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Research on Reform Approaches for China's Security Review Mechanism for Outbound Intellectual Property Transfers: Postprint

Authors: Xiao Youdan, Wang Shanshan

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Abstract

Intellectual property security constitutes one of the primary fronts of national security, and strengthening intellectual property security review represents a crucial measure for safeguarding national security in the intellectual property domain and improving intellectual property security protection. Against the backdrop of the new era, the security review mechanism for intellectual property foreign transfer and its implementation face dual pressures both domestically and internationally, urgently requiring further adjustment and improvement. This article analyzes the institutional gaming and challenges brought about by changes in the international landscape of intellectual property foreign transfer, clarifies the contemporary demands imposed on intellectual property transfer work by the current overall national security concept and the strategy for self-reliance and strength in science and technology, systematically reviews the numerous issues existing in the security review mechanism for intellectual property foreign transfer and its specific implementation, and proposes ideas for improving the intellectual property security review system and optimizing its implementation; theoretically, it clarifies the institutional dilemmas of the security review mechanism for intellectual property foreign transfer, and practically, it can provide research references for China's intellectual property foreign transfer security review work.

Full Text

Research on Reform of the Security Review Mechanism for Foreign Transfer of Intellectual Property in China

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Abstract

Intellectual property security constitutes a primary battlefield of national security, and strengthening intellectual property security review represents a crucial measure for safeguarding national security in the IP domain and improving IP security protection. Against the backdrop of a new era, the security review mechanism for foreign transfer of intellectual property rights and its implementation face dual pressures both domestically and internationally, necessitating further adjustment and improvement.

This article analyzes the institutional competition and challenges arising from changing international circumstances regarding foreign IP transfer, clarifies the contemporary demands that the overall national security concept and the strategy of self-reliance and self-improvement in science and technology impose on IP transfer work, systematically examines numerous problems in the existing security review mechanism and its specific implementation, and proposes ideas for improving the IP security review system and optimizing its implementation. Theoretically, this study clarifies the institutional dilemmas of the security review mechanism for foreign IP transfer, while practically providing research references for China's security review work concerning foreign IP transfer.

Keywords: intellectual property, foreign-related transfer, national security, security review

Authors: Xiao Youdan^{1,2,3}, Wang Shanshan^{4*}

¹Institutes of Science and Development, Chinese Academy of Sciences, Beijing 100190, China

²School of Public Policy and Management, University of Chinese Academy of Sciences, Beijing 100049, China

³Corresponding author. E-mail: xiaoyd@casisd.cn

⁴Beijing Academy of Science and Technology, Postdoctoral Researcher. E-mail: 1343596376@qq.com

1. Institutional Positioning and Basic Framework of China's Security Review Mechanism for Foreign Transfer of Intellectual Property

The security review of foreign IP transfer represents a new type and new system within national security institutions, a novel method and tool that fully utilizes the IP system and information means to safeguard national science and technology security, industrial security, and economic security, and a new mechanism and measure to maintain national security in the IP field and improve IP

security protection.

On January 23, 2018, the “Measures for Relevant Work on Foreign Transfer of Intellectual Property (Trial)” (hereinafter referred to as the “Measures”) was adopted at the second meeting of the Central Leading Group for Comprehensively Deepening Reform and officially issued by the General Office of the State Council on March 18, 2018. This marked China’s formal establishment of a security review mechanism for foreign IP transfer involving national security. Guided by the overall national security concept, the “Measures” comprehensively strengthen strict management of foreign IP transfer activities from the perspectives of review activities, transfer behaviors, review content, review types, and review mechanisms .

Subsequently, to implement the requirements of the “Measures” and effectively establish the security review mechanism for foreign IP transfer, several localities have carried out specific practices. Currently, provinces including Shanghai, Jiangsu, Anhui, Zhejiang, Shandong, Shanxi, Shaanxi, Guizhou, Heilongjiang, and Inner Mongolia have formulated detailed review rules or implementation measures. Additionally, Beijing, Hunan, Shandong, Guangdong, Shanxi, and Sichuan have incorporated IP security review into their local IP regulations, thereby achieving statutory codification of the IP security review mechanism at the local level to a certain extent.

