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全球视角下，疫情对中国专利产业的影响

From a global perspective, the impact of the pandemic on China's patent industry

2020年6月

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Overview

- > 1、当前中国专利产业面临的国内形势
 - The current domestic situation facing the Chinese patent industry
- > 2、海外对中国专利形势的判断及中国企业面临的专利风险
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- > 5、应对策略
 - Proposed countermeasures

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1、当前中国专利产业面临的国内形势

The current domestic situation of the Chinese patent industry

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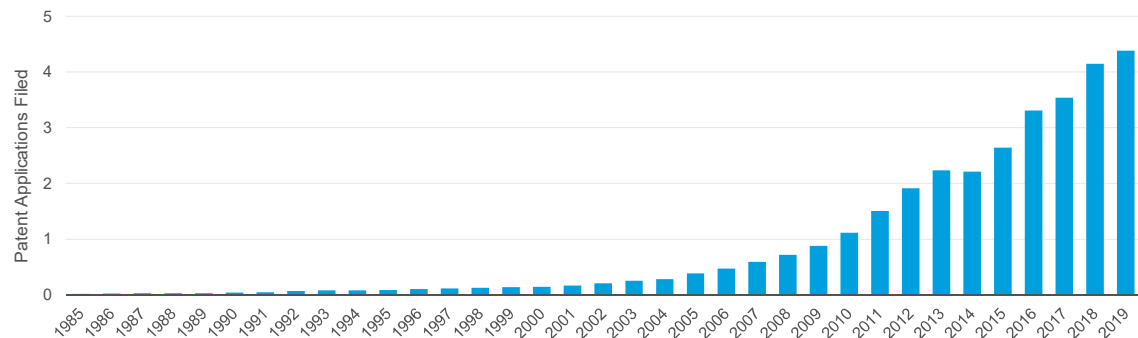
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中国专利申请量年度变化

Annual changes in patent applications in China (in millions)

› 从1985年的1.4万件，稳步增长为438.1万件，连续九年世界第一。

From 14,000 in 1985, the number increased steadily to 4,381,000, ranking first in the world for nine consecutive years.



Source: RPX Research; CNIPA Annual Report

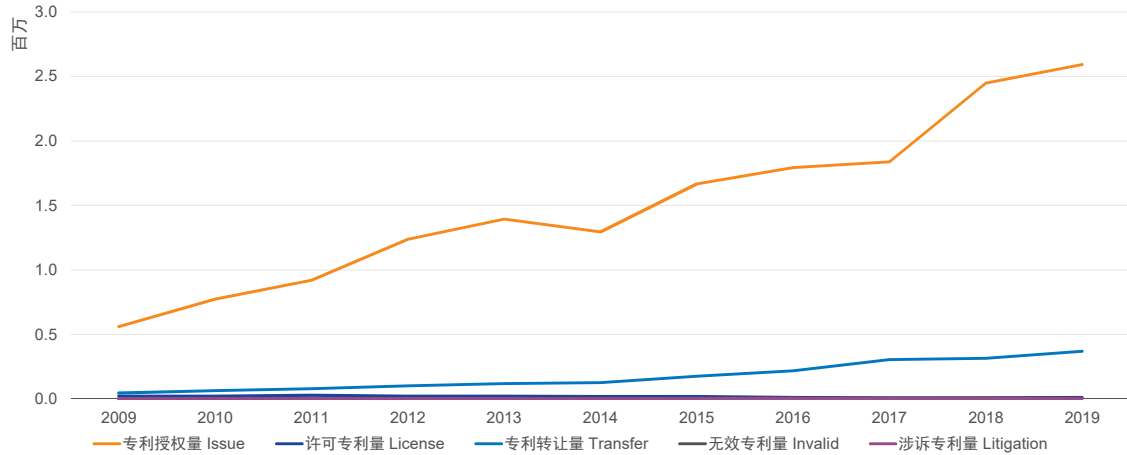
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与巨大的申请量相比，许可和转让数量偏低，涉诉专利和涉无效专利数量可以忽略不计

Compared with the large number of applications, there are relatively few licenses and transfers. Note that by comparison that the number of patents involved in infringement actions is even more negligible, as is the number of those involved in invalidity proceedings



Sources: RPX Research; PatSnap

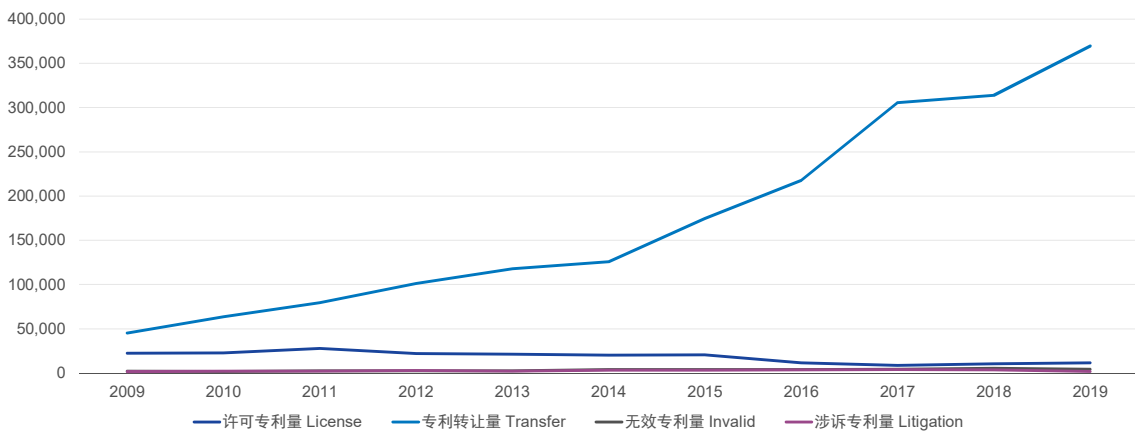
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专利的运营以转让为主，许可量逐年下降，涉诉及涉无效量保持缓慢上升

Patent activity occurs mainly through transfers, while the number of licenses has decreased year over year, and the number of patents involved in infringement actions and the number of patents involved in invalidity proceedings both keep rising, albeit slowly.



Sources: RPX Research; PatSnap

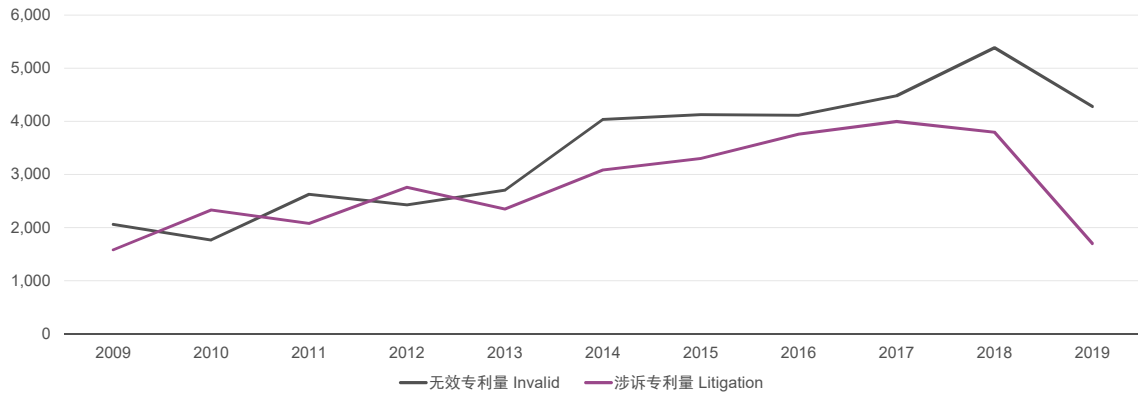
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涉诉讼专利及涉无效专利量变化趋势保持一致，2019年数据或许未能全部公开

The number of patents involved in infringement actions and invalidity proceedings, respectively, track each other. (Note that data for 2019 is as yet incomplete.)



