



IP News Bulletin for Japan & China

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- News about Sonoda & Kobayashi -

1. Sonoda & Kobayashi to visit the US and Europe

With 2023 now well under way, Sonoda & Kobayashi is happy to announce several important overseas business trips in this year. From the 30th of January, we will be California, U.S.A, followed by a trip through several states afterwards.

Furthermore, from the 13th of March, we will be in Germany for a number of days and will then continue our journey to other European clients.

We are looking forward to meeting with our clients and interested parties. If you would like to book a meeting with us at these events, don't hesitate to reach out at info@patents.jp

- JPO and CNIPA News -

1. Data on Business-Related Inventions presented by JPO

In November, 2022, the JPO provided an update on the status of business-related inventions

The JPO considers business-related inventions to be inventions by which business methods are realized using Information and Communication Technology (ICT). Specifically for the purposes of this report, the JPO considered inventions classified with IPC or FI[1] G06Q as "Business-related inventions". Business-related inventions are patentable subject matter in Japan.

The number of domestic patent applications for business-related inventions has been increasing in recent years. This was attributed in the report to an increase in R&D following the industrial structure change from "products" to "services". Another reason is that new services using ICT are being created in new fields such as finance, due to developments in AI and IoT technologies in addition to the spread of smartphones and SNS to the public.

As for the number of applications, the downward trend after the application boom in 2000 turned into an increase around 2012 and has been rising ever since. For example, 11,747 applications were filed in 2020.

The grant rate of business-related inventions was initially sluggish, but has been rising year by year, reaching 74% (which is roughly equivalent to other technical fields) in 2017.

[Specific information on this topic can be found here.](#)

(English)

[1] File Index. JPO's own technology classification symbols, developed from IPC.

2. JPO Conducting Survey on Key Technical Fields

In December 2022, the JPO announced that it is conducting a survey focused on technical fields that are expected to create new markets, as well as technical fields that should be promoted as a matter of national policy.

In this survey, based on patent information, the JPO is investigating areas in which Japanese industries are leading, as well as areas where Japanese industry does not play a leading role. Information from this survey is to be used in research and development strategies.

In financial year 2023, the following technical areas are scheduled to be investigated.

- passive ZEH and ZEB
- drones
- all-solid state batteries
- healthcare informatics
- quantum computer related technology

[Specific information on this topic can be found here.](#)

(Japanese)

3. China's Intellectual Property Progress in 2022: Insights from State Council Press Conference

On January 16th, 2023, the Information Office of the State Council of China held a press conference where CNIPA officials introduced the work related to intellectual property conducted in 2022 and answered questions from reporters. The following are four key points discussed at the press conference:

1) Main data on patents and trademarks: 798,000 invention patents, 2,804,000 utility model patents, and 721,000 design patents were granted throughout the year. Furthermore, 74,000 PCT international patent applications were accepted by CNIPA, and 63,000 patent reexamination and 7,900 invalidation cases were closed. Additionally, 1,286 applications for international registration of designs were submitted by Chinese applicants through the Hague Agreement. In terms of trademarks, 6,177,000 million cases were registered throughout the year, and 169,000 trademark oppositions were reviewed. What is more, 412,000 trials of various trademark reviews and adjudications were completed. Finally, 5,827 international registration applications from domestic applicants were received through the Madrid System.

In 2022, the number of foreign intellectual property rights in China has been steadily increasing. By the end of 2022, the number of valid foreign invention patents in China had reached 861,000, showing a 4.5% year-on-year increase, and involved 58,000 foreign companies, which is an increase of 2,000 from the previous year. Additionally, 2,030,000 million foreign trademarks were registered in China, showing a 5.9% year-on-year increase

2) Examination cycle of patents and trademarks: The target of reducing the time for examination cycle of patents and trademarks was successfully reached in 2022. The

examination cycle of high-value invention patents was reduced to 13 months, ahead of schedule by one year. The average examination cycle of invention patents was reduced to 16.5 months, ahead of schedule by 3 months, and the average examination cycle of trademark registration was reduced to less than 4 months, ahead of schedule by 2 years.