2. Intensifying International Institutional Competition: Intellectual Property Security Faces New Situations and Challenges

From an international perspective, foreign IP transfer has become an important method and key link in international cooperation and competition. In recent years, with technological progress and changes in the international situation, the United States, Japan, the United Kingdom, Germany, and other countries have carried out bold institutional reforms around export management and technology transfer security review mechanisms related to IP.

(1) United States: Continuously strengthening the strategic positioning of IP security review in the national security domain based on national interests. Since 1969, the U.S. has successively enacted the Export Administration Act, Arms Export Control Act, and International Emergency Economic Powers Act, forming the institutional foundation for IP transfer security review. To clarify specific controlled items, technologies, countries, and implementation rules, the U.S. federal government has issued the Export Administration Regulations and International Traffic in Arms Regulations based on these laws, continuously improving its IP security review system. In recent years, to adapt to current technological progress and international situation demands, the U.S. has accelerated the revision of a series of export control regulations and guidelines to further strengthen national security management in the IP field. For example, in October 2022, the Bureau of Industry and Security

(BIS) of the U.S. Department of Commerce revised the Export Administration Regulations, updating the Commerce Control List, Commerce Country Chart, and Entity List, listing emerging technologies as key review categories, raising the technical threshold for transaction targets to the “de minimis” level, and adding export controls for military intelligence end uses and end users.

(2) Japan: Continuously improving the rule-of-law management level of IP security review for national security purposes. In 1949, Japan’s Ministry of Economy, Trade and Industry (METI) promulgated the Foreign Exchange and Foreign Trade Act, which became the basic law for Japan’s export control regime. Subsequently, the Japanese Cabinet issued the Export Trade Control Order and Foreign Exchange Order in 1949 and 1980, respectively, while relevant departments issued ministerial ordinances. For example, Ministry of International Trade and Industry Ordinance No. 49 of 1991 clarified control lists for technology and goods exports, further implementing export control provisions. Currently, Japan has formed an export management system with METI as the main regulatory agency and “laws, cabinet orders, and ministerial ordinances” as the primary legal basis. In terms of review mechanisms, Japan has also developed relatively comprehensive institutional measures:

Strict regulation of technology provision behaviors, including exports, communications, interpersonal exchanges, technical guidance or information provision to non-residents or specific types of residents, and technology agency or transfer transactions. Export control types. On May 11, 2022, the Japanese Diet enacted the Economic Security Promotion Act, focusing on strengthening export review in four areas: supply chains, cutting-edge technologies, infrastructure, and sensitive patents. Differential review measures. “List control” is applied to advanced materials, electronic devices, computers, communications equipment, navigation and avionics instruments, while “comprehensive control” applies to other technologies outside the list, weapons of mass destruction, and conventional weapons. Additionally, with the formal implementation of amendments to the Foreign Exchange and Foreign Trade Act on July 23, 2023, Japan added 23 categories including cutting-edge semiconductor manufacturing equipment to its export control list and included many countries, including China, in its management scope.

(3) United Kingdom: Gradually forming a non-discriminatory, diversified IP security review mechanism according to international circumstances. In 2002, the UK introduced the Enterprise Act, which adopted a merger review system specifically for foreign investment activities. However, this system primarily regulated anti-competitive behavior based on fair competition and public interest considerations. In 2008, the UK issued the Export Control Regulations, mainly controlling trade in goods used for the death penalty, torture, and other cruel, inhuman or degrading treatment, but neither focused much on national security. In 2021, the UK enacted the National Security and Investment Act, establishing the country’s first independent review mechanism for national security and foreign investment. The Act brought land, movable property, IP, trade secrets, databases, algorithms, and source

code within the scope of national security review, focusing on whether investment behaviors involve 17 categories of specific sensitive industries or locations and whether acquirers and their usage methods threaten national security. It addressed deficiencies in the Enterprise Act from the perspectives of scope, content, mechanisms, and remedies. Unlike the U.S. and Japan, the UK does not apply differential regulation to specific countries or their government or state-owned entities, but instead forms a multi-dimensional, comprehensive review mechanism based on factors such as transaction targets, technology fields, and usage methods, including mandatory declaration, voluntary declaration, and proactive intervention.