Sources: RPX Research; PatSnap

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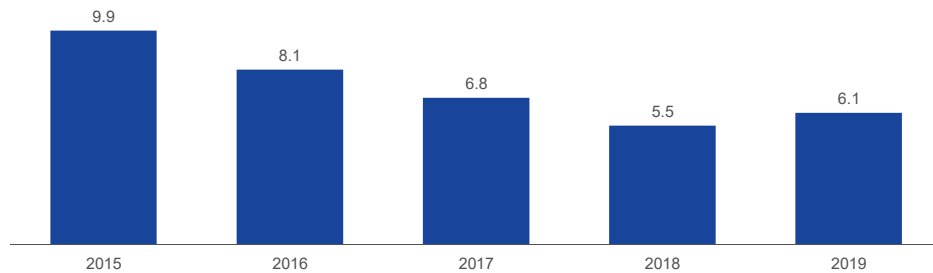
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有效专利许可率，稳中有降

Effective patent licensing rate, steady decline

调查显示，2015年至2018年期间，有效专利许可率逐年下降，由9.9%降至5.5%；2019年，有效专利许可率回升至6.1%。

CNIPA survey results show that from 2015 to 2018, the effective patent licensing rate declined year over year, from 9.9% to 5.5%. In 2019, the effective patent licensing rate rose to 6.1%



Source: CNIPA, 《2019年中国专利调查报告》, "2019 China Patent Investigation Report"

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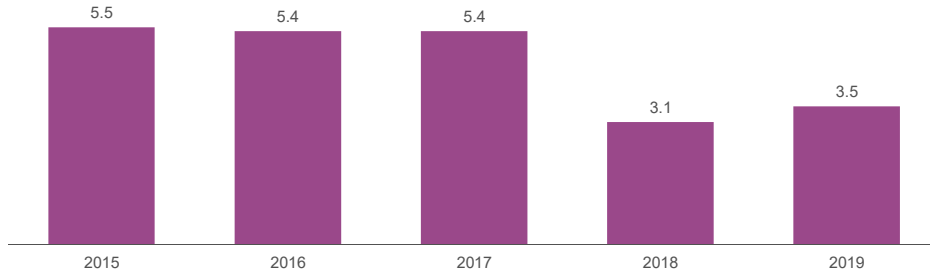
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有效专利转让率，稳中有降

Effective patent transfer rate, steady decline

- 2015年至2017年，有效专利转让率基本保持稳定；2018年转让率下降至3.1%；2019年有效专利转让率小幅回升至3.5%。

From 2015 to 2017, the effective patent transfer rate remained basically stable; the transfer rate fell to 3.1% in 2018; the effective patent transfer rate rose slightly to 3.5% in 2019



Source: CNIPA, 《2019年中国专利调查报告》, "2019 China Patent Investigation Report"

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专利司法保护状况

北京知识产权法院 BEIJING IP COURT

- 2019年，北京三级法院共审结各类知识产权案件79769件，同比增长42.6%。

2019, Beijing third-level courts heard roughly 80K IP cases of all kinds, a 42.6% year on year increase.

- 北京知识产权法院为例，该院2019年在13件案件中采取诉中临时措施，在54件案件中采取诉前临时措施，诉前临时措施裁定支持率达100%。

In 2019, the Beijing IP Court took interim measures at the middle of 13 cases and pre-litigation interim measures in 54 cases, with a support rate of 100%

- 北京知识产权法院，以涉外技术类案件为例(技术类案件包括专利、软件著作权、植物新品种、技术秘密类等行政和民事案件)诉讼请求平均约为237万元，判决支持的赔偿额度平均约为208万元，支持率约87.8%。

Focusing on foreign-related technology cases (including administrative and civil cases concerning patents, software copyrights, new plant varieties, technical secrets, etc.), the average claim before the Beijing IP Court has been for about 2.37M RMB while the average damages award has been about 2.08 million RMB, with a support rate of about 87.8%.

来源：2020.4.21，北京高院新闻发布会；2019.11.6，北京知识产权法院审判工作新闻发布会；2020.4.21，广州知识产权法院发布2019年度《知识产权司法保护状况》白皮书；最高院知识产权法庭2019年度报告

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专利司法保护状况

上海知识产权法院 SHANGHAI IP COURT

- 2015-2019年，上海知识产权法院共受理各类知识产权案件10111件，年均增长率为11.05%，尤其是2019年收案数同比增长20.75%。专利权纠纷案件3166件，占31.31%。

From 2015-2019, the Shanghai IP Court accepted roughly 10K IP cases, representing an average annual growth rate of 11.05%. Notably, the number of cases closed in 2019 increased by 20.75%, year over year. Patent disputes, at just over 3K, accounted for 31% of the total.

来源：2020.4.21，北京高院新闻发布会；2019.11.6，北京知识产权法院审判工作新闻发布会；2020.4.21，广州知识产权法院发布2019年度《知识产权司法保护状况》白皮书；最高院知识产权法庭2019年度报告

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专利司法保护状况

广州知识产权法院 GUANGZHOU IP COURT

- 五年来，广州知识产权法院在涉外案件中依法支持的赔偿数额显著提高，当事人请求赔偿数额平均约为83万元，依法判决支持的赔偿数额平均约为66万元，对诉讼请求赔偿数额的支持率为79.52%。去年一审案件平均判赔金额超过30万元，同比增长13.77%。最高判赔金额也不断突破，从2015年的126.5万元到2019年的5000万元。

Over the past five years, damages awarded by the Guangzhou IP Court in foreign-related cases has increased significantly. The average amount of damages requested by the parties is about 830K RMB, and the average amount supported by the law is about 660K RMB, or 79.52%. Last year's first-instance case's average damages award exceeded 300K RMB, a year-over-year increase of 13.77%. The maximum award amount has also risen consistently, from 1.265M RMB in 2015 to 50M RMB in 2019.

- 2019年，广州知识产权法院共新收各类案件12896件，同比增长27.86%，为建院以来收案数最高的年度。专利权纠纷案件3822件，占比为29.64%。发明、实用新型和外观设计专利权纠纷案分别为304、1008、2442件，分别占专利权纠纷案件收案数的7.95%、26.37%、63.89%。

In 2019, the Guangzhou Intellectual Property Court received a total of 12,896 new cases, a year-on-year increase of 27.86%, the highest number of cases since the establishment of the court. There were 3,822 cases of patent disputes, accounting for 29.64%. Invention, utility model and design patent disputes were 304, 1,008 and 2,442, respectively, accounting for 7.95%, 26.37% and 63.89% of the total number of patent disputes received.

来源：2020.4.21，北京高院新闻发布会；2019.11.6，北京知识产权法院审判工作新闻发布会；2020.4.21，广州知识产权法院发布2019年度《知识产权司法保护状况》白皮书；最高院知识产权法庭2019年度报告

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专利司法保护状况

最高人民法院知识产权法庭 THE IP COURT OF THE SUPREME PEOPLE'S COURT OF CHINA

在法庭受理的962件民事二审实体案件中，侵害实用新型专利权纠纷454件，侵害发明专利权纠纷234件。2019年，法庭二审实体案件平均审理周期为73天。

In the 962 civil second-instance entity cases accepted, the court considered 454 claims of infringement of utility model patent rights; 234, of invention patent rights.. In 2019, the average trial period of the second instance of the court case is 73 days.