3) Continuous improvement of examination policy: CNIPA officially introduced the examination for obvious inventiveness to improve the quality of authorization when it comes to utility model applications.

4) New Management System of Patent Affairs: CNIPA officially launched a new Management System of Patent Affairs on January 11th, 2023.

[Specific information on this topic can be found here.](#)

(Chinese)

- Latest IP News in Japan -

1. Japan and Europe leading in hydrogen technologies

Nikkei Asia, January 10th, 2022

On the 10th of January, Nikkei Asia reported on innovation in hydrogen technologies worldwide, and published particularly interesting information regarding Japan and Europe.

Citing a recently released joint study by the European Patent Office and the International Energy Agency, it reported trends in the area of hydrogen technologies.

Notably, in the 10 years from 2011 to 2020, Japan was the country with the most hydrogen patent families in the world, with 24% of the total amount of patents filed in this period. European Union countries combined to account for 28%, with Germany and France filing 11% and 8% respectively. The trend regarding the United States was also interesting, as while it has 20% of total patent families filed, the patenting activity of US companies in this area decreased strongly after 2015.

On the other hand, South Korea and China took off in this decade, with average annual growth rates of 12% and 15%. Despite that, at present they hold 7% and 4% of the hydrogen patents in this period.

In terms of the actual companies holding the patents, Japan's Toyota stood at the top of the list, while both Honda and Panasonic were in the top 5.

However, Japanese research centres were not present on the list of most filing companies at all, while for South Korea and France, research institutions focusing on hydrogen were particularly important.

Hydrogen technologies have many end-use applications, and the use in the automotive sector is chief among them. The study reveals that patenting in this sector continues to grow, mainly led by Japan. However, such momentum does not seem to exist for other end-use applications.

When it came to other aspects of hydrogen technologies, such as production or storage, distribution and transmission EU countries had the highest share of patenting activity, followed by Japan and the US.

[More information can be found here and here in the original PDF summary.](#)
(English)

2. Japanese expert committee positive about allowing trademarks based on personal names

Yomiuri Shimbun, December 24th, 2022

On the 24th of December, the Yomiuri Shimbun reported that the Japan Patent Office's Expert Committee had released a report recommending that trademarks that include a person's name should be allowed to be registered. Up until now, registering a person's name as a trademark was not allowed in principle, but the idea is that, in the future, certain well-known names should now be permitted to be registered as trademarks. The JPO plans to submit a draft amendment to the Trademark Law to the Diet session in 2023 at the earliest.

The report also emphasized that in order to prevent third parties from registering trademarks for the purpose of harming or damaging others, it is necessary to examine the relationship between the applicant and the brand name, as well as the purpose of the application.

Currently, in order to register a trademark that includes a person's name, one needs to obtain consent from all individuals with the same name in the country, as far as this can be confirmed by a phone book or other such means. This system is in place is to protect personal rights such as an individual's name and likeness, but it has made registration virtually impossible.

Yet, if a trademark cannot be recognized, it will also be difficult for a company to file a claim for injunction or damages against a counterfeit product. The Japanese business community has pointed out that, in this respect, the JPO has been too strict in its application of the law, and that this has been a hindrance to business.

The JPO's decision to study the issue was prompted by a court ruling last year. In a trial in which Matsumotokiyoshi Holdings (now MatsukiyoCocokara & Co.), a major drugstore chain, sought to register a phrase from a commercial song as a sound trademark, the Intellectual Property High Court ruled that the trademark "Matsumotokiyoshi," which is also the founder's name, was recognized.

[More information can be found here.](#)
(Japanese)

- Latest IP News in China -

1. Chinese enterprises of Huawei, BOE and OPPO are listed in the list of the top 50 of US patents authorization in 2022

ChinaIPER, January 10th, 2023

On January 10th, 2023, IFI Claims, a well-known patent service agency, released a report on the number of patents granted in the United States in 2022, and published a top 50 list. Samsung topped the list, overtaking IBM, who had held the number one spot since 1993. The

companies ranked from 3rd to 10th were TSMC, Huawei, Canon, LG, Qualcomm, Intel, Apple and Toyota.

