

Plenum focuses on intellectual property rights

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Thirty-five years after setting off on the reform and opening-up path, China has reiterated the importance of protecting intellectual property rights (IPR) and encouraging innovation in its plans for the national economy and society.

The Third Plenary Session of the 18th Communist Party of China Central Committee issued a document on Nov 15, saying that IPR and innovation, among other areas, will be in focus in the coming years. The plenum also said that China would consider setting up a special IPR court, which would be an important development and show the importance the country's leaders attach to the effective protection of IPR.

It is through innovation and creativity that countries succeed and prosper in today's world. Global competition now revolves around competition for IPR. And the competition is not only international, but also intra-national. The number of applications in China for innovation and design patents and trademarks (brands) shows that this is an important part of doing business in the country today.

Great progress had been made in developing the legal infrastructure to protect and enforce IPR since the Third Plenary Session of the 11th CPC Central Committee in 1978 signaled the start of the reform and opening-up process. An important part of that process was the introduction of laws for IPR protection through trademarks (1982), patents (1984) and copyrights (1990), as well as other rights such as geographical indicators and more general laws like the one prohibiting unfair competition (1993).

Judicial and administrative procedures, too, were introduced and refined to ensure the effective and efficient enforcement of IPR. In 1992, the Supreme People's Court set up a special IPR division. By 2001, when China joined the World Trade Organization, there was in place a modern system of laws in the country for the protection of IPR.

Further progress was made in the past decade - laws have been improved and special divisions set up in some trial courts in Beijing, Guangzhou and Shanghai to deal with the increasing number of IPR disputes.

Although much progress has been made, there is still a long way to go before IPR owners in China can feel comfortable that their efforts and investments in developing creative and innovative products and services will be protected and rewarded. The focus of China's economy is shifting inexorably from agriculture and low-cost manufacturing to areas in which innovation and creativity play a very important role - moving from imitator to innovator and copier to creator. Therefore, protection of the resulting IPR, generated by the private sector in particular, will be of critical importance to the country's future prosperity.

As has been recognized in the National IPR Strategy, issued by the State Intellectual Property Office in 2008, there is a need to educate businesspeople about the importance of



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IPR and to encourage innovation in all sectors of the economy, particularly in the field of science and technology where research and development products need to be protected by patents, copyrights and trademarks.

All this will take time and a lot of effort.

It is hoped that the focus of the Third Plenum of the 18th CPC Central Committee on these areas will intensify the drive to ensure that there is quality as well as quantity in the patents submitted to and granted by SIPO, and that IP rights are enforced effectively across China (not just in Beijing, Shanghai and Guangzhou).

Only when this is achieved will small and medium-sized enterprises, State-owned enterprises as well as foreign companies feel confident to invest in innovation and creativity, which the plenum has recognized as critical to the healthy and balanced growth of the Chinese economy and society.

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