来源：2020.4.21, 北京高院新闻发布会；2019.11.6, 北京知识产权法院审判工作新闻发布会；2020.4.21, 广州知识产权法院发布2019年度《知识产权司法保护状况》白皮书；最高院知识产权法庭2019年度报告

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无效审查时间的变化

Changes in invalid review time

调查显示，2011年至2015年，各类专利权人遭遇侵权的比例显著下降；2016年遭遇侵权的比例上升至18.1%；2017年侵权比例继续下降；2018年，总体遭遇侵权比例仅10.6%，为历史最低。2019年，专利权人遭遇侵权的比例小幅上升至13.3%。

Data show that from 2011 to 2015, the percentage of cases in which infringement was found decreased significantly, rising in 2016 to 18.1%. In 2017, the proportion of infringements resumed its decline to the lowest in history in 2018. Finally, in 2019, the percentage of infringement found ticked up to 13.3%.



2011-2019年遭遇过专利侵权的比例 (单位: %)

Source: CNIPA, 《2019年中国专利调查报告》, "2019 China Patent Investigation Report"

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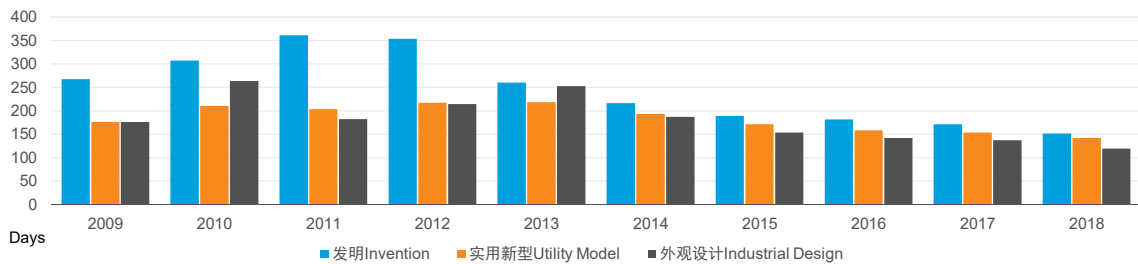
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无效审查时间的变化

Changes in invalid review time

► 2018年专利无效案件审查周期平均是5.1个月. 2018年裁判的专利侵权案件中, 93%以上的案件审理周期并没有受到无效程序的影响-----申长雨

The average duration of patent invalidity proceedings in 2018 was 5.1 months. More than 93% of the patent infringement cases adjudicated that year have not been affected by invalidity proceedings - -- Shen Changyu, CNIPA Director, 2019.4.28



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2、海外对中国专利形势的判断及中国企业面临的专利风险

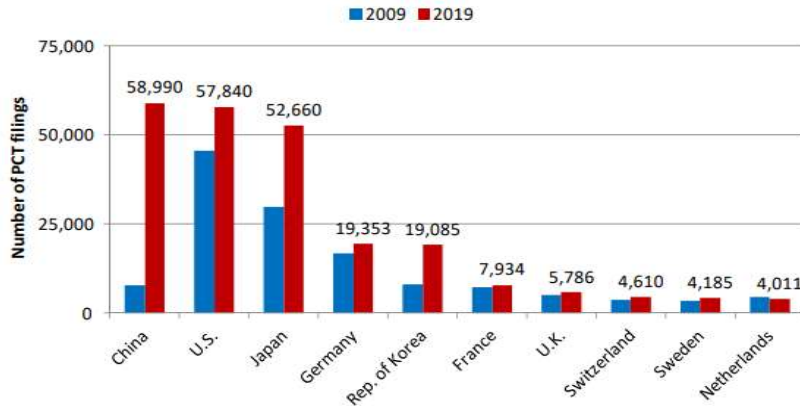
Overseas judgments on China's patent situation and Chinese companies' patent risks

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中国PCT申请量世界第一

China has surpassed the US to become the top source of international patent applications. Its application output was up by 10.6% in 2019, while applications from the US grew by 2.8%.



Source: WIPO, <https://www.iam-media.com/patents/all-you-need-know-about-the-pct-in-2019-in-eight-charts>

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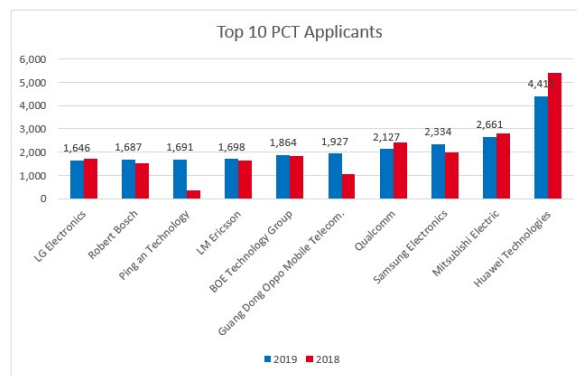
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企业PCT申请量TOP10中，中国四席

Among the top ten companies filing PCT application, four are Chinese

> Huawei's filings dipped in 2019 but it is still comfortably the top filer of international patent applications.



Source: WIPO, <https://www.iam-media.com/patents/all-you-need-know-about-the-pct-in-2019-in-eight-charts>

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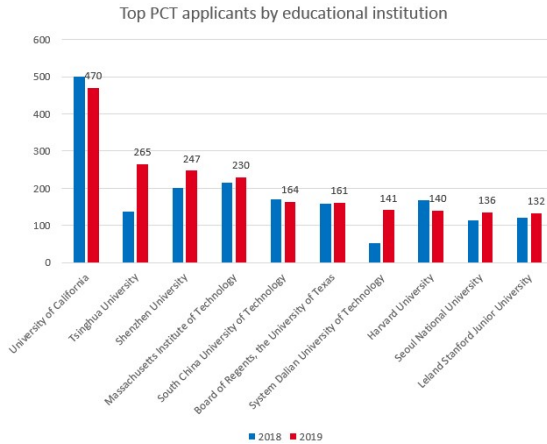
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大学PCT申请量TOP10中，中国四席

Four of the top ten universities filing PCT applications are Chinese institutions

> The top 10 institutions are split between east and west, with five US universities making the list, four from China, and one from the Republic of Korea..



