



Competitive advantage through IP – China and globally

Ian Harvey

September 15th, 2015



April 2010

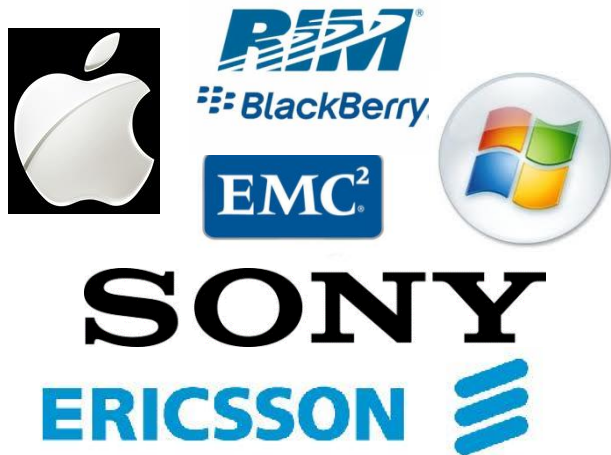


Buys



\$1.2b

July 2011



Buy

NORTEL
NETWORKSTM

Patent portfolio for
\$4.5b

March 2010



Sues



**Patent
infringement**

Sues

SAMSUNG

**Design + patent
infringement**

April 2011



**September 2011 -
Galaxy Tab withdrawn**

**BUT - Apple loses design patent cases in Germany,
Netherlands, UK, Japan, Korea**

Apple WINS ~\$1+b in USA (now ~\$130m)



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August 2011

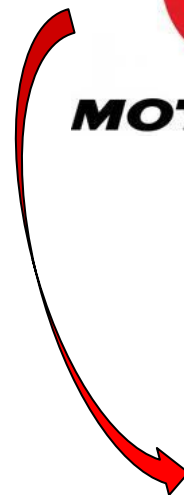
Google™

Buys

\$12.5b



MOTOROLA



September 2011



*Buys 9
patents*
from*



*Counter-
Sues*



For infringing



patents

**Motorola, Palm patents*



= 1,600 patents



= 6,000 patents



MOTOROLA

= 17,000 patents

IP Value \approx “\$750,000 per patent”

