

# W&B IP Newsletter



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## New Trends in Corporate Innovation and Rights Protection

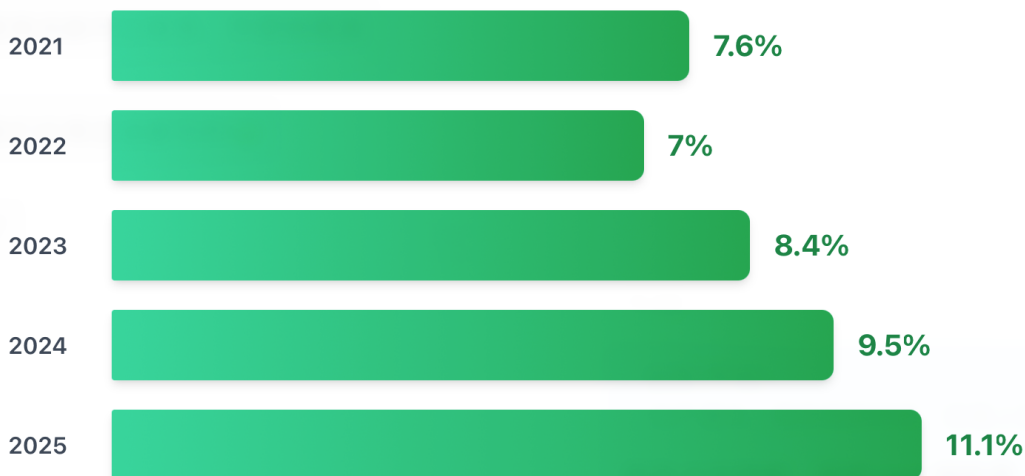
### —Insights from the 2025 China Patent Survey Report

#### Patent Litigation and Enforcement: High-Damages Awards Reach New Peaks, Significantly

In recent years, China has continuously strengthened judicial protection for intellectual property. Among patent infringement cases involving enterprises, the proportion of cases where court-ordered compensation, court-mediated settlements, or out-of-court settlements exceeded 5 million RMB reached 11.1%, up 1.6 percentage points from the previous year and 3.5 percentage points from 2021. The larger the enterprise, the higher the proportion of high-value awards; for large-scale enterprises, cases in the “over 5 million RMB” high-yield bracket reached 14.9%. This sends a strong market signal: China is intensifying punitive measures against patent infringement, and the expectations for enterprises to obtain high-value compensation through litigation are becoming increasingly clear.

#### Trend of High-Value Damages (Over 5M RMB) in Patent Infringement Cases

Source: Distribution of damages/settlements in patent infringement lawsuits over the past 5 years



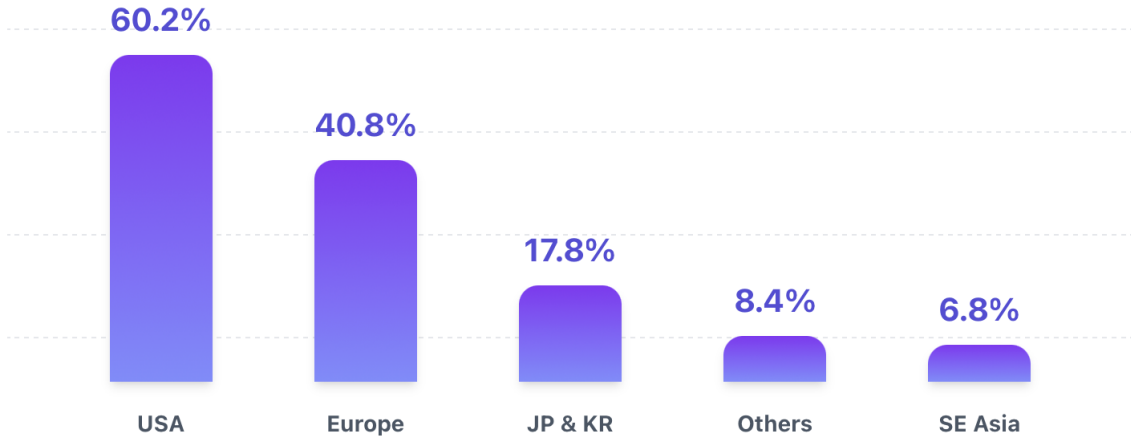
#### Overseas IP Disputes: Europe and the U.S. Remain the Main Battlegrounds; Chinese Firms Show Stronger Proactive Litigation Awareness

As Chinese enterprises accelerate their global expansion, the proportion of those encountering overseas IP disputes has risen to 3.1%. Litigation remains the primary type of dispute, accounting for 73.0%. Geographically, disputes are most concentrated in the United States and Europe, accounting for 60.2% and 40.8%, respectively. In the face of unfair treatment or restrictive measures abroad (such as import restrictions on products and services), Chinese enterprises are adopting more proactive strategies. A significant 72.2% of enterprises choose to increase R&D to achieve technical breakthroughs, while 17.5% choose to “initiate litigation to safeguard legal rights.” The latter figure represents a 3.2 percentage point increase over the previous year, highlighting a marked improvement in corporate awareness regarding the use of legal tools for proactive rights protection.

