

Multi-jurisdictional Patent Prosecution (US v. China)

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OUTLINE

- What is a patent?
- Types of patents in US v. China
- USPTO practice
 - US Patent and Trademark Office
- Chinese Patent Office practice
 - National Intellectual Property Administration
- PCT (Patent Cooperation Treaty)
- Patent strategy for business

WHAT IS A PATENT?

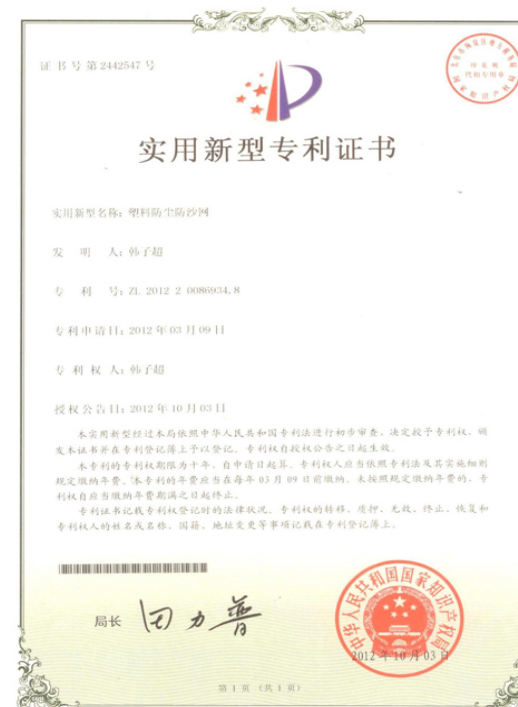
- A patent does **not** provide the right to make, use, or sell an invention.
- A patent provides the right to **exclude others** from making, using, selling, offering for sale, or importing the patented invention for the term of the patent.
- Patent right is regional!

US PATENT



- Title
- Specification
- Claims
- Drawings
- Abstract

CHINESE PATENT



PATENT TYPE & TERM OF PROTECTION

US		China	
Patent Type	Patent Term (years)	Patent Type	Patent Term (years)
Utility patents	20	Invention patents	20
Design patents	15	Utility model patents	10
Plant patents	20	Design patents	10

USPTO PRACTICE

- Provisional v. Non-provisional
- Patent “prosecution” (examination)
 - Office Action: restriction requirement, non-final, final; Advisory Action
 - Subject matter eligibility (101); written description, enablement, indefiniteness (112); anticipation (102); obviousness (103)
- Resources:
 - **Patent Tools & Links** <https://www.uspto.gov/patent>
 - Search for patents <https://www.uspto.gov/patents-application-process/search-patents>
 - **Patent Application Information Retrieval (PAIR)**
 - Public Pair <https://portal.uspto.gov/pair/PublicPair>
 - **Global Dossier** <https://globaldossier.uspto.gov/#/>
- Examiner’s interview

CHINESE PATENT OFFICE PRACTICE

- Invention v. Utility model
- Patent “prosecution” (examination)
 - written description/clarity; novelty; inventive step
- Resources
 - **Global Dossier** <https://globaldossier.uspto.gov/#/>
 - Google patents <https://patents.google.com/>
 - Patent Search and Analysis <http://www.pss-system.gov.cn/sipopublicsearch/portal/uiIndex.shtml>
- Examiner’s interview

PATENT COOPERATION TREATY/PCT

- There is **NO** international patent.



PATENT STRATEGY FOR BUSINESS

- Multi-jurisdiction
 - PCT
 - Paris Convention
- Timing
 - First public disclosure
 - Target markets
- Patent type
 - US: Provisional v. Non-provisional
 - China: Invention v. Utility model
- **Start the conversation with your patent attorney early!**