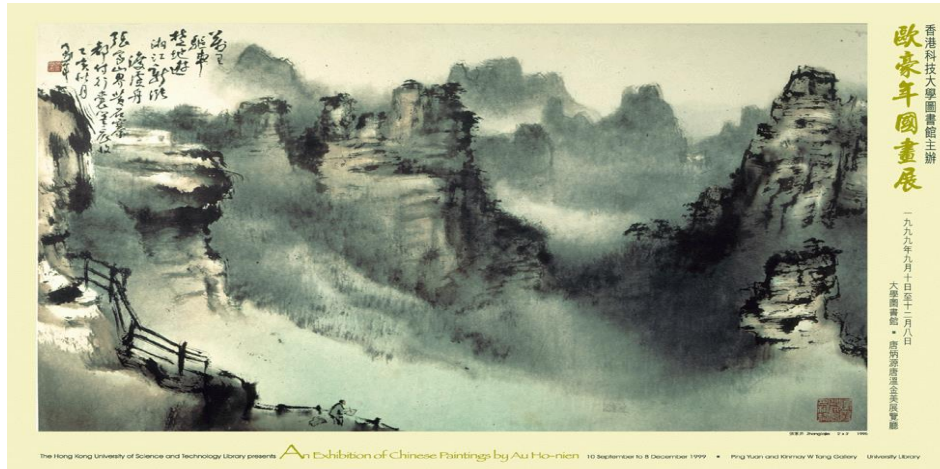


INTELLECTUAL PROPERTY: CHINA IN THE GLOBAL ECONOMY – MYTH & REALITY

Ian Harvey

September 21, 2012

Background



- **For 3000 years – copying paid homage to a master**
- **Between 1945 and 1979 little interest in developing a legal system as we know it**
- **1979 - Administrative and criminal law reform started**
- **IP law was an early beneficiary**

Analysing IP in China

- Legal structure
- Acquisition of rights
- Enforcement of rights

IP in China

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 - **Major training program for many new examiners – also outsourced**
 - **Examiner/application ratio now in line with other countries**
 - **Reasonable cost and time**

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- Enforcement of rights
 - **Improving but patchy – strong regional differences**
 - **Sophisticated judgements – excellent Supreme Court**
 - **Continuing training underway for IP judges**

“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

China IP Litigation: dominated by Chinese companies

- More patent litigation in China than any other country including the USA
- 98%* of cases are Chinese vs Chinese company
- Of the 2% foreign companies 90% win their cases
- Only 30 – 40% of foreign companies win their cases in the USA

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

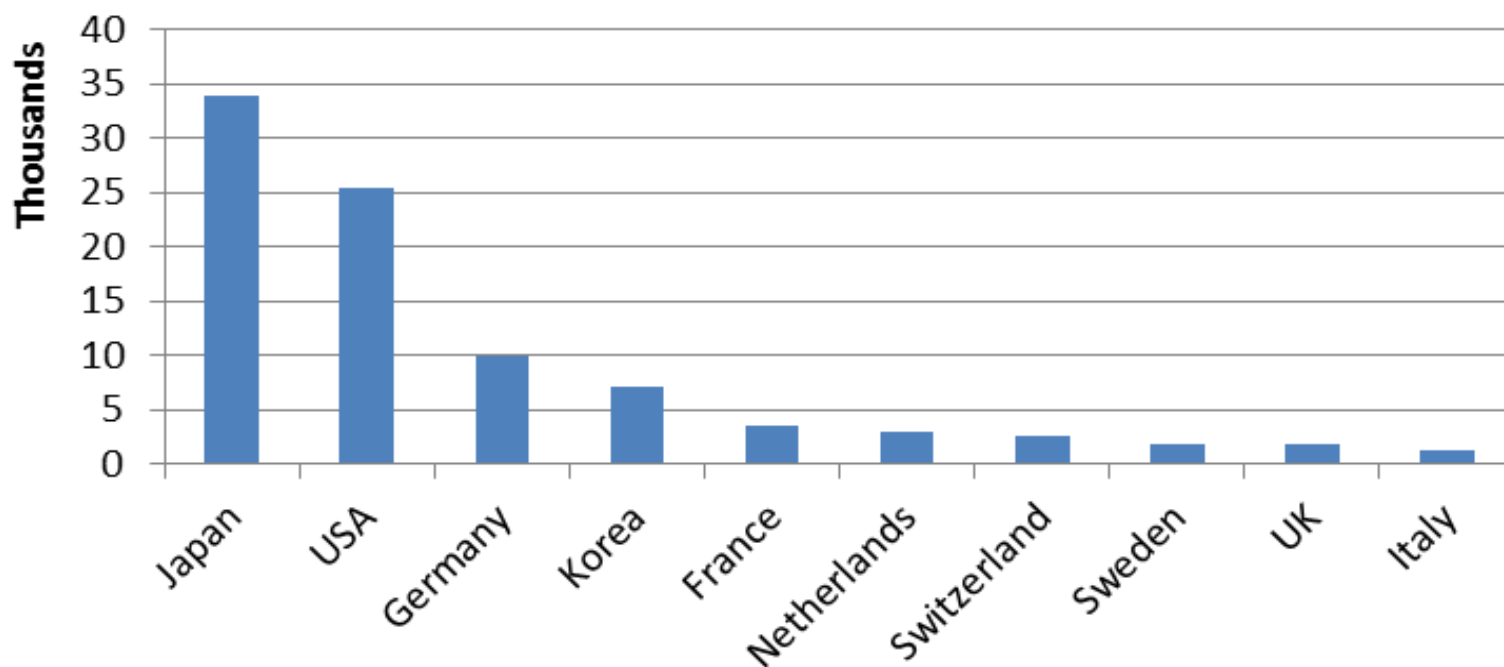
**Excluding cases related to Hong Kong & Macau (111) and Taiwan (58)*