August 2013

Microsoft Acquires Nokia Handset Business



Includes **\$2b** for a license to
38,500 patents

January 2014

Google™

Sells/licenses



\$2.9b



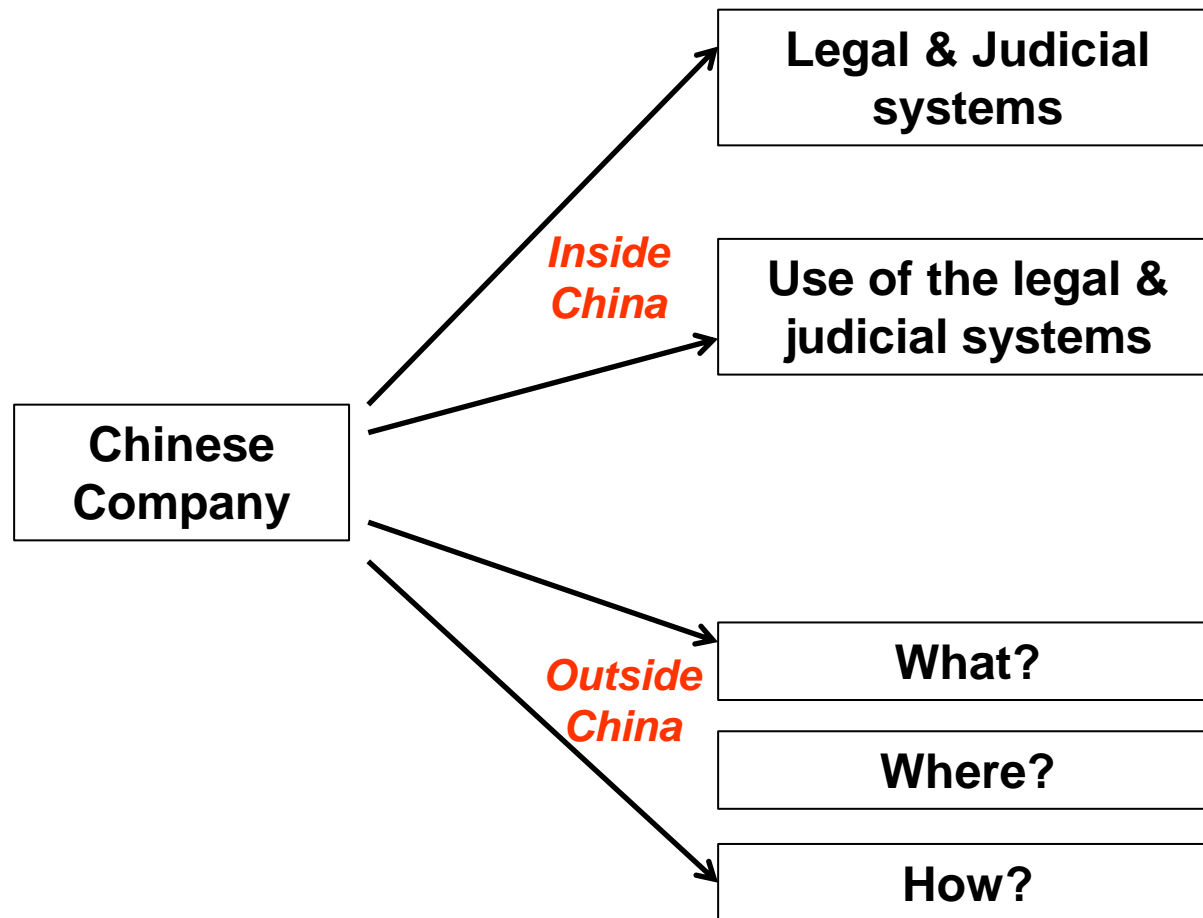
***These are the IP games that
Chinese companies must now
learn to play***

