

Basic Legal Analysis of Intellectual Property Protection in the Adjustment of Import Structure of Developing Countries

Wang Ying, Yue Liping, Yang Rongkuan

Kangda Law Firm, Beijing, 100027, China

Abstract: *With the continuous development of social economy, knowledge has become an important driving force for modern economic growth, which is of critical value for the improvement of the comprehensive national strength of developing countries. In this case, developing countries should systematically judge the advantages and disadvantages of their own trade import structure, make full use of the value orientation of intellectual property protection, and actively take an effective measure to optimize the import structure to promote the sustainable development of national economy. In view of this, this paper expounds the actual situation of patent and trademark application acceptance and authorization in developing countries at this stage, analyzes the deep impact of intellectual property protection on the import structure of developing countries, summarizes and proposes effective plans to improve the level of intellectual property protection to optimize the import structure of developing countries, hoping to provide some effective reference.*

Keywords: *Intellectual property protection; Developing country; Import structure*

1. Introduction

At present, developed countries are in a leading position in the field of global knowledge creation and output, which has greatly promoted the high prosperity of science and technology and economy in developed countries. At the same time, the economic rise of developing countries has also attracted worldwide attention. The vigorous development of international trade has an important relationship with the protection of intellectual property rights. In order to better promote the sustainable development of the economy and optimize the import trade structure, developing countries should actively analyze the impact of intellectual property protection on the import structure and give full play to its positive role.

2. The Actual Situation of the Acceptance and Authorization of Trademark and Patent Applications in Developing Countries at this stage

2.1 The number of trademark and patent applications acceptance and the number of authorization continued to rise

Generally speaking, the number of trademarks and patent applications acceptance and the number of authorization can reflect the level of intellectual property protection in a country to a large extent. Therefore, the actual situation of intellectual property protection in a country can be effectively judged by investigating and analyzing the number of trademarks and patent applications acceptance and the number of authorization. Taking China as an example, according to the relevant data and information survey, since the promulgation of the Patent Law in 1984, Chinese people's awareness of patent protection has gradually increased, the number of patent applications is also increasing, and the number of patent applications acceptance is also growing. In 1985, the number of patent applications authorization was 138. In 2009, the number of patent applications accepted in China was up to 976,686, and the number of patent applications authorized rose to 22,588. This shows the changing trend of the number of professional applications authorized in China in the past 25 years. To a large extent, this reflects the gradual enhancement of Chinese people's awareness of patent law, the continuous development of patent acceptance procedures, and the continuous improvement of intellectual property protection^[1]. In addition, statistics show that in 2021, the number of trademark registration applications in China was 9.451 million, including 9.193 million domestic trademark applications, accounting for 97.3% of the total, up 0.8% year on year; 258000

foreign trademark applications in China, accounting for 2.7% of the total, up 11.6% year on year. In the annual trademark registration applications, the number of service trademark registration applications was 3.22 million, accounting for 34.1% of the total, up 7.3% year on year. In 2021, 10568000 trademarks will be registered and examined, with a year-on-year growth of 20.3%. The average review period of trademark registration application is stable at 4 months, and the period of trademark registration is generally reduced to 7 months. The management quality of the whole process of trademark registration was further strengthened, the quality of review was further improved, and the qualified rate of spot check of trademark review reached more than 97%.

2.2 Effective trademark and patent application rate are low for a long time

The level of intellectual property protection in developing countries still has room for improvement. While paying attention to the number of patent applications acceptance and the number of patents authorization, we should also pay full attention to the effective patent application rate, analyze and evaluate it, and summarize the experience in the process of intellectual property protection. Taking China as an example, relevant data show that the effective patent application rate in 1993 was 80.4%, that in 1999 was 74.61%, and that in 2000 was 61.72%. Except for these three years, the effective patent application rate in other years basically fluctuated around 50%. After calculation, the average effective professional application rate from 1992 to 2009 was 55.45%, which shows that the effective patent application rate in China is low for a long time. In this case, the cost of many research work cannot be recovered and the corresponding output cannot be obtained, which not only reduces the effective utilization rate of funds, but also is not conducive to the further development of China's intellectual property protection [2]. China has become a big trademark country, but a big trademark country is not equal to a strong trademark country. At present, China's trademark development index still has foam and shortcomings. Firstly, there are more low-end products, fewer famous brands especially fewer world-famous brands with international competitiveness. In 2015, there were 228 brands in the United States and only 31 brands in China on the list of "World Top 500 Brands". Secondly, the brand's ability to create economic benefits is not strong. According to the statistics of the World Intellectual Property Organization, 2,175 trademarks were created in the United States and 12,071 trademarks were created in China for every 100 billion dollars of GDP in 2014. Thirdly, the internationalization of the brand is not high. In 2014, only 4% of China's more than 2.8 million trademark registration applications went abroad to seek trademark protection, while 75% of Switzerland's trademark applications were international trademarks, and American international trademarks were 45%. The awareness and ability of China's independent brands to explore the international market need to be improved. Fourthly, the vitality of Chinese trademark brands is weak and their life span is short. Many brands are short-lived and there are few "evergreen trees".