Source: WIPO, <https://www.iam-media.com/patents/all-you-need-know-about-the-pct-in-2019-in-eight-charts>

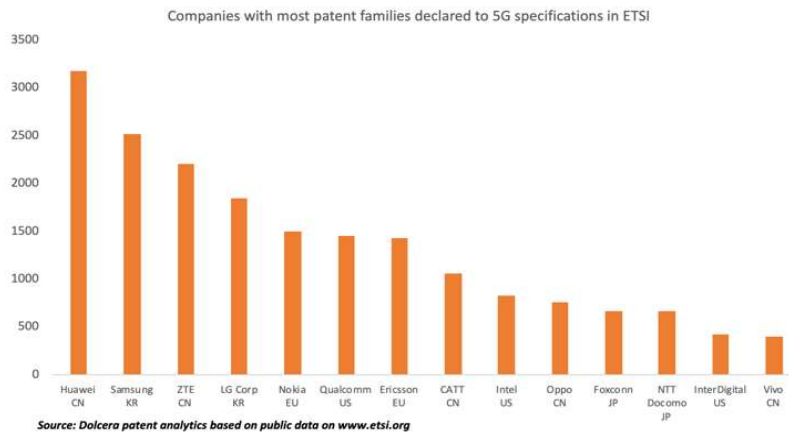
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外媒眼中，中国领先世界的技术领域：5G

In the eyes of foreign media, Chinese Companies are Leading the World in declaring 5G SEPS



Source: Dolcera patent analytics based on public data on www.etsi.org

Source: IAM Media, <https://www.iam-media.com/frandseps/the-us-has-mountain-climb-in-5g-network-equipment>

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外媒眼中，中国领先世界的技术领域：区块链

In the eyes of foreign media, China's leading technology field in the world: blockchain

➤ China is a long way ahead. The number of patent families originating in China are many times the number as those originating in the US. Both Chinese corporates and academic institutes lead their global peers in blockchain patenting activity.



Source: IAM Media, <https://www.iam-media.com/market-developments/china-pulls-ahead-of-the-us-in-blockchain-technology-race>

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中国领先世界的技术领域：AI芯片

In the eyes of foreign media, China's leading technology in the world: AI Chips

USA

Intel, Qualcomm, Kalray, Xilinx, Google, Cerebras, Nvidia, Amazon

China

Huawei, Baidu, Alibaba, Sophon, Yitu, Cambricon, Conoon, Intel if usion

Rest of the world

Fujitsu, PEZY Computing, Graphcore, Habana

The data show that the United States and China are leading the race, with 16 active companies. In contrast, only four players from the rest of the world (Europe, Israel, Japan and South Korea) have announced AI chips

Source: IAM Media, <https://www.iam-media.com/who-leading-the-ai-chips-ip-race-best-practice-in-ip-management>

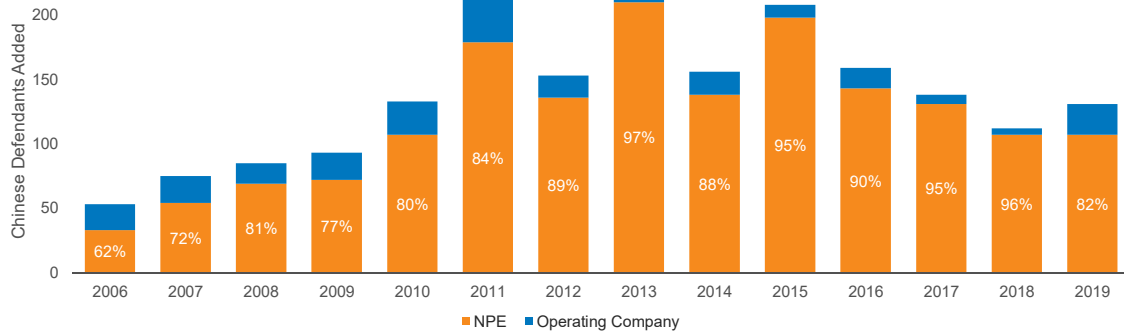
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Uptick in Chinese Defendants in 2019 2019年中国被告人数上升

Chinese Defendants Added to US Campaigns by Year 美国专利诉讼中所加入中国被告的数量逐年变化图



Notes: Analysis limited to top 60 companies by US District Court litigation volume headquartered in China, Hong Kong, and Taiwan
Sources: RPX Research, PACER, FactSet

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2019年近六成“337调查”案件涉华

ITC cases were more China-focused than ever in 2019

➤ 2019年，美国ITC共立案“337调查”47起，其中涉华（含港、澳、台）案件28起，占立案总数的59.6%，创十九年来新高。

An analysis published by China's *IPR Daily* suggests that nearly 60% of 2019's ITC cases involved Chinese defendants – a record high.