## New Trends in Corporate Innovation and Rights Protection

### Main Countries/Regions Involved in Overseas IP Disputes

Note: Enterprises may be involved in overlapping disputes across multiple regions.



### Digital Economy and Frontier Innovation: Short R&D Cycles and Patent Commercialization Outperforming the Market

The industrialization rate of invention patents among Chinese enterprises has steadily climbed to 54.0%, with an average return of 8.72 million RMB per patent. The core industries of the digital economy have performed particularly well. Invention patents in this field have significantly shorter R&D cycles (45.5% are under one year), yet their industrialization rate reached 56.5%, surpassing the national average. In terms of economic returns, the average industrialization income for invention patents in core digital economy industries reached 10.284 million RMB per patent, which is 1.3 times that of non-core digital economy industries (7.912 million RMB/patent). With its fast-paced R&D and high conversion returns, the digital economy is becoming a core engine for cultivating “New Quality Productive Forces.”

### Average Industrialization Revenue of Invention Patents: Digital vs. Non-Digital Economy

Source: Estimates of industrialization revenue for invention patents across industries



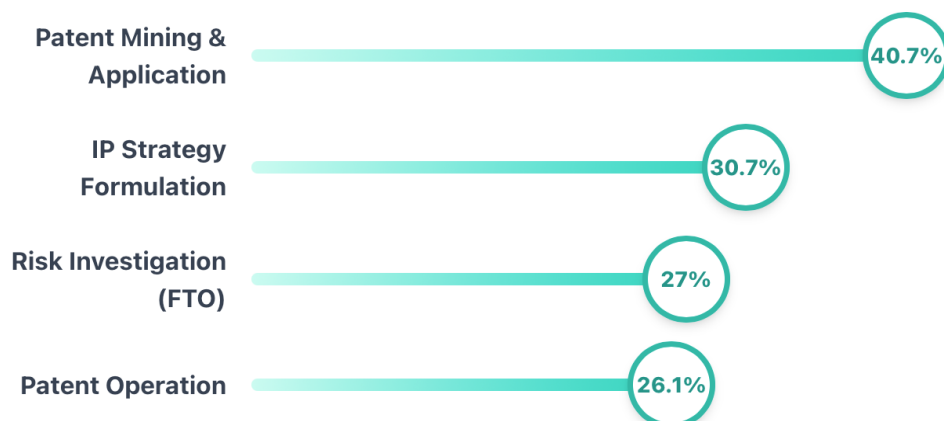
## New Trends in Corporate Innovation and Rights Protection

### Demand for IP Services: Surge in Compliance Reviews and Strategic Planning

The survey indicates that 44.7% of enterprises rely primarily on market-based agencies to obtain patent information. As corporate requirements for patent quality and protection rise, demand for high-end IP services is growing robustly. Among market-based service demands, “Patent Mining and Filing” ranks first at 40.7%, followed closely by: Corporate IP Strategy Formulation (30.7%), Freedom to Operate (FTO) Investigations prior to product development (27.0%), and Patent Operations (26.1%). This demonstrates that corporate IP management is extending from the simple “acquisition of rights” toward high-value service chains, such as pre-R&D “risk clearance (FTO)” and macro “IP strategic layout.”

#### Top 4 Enterprise Demands for Market-Oriented IP Services

Source: Proportion of enterprise demand for various IP services



## Special Feature

# Interpretation of the 2025 Amendments to the *Guidelines for Patent Examination* (Part V): Substantive Examination of Inventions — Returning to the "Substantive Contribution Doctrine"

## 1. Amendment Rationale and Legal Foundation

The 2025 amendments target two chronic institutional pathologies: First, the **"same-day dual filing"** mechanism has been perverted into a tool for **"perpetual dual rights,"** deviating from the legislative intent behind Article 9 of the Patent Law prohibiting duplicative grants under the principle of "one invention, one patent." Second, inventive step responses have become plagued by **"non-substantive feature stacking,"** resulting in granted claim scope that severely decouples from genuine technical contribution.