3. The Deep Impact of Intellectual Property Protection on the Import Structure of Developing Countries

3.1 The import bill of manufactured industrial products has declined steadily, and the import bill of primary products has risen steadily

Since the 1990s, China's overall import trade volume has been increasing. According to relevant surveys, China's total import trade in 1990 was 53.35 billion USD, while in 2009 it was 1005.92 billion USD. Among them, the number of imports of industrial manufactured goods has been growing, but the proportion in the total import trade has declined steadily, while the import of primary products has been rising steadily, and the proportion in the total import trade is also rising. On the whole, the proportion of industrial manufactures in China's import structure is generally about 80%, which is an important part of China's import trade structure. However, with the continuous improvement of scientific and technological level in recent years, China's ability to produce industrial manufactures has been further enhanced, which can better meet the corresponding social consumption needs, so the import proportion of industrial manufactures in China has declined. At the same time, with the continuous improvement of China's intellectual property protection level, developed countries are more willing to export high-tech products to China, which can give full play to the "market expansion effect" of intellectual property protection. This will not only provide our society with the demand for high-tech products, but also help our enterprises in research and development, so as to constantly improve the scientific and technological level of our enterprises, enhance the independence of production, and reduce dependence on foreign markets. In addition, with the accelerating process of global economy, the problems of environmental

pollution and resource shortage have become increasingly serious. In order to ensure the sustainable development of China's economy, China has begun to pay more attention to the import of resource based primary products, so the import volume of primary products in China has been increasing in recent years^[3].

3.2 Both the quantity and proportion of high-tech product imports continued to grow

With the continuous development of social productivity, the living standard of people in developing countries has improved significantly. There is a higher demand for material and cultural living conditions, and the demand for high-tech products has expanded, thus changing the structure of import trade. In 1991, China's total imports of high-tech products were 9.44 billion USD, accounting for 14.8% of the total imports. In 2010, China's total imports of high-tech products rose to 412.66 billion USD, accounting for 29.6% of the total imports. It can be seen from this that the quantity and proportion of China's high-tech product imports continue to grow, which is an important part of China's import trade structure. This feature is also closely related to the level of intellectual property protection in China. Since China's accession to the World Trade Organization, relevant administrative departments have continuously strengthened the rule of law in domestic intellectual property rights, improved law enforcement procedures, and strengthened the effectiveness of law enforcement. The level of intellectual property protection in China has been greatly improved^[4].

4. Effective Strategies for Improving the Level of Intellectual Property Protection to Optimize the Import Structure of Developing Countries

4.1 Improve the legal system related to intellectual property and continue to expand the scope of intellectual property protection

The level of intellectual property protection in developing countries still lags behind that in developed countries. Therefore, developing countries should strengthen the construction of the legal system, actively learn from international advanced legislative experience, and improve the legal system related to intellectual property rights. Continuously adjust and optimize the existing rules and regulations according to the actual situation, ensure the scientific rationality of the law formulation, on this basis, continue to expand the scope of intellectual property protection, and improve the level of intellectual property protection in developing countries, so as to lay a solid foundation for the optimization of the import structure^[5].

4.2 Draw on the advanced experience of foreign countries, and attach importance to the practice of intellectual property protection, and formulate a scientific and reasonable talent training plan, and actively cultivate professionals in intellectual property protection

The improvement of intellectual property protection is fundamentally the improvement of the quality of human capital. At present, most developing countries do not have enough talents related to intellectual property protection to meet the growing social needs, which restricts the improvement of intellectual property protection in developing countries. Therefore, the relevant administrative departments of developing countries should strengthen the construction of relevant professional legal talents, adopt various ways to strengthen talent training, formulate scientific and reasonable talent training plans according to the specific needs of the country and society, and encourage universities, enterprises, the public to actively participate in the construction of intellectual property talent team. Specifically, universities can increase investment in intellectual property related majors, build professional talent training bases, and provide good material conditions for talent training. Enterprises can set up professional training courses and qualification examinations to attract high-level professional legal talents and intellectual property consultants. For the general public, they can actively participate in business training courses to broaden their horizons, master basic intellectual property knowledge, and safeguard their legitimate rights and interests when necessary, so as to create an overall social atmosphere for intellectual property protection and improve the level of intellectual property protection in developing countries^[6].

4.3 Build a sound intellectual property service system and increase the publicity and of intellectual property related knowledge

Developing countries should actively organize legal publicity and education activities for intellectual property protection, increase investment, build a sound intellectual property service system, actively introduce modern science and technology, build a comprehensive intellectual property information system, and improve the overall level of intellectual property public information network construction. In this process, the relevant administrative departments should establish an efficient and convenient patent information retrieval system to facilitate individuals or enterprises to query the corresponding information, so as to reduce the occurrence of intellectual property disputes. If an intellectual property dispute occurs, the government department should standardize the work process, handle it in strict accordance with the corresponding laws and regulations, and give correct guidance to the individuals and enterprises involved in the case. In addition, the relevant administrative departments should also fully mobilize the initiative of the industry's self-regulatory organizations, encourage the industry's self-regulatory organizations to play their role, do a good job of communication and exchange between various departments, regulate the work behavior of intellectual property intermediary service agencies, contribute to the coordination of market order, promote the formation of a benign social atmosphere for intellectual property protection in developing countries, and gradually optimize the import trade structure [7].

5. Conclusion

To sum up, the number of patent applications accepted and authorized by developing countries continues to rise at this stage, but the effective patent application rate has been low for a long time. According to relevant survey reality, intellectual property protection has a significant impact on the import structure of developing countries. Take China as an example. With the continuous improvement of China's intellectual property protection level, China's imports of industrial manufactured goods have steadily declined, the imports of primary products have steadily increased, and the number and proportion of high-tech products have continued to grow. On the whole, China's import trade structure has been constantly improved and optimized. Therefore, in order to give full play to the positive role of intellectual property protection in the import structure, developing countries should improve the legal system related to intellectual property and continue to expand the scope of intellectual property protection. At the same time, a scientific and reasonable talent training plan should be formulated to actively train professionals for intellectual property protection. We should also build a sound intellectual property service system and increase the publicity and popularization of intellectual property related knowledge. We will continue to improve the level of intellectual property protection in developing countries, improve the structure of import trade, and promote sustainable economic development.

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