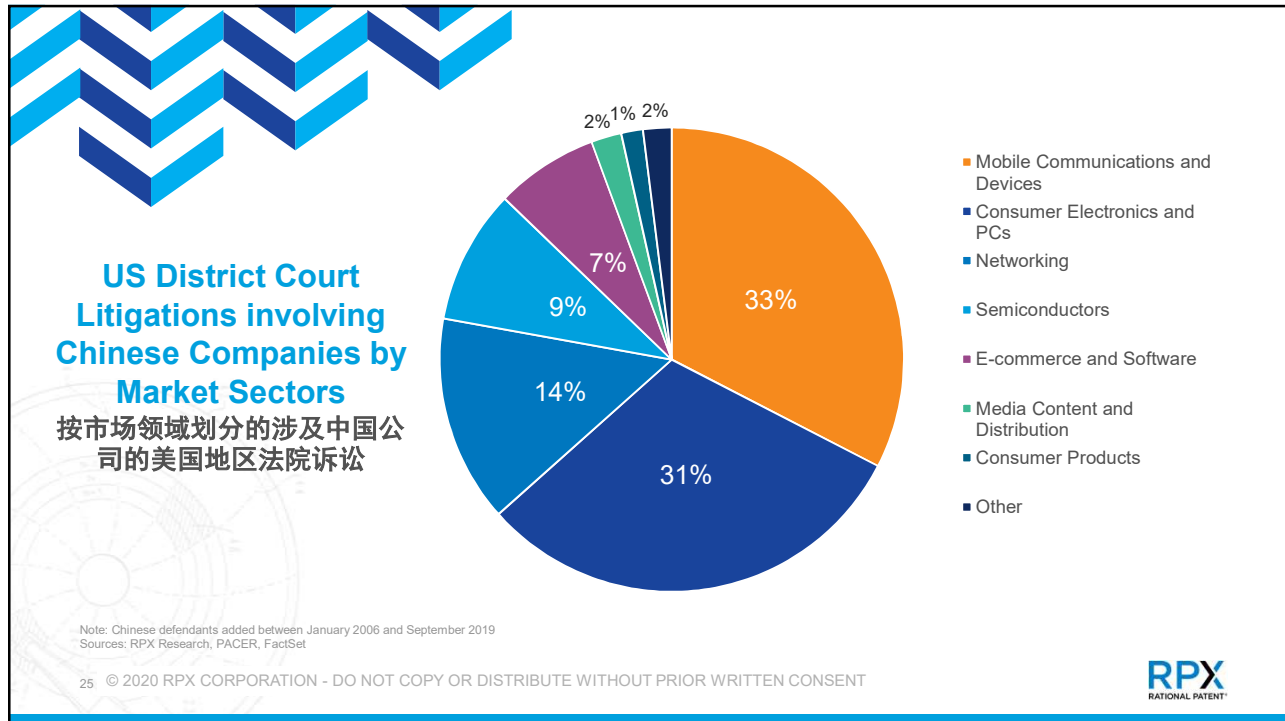


Sources: IPRdaily中文网, http://iprdaily.cn/news_23604.html

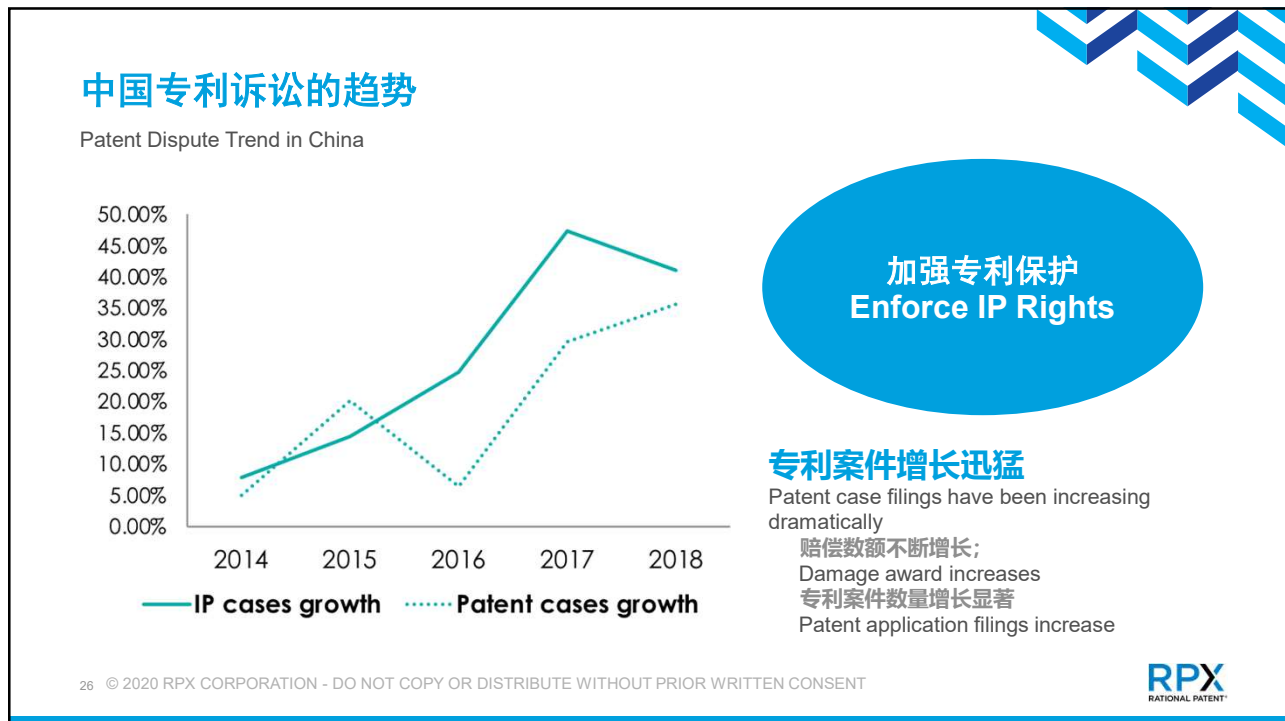
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NPEs 开始在中国 发起诉讼

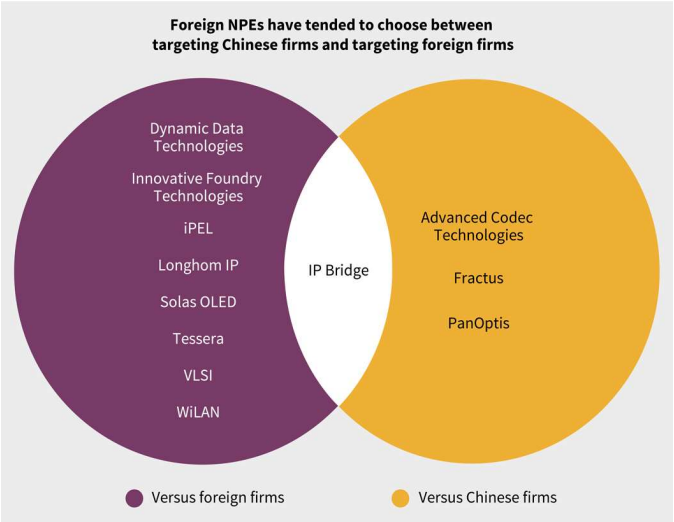
NPEs start litigation in China

看中中国司法环境：禁令、公平、
高效、便宜
Favor China's judicial environment:
injunction, fair, efficient, cheap

Source: IAM Media

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**Foreign NPEs have tended to choose between
targeting Chinese firms and targeting foreign firms**



Versus foreign firms (purple circle):

- Dynamic Data Technologies
- Innovative Foundry Technologies
- iPEL
- Longhom IP
- Solas OLED
- Tessera
- VLSI
- WILAN

Versus Chinese firms (yellow circle):

- Advanced Codec Technologies
- Fractus
- PanOptis

IP Bridge (Intersection):

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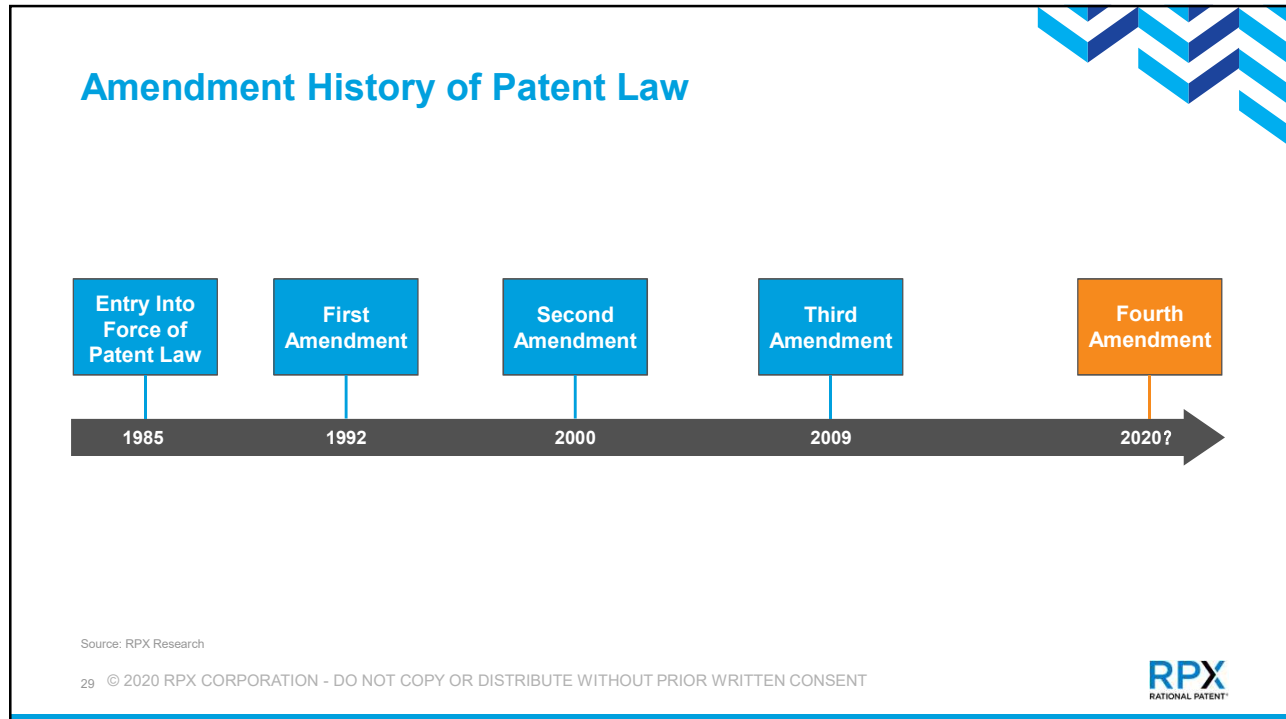
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3、政策法律的未来趋势

Future Trends of Policy and Law

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落实中美贸易协议

Implement China-US Trade Agreement



允许药品专利补充实验数据

Allow drug patents to supplement experimental data

允许药品专利申请人在专利审查、复审和司法程序中补充实验数据。
Drug patent applicants are allowed to supplement experimental data in patent examination, reexamination and judicial procedures.



