou with more courts to be added; good reviews so far
    - Newly established internet court in Hangzhou with plans to launch in Beijing and Guangzhou

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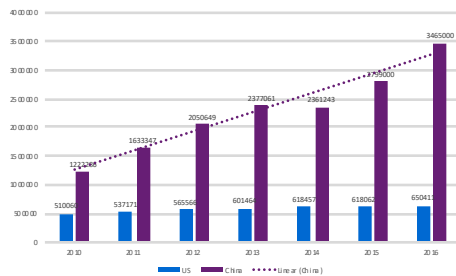
## What are the Filing Numbers?

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## SIPO Receives Five Times More Patent Applications than USPTO



Source: USPTO Annual Performance and Accountability Report 2016 and SIPO Annual Report 2016

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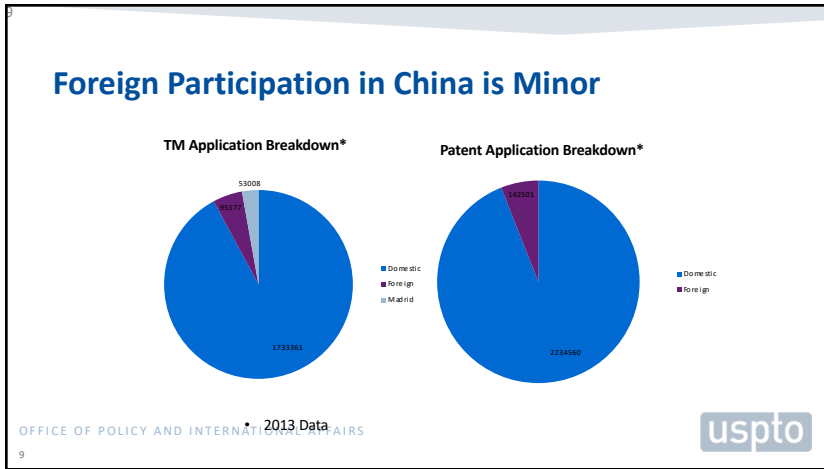
## Trademark and Copyright

- Trademark Statistics for 2017
  - Applications reached 5,748,000
  - Increase of 55.7% year-on-year
  - Trajectory expected to continue
  - By end of 2017:
    - Total number of applications: 27,842,000
    - Total number of approved registrations: 17,301,000
- Copyright Statistics for 2017
  - China's copyright registrations exceeded 2.7 million, up nearly 40% year-on-year (compare this with 800,000 registrations in 2013)
  - China received over 700,000 software copyright registrations

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## What's Feeding these Numbers?

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- ### What's feeding these numbers?
- Chinese government's industrial and innovation plans resulting in patent/trademark filing subsidies and other incentives
    - National IP Strategy
    - Short-term Long-Term Science and Technology Plan
    - Made in China 2025
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### 2014-2020 IP Metrics in China's National IP Strategy

Targets	2013	2015	2020
Per 10,000 patent ownership rate	4	6	14
Patent Applications filed under PCT (10,000)	2.2	3	7.5
Domestic invention patent average maintenance duration (years)	5.8	6.4	9
Copyright Registration Volume (10,000)	84.5	90	100
Computer Software copyright registrations (10,000)	16.4	17.2	20
Total Technology based contracts (Trillion Yuan)	0.8	1	2
IP financing annual amount (100 million Yuan)	687.5	750	1800
Patent royalty revenue to foreign companies (100 million US Dollars)	13.6	20	80
IP services revenue annual growth rate (%)	18	20	20
IP protection satisfaction rate (points)	65	70	80
Average length of substantive examination of invention patent application (months)	22.3	21.7	20.2
Average length of Trademark registration review period (months)	10	9	9

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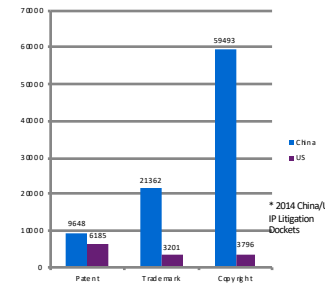
# What are the IP Enforcement Numbers?

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# China: Most Litigious IP Society in the World



Trademark Docket: More Details

- 2014:
- 37,219 administrative trademark infringement cases (25% decrease from 2013)
  - 9,636 foreign-related cases (25.9%)
  - 21,362 civil trademark cases (down 8.2% from 2013)

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# Foreign Participation in IPR Cases

Year	Total Concluded First Instance Civil IP Cases	With Foreign Parties	Foreign Percentage
2010	41,718	1,369	3.3%
2011	58,201	1,321	2.3%
2012	83,850	1,439	1.7%
2013	88,286	1,697	1.9%
2014	94,501	1,716	1.8%
2015	101,324	1,327	1.3%
2016	131,813	1,667	1.3%

Year	Total Concluded First Instance Administrative IP Cases	With Foreign Parties	Foreign Percentage
2010	2,391	1,004	42.0%
2011	2,470	1,237	50.1%
2012	2,899	1,349	46.5%
2013	2,901	1,312	45.2%
2014	4,887	2,237	45.8%
2015	10,926	4,928	45.1%
2016	6,250	2,394	38.3%

Source: Annual Reports by China's Supreme People's Court

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# China Invention Patent Litigation Data

	All Plaintiffs	Foreign	Domestic
1 <sup>st</sup> instance win rate	73%	78%	72%
2 <sup>nd</sup> instance win rate	52%	40%	52%
Overturn rate	19%	30%	17%
Mean compensation	RMB439,614	RMB230,827	RMB525,939
Median compensation	RMB100,000	RMB125,000	RMB100,000
Duration	8.2m	11.8m	6.9m

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## What's Next?

- **Good News**
  - Judicial enforcement is improving
  - Foreign win rate in patent cases is high
  - Central government claims it is focusing on improving IP
  - High patent and trademark filing numbers don't necessarily mean we are being outcompeted
- **Bad News**
  - Local protectionism still a problem
  - Unclear what SAMR will be doing about administrative enforcement
  - High filing numbers can lead to problems at SIPO
  - Adequate enforcement of infringing goods sold online is a big challenge

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# THANK YOU

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