

# IP protection calls for fine balancing act

Speakers at the Business of IP Asia Forum emphasize the challenges of managing patent violation risks amid fierce competition. **Emma Dai** reports.

The importance of the protection and development of intellectual property (IP) is rising in China. It is a challenge indeed to manage the increasing risk of violating patents amid fierce competition, while making a profit from one's own intangible assets is also an ambitious task, panelists from the industry said at a China Daily roundtable summit in Hong Kong.

"As the prime gateway to the Chinese mainland, Hong Kong's indispensable economic role has been enhanced in the intellectual property sector in the past decade," Zhou Li, publisher and editor-in-chief of China Daily Asia Pacific, said in addressing the audience of the roundtable at the Business of IP Asia Forum on Thursday.

"Hong Kong helps achieve a win-win situation for both Chinese IP players seeking a worldwide market for their products and services, and their international peers using the SAR to make inroads into the Chinese mainland," Zhou said.

"The recognition of intellectual property is becoming increasingly significant in China," said Li Zhong, deputy director general of the Beijing Intellectual Property Office.

"At the end of November, Premier Li Keqiang vowed to boost all-round protection for intellectual property and encourage innovation as well as application for patents in the country from 2014 to 2020."

The State Council has promised to increase fiscal support to IP protection, he added. Beijing has set up a court specialized in IP disputes, while two other similar courts will be established in Shanghai and Guangdong province in December.

Besides, Beijing has also initiated an online platform for IP

trading. A test run is scheduled at the year end, Li said. By mid-2015, "we will officially kick off the website. All lawful patent owners and users are eligible to join."

"Intellectual property adds value to our products. As a creator as well as end user, we recognize IP as one of the core-competitiveness factors of our group," said Yao Yingjia, vice-president and chief designer of Lenovo Group.

"IP is a kind of asset. It creates more value than one can imagine," he told the audience. "One of my marketing colleagues once told me that the 'lucky cloud' we designed for the Olympic Games torch earned the company several million US dollars in advertising fees. The publicity we got was huge and yet it was all for free."

## Safety in numbers

Yao and his team designed the torch for the Beijing Olympic Games, known for the lucky cloud pattern, which the company later used on a series of limited edition products.

However, in today's information age, where news travels swiftly, it is getting harder to protect individual IPs, Yao said.

"We need to think about the full picture when applying for patents. In real competition, the party that owns a basket of related patents enjoys a much greater advantage."

What's more, for businesses involving a wider range of products in an increasing number of markets worldwide, the challenge to manage IP risks also becomes a multi-level task, said Shen Nan, chief licensing officer of ZTE Corporation, the world's fifth-largest telecom equipment maker.

"Five or six years ago, when a phone was still just a phone, our



Panelists at the China Daily roundtable summit in Hong Kong pose for the cameras after speaking on patent and copyright issues and how best to tackle them.

major competitors were Motorola, Ericsson, Siemens and Nokia. The IP risk we faced was mainly from standard essential patents," Shen recalled. "Now as our product line expands to smartphones, we have started to become involved in disputes related to all kinds of commercial essential patents, such as search engine technologies. We have to adjust our IP strategy to adapt to the trend."

He added that, with the rising popularity of the Internet, it has become "very hard" to identify the entities behind certain patent infringement behaviors.

Besides, Chinese companies easily get sued overseas for IP violation, mainly because they are unfamiliar with local regulations, Shen said. "We are usually sued for commercial rather than political reasons. In recent years, there were cases in India, South Korea, Australia and even Saudi Arabia. It's really about knowing the rules better."

But at the same time, one should always focus on creating more value from intangible assets, pointed out Amy Liu, senior vice-president of EntGroup, consultants specialized in the cultural industry.

Unlike the high-tech sector, the cultural industry in China has only begun to take IP seriously in recent years.

"High-quality content is important, but only through the market can it create value. How to commercialize such content is an essential factor. We have only just started," Liu emphasized, adding that, in developed markets, the cultural industry earns most of its profits from franchised products.

The key is to maximize the influence of good content. "I would even tolerate piracy as long as this can boost aware-

ness. We can earn more from all kinds of products later," Liu said. "With more overseas content and capital, Chinese cultural industry will become mature."

## Future lies in innovation

"The IP we have is valuable. But times have changed," noted Chen Man-lung, executive director and chief operating officer of Culturecom Holdings Ltd. "We have shifted our focus to developing online games and films, and related products based on them."

Culturecom is known for

comic books and is the only listed animation enterprise in Hong Kong. It owns more than 200 patents for cartoon images, including some very popular and long-running heroic characters.

"In IP business nothing lasts forever. The future lies in continuous cultivation of new assets and developing new forms to use them," Chen added.

However, before the cultural industry works on new forms of content to transform IP into profits, Chinese need to look back to traditional culture, said Law Yee-ping, chief representative of the Hong Kong and South China Office at International Technology Transfer Network.

"We need to be more proactive in protecting our traditional cultural icons first, otherwise it will be a huge disadvantage for us when someone else acquires patents on them. They are highly valuable assets, especially in the Chinese market," Law said.

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Li Zhong (left), deputy director general of the Beijing Intellectual Property Office, has the full attention of ZTE Corporation Chief Licensing Officer Shen Nan (center) and Yao Yingjia.

