

# *The Impact of Intellectual Property Protection in Beijing on the Business Environment for Foreign Investment*

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**Keywords:** Intellectual property, foreign investment, business environment, legal protection

**Abstract:** In this paper, the empirical research method is used to measure the intensity of intellectual property protection in Beijing, and the number of cases accepted by courts at all levels and arbitration institutions in Beijing, the settlement rate, the average compensation, the support rate of the plaintiff's lawsuit claims and other indicators should be introduced to comprehensively measure the actual level of judicial protection of intellectual property. In addition, for the actual level of protection, this paper believes that the protection should be maintained at a reasonable level, in order to attract high-quality foreign investment inflows, but also to avoid the intellectual property monopoly may lead to limited market competition. After determining the reasonable intensity of intellectual property protection, in order to achieve the intensity, it is necessary to make corresponding adjustments in the fields of legislation, law enforcement and judicature.

## 1. Introduction

In order to implement the central government's important directive that Beijing and other megacities should take the lead in intensifying business environment reform, Beijing is further enhancing the internationalization of relevant systems and rules, continuously enhancing its international competitiveness and capacity for open development, and taking the lead in creating a stable, fair, transparent and predictable business environment for foreign investment. As a kind of property right, intellectual property rights have attracted more and more attention worldwide. The protection of intellectual property rights is one of the important tasks of all governments, as well as an important symbol of a country's economic development and innovation ability. With the increasing trend of globalization and increasingly fierce competition among countries, the status of intellectual property protection is becoming more and more important. Under the innovation-driven development strategy, intellectual property rights, as an institutional arrangement to protect innovation, are an important part of the business environment and one of the key factors for multinational companies to consider when making investment decisions. Therefore, this paper will focus on the impact of intellectual property protection on the business environment for foreign investment.

At present, the mainstream view tends to agree that the improvement of intellectual property protection level has a positive effect on the introduction of foreign capital and the spillover of foreign capital technology, and the specific effect has regional and industrial differences. But there are different standards for how to measure the level of intellectual property protection.

The present researches have the following two shortcomings: First, most of the existing studies focus on the influence of intellectual property protection levels on FDI in different countries. A few scholars have conducted studies from the level of domestic cities, but mainly focused on the differences and contrasts between eastern, central and western cities. There is a lack of analysis of a single city, especially a mega-city with a special orientation like Beijing. Second, in terms of the measurement of IPR protection index, most scholars use the number of patent grants to measure the intensity of IPR protection, which is not comprehensive and accurate enough. The revised measurement method takes into account the law enforcement status of IPR, but lacks emphasis on the core element of judicial protection of IPR. There is room for improvement in the current IP protection index.

Based on the intellectual property legislation, law enforcement and judicial situation in Beijing, this paper studies the impact of changes in a certain legal factor on the business environment of foreign investment in Beijing from the internal perspective of legal system construction, and then puts forward feasible and concrete suggestions for the improvement of the intellectual property protection system in Beijing, so as to continuously stimulate the market vitality and social creativity in Beijing. We will further optimize the business environment for foreign investment and help realize Beijing's strategic positioning as a center of international exchanges and scientific and technological innovation.

## **2. Literature Review**

About the impact of intellectual property protection on foreign direct investment (FDI), many scholars at home and abroad have conducted a lot of research, and their research conclusions can be divided into the following three kinds: First, Helpman (1993)<sup>[1]</sup>, Lai (1998)<sup>[2]</sup> believe that strengthening intellectual property protection in host country has a positive impact on FDI, which is conducive to improving FDI and technology licensing level. In the second view, Markus and Penubarti (1995), Ethier and Markusen (1995)<sup>[3]</sup>, Markusen (2001) et al. argued that enhanced intellectual property protection in host countries would become an obstacle to FDI. The strengthening of intellectual property protection in host country will strengthen the monopoly power of transnational corporations in host country, and in the long run, it will lead to the decrease of transnational corporations' investment behavior in the country. In addition, Glass and Saggi (2002)<sup>[4]</sup> proposed that the increased intensity of intellectual property protection in developing countries would increase the cost of imitation, resulting in "imitation inhibition effect" and "resource waste effect", which would reduce the input of production resources and then squeeze out FDI. In the third view, Primo Braga and Fink (1998)<sup>[5]</sup> argued that the influence of intellectual property protection level in host countries on FDI is uncertain, and did not find a necessary relationship between the two.

Due to the differences in theoretical models, data, controlled variables and measurement methods adopted by various literatures, the conclusions may be different. At present, the mainstream view tends to agree that the improvement of intellectual property protection level in China has a positive effect on the introduction of foreign capital and the spillover of foreign capital technology, and the specific effect varies by region and industry. However, there are different standards on how to measure the level of intellectual property protection.