(4) Germany: Continuously strengthening export security review for special industries and key core technologies in response to contemporary needs. In 2020, the EU issued the Foreign Direct Investment Regulation, and in 2021, Germany's Federal Ministry for Economic Affairs and Energy revised the Foreign Trade Ordinance, with the two working in concert to strengthen export security review in Germany's key core technology fields. The revised Foreign Trade Ordinance made important modifications to review scope, duration, and procedures. Regarding scope, it substantially expanded security review coverage for key industries and technology types in foreign investment: the mandatory declaration directory for key industries was expanded from the original 11 items to 27 items, adding transaction supervision for key technologies and important industries such as artificial intelligence, autonomous driving, semiconductors, quantum technology, and critical raw materials. It also included specific defense technology industries and defense-critical facilities related to the development, manufacture, modification, or ownership of secret patents or specific secret utility models in the special industry review scope. Regarding review duration, the period for entering review procedures was extended from 2 months to 4 months, and the transaction permit review period from 1 month to 2 months. Regarding procedures, a new notification obligation was established, requiring industries listed in the key industry directory to report on the conclusion of share purchase agreements, enabling authorities to conduct in-depth reviews within 3 months of learning about such agreements.

3. Technological Self-Reliance Becomes a Strategic Pillar of National Development: Intellectual Property Security Review Faces New Tasks and Requirements

Domestically, the strategic role of IP security as a barrier to achieving national security and technological self-reliance has long been recognized. On November 30, 2020, the Political Bureau of the CPC Central Committee held its 25th collective study session on strengthening IP protection in China, fully recognizing the inherent connection between IP protection and national security and technology security, and proposing new requirements for the foreign IP transfer management system from the perspectives of strategic principles and tactical flexibility. The specific requirements are as follows:

(1) Clarify the key position of IP security review in the national security system for the IP field. In his speech, General Secretary Xi Jinping identified “foreign IP transfer behavior” as a main component of the task of maintaining national security in the IP field, placing it alongside preventing IP abuse, extraterritorial application of cross-border judicial cooperation, international IP risk early warning and emergency mechanisms, and enterprise overseas IP rights protection and assistance, collectively forming the national security system for the IP field. This means that foreign IP transfer management is a critical link and primary means in the current national security system for the IP field, possessing greater significance and a more foundational role.

(2) Strengthen adherence to the basic principles of the overall national security concept. General Secretary Xi Jinping emphasized that “foreign IP transfer must adhere to the overall national security concept.” This requires foreign IP transfer management to support and serve the overall national security, uphold systematic thinking and bottom-line thinking, clarify its role in maintaining IP security, technology security, industrial security, and trade security based on the overall situation and key areas of national security in the new period and new stage, and coordinate foreign IP transfer management with related national security mechanisms to better form a system for safeguarding national security.

(3) Highlight the rule-of-law requirements for foreign IP transfer review. General Secretary Xi Jinping explicitly demanded “law-based management of foreign IP transfer behaviors involving national security,” imposing clear requirements on the rule-of-law level of foreign IP transfer management. Management of foreign IP transfer behaviors involving national security should have a legal basis. Foreign IP transfer is a way for IP right holders to exercise their rights according to law, and any intervention, management, or restriction should strictly follow relevant legal provisions. Currently, ongoing or forthcoming foreign IP transfer review activities should be based on law. It is necessary to further clarify the legal basis for foreign IP transfer management, study the legal mechanisms for such management, and define the boundaries of administrative power for IP administrative departments in conducting foreign IP transfer management. Meanwhile, relevant review standards should be gradually refined and improved based on existing national policies.