..... and some are doing very well

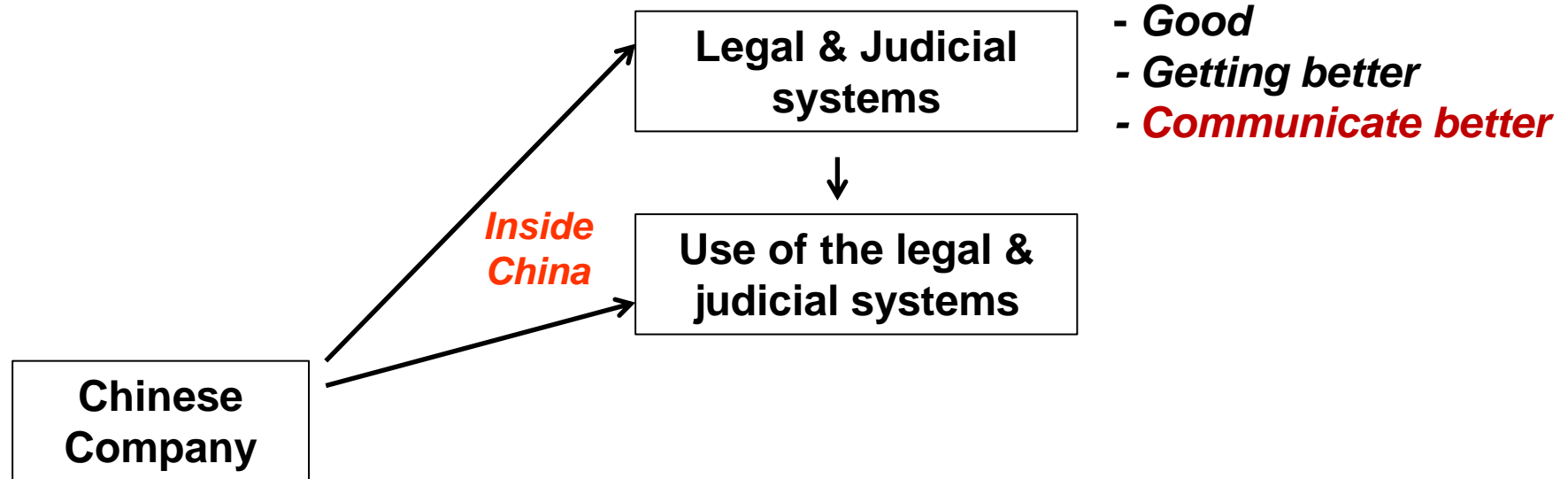
IP is the currency of innovation

- **The incentive to invest**
- **Creates choice:**
 - **Develop – make – sell**
 - **Develop – license**
 - **License**
 - **Choose route by sector**
- **NPEs are part of that process**