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

China - The self-inflicted wounds

- **Not registering rights in China**
- **Inadequate understanding of the market place and legal structures**
- **Limited or non-existent on-the-ground IP expertise**
- **No delegation and too slow**
- **“Afraid to upset the Chinese government”**

Top ten foreign countries filing patent applications in China - 2010

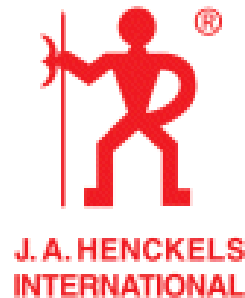


Source: SIPO 2011

PHILIPS™ IP in China

- **11 research laboratories in China**
- **11,000 patents in China *of which 1500 generated in China***
- **Profitable business in China**
- **IP start *in situ* in China in 2001**
 - **IP creation, counseling, enforcement, licensing, standards**
 - **4 Offices, 50 employees - *47 local***
 - **IP Academies in 3 universities**
- **Planning for 50% of global inventions to come from China**

Zwilling J.A. Henckels AG



Sales: 2005 - €250Mio

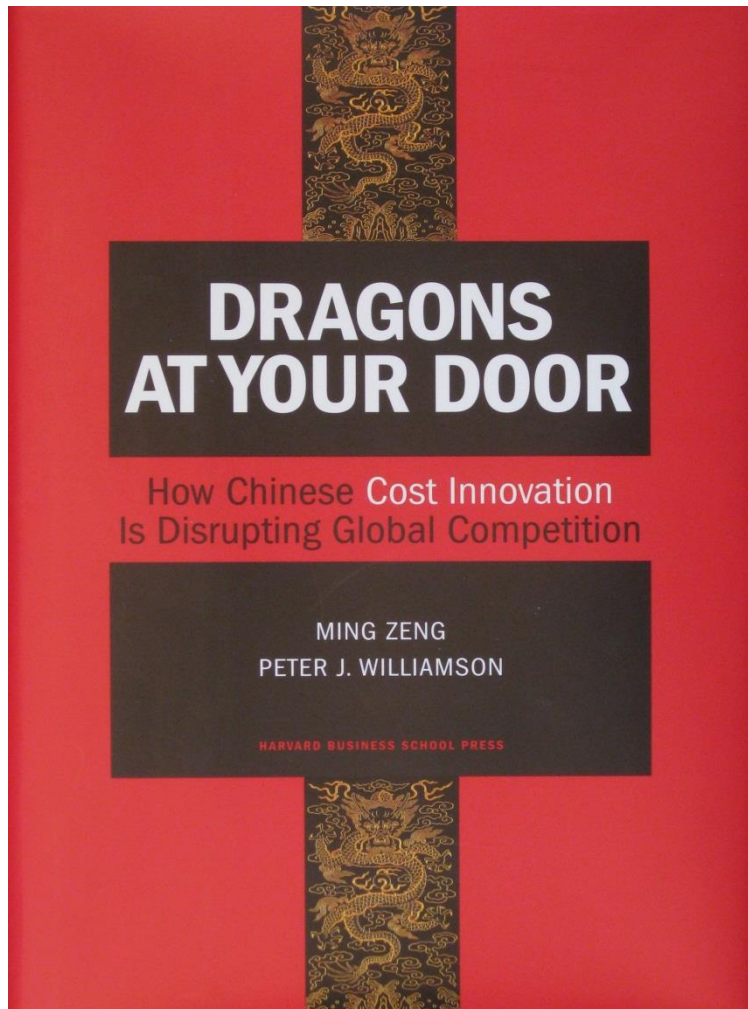
China: 1990 - 90% of infringement Yangjiang (2000+ cutlery factories)