(4) Uphold the basic mission of protecting key core technologies. In his speech, General Secretary Xi Jinping identified “law-based management of foreign IP transfer behaviors involving national security” as an important measure for “strengthening independent R&D and protection of key core technologies related to national security.” This requires foreign IP transfer management to pay greater attention to supporting high-level technological self-reliance and self-improvement in the current and future stages, further strengthening coordination and cooperation with other IP protection and management means, and providing IP mechanism support for “key core technologies” related to national security from two key aspects: “strengthening independent R&D” and “strengthen-

ening protection.”

(5) Coordinate the relationship between international cooperation and competition in the IP field. “Intellectual property is the core element of international competitiveness and also the focus of international disputes.” Foreign IP transfer management should closely integrate with the situation of international cooperation and competition in the IP field, providing institutional tools for “daring to struggle” —using IP transfer security review as a means to strengthen order and norms in foreign IP transfer in key fields, and playing an important role in protecting legitimate national rights and interests and safeguarding core national interests at critical moments. Simultaneously, “being good at struggle” should be regarded as a basic requirement for foreign IP transfer management, particularly the implementation of security review mechanisms—combining international struggle situations and relevant requirements, emphasizing certain aspects in management scope, methods, and standards, and paying attention to the strategy of review implementation.

4. Current Problems in China’s Intellectual Property Security Review System and Its Implementation

As a newly established system embedded within China’s existing foreign investment security review and technology export licensing management frameworks, the foreign IP transfer security review mechanism has no existing institutional model to draw upon in terms of implementation and operation. Consequently, many institutional problems have emerged during implementation that urgently require optimization and improvement.

4.1. Conservative System Positioning May Limit Review Scale and Hinder Effective Functioning of Security Mechanisms

According to the “Measures,” China’s current foreign IP transfer review is essentially still only an internal component of restricted technology export management and national security review of foreign investors’ mergers and acquisitions of domestic enterprises. Although this represents significant improvement compared to the previous complete absence of IP-related work, foreign IP transfer review still lacks independent status compared to other national security reviews. The construction and implementation of the foreign IP transfer review system face numerous boundary constraints. From the title of the “Measures,” “relevant work” mainly refers to three tasks: restricted technology export management, national security review of foreign investors’ mergers and acquisitions of domestic enterprises, and registration of IP rights changes. However, these three tasks were not newly created by the “Measures” but are existing mechanisms that have been in place for years, without adding any new administrative approval powers. The institutional function of the “Measures” lies in optimizing work relationships by transferring the management and review of special foreign IP transfer behaviors involved in relevant work from non-IP management depart-

ments to IP management departments with management responsibilities, while clarifying the division of responsibilities among IP management departments. Therefore, compared to other national security review mechanisms, the legal authorization for foreign IP transfer review as an independent type of national security review remains incomplete, and its legal confirmation as a national security review mechanism has not yet been clarified. This is neither conducive to coordination and cooperation between foreign IP transfer review and other national security systems, nor beneficial to improving the foreign IP transfer review system itself.

4.2. Low Hierarchical Authority and Insufficient Review Basis Show Clear Gaps with International Competition Situation and Rule-of-Law Requirements

The “Measures” constitute a State Council document. In terms of institutional nature, the “Measures” issued by the General Office of the State Council do not belong to administrative regulations governed by China’s Legislation Law. The applicable subjects of the system are state administrative organs or authorized departments that have legal management responsibilities for foreign IP transfer activities according to relevant laws and regulations or their statutory duties, rather than the parties to foreign IP transfer activities. Its regulatory object is the management work of these state administrative organs or authorized departments regarding certain foreign IP transfer activities involving national security, rather than directly regulating foreign IP transfer activities of various civil subjects. This has largely led to public opinion that foreign IP transfer review lacks direct existing legal authorization and implementation basis.