## **3. Measure the Level of Intellectual Property Protection**

### **3.1. Existing Measurement Methods**

An indicator that measures the level of intellectual property protection is usually the intellectual Property Protection Index. The intellectual property protection index is generally considered from

two aspects: legislation and enforcement. In terms of legislation, static indicators related to patent legislation are generally selected to measure the level of intellectual property protection. The status of intellectual property protection was measured from five aspects: The coverage of patents, whether they are members of international agreements on intellectual property rights, protection of loss of rights, measures of law enforcement, and patent protection term were weighted to calculate the IP protection index of 110 countries from 1950 to 1995, which became the universal IP protection index in the world. [6]Walter G. Park (2008) [7] used the calculation method of Ginarte and Park Index to update the index to 2005, and expanded the number of countries measured to 122. For some countries with imperfect laws, the legislative level is far from the judicial level. In order to accurately measure the actual protection level of intellectual property, some scholars revised the static index by taking into account the enforcement intensity of intellectual property protection. For example, Maskus and Penubarti (1995)[8] used the business survey data of the US chamber of commerce to measure the enforcement level of intellectual property protection. Javorcik (2004) [9]used the evaluation standard of the "Special Section 301" of the United States to measure the enforcement strength of intellectual property protection in various countries. Han Yuxiong and Li Huaizu (2005)[10] measured the law enforcement of IPR protection in China from four aspects: the degree of social legalization, the completeness of the legal system, the level of economic development, and the supervision and check opportunities of the international community. Xu Chunming and Shan Xiaoguang (2008)[11] expanded law enforcement measures into five aspects: judicial protection, administrative protection, development level, public awareness and international environment.

### 3.2. Deficiencies of Existing Methods

In terms of the measurement of IPR protection index, most scholars use the number of patent grants to measure the intensity of IPR protection, which is not comprehensive and accurate enough. The revised measurement method takes into account the law enforcement status of IPR, but lacks emphasis on the core element of judicial protection of IPR. The current measurement method of IPR protection index still has room for improvement.

### 3.3. Measure the Level of Intellectual Property Protection in Beijing

Based on the G.P. Index and the existing research results of domestic scholars, and with special reference to the "Evaluation Report on the Development of Intellectual Property in China" issued by the State Intellectual Property Office in recent years, the estimation indexes and weights of Beijing Intellectual Property Protection Index are preliminarily formulated as Table 1:

Table 1: The estimation indexes and weights of Beijing Intellectual Property Protection Index

First-level index	Secondary indicators	Serial number	Three level indicators	Weights
Rule of law construction (core protection)	Legislative protection	1	Amount of intellectual property laws and regulations (Part)	11.67
		2	Quantity of intellectual property strategic planning (Part)	11.67
	Administrative law enforcement protection	1	Patent administrative protection index (score)	5.83
		2	Trademark Administrative Protection Index (score)	5.83
		3	Copyright Administrative Protection Index (score)	5.83
		4	Intellectual Property Customs Administrative Protection Index (score)	5.83
	(quasi-) judicial protection	1	First instance case volume of newly received intellectual property (pieces)	1.79
		2	Number of Intellectual property Cases of First Instance	1.79

			concluded by the Court	
		3	Court settlement rate of first-instance intellectual property cases (%)	1.79
		4	Average court award for intellectual property cases (ten thousand yuan)	1.79
		5	Support of the court's intellectual property decision for the amount of plaintiff's request (%)	1.86
		6	Volume of new intellectual property cases received by arbitration institutions (pieces)	1.79
		7	Number of intellectual property cases concluded by arbitration institutions (cases)	1.79
		8	Arbitration agency case closure rate (%)	1.79
		9	Average compensation for intellectual property cases of arbitration institutions (ten thousand yuan)	1.79
		10	Number of cases involving intellectual property infringement approved by procuratorial organs for arrest (cases)	1.79
		11	Number of people (persons) arrested for crimes involving IPR infringement approved by procuratorial organs	1.79
		12	Number of cases involving intellectual property infringement prosecuted (cases)	1.79
		13	Number of IPR infringement crimes prosecuted (persons)	1.79
Social environment (Peripheral protection)	Social services	1	Number of intellectual property service agencies (number)	5.00
		2	Number of personnel in IP service industry (people)	5.00
		3	Number of lawyers per 10,000 population (people / 10,000 people)	5.00
	Social awareness	1	Number of patent applications per 10,000 population (pieces per 10,000)	2.50
		2	Number of trademark applications per 10,000 population (pieces / 10,000 people)	2.50
		3	Copyright registrations per 10,000 population (pieces / 10,000 people)	2.50
		4	Social satisfaction with intellectual property protection (score)	2.50
		5	Legal awareness of intellectual property protection (points)	2.50
		6	Visits to intellectual property government website (times)	2.50

#### 4. The Impact of Intellectual Property Protection on the Business Environment for Foreign Investment

The degree of intellectual property protection in the host country determines the possibility of intellectual assets being imitated, which indirectly affects the degree of proprietary knowledge and the strength of ownership advantage of transnational corporations in the host country.<sup>[12]</sup> As a factor affecting institutional factors and legal factors, the level of intellectual property protection becomes a source of location advantage. In addition, the high monopoly profits brought by enhanced intellectual property protection may become the resistance for multinational corporations to increase investment in the host country. Therefore, the host country should create a good competitive environment to avoid monopoly problems brought by enhanced intellectual property protection.

