中国科技创新知识产权政策

Intellectual Property Policies in Scientific and Technical Innovation

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科技创新与知识产权的关系

S&T innovation and IP

科技创新与知识产权密不可分

S&T innovation and IP are indispensible to each other

- 科技创新是知识产权的源泉

  S&T innovation is the source of IP

- 知识产权是科技创新的重要目标

  IP is an important target of S&T innovation

科技创新与知识产权的关系
S&T innovation and IP

知识产权制度的作用 Functions of IP system:

- 保护人类智力劳动成果

  Protect the fruit of man's intellectual work

- 促进公众对智力成果的利用

  Encourage the public to exploit the achievements of man's intellectual work

  权利人和使用者的利益平衡，推动科技、经济和社会进步

→ **Strike a balance between the interests of patentees and those of users, and promote scientific, economical and social progress**

科技创新知识产权政策
IP policies in S&T innovation

- 《中长期科技规划纲要》：

National Medium and Long-term Program for Science and Technology Development

  - 创新型国家指标：本国人发明专利年度授权量世界前5位

Indicators for innovation-oriented country: annual patent licensing by natives rank top 5 in the world

  - 实施知识产权战略，将知识产权管理纳入科技管理全过程

Implement IP strategies and integrate IP management into the process of science and technology management

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- 《中长期科技规划纲要》：

  National Medium and Long-term Program for Science and Technology Development

- 强化科技人员和科技管理人员的知识产权意识，推动企业、科研院所、高等院校重视和加强知识产权管理

  Enhance IP awareness of scientific and technical personnel and administrators, and encourage enterprises, research institutions and colleges to enhance IP management

- 应用研究，以获得自主知识产权为评价重点

  Applied research focuses on indigenous IP

科技创新知识产权政策

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- 《国家知识产权战略纲要》：全面提高知识产权创造、运用、保护和管理能力

The National Intellectual Property Strategy Compendium：creation,exploitation, protection and management of IP

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- 《科学技术进步法》第二十条、二十一条

  Article 20 and Article 21 of *Law of the People's Republic of China on Science and Technology Progress*
- 加强科技计划知识产权管理

  Reinforce IP management in S&T programs
  - 《关于国家科研计划项目研究成果知识产权管理的若干规定》
  - *Provisions on Intellectual Property Management of Research Achievements in National Science and Research Programs*
  - 《国家科技计划知识产权管理办法》
  - *Administrative Measures on Intellectual Property Management in National Science and Technology Plans*
  - 《中外科技合作中保护知识产权管理规定》*Administrative Provisions on the Protection of Intellectual Property in Science and Technology Cooperation*

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- 鼓励成果转化和技术转让
- Encourage transformation of achievements and technology transfer
  - 1996年《促进科技成果转化法》
  - In 1996, *Law of the PRC on Promoting the Transformation of Scientific and Technological Achievements*
  - 1999年《关于促进科技成果转化的若干规定》
  - In 1999, *Provisions on Promoting the Transformation of Scientific and Technological Achievements*

科技创新知识产权政策
IP policies in S&T innovation

1. 强化科技创新的知识产权导向
Enhance IP orientation in S&T innovation
2. 调整科技成果知识产权归属
Adjust IP ownership of scientific and technological achievements
3. 重大专项和科技计划成果的推广应用
Popularize and apply achievements from major special projects and S&T programs
4. 鼓励和规范技术交易
Encourage and standardize technical transactions
5. 鼓励科技人员发明创造和转化技术
Encourage S&T personnel to develop and transform scientific research achievements

科技创新知识产权政策
IP policies in S&T innovation

1. 强化科技创新的知识产权导向

Enhance IP orientation in S&T innovation

- 改革科技奖励制度，发明专利等知识产权指标纳入国家技术发明奖评价指标体系
- IP indicators including patent of inventions are taken into the indicator system of National Award for Technological Invention
- 应用类科技计划把获得自主知识产权作为实施目标
- Application-based S&T program takes independent IP as the target of implementation and the key point for evaluation
- 各项科研计划管理制度和项目合同中均明确知识产权管理内容
- IP management should be specified in the management system of all S&T programs and project contracts

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2. 调整科技计划知识产权归属

Adjust IP ownership of S&T achievements

- 国家掌握知识产权：国家安全、利益和重大公共利益
- IP owned by the country: national security, national interests and major public interests
- 授权项目承担者依法取得
- Authorized to the project contractor

国家保留无偿实施或许可他人有偿、无偿实施

The country reserves the right of free exploitation or the right of granting free or paid exploitation to others

  - 在合理期限内没有实施
  - No exploitation within a reasonable time
  - 为了国家安全、国家利益和重大社会公共利益
  - For national security, national interests and major public interests

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2. 调整科技计划知识产权归属

Adjust IP ownership of S&T achievements

- 承担单位的管理和保护义务:
- Management and protection obligation on the part of project contractors:
  - 首先在境内使用
  - Domestic exploitation first
  - 一般应当采取非独占许可的方式
  - Non-exclusive licensing in most cases
  - 实施情况年度报告
  - Annual report of implementation progress

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3. 重大专项和科技计划成果的推广应用

Apply the achievements from major special projects and S&T programs

- 知识产权信息共享 IP information sharing
  - 保护知识产权的前提下广泛传播
  - Spread widely on the condition that IP is protected
- 重大专项许可使用义务

  Licensing obligations of major special projects

  专项产生和购买的知识产权，各项目（课题）单位应当首先保证其它项目（课题）责任单位为了专项实施目的的使用。

  With regard to IP created and purchased in special projects, the organization that undertakes the project shouldguarantee IP exploitation for other responsible organizations for the implementation purpose of special projects.

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4.鼓励和规范技术交易

Promote and standardize technology transactions

- 技术合同法律规定
- Legal provisions on technology contracts
- 技术转让免征所得税、营业税
- Technology transfer enjoys exemption from income tax and business tax
- 鼓励高新技术入股
- Encouraging technology-based shares
- 技术交易市场
- Technology trading market

2011年全国认定登记的技术合同256428项，成交技术合同总金额4764亿元

In 2011, 256,428 registered technology contracts in China, with transaction value of RMB 476.4 billion.

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5. 鼓励科技人员转化科技成果

Encourage S&T personnel to transform S&T achievements

- 奖励发明人和应用科技成果有贡献人员

  Reward inventors and all contributors to applied S&T achievements
- 允许科技人员与单位协议转化职务科技成果

  Allow S&T personnel to transform S&T achievements made in his position under the agreement between the researcher and the organization

问题 Problems:

- 大学和科研机构知识产权保护动力不足
- Lack of impetus in IP protection in unversities and research institutions
- 创新主体知识产权管理制度不健全
- Lack of sound IP management system for innovators
- 缺乏专业化的知识产权管理人才
- Lack of IP management professionals
- 管理经验不足
- Inadequate management experience
- 缺乏高水平的知识产权服务机构
- Lack of high-level IP service agencies

下一步工作考虑
Plan for the work follow-up

- 完善科技管理中的知识产权政策
- **Improve IP policies in S&T management**
- 健全重大专项和科技计划知识产权工作体系
- **Improve IP working system for major special projects and S&T programs**
- 加强知识产权培训和服务
- **Strengthen IP training and service**
- 推动大学、科研院所知识产权和技术转移体系建设
- **Promote the establishment of IP and technology transfer system in colleges and research institutions**

Thank you!

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