According to the data released by IFI Claims, Asian companies generally performed very well. In 2022, the number of patents granted to Asian companies was 14% higher than that of Western companies (41055 vs. 35365), representing a significant increase from the 1% difference in 2021. Japan, China, and South Korea alone obtained 40,114 granted patents, while American companies were granted 32,130.

In the top 50 list, the Chinese companies Huawei (4th), BOE (11th), and OPPO (43rd) ranked very high. The report also noted that in 2022, American companies were granted 142,703 patents, accounting for 44% of all patents granted in the country. Japan came in second with 46,504 patents, China third with 24,538, and South Korea and Germany followed in fourth and fifth place with 22,359 and 14,746 patents granted respectively. The data showed that China was the only country to achieve double-digit growth in 2022 with a nearly 19% increase from 2021.

[More information can be found here.](#)

(Chinese)

2. Novartis vs Suzhou Thery, the first instance judgment of the drug patent linkage dispute case of 'Nilotinib Capsule'

IPLEAD MED+, January 2023

On the 6th of January 2023, **IPLEAD MED+ published an article on** the case of Novartis vs Suzhou Thery for the drug 'Nilotinib Capsule'. This has been a highly-publicized case since the implementation of China's patent linkage system, and it has now been judged in the first instance by the Beijing Intellectual Property Court.

As a background to the case, Nilotinib Capsule is a popular drug by Novartis used to treat chronic myeloid leukemia and reportedly had annual sales in China of 900 million yuan (about 132 million USD). The compound patent for the drug in China is set to expire in 2023.

Currently, two companies, Qilu Pharmaceutical and Suzhou Thery, have submitted patent declarations for Nilotinib Capsule. Qilu Pharmaceutical's patent declaration is relatively conservative, stating that their patent does not fall under the scope of patent protection for imitation drugs. Suzhou Thery, on the other hand, is challenging the patent and aiming for the exclusive period of the first generic drug. For the patents ZL200680026444.6 and ZL201080051819.0, Suzhou Thery made a category 4.1 declaration, meaning that the patent for the imitation drug should be declared invalid, and it subsequently filed a request for invalidation of these two patents. Currently, the patent for ZL200680026444.6 has been declared invalid, while the patent for ZL201080051819.0 is still valid. Suzhou Thery has filed an administrative lawsuit in response. Novartis has also filed a lawsuit with the Beijing Intellectual Property Court to determine if the applications for the listing license of the generic drug 'Nilotinib Capsule', with the specifications of 150mg and 200mg as applied for by Suzhou Thery, fall under the scope of patent protection. On November 10th, 2022, the Beijing Intellectual Property Court made two rulings to reject Novartis' application on the grounds that the plaintiff had no right to file a lawsuit in this case.

According to the latest reports from December 30th 2022, Suzhou Thery's generic Nilotinib Capsule was officially approved by China's State Drug Administration. This makes it the first product to challenge a patent and gain official approval since the implementation of China's drug-patent linkage system.

[More information can be found here.](#)

(Chinese)

- IP Law Updates in China: Insights from Sonoda & Kobayashi -

International filing activity in China: a 5 year overview

If there is one country that has seen incredible growth of its intellectual property landscape and legislation, it is China. The total number of filings of IP was already very significant 10 years ago, and it has since nearly tripled to more than 1.5 million patents being filed in 2021. There are also millions of utility models, trademarks and designs filed each year. While China's status as a giant in IP is mainly due to the fast pace of filing activities by Chinese companies, there appears to be a growing stream of foreign filings into China. This article will shed light on this trend, showing the origin of this foreign IP and detailing the ups-and-downs of filing numbers.

General country-level trends

Data from the annual reports from CNIPA allows us to create a country-by-country breakdown of foreign filings, yet it does come with some limitations. Before 2017, the data was reported without distinguishing between patent filings, utility model filings and design filings, resulting in one large, aggregated number^[1]. Taking this number as a starting point, the 10 year trend from 2012 to 2021 is one of about 42% growth in filing of foreign of IP in China.