At present, the existing researches are all carried out by scholars in the field of economics.<sup>[13]</sup> Limited by professional perspectives, researchers tend to base on the intellectual property system and

regard the intensity of intellectual property protection as an explanatory variable to explain the inflow of foreign capital and technology spillover, and lack in-depth research on the internal institutional construction of intellectual property. Finally, the concluding opinion is limited to "strengthen intellectual property protection", but it is difficult to put forward more specific and targeted suggestions on how to strengthen the protection of intellectual property.<sup>[14]</sup> Legal scholars are more accustomed to normative analysis within the intellectual property system, and generally difficult to conduct quantitative research on the relationship between institutional construction and the introduction of foreign capital. Based on the legislation, law enforcement and judicial situation of intellectual property in Beijing and from the perspective of legal system construction, it is necessary to study the influence of the change of a certain legal factor on the business environment of foreign capital in Beijing, so as to put forward feasible and concrete suggestions for the improvement of Beijing's intellectual property protection system, so as to continuously stimulate the market vitality and social creativity of Beijing. To further optimize the business environment for foreign investment and help realize the strategic positioning of Beijing as an international exchange center and scientific and technological innovation center.

## **5. Suggestions on Improving Beijing's Business Environment by Strengthening Intellectual Property Protection**

### **5.1. Revised Indicators for Measuring the Level of IPR Protection in Beijing**

In addition to legislation and law enforcement, the judicial element of intellectual property should be introduced into the measurement index of intellectual property protection index, the reference element of intellectual property protection intensity should be revised, the Beijing intellectual property protection index measurement index should be proposed, and the actual intensity of intellectual property protection in Beijing should be calculated according to the index.

Existing studies have used the proportion of lawyers in the total population to measure the level of intellectual property judicial protection, and this index cannot accurately measure the actual level of intellectual property protection in Beijing. The actual judicial protection level of intellectual property should be measured comprehensively by the number of cases accepted by courts at all levels and arbitration institutions in Beijing, the rate of case settlement, the average compensation, the support rate of the plaintiff's lawsuit claims and other indicators.

### **5.2. Reasonable Determination of Intellectual Property Protection Intensity in Beijing**

From the perspective of law, investigate the internal elements of Beijing's intellectual property protection system, their operation in practice, and their impact on Beijing's intellectual property protection intensity, estimate the current intellectual property protection index of Beijing, and use the protection index as the medium. Further explore the impact on the scale of foreign direct investment inflows into Beijing, the technical level of foreign investment inflows, industrial distribution and other characteristics, based on which to determine in order to create a more attractive investment environment, Beijing should provide a reasonable intensity of intellectual property protection, in order to attract high-quality foreign investment inflows, but also to avoid intellectual property monopoly may lead to limited market competition, low efficiency. After determining the reasonable intensity of intellectual property protection, the corresponding adjustments should be made in the areas of legislation, law enforcement and justice as to how to achieve the intensity.

## 6. Conclusion

This paper focuses on intellectual property protection in Beijing on the basis of existing research results. From the perspective of law, investigate the internal elements of Beijing's intellectual property protection system and their operation in practice, and their impact on the intensity of Beijing's intellectual property protection, estimate the current intellectual property protection index of Beijing, and use the protection index as the medium. To further investigate the influence on the scale of foreign direct investment inflows into Beijing, the technical level of foreign investment inflows, industrial distribution and other characteristics, and to determine the reasonable intensity of intellectual property protection Beijing should provide in order to create a more attractive investment environment, so as to attract high-quality foreign investment inflows and avoid the market competition restriction and low efficiency that may be caused by intellectual property monopoly. After determining the reasonable intensity of intellectual property protection, the author puts forward corresponding countermeasures and suggestions on how to realize the intensity in the fields of legislation, law enforcement and justice.

This paper is not limited to normative research within the legal system, but extends its view from the field of law to the field of economics and sociology, carries out interdisciplinary research, examines the actual social effects of the legal system, evaluates whether the original legislative purpose can really be realized, and inverts the reform of the legal system from the effect of social implementation. The existing research usually takes the number of patents granted per capita, the proportion of ten thousand lawyers as the main reference to measure the intensity of intellectual property legal protection, which is too simple to lose. This paper will revise the calculation model of intellectual property protection level and introduce more complex internal indicators of the legal system, so as to reflect the actual level of intellectual property protection in Beijing more truly and comprehensively. In addition, the impact of intellectual property protection intensity on the business environment for foreign investment in Beijing is analyzed, and from the perspective of improving the scale and quality of foreign investment, corresponding countermeasures and suggestions are put forward for the specific systems in the fields of legislation, law enforcement and justice, so as to improve the legalization, internationalization and facilitation of the business environment for foreign investment in Beijing, and further play an exemplary and leading role in the country.

## Acknowledgements

This work was supported by a project grant from the Beijing Municipal Education Commission "Research on the Impact of this Intellectual Property Protection on Foreign Business Environment in Beijing "(Grant No. 110051360022XN09979).

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