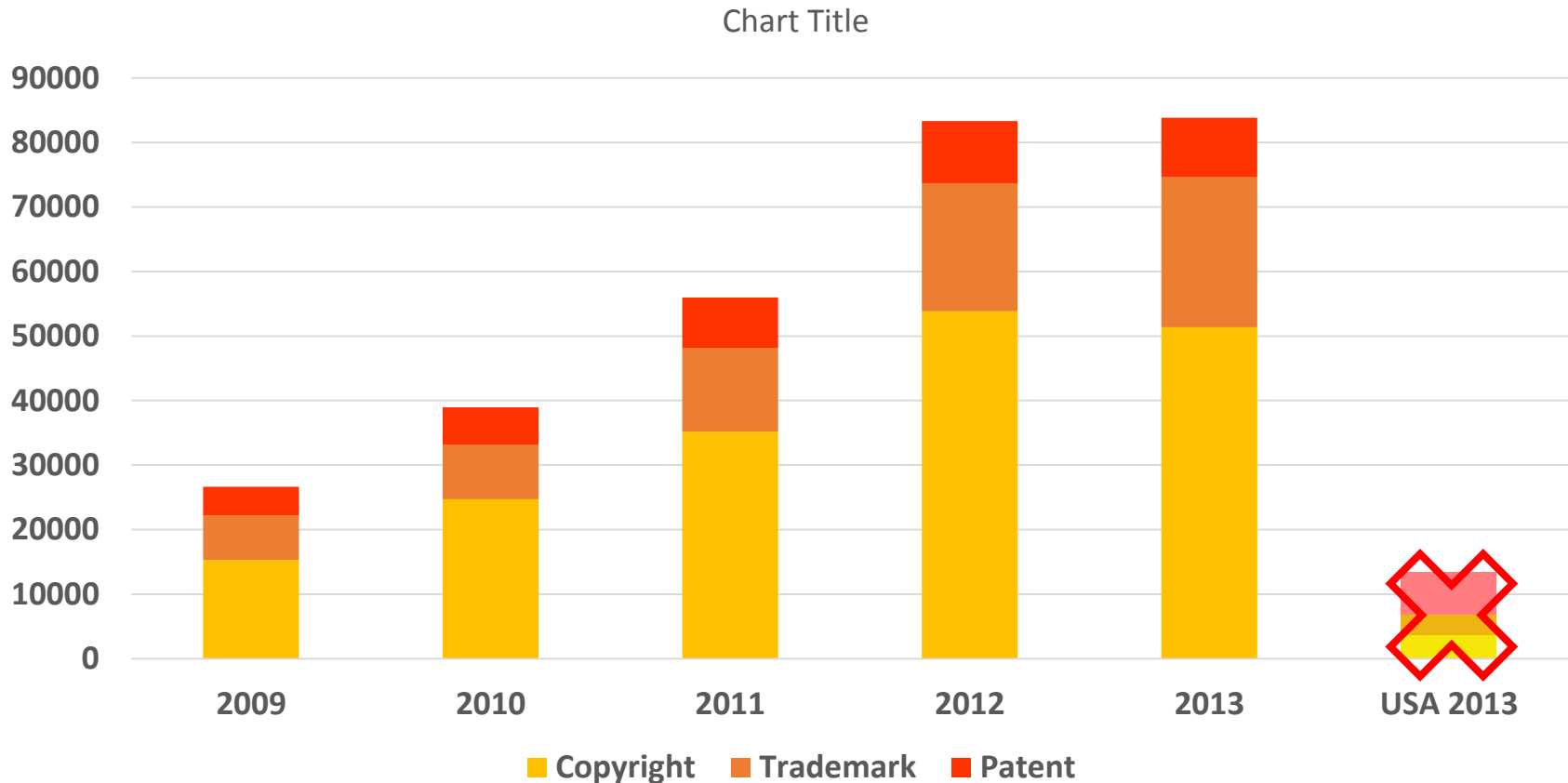
Strategic framework



Strategic framework – inside China



IP Litigation* cases in China 2009-2013



“China is the most IP-litigious country”

* **First instance IP Civil cases**

Sources: <http://www.court.gov.cn/> <Intellectual Property Protection by Chinese Courts in China 2008-2013>, <http://www.uscourts.gov>

China IP Litigation: dominated by Chinese companies

- **98%*** of cases are Chinese vs Chinese company
- Of the 2% foreign companies, **90%** win their cases
- ***NB: In the USA only ~35% of foreign companies win their court of first instance cases***

Foreign companies are 2 – 3 times more likely to win their patent case in China than in the USA

****Excluding cases related to Hong Kong & Macau (111) and Taiwan (58)***

Sources: Jianyang Yu–Liu (Shen & Associates) 2005; SIPO Report on IP Rights Protection in China in 2004; IH estimates

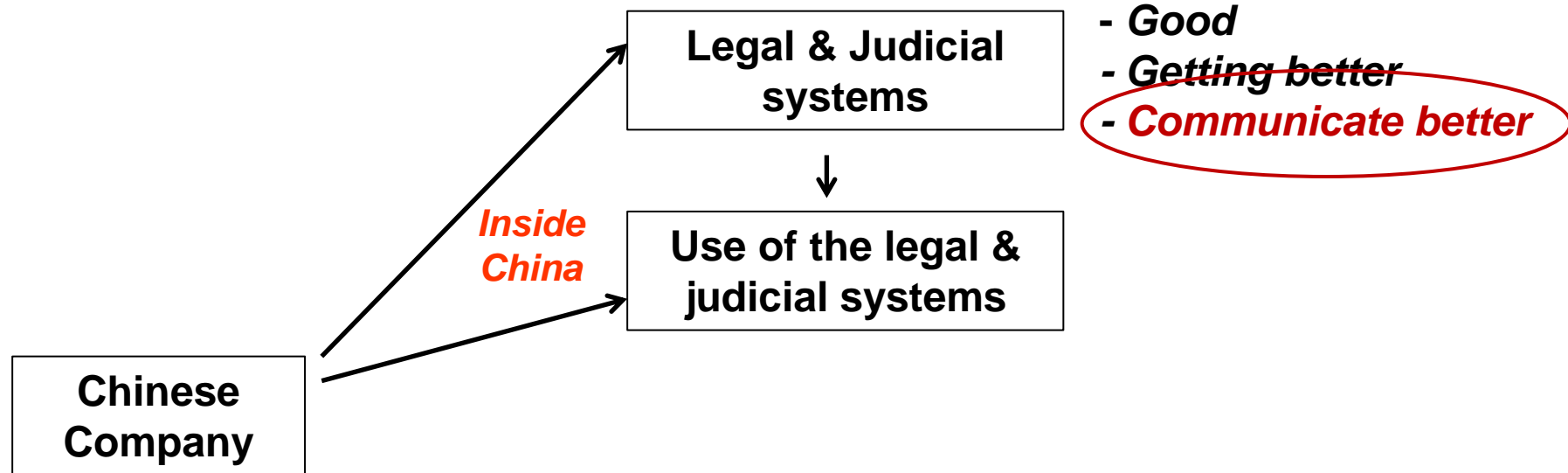
“Invention patent” enforcement costs in China are not high