2002/3 - 20 raid actions

2004 - no raid actions

2005 - 2 factories, 10 distributors, 6 sales offices, 130 POS

Low Cost Innovation



- **2003 – China acquires 273 German companies**
- **Wangxiang – cycle repair shop to largest Tier 1 UJ supplier globally**
- **Strategy:**
 - **Niche markets (initially)**
 - **Innovate for low cost**
 - **Move upmarket**



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

IP poor to IP rich - Lenovo buys IBM's PC business

New Technology
Developer Inc

1984



1989

2003

lenovo™

2004



Prudent Energy: VRB® Systems

- **Prudent Energy** (www.pdenergy.com) is the designer, manufacturer, and integrator of the patented Vanadium Redox (reduction-oxidation) Battery (VRB®) – a large-capacity, land-based, energy storage system with high performance and low operating costs.
- January 2009, **VRB Power, Inc.**, then a publicly traded company in **Vancouver, Canada**, sold all patents, trademarks, know-how, equipment, and bulk of material it owned or controlled to Prudent Energy. As a result, **Prudent has acquired world-wide rights** to Vanadium-only flow batteries, with over 40 far-reaching patents encompassing core cell stack designs, electrolyte composition, systems designs, as well as several application patents involving the use of VRB® and VRB Energy Storage Systems (VRB-ESS®) with wind farms, off-grid applications, and smart grids.
- *China-US-Canadian company: the behind-the-scenes story.....*

Tianjin IP Education

- Every primary and secondary school has an IP teacher
- Every child is taught about IP
- Why?
 - *“Because stealing IP is like stealing your intellect”*
 - *“Because a modern economy depends on IP”*
 - *“Because IP theft is against WTO rules”*

Historical context and comparisons

- **Entrepreneurial**
- **Inventive and creative nation – three thousand years**

Chinese treasure ship – 1400 AD

Chinese treasure ship reconstruction based on drawings by Gavin Menzies

The maps

The 16th century maps below are arrowed to the areas of the world map they appear to represent. In each case, Gavin Menzies argues, they must have been created before the first European explorers charted the coasts. The only explanation is that they were based on Chinese maps

Waldseemüller - 1507
(The Map Library, British Library)

Piri Reis- 1513 (1501)
(Topkapı Sarayı Müzesi, İstanbul)

Cantino - 1502
(Biblioteca Estense, Modena)

Jean Rotz- 1542
(Lib. of Congress, Washington DC)