The “Measures” have not created an IP national security review system. The national security review nature of IP review still requires confirmation by laws and regulations. In recent years, laws such as the Anti-Monopoly Law of the People’s Republic of China (2022 amendment), Seed Law of the People’s Republic of China (2021 amendment), Rural Revitalization Promotion Law of the People’s Republic of China (2021), Science and Technology Progress Law of the People’s Republic of China (2021 revision), Hainan Free Trade Port Law of the People’s Republic of China (2021), Data Security Law of the People’s Republic of China (2021), and Biosecurity Law of the People’s Republic of China (2020) have successively created a series of national security review systems, clarifying the legal attributes and effects of relevant reviews. For example, the Science and Technology Progress Law (2021 revision) specifically added provisions on “the state shall improve the IP protection and review mechanisms for science and technology ethics and security in international science and technology research cooperation.”

4.3. Overly Narrow Scope of Application Hinders Protection of Key Core Technologies Related to National Security

The applicable circumstances stipulated in the “Measures” are too stringent. The “Measures” incorporate IP review as a specialized review 环节 into the existing administrative processes of technology export management and foreign merger and acquisition review, making the applicable circumstances of the current foreign IP transfer review scope require complete satisfaction of three conditions: restricted technology export and foreign investors’ merger and acquisition of domestic enterprises; activities that involve and actually complete foreign IP transfer; and IP types mainly limited to patents, integrated circuit layout design rights, computer software copyrights, and plant variety rights. Although the “Measures” theoretically expand the scope of foreign IP transfer review compared to existing IP laws, the Civil Code of the People’s Republic of China, the Foreign Trade Law of the People’s Republic of China, and the Technology Import and Export Administration Regulations, the expansion largely only accommodates “foreign investors’ merger and acquisition of domestic enterprise activities” due to the need to simultaneously satisfy the above three conditions. Meanwhile, possibly to maintain compliance with the legal definition of “transfer,” the “Measures” also exclude other licensing implementation circumstances in the concept of technology export under the Technology Import and Export Administration Regulations, namely non-exclusive IP implementation licenses, which strictly speaking do not fall within the review scope stipulated by the “Measures.”

The application scope of the “Measures” only partially covers foreign IP transfer related to national security, which is insufficient to meet national security protection requirements. This is mainly reflected in four aspects: utility models, designs, trademarks, and geographical indications are important objects in international IP trade and should be subject to security review, but the “Measures” do not include them, which may affect China’s national security and innovation development capabilities in important fields. Trade secret transfer is a relatively common technology transfer method in the market, but the “Measures” exclude trade secrets from the review scope, which may create institutional loopholes and affect coordinated management between IP security review and technology import/export and sensitive items export. China’s current legal system includes at least three special types of IP: IP formed under fiscal science and technology plan projects, IP owned by national laboratories, national scientific research institutions, high-level research universities, and leading technology enterprises as components of the national strategic scientific and technological force, and other IP in which the state enjoys specific rights and interests. However, the foreign transfer management of these three categories has not been incorporated into the review scope. The scale of Chinese domestic entities’ overseas IP applications and layout continues to expand, and the IP owned by key state-owned enterprises and institutions overseas is obviously also an important strategic scientific and technological resource for China. Its transfer inevitably involves

national security issues and should also be subject to security review.

The foreign IP transfer review stipulated in the “Measures” mainly focuses on trade and investment aspects while avoiding the above four circumstances that directly involve scientific and technological security and national security. This may be due to the desire to coordinate with existing relevant foreign practices or to promote foreign IP transfer management in phases and according to the principle of tackling easier issues first. However, from the perspective of current domestic and international situations, this framework obviously differs from the new requirements of the Party Central Committee, the State Council, and relevant laws, and needs to be supplemented and improved as soon as possible.

4.4. Overly Broad and Complex Review Content Hinders Organization of Specific Cases Within Limited Timeframes

The review content stipulated by the “Measures” tends toward impact assessment, showing obvious differences from the focus of other technology export management reviews and being unfavorable to technology export-related reviews. Currently, foreign IP transfer review includes two aspects of impact assessment: impact on China’s national security and impact on innovation development capabilities in important fields and core key technologies. This review content is correlated with foreign investment review, mainly referencing the content of national security review of foreign investment in free trade pilot zones stipulated in the Notice of the General Office of the State Council on Issuing the Measures for National Security Review of Foreign Investment in Free Trade Pilot Zones (Guo Ban Fa [2015] No. 24). However, this impact assessment obviously differs from the focus and content of existing technology review and trade review in other technology export management reviews. For example, according to relevant provisions on restricted technology export management and current common practices, review content mainly focuses on policy compliance and harmfulness judgment of relevant activities rather than impact assessment.