- **Litigation: filing suit to enforcement** **\$60 – 120k**
12 – 14 months
- **Administrative route:** **<\$20k**
a few weeks
- **Border enforcement (Customs)** **cheap & fast**

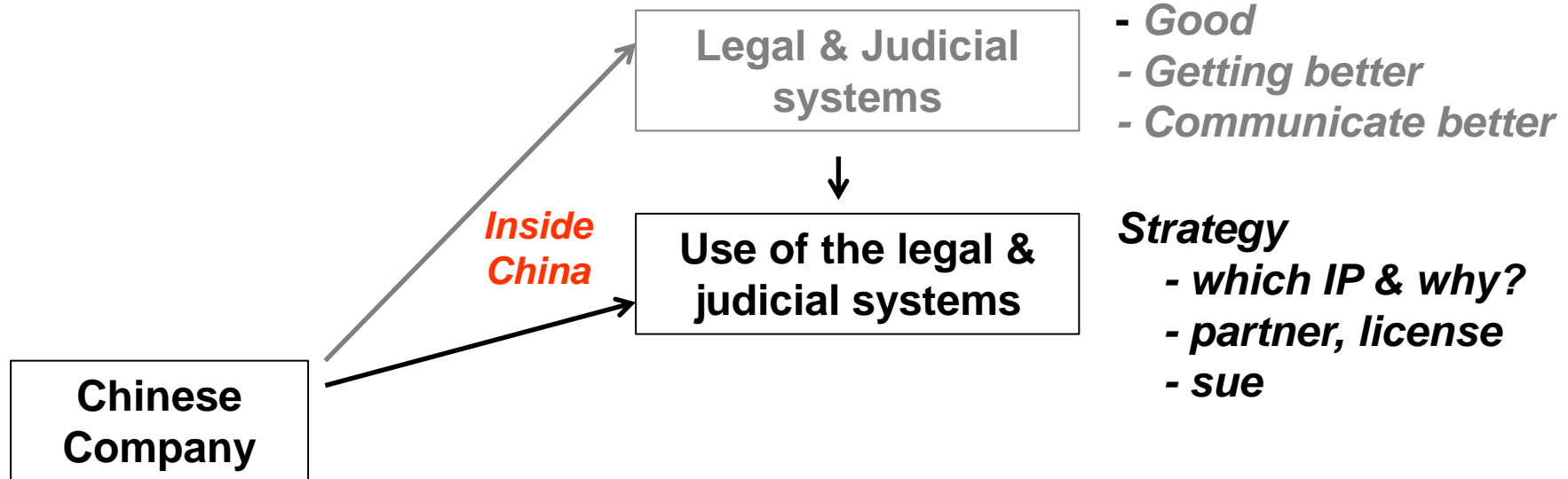
Cheaper & quicker than EU, UK, USA, Japan