As of 2017, the reports allow us to study different types of IP separately, and we can now start to look at just the trends for patents. One thing that stands out immediately is that in the 5 years from 2017 to 2021, patent applications accounted for some 84%-86% of the IP (i.e.patents, utility models, designs) filed each year, with the remaining 15% or so consisting of utility models and design patents. Patents, then, are by far the most popular IP type among foreign applicants. This contrasts starkly with domestic Chinese filings where utility models outnumber patent in a roughly 2:1 ratio.

Growth of foreign patent filings in the 5 year period was some 16%, with noticeable differences between countries. The table below shows these differences and reveals the percentage by which filing has changed from 2017 to 2021 in the top 10 biggest filers. The numbers include both PCT and Paris route filings.

^[1] Data was retrieved from CNIPA's annual report 2016 to 2021. Subsequently the data was aggregated and analysed by Sonoda&Kobayashi. The reports can be found here:

<http://english.cnipa.gov.cn/col/col1587/index.html>

| Name | Total filings 2021 | % change compared to 2017 |
|-------------------|--------------------|---------------------------|
| Japan | 47,010 | 15% |
| United States | 42,266 | 14% |
| Republic of Korea | 17,891 | 34% |
| Germany | 16,481 | 15% |
| France | 4,984 | 1% |
| Switzerland | 4,365 | 27% |
| Netherlands | 3,133 | -4% |
| Cayman Islands | 1,069 | -63% |
| United Kingdom | 2,887 | 25% |
| Sweden | 2,489 | 35% |

While this table may not feature all details, it does show several relevant trends:

- 1) The overwhelming majority of countries increased their filing from 2017 to 2022, often marking double digit growth.
- 2) Japan is the number 1 filer (followed by the U.S.) and they have been for over 5 years, leaving other countries' companies far behind.
- 3) South Korea and Germany form the next group, far from Japan and the U.S. but also still significantly ahead of number 5.
- 4) Cayman islands' filing dropped steeply than that of any other country.

Detailed analysis of country-level tendencies

By having a look at the data at the country level, we can shed further light on the trends above.

For example, by examining the filing numbers of Japanese companies over the 5-year period, we see that filing grew strongly in 2018 and 2019, by 10.7% and 7.9% respectively. However in 2020 and 2021 we see a decrease of around 2% each year.

For US companies, we see a 5.1% growth from 2017 to 2018, a small growth of 1.5% in 2019 and a decrease of 4% annual filing in 2020. Yet, in contrast to Japan, we see U.S. numbers go back up in 2021 with a strong 11.6% growth. So while, on the 5 years basis, companies from both countries have filed more in China, it appears that during the global COVID-19 pandemic, U.S. companies have increased their filing activity quicker than Japan.

If we look at the second pair of South Korea and Germany, we find that South Korea has taken the number 3 spot from Germany as of 2020. In 2020, Korean companies filed a total of 16725 applications in China, while German companies filed 16115.

Growth of German filings in China was certainly observed, but there was a slight decrease during the year of 2020, which was a year in which Korean companies still filed more applications.

| Top 4 countries: Annual growth/decrease of patent filing activity (% change compared to previous year) | | | | |
|--|--------|---------------|-------------|---------|
| | Japan | United States | South-Korea | Germany |
| 2018 | 10.70% | 5.08% | 5.27% | 7.57% |
| 2019 | 7.91% | 1.52% | 15.45% | 6.44% |
| 2020 | -2.06% | -3.98% | 4.41% | -1.86% |
| 2021 | -1.78% | 11.58% | 5.78% | 2.27% |

A further look into the numbers from Switzerland, the U.K. and Sweden reveals strong double digit growth in 1 or 2 years, followed by more modest growth. Without exception though, the yearly filed applications decreased in 2020.

France and the Netherlands, then, are countries where filing did not grow much over the 5 year period, or indeed even fell, as in the case of the Netherlands. Interestingly, France's filing actually grew by 1.3% in 2020 and is one of the few exceptions to the general pattern observed.

However, what is clear is that filing from companies in these countries already declined somewhat in 2018 or 2019, when companies from most other countries are rapidly expanding their IP portfolio in China.

Finally, there is the case of the Cayman islands, which filed 63% less in 2021 than in 2017.