The amendment logic does not impose new thresholds but rather **returns to legislative intent:** through **procedural rigidification** and **contribution transparency,** examination standards are realigned with the normative purposes of Article 22(3) (inventive step) and Article 9 (prohibition against duplicative grants)—namely, that **patent protection scope must strictly correspond to the inventor's substantive resolution of technical problems.**

## 2. Evolution of Core Examination Standards: From "Formal Compliance" to "Substantive Alignment"

### Elimination of Alternative Pathways in "Same-Day Dual Filing" (Closing Procedural Loopholes)

The amendments **delete** the exception language in the former Guidelines permitting "in addition to amending the invention application, [the applicant] may also abandon the utility model..." thereby establishing that **"abandonment of the utility model is the sole prerequisite for obtaining an invention patent grant."**

Simultaneously, **procedural obligations are intensified:**

- **Failure to proactively declare "same-day dual filing" at the time of application** → Direct rejection of the invention application under Article 9(1)
- **Declaration made, but failure to submit abandonment statement within the designated period when the invention meets grant conditions** → Rejection of the invention application; **failure to respond by deadline** → The invention application is deemed withdrawn

This development terminates the **gray-area practice** of "amending invention claims to circumvent duplicative grants," restoring the system to its original design intent of **"temporary transition, singular grant selection."**

## Special Feature

**Background Context:** In the mid-1990s, "same-day dual filing" was permitted as a temporary measure to alleviate examination backlogs for invention patent applications. Current patent application and examination circumstances have transformed dramatically: demand for "same-day dual filing" among innovative entities has declined year-over-year; invention patent examination cycles have been substantially compressed; and applicants can obtain expedited protection through alternative channels. It is therefore necessary to return to legislative intent and balance rights holder interests with public interests.

### Codification of "Feature Exclusion" Mechanism in Inventive Step Assessment

A new rule is introduced: **"Features that make no contribution to solving the technical problem ordinarily will not affect inventive step."**

**Paradigmatic Example (Camera Case):** An invention relates to a camera, where the technical problem is how to achieve more flexible shutter control, accomplished through improvements to the camera's internal mechanical and electrical circuit structure. After the examiner indicated the claims lacked inventive step, the applicant added features including camera housing shape, display screen size, and battery compartment position.

**Examination Conclusion:** The specification does not indicate any association between the newly added claim features and resolution of the stated technical problem. These added features either constitute **conventional components implicitly inherent** to the claimed subject matter, or are derivable by a person skilled in the art through ordinary technical knowledge and routine experimentation. The applicant provided neither evidence nor adequate explanation demonstrating that these technical features could confer any further technical effect upon the claimed technical solution. Therefore, the aforementioned technical features **make no contribution to solving the stated technical problem** and will not impart inventive step to the claimed technical solution.

**Core Transformation:** Inventive step no longer depends on the **quantity of distinguishing features** but rather on the **quality of contributory distinguishing features**.

## 3. Practical Implications and Strategic Responses

### For Examiners

The examination focal point shifts from factual comparison to **technical contribution identification**. Office Actions will employ **"contribution analysis methodology"** with high frequency, proactively isolating commercial, ornamental, or conventional features to focus on core elements that genuinely resolve technical problems.

## Special Feature

### For Applicants and Patent Attorneys

#### 1. Strategic Reassessment of "Same-Day Dual Filing"

Given that the average invention examination cycle has compressed to **13.8 months**, reserve dual filing only for high-value technologies requiring early protection where invention prospects are assured. Otherwise, single utility model filing or direct invention filing with expedited track proves more efficient. **Strict compliance with declaration obligations and abandonment procedures is mandatory.**

#### 2. Drafting as Defense

Every technical feature incorporated into claims **must establish a causal chain** in the specification: "**Feature** → **Problem** → **Effect**." Avoid patchwork drafting that "distinguishes for distinction's sake." **Never insert "noise features"** unrelated to the core inventive concept merely to manufacture points of distinction.

#### 3. Elevating Office Action Responses

The rebuttal focal point shifts from "**feature not disclosed**" to "**how this feature synergistically resolves the specific technical problem**." Construct complete logical chains: "**Feature A** → **solves specific problem B** → **produces technical effect C**." Where necessary, supplement with experimental data corroborating technical effects.

#### Concluding Observations

These amendments mark substantive examination's evolution from "**process-oriented**" to "**contribution-oriented**," establishing a **robust institutional foundation** for high-quality patent grants. This doctrinal maturation signals China's commitment to aligning patent scope with genuine innovation, thereby enhancing both rights holder legitimacy and public interest protection.