The explorers' ships compared

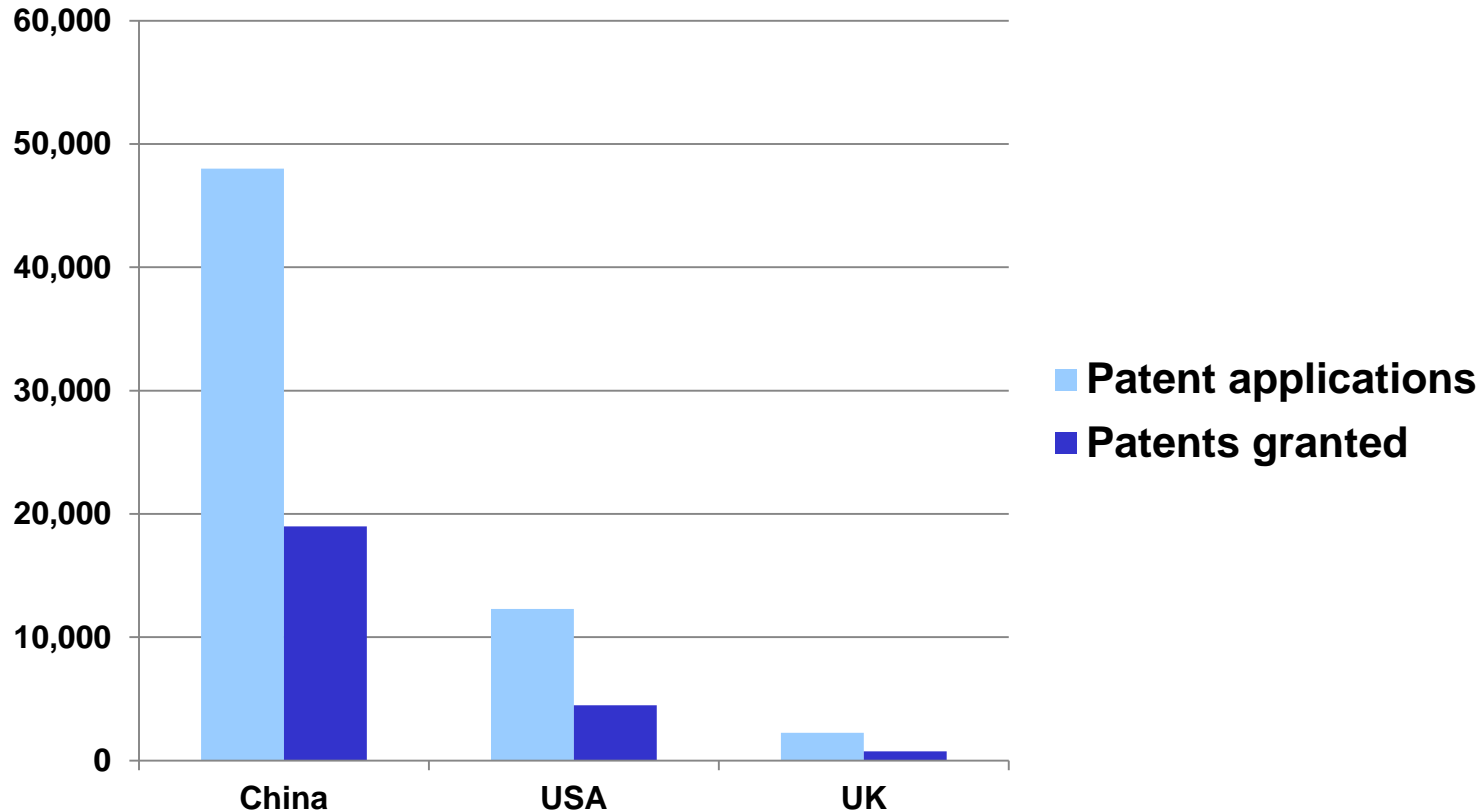
Ming treasure ship	Portuguese caravel
Crew: 500 av.; max 1,000	Crew: 30-40
Length: over 500ft max	Length: 60ft
Beam: 180ft	Beam: 20ft
Masts: 9	Masts: 3

Rudder from treasure ship based on dimensions of rudder-post recovered 1962 near Nanking (Needham)

Historical context and comparisons

- Entrepreneurial
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- **Other countries' evolution:**
 - Japan
 - Taiwan
 - Korea
- *China evolving faster*