The inclusion of this country of the list of otherwise much larger countries may already be a bit puzzling. It appears that these applications are due to Chinese Tech Giant Alibaba having a holding company in the Cayman islands. The fluctuations in the filing numbers from this country are most likely due to changes within this company.

Over yearly growth patterns

Finally, it is worth looking at the overall filing data again, this time focusing on the year-by-year changes. As mentioned earlier, from 2017 to 2021, the total growth in foreign patent filing in China was about 6%.

As can be seen from the graph below, the total year-on-year growth for total foreign patent filings was reasonably high: About 9.1% from 2017 to 2018, 6% from 2018 to 2019, -3% from 2019 to 2020 and 3.6% from 2020 to 2021.

Similar to what happened to many individual countries, the outbreak of the COVID-19 pandemic in 2020 reduced filings in China somewhat, though they have modestly recovered in 2021.

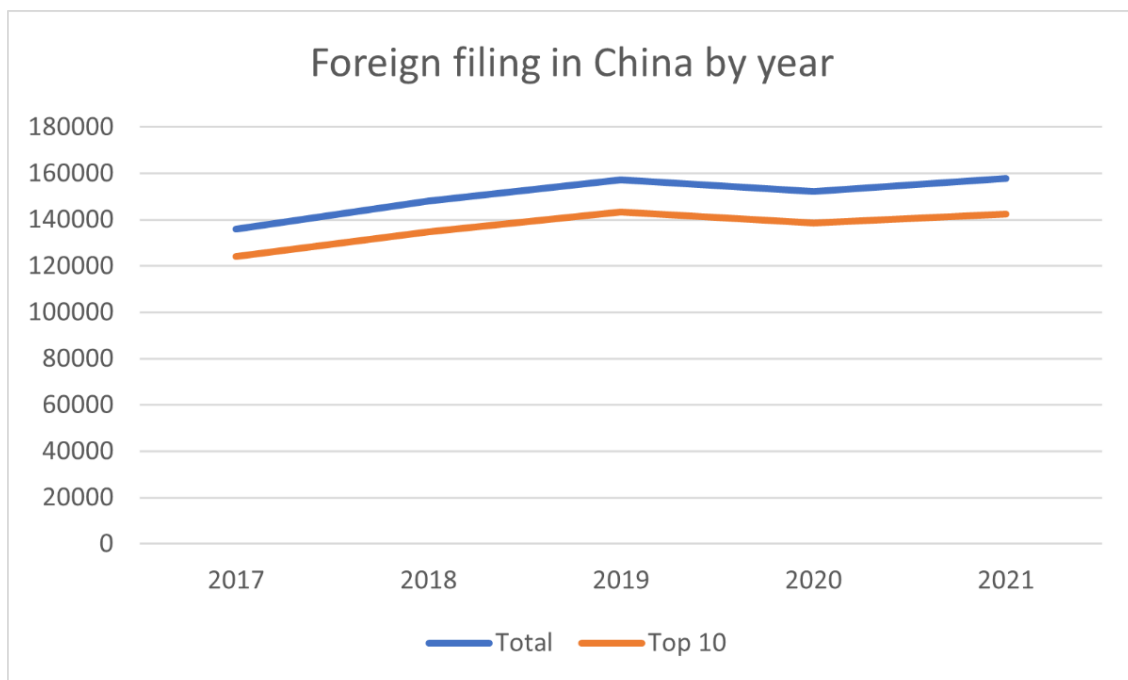


Figure 1: Filing in China by foreign organisations
Data retrieved from CNIPA reports and analyzed internally:
<http://english.cnipa.gov.cn/col/col1587/index.html>

What is notable from the graph above is how dominant the top 10 largest filing countries are in the overall picture. A little over 90% of all foreign patent filing is done by companies from

one of the 10 countries above, making them largely responsible for foreign patent filing in China.

Overall, it is clear that China, as a destination for foreign IP, has gathered a lot of momentum over the years, and according to the present data shows little signs of slowing.

About

SONODA & KOBAYASHI is a law firm offering dependable legal services for intellectual property. Our multinational team of about 100 experts in technology, law, languages and international communication has served companies worldwide and gained a reputation for thoroughness and reliability.

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