The review content stipulated by the “Measures” is overly general, macro, and principled, lacking clear basis and standards, which is unfavorable for implementation by local departments. From the perspective of specific implementation, since technology export management authority is undertaken by provincial-level local government departments, it has become and will continue to be the main scenario for foreign IP transfer review. However, the current review content is overly macro and complex, and lacks necessary basis and general standards, creating considerable difficulties for specific implementation by local departments. First, the perspective of the review content stipulated by the “Measures” takes China as a whole as the scope, such as “China’s national security” and “China’s innovation development capabilities in important fields and core key technologies.” At present, no unified standard has been formed for national security impact assessment, and its connotation and extension are also rapidly developing, involving the overall situation. Whether local departments possess corresponding capabilities and resources remains questionable. Second, understanding of

key concepts in the review content is not unified, making it difficult for IP administrative departments, relevant industry departments, domain experts, IP experts, and national security experts to form reliable consensus in specific implementation. For example, how should the scope of “China’s important fields and core key technologies” be determined, what should be the criteria for determination, whether a single foreign IP transfer can rise to the national level, whether a single foreign IP transfer affects national security, and whether the mechanisms or methods for affecting innovation development capabilities are the same and whether consensus exists. Third, the legal basis for setting review content and institutional standards for judgment are not yet clear, leading to insufficient review certainty, lack of transparency, and different views among public opinion on the legitimacy of the exercise of foreign IP transfer review as an administrative intervention method and on rights relief for relevant right holders. The current situation of unclear review also differs from the requirements of conducting foreign IP transfer management according to law, easily creating legal risks in actual implementation.

4.5. Disconnect Between Review Mechanism and Existing IP Management Work Hinders Utilization of Existing Institutional and Resource Advantages of IP Departments

First, dividing foreign IP transfer review authority according to specific IP administrative confirmation management relationships is not conducive to strengthening centralized and unified leadership of the national security system in the IP field. The “Measures” distinguish central and local authority based on the existing IP administrative management system and divide responsibilities among different IP management departments according to IP types involved in the review, reflecting the basic assumption of supporting security review with existing IP business review resources. However, from current actual implementation, foreign IP transfer review remains mainly concentrated in IP administrative departments at various levels, with limited participation from other relevant departments. Second, theoretically, after merging review conclusions from different departments by type, it does not necessarily form a determination of the impact of IP transfer in the transaction on national security or innovation capabilities. Therefore, comprehensive analysis from a global, all-type, and full-cycle perspective is necessary. Over-segmentation by IP type is highly likely to create omissions and misjudgments in review. Third, simple division according to IP type is also not entirely consistent with actual technology export and foreign investment merger and acquisition operations. It is common in current technology trade and investment for export to involve multiple IP types or for acquired enterprises to own diverse and strongly related IP categories.

The relevant provisions of the “Measures” to some extent confuse its legal positioning and the nature of foreign IP transfer review decisions. According to Article 4 “Other Matters,” Paragraph 2 of the “Measures,” after the final deci-

sion on foreign IP transfer review is made, the transfer parties shall handle IP ownership change procedures according to laws and regulations. This provision identifies the “parties” as the binding objects and makes the “final decision on foreign IP transfer review” a condition affecting the parties’ handling of ownership change procedures. However, as a government document, the “Measures” lack direct legal binding force on the parties. Whether the transfer parties handle change procedures falls within the parties’ autonomy—failure to handle changes only creates breach of contract or infringement disputes between the parties, not administrative liability. Moreover, “after the final decision on foreign IP transfer review is made” only creates internal administrative management relationships without a direct mechanism for notifying or informing the applicant, and does not directly produce legal effects of permitting or prohibiting transactions—the decision on whether to permit export and issue licenses is still made uniformly by commerce departments to the applicant according to law. More importantly, the “final decision on foreign IP transfer review” is not a legally required document for the parties to apply for rights changes under the current Patent Law and other IP laws. The weak relationship and low compatibility between foreign IP transfer review and IP rights change management under the current IP legal framework are not conducive to unleashing the potential of relevant institutional rules in IP law to form a joint force for safeguarding national security.