Source: Rouse & Co, Shanghai

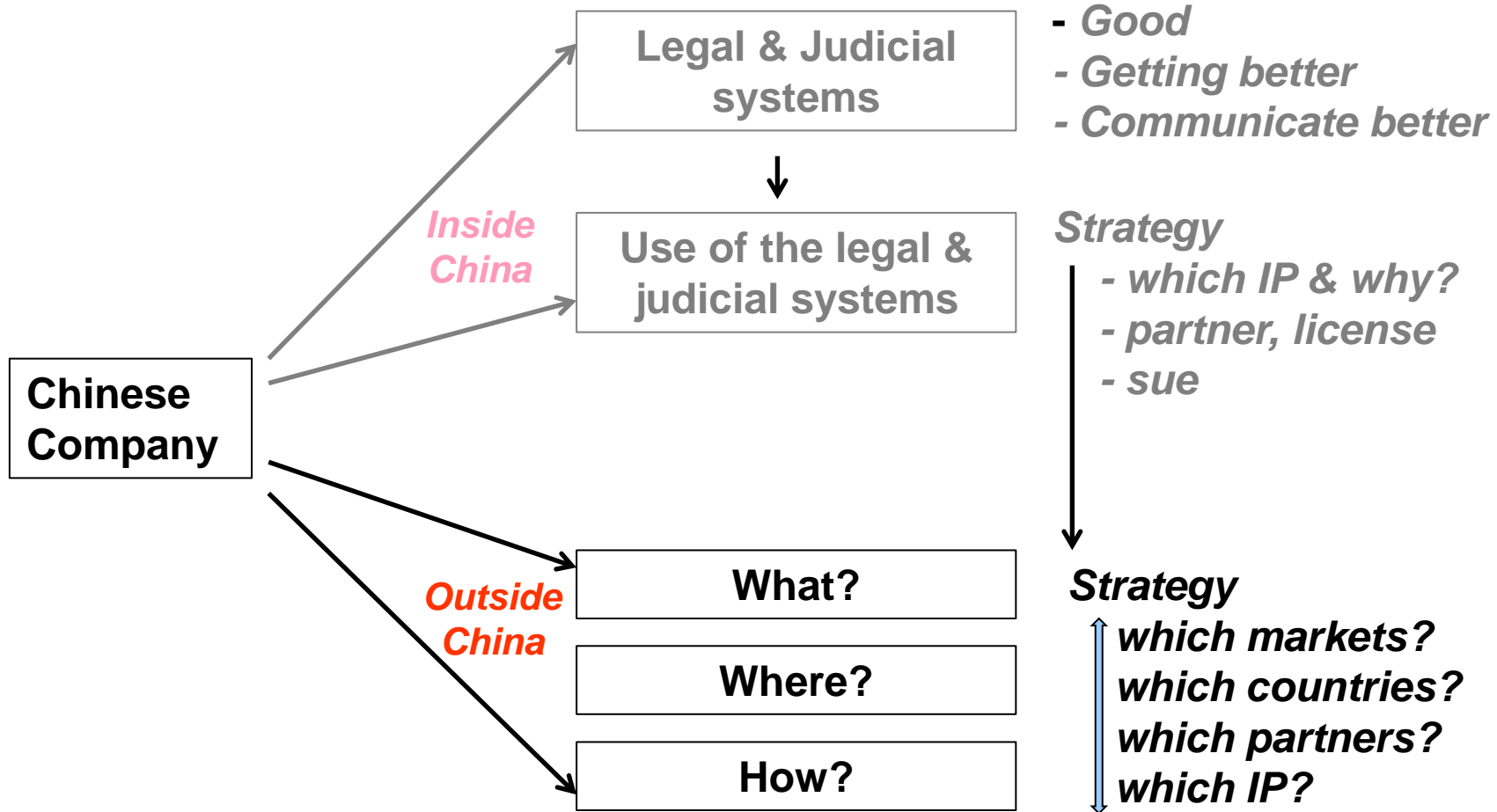
Strategic framework – inside China



Strategic framework – inside China



Strategic framework – outside China

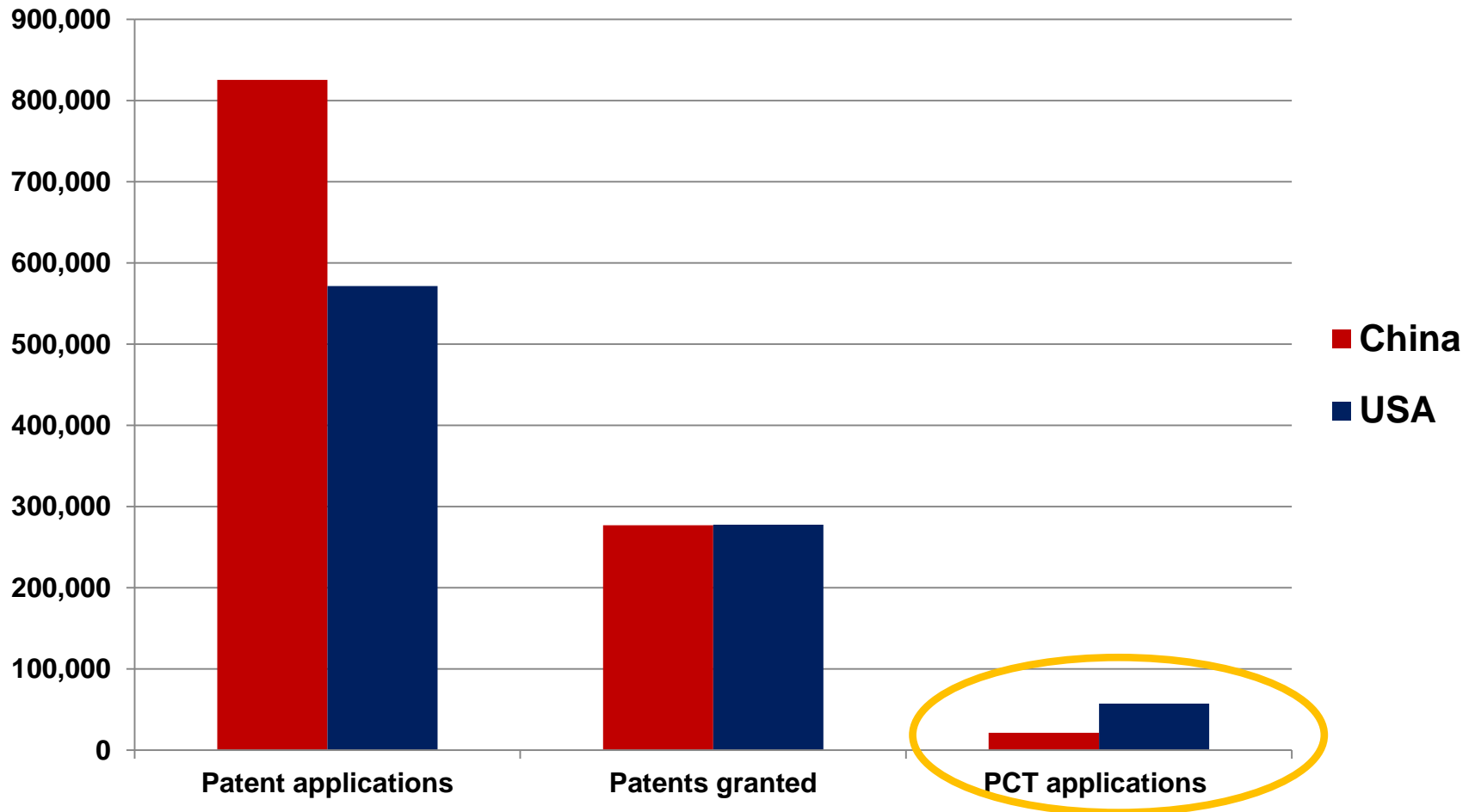


IP strategic issues

IP creates complex issues, therefore integrate into company strategy. For example:

- a. What do you file – how does this fit with, or affect, your corporate strategy?**
- b. Where do you file – same questions as above?**
- c. What are the strengths and weaknesses of your patent position – how does this influence your strategy?**
- d. What is the IP position of your competitors – can you invent or buy your way around any threats – or does their IP suggest new routes for your own research?**
- e. Could your IP position influence whether you develop, make and sell, or license, or both?**

Domestic & PCT invention* patents 2013



Sources: SIPO, USPTO, WIPO

* In the US "Utility" patents

Corporate IP Strategic Questions

- ***What are the business objectives?***
- ***How does the IP strategy support the business strategy?***
- ***How is the IP used?***
 - **Is it to block competitors, protect the products?**
 - **Is there “freedom to operate”?**
 - **Does it help collaboration in the marketplace?**
- ***How do the IP risks compare with the other business risks?***
- ***Where will the new IP come from?***
 - **In-house R&D, licensing in, acquiring patents or companies, collaboration, open innovation?**

Strategic components of Patent Information

- **Patent information and strategy**
- **Competitive intelligence**
- **Intellectual asset accounting**
- **Anti-trust management**
- **M&A input and due diligence**

Key issues:

Chinese companies:

- Senior managers should understand the basics of IP
- Integrate IP into strategy
- IP managers must understand the business and speak up

Chinese IP service providers:

- Learn the language of business
- Interact with clients on *which IP, how much and where*

Chinese universities and business schools:

- Teach IP to all MBAs
- Introduce all students to the basics of IP



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Tsinghua IP Center

- **Supporting spinouts/startups**
- **Teaching IP to MBAs**
- **Developing case studies for teaching of IP**

Success → (almost) disaster → success



Prudent Energy VRB™ Systems





Bicycle & Ag Equipment
repair shop

1984 - First supply to
US auto industry

1994 - US operation
- Quoted Shenzhen

1998 - acquired Schiller IP
(gross \$19m, net \$420k)

By 2005

- 
- Acquired/created 30 companies
 - Presence in 8 countries
 - Runs *American Manufacturing Fund*
 - Revenues: ~ \$4b, 40,000 employees

Major Tier 1 auto component supplier

Lenovo buys IBM's PC business

1. *Transferring brand values*
2. *Creating the world's best PC IP portfolio*





February 2014

MUNICH INNOVATION GROUP IN COOPERATION
WITH TECHNISCHE UNIVERSITÄT MÜNCHEN

77 Chinese companies:

- *Automotive*
- *Chemical*
- *Pharmaceutical*
- *Electronic*
- *IT*
- *Internet*
- *Engineering*
- *Solar*
- *Telecoms*
- *Oil*
- *Steel*

*IP Internationalization
strategies*

The role of the IP professional in corporate strategy

The role of IP professionals should include:

- educating yourselves in the business issues and decisions which your IP work should be influencing
- educating your senior managers or clients to help them understand what you are doing for them and how their IP fits (or not) with their strategies
- encouraging/forcing managers or clients to confront decisions which you (should) know that they should be making
- find ways of communicating IP issues to lay managers and clients using plain language – *do not use or hide behind legal-speak and IP jargon.*

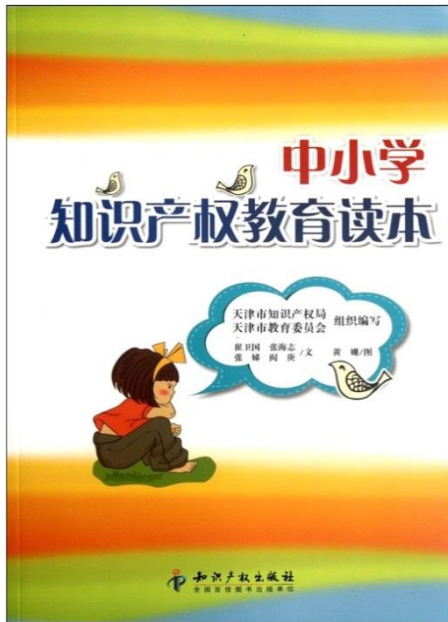
Key messages for Chinese companies

- **Understand IP at a senior level**
- **Integrate IP into corporate strategy**

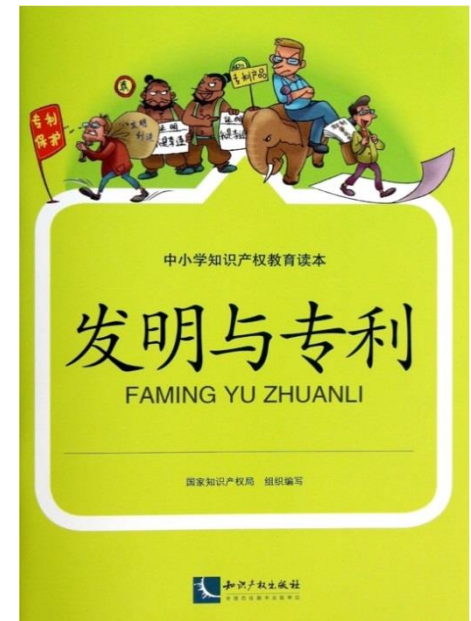


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The next generation..... primary school IP Textbooks



*Invention and
patent - IP textbook
for primary and
secondary school
students*



**IP textbook for primary and secondary
school students by Tianjin Educational
Committee – front and back covers.**



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