

FINANCIAL TIMES
September 20 2005

West must heed China's rise in the global patent race

By Ian Harvey

Tony Blair, UK prime minister, recently spoke to the European parliament of the competition from China – low-cost, high-quality manufacturing. The US berates China for inadequate intellectual property protection for patents, trademarks and copyright. Both underestimate the seismic shift in IP that has been taking place in China. A creative tidal wave will generate patents likely to wash over the US and Europe's shores in the next decade, enabling China to dominate significant technology areas.

Most foreign observers look at the still imperfect state of patent enforcement and miss the profound changes. There are **three components in an effective IP regime: the underpinning law, the cost and quality of the patent "right" acquired, and the effectiveness and cost of enforcing that right.**

China introduced its first patent and other IP laws in the mid-1980s. Since then, it has passed further updating laws so that, **today, its IP laws are among the best in the world.** IP "rights" for foreigners are generally of high quality and reasonable cost. For example, the 20-year lifetime cost of a Chinese patent is 10 per cent of the total cost of patents for G8 countries.

Although some problems remain, the third area, enforcement, has improved enormously. It is possible to get a patent enforced through the Chinese court system. The cost is not high: \$60,000-\$120,000 (€49,000-€98,000) compared with about \$100,000 in Germany, \$500,000 in the UK and \$5m in the US.

Broader understanding of IP has also passed a tipping point over the past two years. Chinese companies and universities have begun to understand the international system, its rules and benefits. Acquisition by SAIC of Rover Group's IP – and only the IP – is an indicator of some Chinese companies' sophistication. Domestic patent applications are growing at 25-40 per cent a year. **Chinese universities now file about as many patents in China (about 6,000 a year) as US universities do in the US. This is six times the number filed in the UK by British universities.**

That brings us to the creativity of China. Over the centuries China has been a leader in fields from maths to shipbuilding. The entrepreneurial nature of the Chinese goes hand in hand with inventiveness. Most recently the world's first genetic therapy (for a cancer) was invented, developed and approved in China. **The instant criticism from some in the west – that the regulatory process must have been flawed – recognised neither the excellence of Chinese science nor the high quality and ethical standards of much clinical medicine in China.**

Chinese companies and universities have begun to realise that if they can invent the next generation of high definition televisions, or mobile phones, they can set the de facto global standard. Having also patented these technologies globally, they can then decide whom to license. These patents are beginning to be filed now and their effect will become visible as technologies mature – from perhaps five years in the case of high technology to 15 for pharmaceuticals.

There are many indications that, over the past 20 years, Beijing has been intent on having a good, enforceable IP system. It took 30-40 years for Japan, Korea and Taiwan to get to the same point. China, contrary to popular perception, has made good progress.

China is both a threat and an opportunity for western business. **The threat is that its strong manufacturing base will increasingly draw on its own technology.** The opportunities are that this technology is accessible to us and that China is a huge market where patent protection is beginning to be as important as in any developed country. Chinese companies and universities are generally eager to collaborate.

What is our response? Highly inadequate so far. In the UK, China is not taken seriously except by a small number of large companies. British companies in aggregate file fewer patents in China than, for example, Dutch or Swiss ones and less than one-third the number of German or Korean companies. Interestingly, however, the UK leads these countries in brands registered in China.

Companies' response should be: if you expect to access the Chinese market make sure you patent there; start looking for your new technologies in China; and establish relationships with Chinese technology partners. For policymakers, it reinforces the importance of turning Europe into a knowledge-based economy with technologies protected through strong patents in global markets. Unless we do so, we shall be beaten at our own game.

The writer is chairman of the Intellectual Property Institute in London and former chief executive of BTG

>