5. Reform Approaches for the Intellectual Property Security Review System

In summary, the current IP security review mechanism urgently requires further optimization from both institutional improvement and implementation dimensions.

5.1. Institutional Improvement Suggestions

(1) Clarify the legal nature and independent positioning of IP security review. Modify the name of the “Measures” to “Measures for Security Review of Foreign Transfer of Intellectual Property” and correspondingly change “review” in the text to “security review.” Establish “security review of foreign IP transfer” as a professional concept and special work to solidify it, making it more distinct from ordinary “review” work in the IP field in terms of social cognition, work methods, and institutional functions, better coordinating the relationship between national security review and other administrative management mechanisms involved in foreign IP transfer, remedying the lack of specialized and systematic IP management means in existing management systems, and better leveraging the unique role of security review in foreign IP transfer management.

(2) Research and expand applicable type scope and scenario scope. First, expand applicable type scope. Modify the approach in the “Measures” that limits IP types by enumeration, or appropriately add IP types such as

utility models, designs, trademarks, geographical indications, and trade secrets to achieve fair treatment of right holders of different IP types. Second, expand applicable scenario scope. Include special circumstances such as foreign transfer of invention patents by state-owned enterprises and institutions, implementation of open licensing for patent applications involving restricted export technologies, and foreign transfer of IP in scientific and technological achievements formed by science and technology plan projects funded by fiscal funds into the scope of IP security review.

(3) Refine review content from multiple dimensions. First, adjust national security impact assessment to harmfulness judgment. In practice, reference can be made to whether the IP to be transferred falls within the scope of the restricted technology export catalog, whether ownership is clear, whether there is damage to national legitimate rights and interests, and whether it falls under the circumstances stipulated in Article 4 of the Patent Law. Second, add public interest, compliance, and fairness evaluation criteria. Considering public order reservation and international trade practices, evaluation of damage to social public interest and national relevant rights and interests should be added, along with evaluation of legal compliance in key core technology IP protection, evaluation of fair competition in foreign IP transfer, and evaluation of independence, security, and controllability impacts.

5.2. Implementation Suggestions

(1) Establish a cooperation mechanism for technology export management involving IP. First, implement a consultation mechanism for major issues with collaborative management to prevent risks. Uphold the overall national security concept, implement a regular consultation mechanism for major issues, promote effective integration and efficient coordination between foreign IP transfer management and technology import/export trade management mechanisms, and jointly build an IP-related foreign risk prevention and control system and an international IP risk early warning and emergency mechanism. Second, establish an information security platform to timely share work progress and coordinate relevant cooperation matters. Fully utilize IP systems and information tools to support and serve the high-quality development of technology export trade management, manage foreign IP transfer behaviors involving national security according to law, and form a joint force to strengthen the protection of key core technologies related to national security.

(2) Strengthen coordination in IP transfer review for technology export. Strengthen business guidance for local IP management departments and trade authorities, research and coordinate new situations and problems in IP transfer review work for technology export. Regularly monitor and analyze the actual situation of IP transfer in key technology fields to provide necessary information reserves for future reviews. Formulate relevant work norms for IP transfer in technology export, further optimize the scope of relevant materials required for IP foreign review and their modification and supplementation

procedures. Promote the inclusion of foreign IP transfer review into relevant administrative regulations and departmental rules on national technology import and export management.

(3) Strengthen sharing of information resources and talent resources.

Promote the improvement of mechanisms for sharing information resources and talent resources, and smooth channels for co-construction and sharing of information and talent. Establish a security review information resource database based on multi-source heterogeneous data to improve review scientificity and enhance the effectiveness of the foreign IP transfer security review mechanism.

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