建立药品专利链接制度

Establish drug patent link system

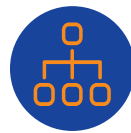
对已获得专利的药品，如果他人就该药品申请上市许可，上市审批机关应当通知专利权人，使其有机会对申请上市许可的他人提起专利侵权诉讼或者申请临时禁令。
For a patented drug, if another person applies for a marketing license for the drug, the marketing approval authority shall notify the patentee to give it the opportunity to file a patent infringement lawsuit or apply for a temporary injunction against the other person applying for the marketing license.



建立药品期限补偿制度

Effective Patent Term Extension

对所有技术领域（包括药品）的专利因为专利审查程序不合理延迟（非因专利申请人的原因）而对保护期予以延长。协议明确规定，自申请日满4年或者提出实质审查请求之日满3年尚未授权（以较晚日期为准）的，就构成了“不合理延迟”。
For patents in all technical fields (including pharmaceuticals), the period of protection will be extended due to unreasonable delays in the patent examination process (not due to patent applicants).



加大专利保护力度

Enhance patent protection

提高法定赔偿额上限和惩罚性赔偿上限
Increase the statutory compensation limit and punitive compensation limit

Source: RPX Research

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Increased Focus on Specialized IP Courts and Tribunals Over Time

> 3 IP Courts (Established in 2014)

- Regional specialized IP courts for first instance cases
- Regions: Beijing, Shanghai, and Guangzhou

> 21 IP Tribunals of Courts (Established in 2017-2019)

- Regional IP jurisdiction within Intermediate courts for first instance cases
- Regions Nanjing, Suzhou, Wuhan, Chengdu, Hangzhou, Ningbo, Hefei, Fuzhou, Jinan, Qingdao, Shenzhen, Tianjin, Zhengzhou, Changsha, Xi'an, Nanchang, Lanzhou, Changchun, Urumqi, Haikou and Xiamen

> 1 IP Tribunal of Supreme People's Court (Established in 2019)

- National IP jurisdiction for second instance cases
- Hears appeals from judicial cases and administrative cases (CNIPA's decisions related to invalidity and rejections) involving invention patents, utility model patents, design patents (only for administrative cases), layout design of integrated circuits, computer software, technical secret, new plant varieties, and anti-trust

Source: RPX Research

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4、疫情造成的影响

The impact of the epidemic

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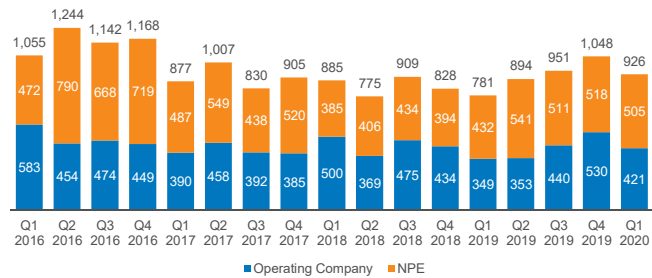
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2020年Q1，NPE在美国的起诉量是2015年以来第一季度的最高水平

Q1 Outpaces Prior Quarters, with NPEs Seeing the Biggest Upward Trend

NPE在第一季度为诉讼活动增加了505名被告，比2019年同期增加16.9%，比2016-2019年第一季度的四年平均水平高13.8%。

NPEs added 505 defendants to litigation campaigns in Q1, 16.9% higher than the corresponding quarter in 2019 and 13.8% higher than the four-year average for the first quarters of 2016-2019.



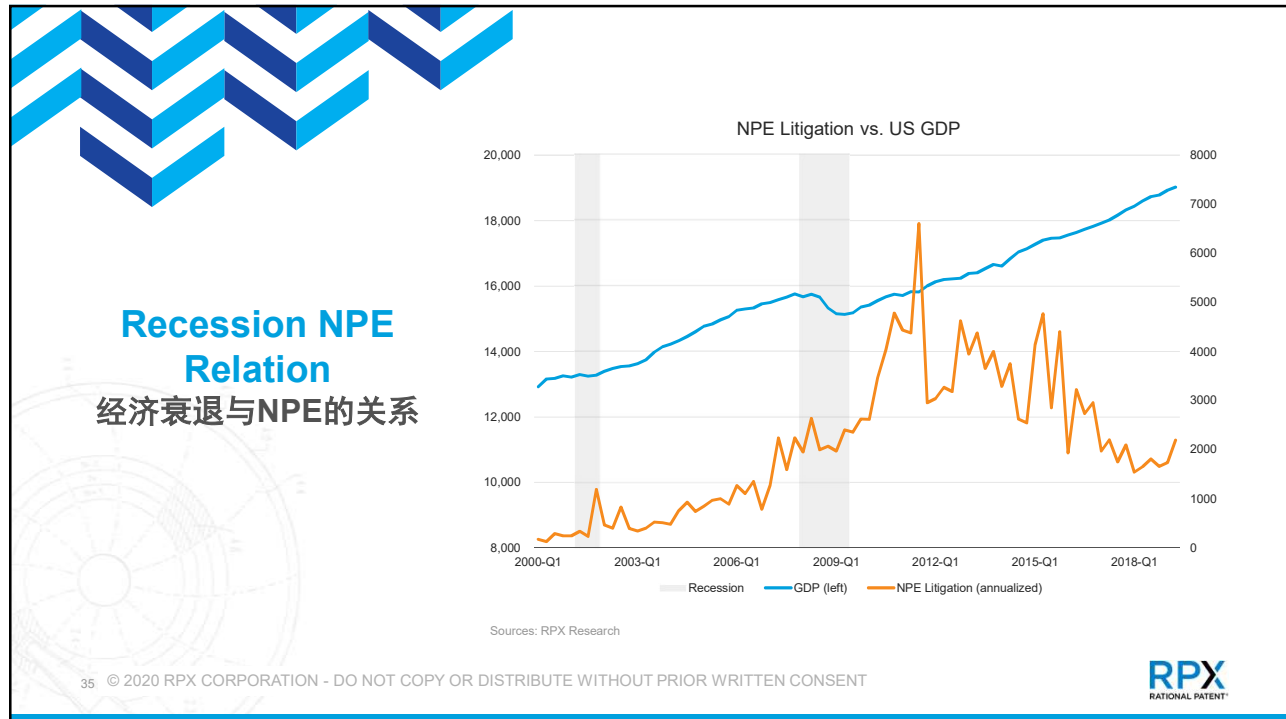
| Case Type | Defendants Added | | Change Compared to | |
|-------------------|------------------|---------|--------------------|----------------------|
| | Q1 2020 | Q1 2019 | Q1 2019 | Q1 2016-2019 Average |
| Operating Company | 421 | 350 | +20.6% | -7.6% |
| NPE | 505 | 432 | +16.9% | +13.8% |
| Total | 926 | 782 | +18.6% | +3.0% |

Sources: RPX Research

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Potential NPE Reactions to Recession