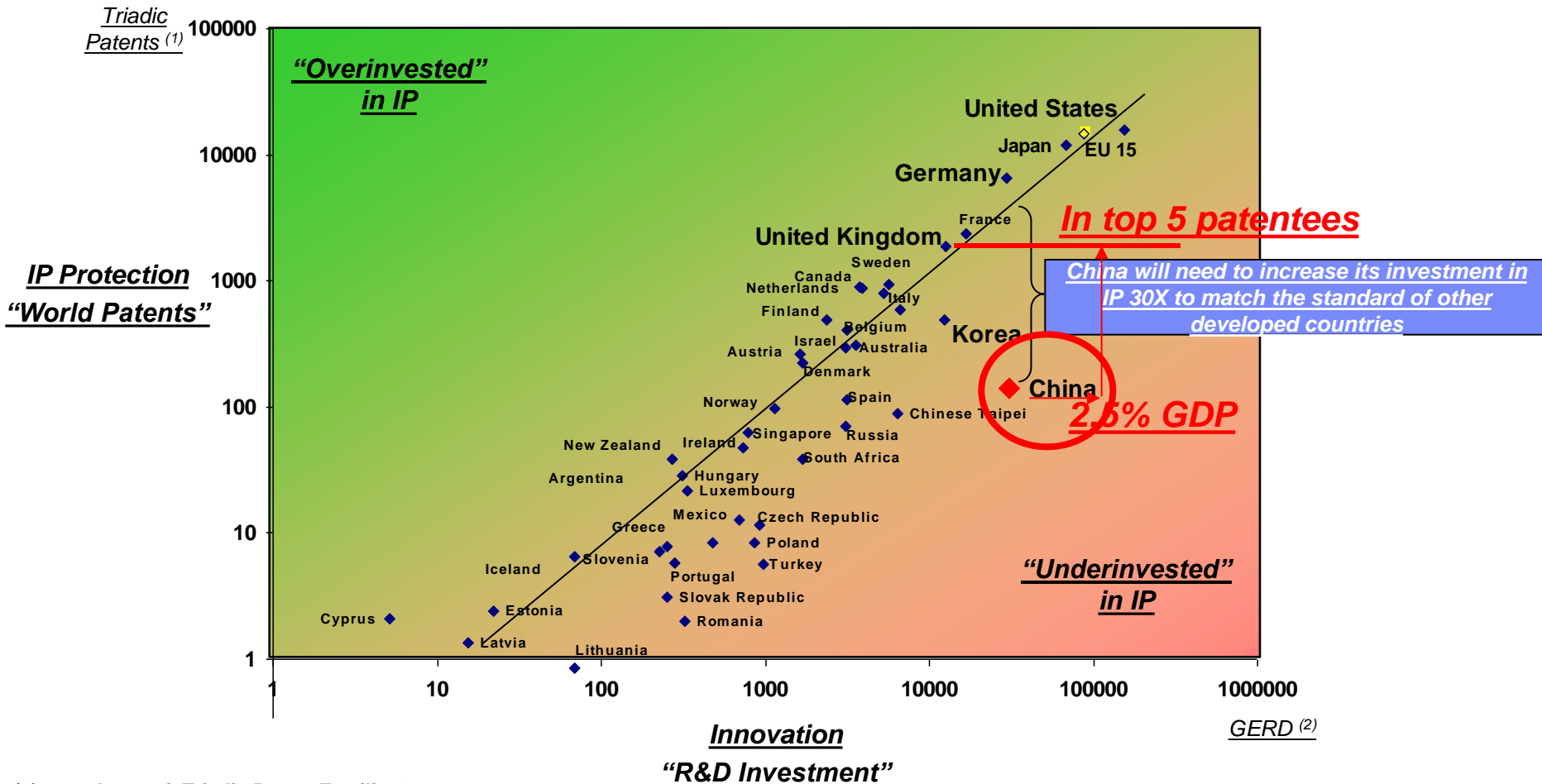
University invention* patents 2010



Sources: SIPO, AUTM, HEFCE. Excludes other research institutions

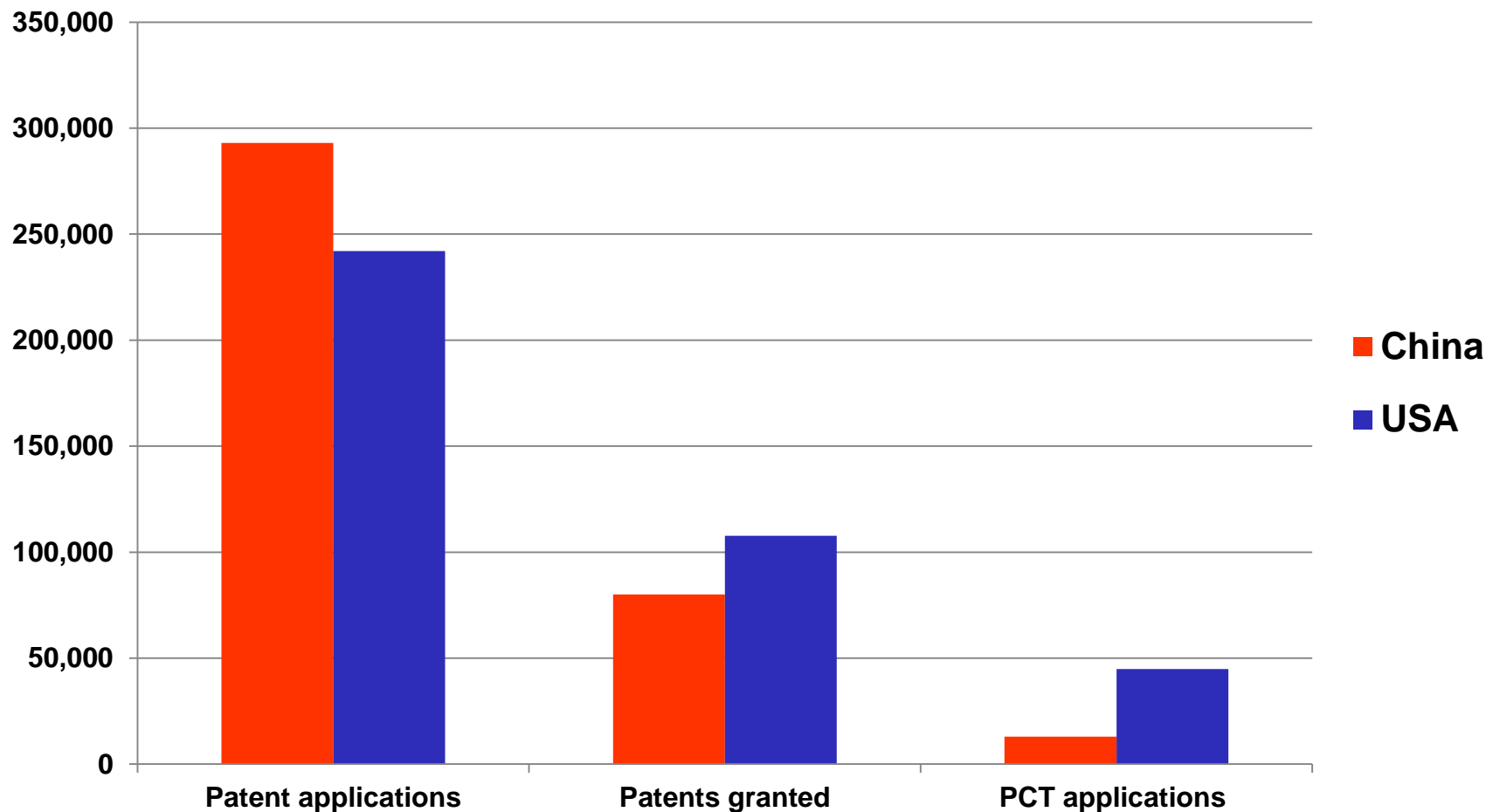
** In the US "Utility" patents*

China's underinvestment in worldwide IP rights has created the world's largest "IP Deficit"



(1) Avg # of Triadic Patent Families 1996-2002
 (2) Average Industry Financed GERD in 2000 U.S.\$ 1995-2001
 Source: OECD 2005 Compendium of Patent Statistics & IBM

Domestic & PCT invention* patents 2010



Sources: SIPO, USPTO, WIPO

* In the US "Utility" patents

The Opportunity for Singapore

***“future competition in the world is
competition in IP....”***

Wen Jiabao - Chinese Prime Minister
June 2004 et seq

***A threat
or an opportunity for those who
understand IP in China?***

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*What is **INTIPSA**?*

- **INTIPSA: The International Intellectual Property Strategists Association www.intipsa.com**
- **The ‘Go-To’ place for IP strategists worldwide**
- **A central global resource for the latest IP information directly focused towards your business**
- **A not-for-profit member association to support continual professional development of IP strategists**



In just one year...

- **70 members in 14 countries**
- **4 webinars with 100+ attendees**
- **14 white papers published for World IP Day**
- **New website includes a comprehensive directory listing IP companies globally**



The Future

- **Continually Growing Membership:**
 - 500 members by 2014
 - Market opportunity of 2500 members
- **Increase membership in corporate entities across all sectors internationally**
- **Internationalisation**
- **Regular Webinar Schedule**
- **Localised Networking Events, including IP Seminars**
- **Expand partnerships with influential networks including IAM, LES etc.**