## Offense is best in IP war

By HUA YANG in Hong Kong  
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Chinese tech companies should make strategic choices with regard to use of patents and embrace an offensive approach to managing intellectual property (IP) issues in order to succeed in a competitive environment, says Shen Nan, chief licensing officer of ZTE Corporation.

"Technology companies have been a major target of patent litigation in recent years as royalty payments can be quite lucrative and companies can use patent litigation to protect themselves," he says.

Patent trolls, whose core business model is using IP to earn licensing fees instead of producing actual products, have created some serious disruptions for operating companies.

On the other hand, operating companies are using patents as a weapon to restrict competitors — something that becomes most obvious when

a company tries to enter a foreign market. Local competitors may use patents as a way to stop it from entering, Shen notes.

"It is important for companies to understand the threat and the cost of these issues," Shen says. "The best way to deal with the problem is to build a strong patent portfolio."

The most common reaction to a lawsuit is to make a counterclaim. The more patents a company has, especially core patents, the easier it is to make such a claim. The patent portfolio can act as a deterrent, he explains.

Shen notes that hardly any firms can possess patents for every stage of production. Especially for communication companies like ZTE, they have to manufacture devices according to an international standard, which means that at some point they have to accept the innovations of others.

"Chinese companies used to fear patent litigations and

adopt a defensive stance to solve the problem. In order to survive in the international market, companies need to know the rules of the game and take part in selling and buying activities to arm themselves," Shen says, adding that the number of IP lawsuits would probably drop if companies achieve similar levels of IP management.

He reveals that ZTE has been spending at least 10 percent of annual revenue on research since the company was established. ZTE ranked second in the 2014 World Intellectual Property Organization's table of patent applicants, with 2,309 filings under the Patent Cooperation Treaty.

"ZTE's growing IP portfolio is giving strong support to the company's development of new technologies," Shen says. "ZTE has become substantially stronger in developing key technologies such as operating systems, mobile devices and applications."

## Comics company woes no joke

By AGNES LU in Hong Kong  
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Authorized providers of cultural products in Hong Kong face intellectual property challenges both in the city and on the mainland, as rampant piracy in recent years has left publishers and providers with no choice but to transform, said Chen Man-lung, executive director of Culturecom Holdings Ltd.

As one of the largest comic book publishers and media content providers in Asia, as well as the first to introduce Hong Kong comics into the mainland market, the Hong Kong-based company with more than 40 years of experience in the field is now considering making money from the web, instead of print.

"With technological innovation gaining speed, we've seen an astonishing change in the market culture," said Chen. "The pervasion of copycats from the mainland makes it almost impossible for local

comic book publishers to profit in Hong Kong, not to mention the layers of difficulties in law enforcement at the customs side."

In the 1990s, Culturecom comic books created by local cartoonists enjoyed a weekly sales volume of 200,000 to 300,000 copies. But now it can only look forward to more than 30,000 at best. Japanese manga have suffered the biggest slump, with sales dropping by 70 to 90 percent in the past three years.

## Copycats ruining scene

"Japanese comics are traditionally serialized in some local magazines, and later presented together in book form after being serialized for several weeks. While they are being serialized, mainland copycats can release pirated copies in the afternoon of exclusive comics published by the Japanese magazines that morning."

"But for us authorized licensees, we usually have to wait for at least three to four months

before we can get the copyright of the book editions and then publish the comics as soon as we can. The time lag is frustrating," said Chen.

Chen said the Hong Kong Comics and Animation Federation (HKCAF), the industry organization of which Culturecom is a member, files complaints every year with the city's customs department, providing lists of mainland pirate website addresses in the hope that at least some of the listed websites could be dealt with in accordance with the law.

In October last year, a network company based in Zhejiang province and owner of a comic website called "Comic House", was fined 100,000 yuan (\$16,246) for copyright infringement. Seventy of its comic works published online were in fact copyrighted by the HKCAF.

The case was later listed by the National Copyright Administration as one of the top 10 cases of copyright infringement that prove the resolution of the authorities in cracking down on piracy.

But Chen considers it just a flash in the pan. "Then what? After paying the 100,000 yuan, you can still build another website. Not to mention this is only one of the few cases that have been handled over so many years."

Technological advances fast revolutionizing the market are also giving local comic book publishers a hard time.

With just a click on the tablet or mouse, readers can easily enjoy their favorite comics

without having to pay as they would otherwise have to for a printed book.

This is why Culturecom decided to march into the mainland market by joining hands with local telecommunication giants.

Earlier this month, the company announced its cooperation with China Mobile on running a mobile game and app copyright authorization business together on the mainland.

"Copying a comic book is too easy. However, copying a service could be hard. That is why we are targeting the online game market," said Chen. "As long as we have a sophisticated and large-scale partner, we feel safer."

## Culture in class of own

In the city, the latest Copyright (Amendment) Bill 2014 is still under discussion in the Legislative Council. While the bill has sparked heated controversy on the Internet, mainly over derivative work issues, Chen said the government faces its own struggles in looking for a main focus to support the IP industry, especially the cultural sector. "The cultural creativity industry is never like a traditional production plant. It does not have a regular formula."

The penetration of Internet and technology into people's daily lives has made the situation even more bewildering. "There needs to be the transformation of products. There needs to be transformation of the channel. Things are not the way they were," said Chen.



Culturecom Executive Director Chen Man-lung (center) speaks as listening intently are Amy Liu (left) and Law Yee-ping, chief representative of the Hong Kong and South China Office at International Technology Transfer Network.