经济衰退与NPE的关系

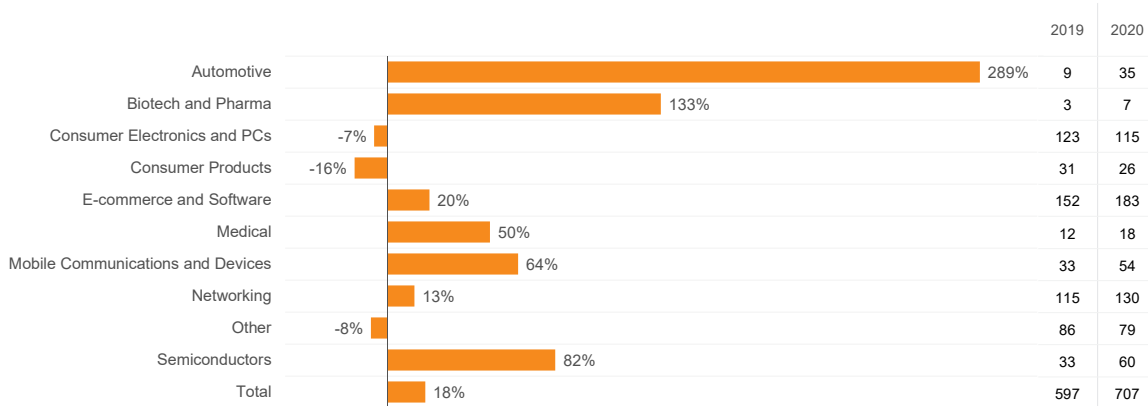
- **Economic recession promotes the activity of NPE**
- **经济衰退促进了NPE活跃**
 - Companies go bankrupt, causing them to liquidate their IP
公司破产导致他们清算知识产权
 - Prices drop when the market is flooded with IP
当市场上有很多知识产权时，价格就会下降
 - When prices lower, IP is easier for NPEs to acquire
当价格较低时，NPE就很容易获得知识产权
- **Low prices and available capital drive NPE formation**
低价格和可用资本推动NPE的形成
 - NPEs will start litigating 6-12 months after acquiring capital
NPE将在获得资本后6个月至1年内开始诉讼

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大多数产业都存在NPE诉讼增多的形势

Most Market Sectors Saw an Increase in NPE Litigation



NPE District Court Litigation, Percent Change from Jan-Apr 2019 to Jan-Apr 2020

Sources: RPX Research; PACER. Data as of 4/30/2020

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疫情的潜在影响

The Potential Effects of COVID-19

▶ 诉讼资金的入场 Enter Litigation Funding

- Litigation finance firms have reported record fundraising in recent years, as wealthy investors, including private equity firms and hedge funds, seek opportunities to invest in uncorrelated assets that can withstand, or even perform well in, an economic downturn
- Litigation funders report being “busier than ever” amid COVID-19, with some saying that the industry—with its “anti-recessional” features and general inoculation against court delays—was “made for” times like these
- In the wake of COVID-19, we may see a continued increase in litigation from NPEs backed by third-party litigation funders (e.g., litigation finance firms, hedge funds, and private equity firms)—a trend that has been on the rise for well over two years now
- With more plentiful and patient capital on hand, these well-funded NPEs may be in the position to acquire more robust patent portfolios; wage wars of financial and litigation attrition (i.e., suing in multiple venues and jurisdictions, and/or filing serial litigation, to wear down each target’s resolve); and hold out for higher settlements

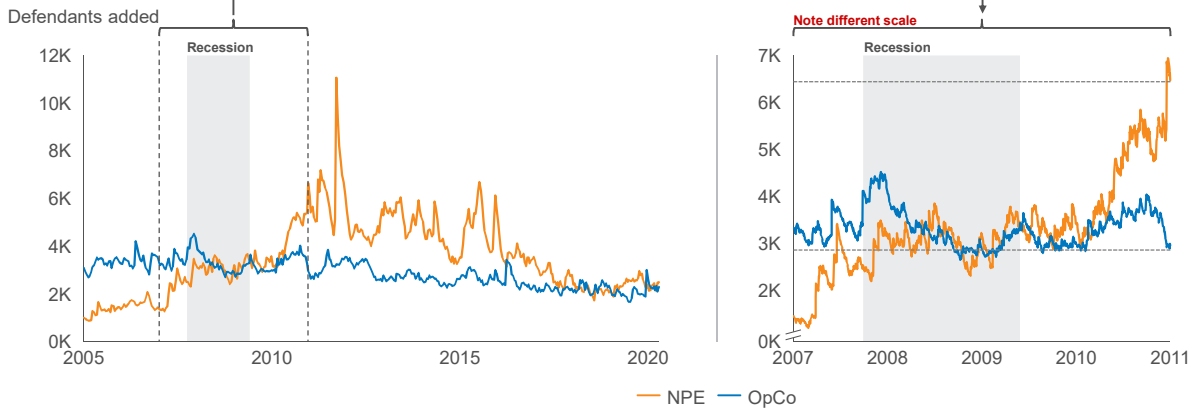
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2008年经济衰退之后，即使在实体公司数量下滑的情况下，NPE发起的诉讼仍保持上涨

Moreover, Through the Great Recession of 2008, NPE Litigation Continued Its Trend Up, Even as OpCo Litigation Fell



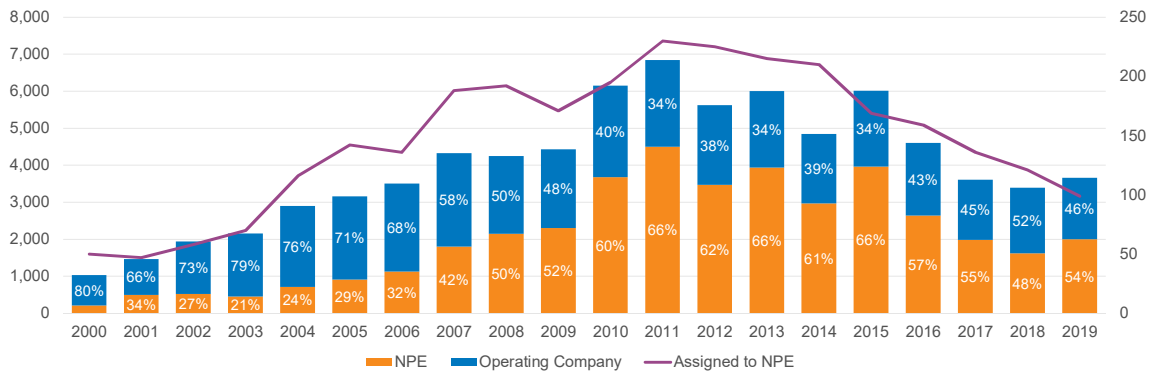
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向NPE转让的专利数量与NPE发起的诉讼数量保持一致

Assignments to NPEs Consistent with NPE Filing Trends



Defendants Added to NPE and Operating Company Litigation by Year with a look at Assignments to NPEs

Notes: Excludes Intra assignments; showing only transactions in which assignor is an OpCo and assignee is an NPE
Sources: RPX Research; PACER

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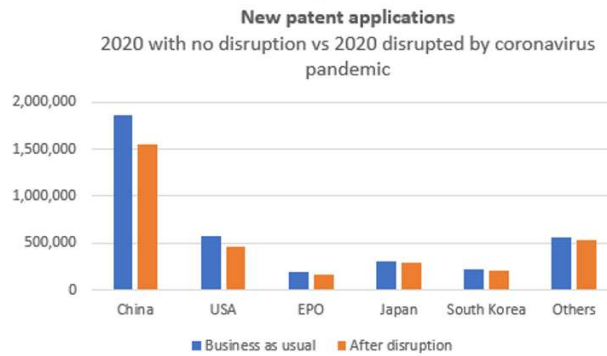


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疫情对世界专利申请的影

Impact of COVID-19 on patent applications worldwide

- Some observers have predicted a decline in patent filings in China and elsewhere, as companies trim budgets, weaker firms go out of business, and remote working makes R&D less efficient.



