

A Comparative Analysis of Intellectual Property Policies in the U.S. and China

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Background

Protecting intellectual property (IP) has become an increasingly salient measure to maximize cross-border interoperability and advance proprietary technology.

The enforcement of intellectual property rights (IPR) in China raises concerns among foreign firms in the wake of perceived biases and judicial protectionism.

The “phase one” trade agreement that President Trump signed with China in January prompts China to strengthen IPR protection.

Objective

The goal of this study was to analyze recent IP policy documents and related legal regulations in the United States and China, to identify structural differences and overarching similarities, and to further understandings of the two countries’ innovation and development strategies.

Methods

1. A qualitative analysis of U.S. and China’s policy documents published from 2013-2020: I was able to retrieve 2,173 U.S. documents, 1,052 documents published by China’s central government, and 4,759 documents by China’s local governments from public policy databases (federalregister.gov, alphaslaw.cn, and pkulaw.cn)
2. A text-mining analysis of U.S. executive orders related to IP policies published from 2014-2020

Results

Similarities

	U.S.	China
Emphasis on High-Tech Patents	<ul style="list-style-type: none"> - Executive Actions on High Tech Patent Issues led by United States Trademark and Patent Office (USPTO) (2013-2014) - Revitalize American Manufacturing and Innovation Act of 2014 	<ul style="list-style-type: none"> - 13th Five-Year Plan (2016-2020), National Patent Development Strategy (2011-2020) - Made in China 2025
Promote Institutional Efficiency and Transparency	<ul style="list-style-type: none"> - Pro Bono Programs, an outcome of the Leahy-Smith America Invents Act (AIA) (2011) - Edison Visiting Scholar Program - Office of Enrollment and Discipline in USPTO 	<ul style="list-style-type: none"> - Initiative to “Delegate Power, Streamline Administration, and Optimize Government Services (放管服)” - Launched “Operation Blue Sky” to crack down unqualified patent practitioners
Global Leadership on IP Policy and Awareness	<ul style="list-style-type: none"> - Patents for Humanity Program to generate incentives for using patented technology to address global humanitarian needs 	<ul style="list-style-type: none"> - Commitment to international organizations - Expressed willingness to assist developing countries in IPR enforcement

Differences in China’s Strategic Planning

Top-down:

- China’s central government mobilizes a large number of agencies and state departments (usually around 28) to implement long-term strategic plannings on IP enforcement.
- The central government expects local governments to combine IP development with other national strategic plannings, including the Belt and Road Initiative, Yangtze River Economic Belt, and the initiative to revitalize the industrial base in the northeast.

Bottom-up:

- Local governments are encouraged to launch respective IP reform programs catered towards the region’s needs. Cities and provinces, grouped into three categories (leading, supportive, and characteristic), have different objectives regarding IP policy-making.

Conclusion

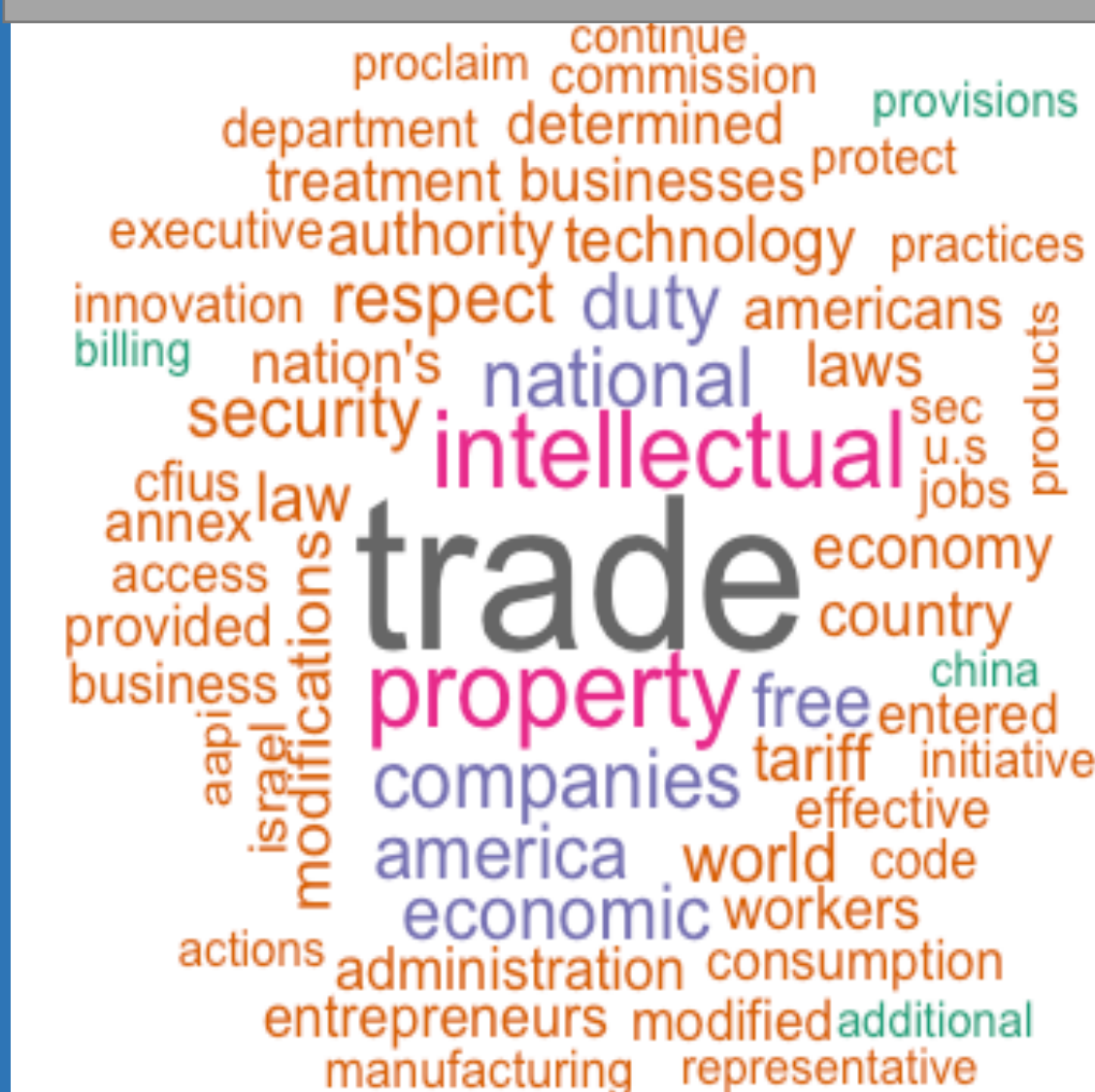
Both U.S. and China’s innovation strategies have focused on enhancing IP protection over high-tech patents, accelerating the patenting process, and advancing international cooperation on IPR enforcement.

Policy implementation in China calls for a wider mobilization of agencies and state departments. China’s pilot project on constructing IP-robust provinces classifies provinces into three categories: leading, supportive, and characteristic.

“Trade” is the most frequently appeared word in U.S. executive orders on IP published from 2014-2020.

Access to data on China’s policy documents is not very limited.

Below is a word cloud generated from the word-frequency analysis using R. “Trade” is the most common word in U.S. 2014-2020 executive orders related with IP.



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