Source: <https://www.iam-media.com/>, "Why a patenting decline of between 10% and 20% is on the cards this year"; "Chinese patent filings fell in first quarter, but real virus impact could be ahead"

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疫情对中国专利申请的影响

Impact of COVID-19 on Chinese patent applications

| Month | Invention | Utility Model | Industry Design |
|-------|-----------|---------------|-----------------|
| 月份 | 发明 | 实用新型 | 外观设计 |
| 1月 | 164538 | 300529 | 67393 |
| 2月 | 60203 | 91336 | 21013 |
| 3月 | 103671 | 171792 | 42729 |

| | | | |
|----|----------------|----------------|----------------|
| 2月 | -63.41% | -69.61% | -68.82% |
| 3月 | 72.20% | 88.09% | 103.35% |

来源: 微信公众号“Limit 专利茶馆”, 《经历了2月份的惨淡, 专利申请量3月份报复式增长》
Source: WeChat public account "Limit Patent Tea House", "After the dismal February, the number of patent applications retaliated in March"

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关于制造业产业链是否离开中国-----NO

Whether the manufacturing industry chain leaves China---NO

> 1、大多数制造业产业链不会离开中国，中国仍将保持全球主要生产中心的地位

Most manufacturing industry chains will not leave China; China will still maintain its position as the world's main production center

- 原材料的供应、资本品的完备、高素质劳动力的占比

Supply of raw materials, completion of capital, and proportion of high-quality labor force

- 技术进步、规模经济和产业集聚

Technological progress, scale economy, and industrial agglomeration

> 2、部分产业链会发生变化，短期内中国经济形势会受影响

Part of the industrial chain will change, and China's economic situation will affect it in the short term

- 涉及防疫医疗及国家安全的产业可能会回归各国，但是相关专利仍将在中国发挥作用，或将促进专利诉讼活跃

Industries related to epidemic prevention and national security may return to other countries, but related patents will still play a role in China, possibly promoting patent litigation

- 短期内由于外贸需求下降，经济下行导致国内产业竞争加剧，或将促进专利诉讼活跃

In the short term, due to the decline of foreign trade demand and economic downturn, the domestic industry competition will be intensified, and patent litigation may increase

Source: 何帆、朱鹤：全球供应链有近忧无远虑，He fan, Zhu He: the global supply chain has near worries and no longer worries. https://www.sohu.com/a/380584250_784171

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关于制造业产业链是否离开中国-----YES

Whether the manufacturing industry chain leaves China---YES

> 疫情会加速全球产业链去中国化

The pandemic will accelerate the de-sinicization of the global industrial chain

- 中国人工成本的增加，人口结构的红利不再，GDP增速下行，“中国制造”的整体成本在上升

China's labor costs have increased, the demographic dividend is no longer, GDP growth is declining, and the overall cost of "Made in China" is rising

- 某些国家已经出台补贴计划，鼓励企业离开中国

Some countries have introduced subsidy programs to encourage companies to leave China

- 某些国家出于分散风险的考虑，会调整产业链政策，着手构建更独立、完整、安全的产业链

In consideration of risk diversification, some countries will adjust the industrial chain policy and start building a more independent, complete, and safe industrial chain

- 中国制造业仅有比较优势，并非绝对优势，特点是相对过剩的、低技术的、劳动密集型的产能，仍然是世界产品价值链中利润最少的一环

China's manufacturing industry has only comparative advantages, not absolute advantages. It is characterized by relatively surplus, low-tech, and labor-intensive production capacity. It is still the least profitable link in the world product value chain

Source全球产业链去中国化综述 A summary of the de-sinicization of the global industrial chain <https://www.douban.com/note/758983168/>

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疫情对中国专利申请的影响: 诉讼风险增大、NPE日趋活跃

Impact of pandemic on the Chinese patent industry: Litigation risk increases and NPEs becomes more active

> 1、中国巨大的专利存量, 给了专利运营动力和弹药;

China's huge patent stock gives patent operation power and ammunition;

> 2、法律政策修改, 司法环境完善, 更加倾向于加强专利权的保护;

The revision of laws and policies, the improvement of judicial environment, are more inclined to strengthen the protection of patent rights;

> 3、疫情影响下, 产业竞争更加激烈, 利用专利维护市场地位或许成为很好的选择;

In the wake of COVID-19, industry competition is more intense. It may be a good choice to use patents to maintain the market position;

> 4、后疫情时代, 产业链调整, 中国产业升级换代加速, 会导致专利资产剥离和变现压力增加;

In the post-pandemic era, with the adjustment of the industrial chain and the acceleration of industrial upgrading in China, the pressure of divestiture and monetization of patent assets will increase;

> 5、公平、高效、廉价、亲专利权倾向的司法环境, 吸引更多NPE进入中国并积极活动。

A fair, efficient, cheap and pro-patent judicial environment could attract more NPEs to China.

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5、应对策略 Proposed countermeasures

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应对疫情影响的企业专利管理总体策略建议

Suggestions for overall patent management strategy in response to the impact of the pandemic

- 1、聚焦核心业务，适当调整专利申请策略；

 - Focus on core business and adjust patent application strategy appropriately;
- 2、借助数据分析，梳理分类现有专利资产；

 - With the help of data analysis, classify the existing patent assets;
- 3、积极专利运营，分担企业负担、捍卫市场；

 - Active patent operation, share the burden of enterprises, and safeguard the market;
- 4、做好应诉准备，借鉴海外经验、借助外力。

 - Prepare to respond to lawsuits, learn from overseas experience, and make use of external resources.

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应对专利诉讼或许可纠纷的总体策略

The general strategy to deal with patent litigation or licensing disputes

- 1、认清对方面目：公司经济结构、诉讼资金来源、涉诉专利情况

 - Identify the counterparty: its corporate hierarchy, the source of any litigation funding, and the history of the asserted patents
- 2、理解对方纠纷目的：害命还是谋财？

 - Understand the purpose of the dispute: Competing for the market share or patent monetization?
- 3、多元化最低代价解决思路 Diversify solutions of the lowest cost

 - 害命型：以商业发展策略为着眼点解决纠纷；
 - Compete for the market : solve disputes with the commercial development strategy as the focus;
 - 谋财型：以大数据为支撑、协同抱团模式为着眼点解决纠纷。
 - Resolve disputes with the support of data analytics and with a focus on collaboration.

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应对NPE诉讼或许可纠纷的总体策略

The general strategy to deal with NPE litigation or licensing disputes

> 1、NPE纠纷属于谋财型：专利质量稳定、以诉促和

- NPE disputes are revenue-dependent: they requires high patent quality, promoting license through litigation

> 2、应对之前，应当分析NPE完整诉讼活动的总体情况

- Before responding to an NPE, the full history of its litigation activity should be analyzed

> 3、应对之前，应当分析所用专利的转让历史、无效历史、诉讼历史以及许可历史

- Before responding, the transfer history, invalidity challenge history, litigation history, and licensing history of the asserted patent should be analyzed

> 4、多元化最低代价解决思路可以考虑协同抱团式纠纷解决方案-----以RPX创新性解决方案为例

- For a diversified solution at the lowest possible cost, collaborative group dispute resolution should be considered — for example, RPX's innovative solutions

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Thanks

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