NEW DEVELOPMENT TREND OF INTERNATIONAL INTELLECTUAL PROPERTY SYSTEM AND CHINA'S WAY FORWARDS

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ABSTRACT

At present, the international intellectual property system is characterized by the coexistence of unilateral, bilateral, regional and multilateral rules. Promoted by the United States and other developed countries, the TRIPs Plus intellectual property clauses represented by TPP Agreement gradually become the new standard of international intellectual property rules. It should be noted that with the improvement of intellectual property legislation, the level of intellectual property protection in China tends to surpass the international intellectual property rules represented by TPP Agreement. From TRIPs international rules of intellectual property to the global governance system of intellectual property in today's world, China should try to change from the recipient of the rules to the builder of international intellectual property system.

Keywords: Trips Agreement; TPP Agreement; International Intellectual Property System

INTRODUCTION

The formation and development of international intellectual property (IP) system are closely related to national practice. With the deadlock of Dona round of talks and the challenge of World Trade Organization's dispute settlement system, developed countries such as the US, EU, and Japan have stepped up efforts to develop new rules through regional free trade agreements. The Trans-Pacific Partnership Agreement (TPPA), the US-Mexico-Canada Agreement (USMCA), the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPPA), together with other unilateral, bilateral, regional and multilateral rules, promote the development of the international intellectual property system. Under the trend of the anti-globalization of the international society and the increasing importance of regional free trade agreements in the construction of the international IP system, how can China find the correct position in the reconstruction of the rules of global IP governance? How to transform from a follower of the international IP rules into a participant and leader? How to participate in the global IP competition on the basis of promoting domestic scientific and technological innovation? This paper attempts to answer these questions and provides some suggestions for China's way forwards.

CURRENT SITUATION AND DEVELOPING TREND OF THE INTERNATIONAL IP SYSTEM

Current Situation of the International IP System

The international IP system has experienced a long evolution process, from the Paris Convention in 1883 to the Convention on the Establishment of the World Intellectual Property Organization in 1967, from the establishment of the World Intellectual Property Organization (WIPO) in 1970 to the Agreement on Trade Related Intellectual Property Rights(TRIPs) in 1995, and then to the post TRIPs era dominated by the "rule overflow"[i]countries represented by the United States and aimed at promoting the high-level protection of IP rights. The proposal of the most favored nation treatment principle and the national treatment principle in TRIPs Agreement provides conditions for the convergence of IP system worldwide. "Unless it complies with the exceptions of national treatment and most favored nation treatment stipulated

in the TRIPs Agreement, the level of IP protection improved by WTO member states through bilateral or regional agreements will automatically apply to other member states."[ii]

Since entering the 21st century, the United States has increasingly used trade protectionism for bilateral or regional negotiations, trying to weaken or even overhead the international IP rules represented by TRIPs Agreement. Affected by this, the current international IP system presents the following characteristics. First, the Trump government, with hegemonism as its tradition, tries to build a more complex and sophisticated high-level IP protection system by implementing bilateral or regional free trade agreements. Therefore, the international IP system presents the characteristics of fragmentation. Some scholars believe that the root cause of the crisis of WTO rules lies in the current four competing trade paradigms: American neoliberalism, President Trump's mercantilism, unique Chinese system and European order liberalism[iii]. This phenomenon is confirmed by the Anti-Counterfeiting Trade Agreement (ACTA), TPPA and USMCA. Second, the new development of the international IP system or the conclusion of regional agreements are mostly carried out by the developed countries led by the United States through negotiation or coercion, rather than independently by the way of consensus formed by the international community. The United States regularly makes use of Article 301 of its Trade Act of 1974 to investigate other countries and to impose trade sanctions. For example, the United States conducted investigations on China and reached three IP protection agreements in 1991, 1994 and 1996 respectively; In March 2018, the United States issued another 301 investigation report, claiming that "China has committed acts detrimental to the interests of the United States in terms of IP rights," which contributed to the conclusion of the China-US Phase I Economic and Trade Agreement in January 2020. In addition, a large number of lobbying groups representing the interests of the United States are also actively promoting China's domestic IP reform and trying to reconstruct the international IP system.

New Developing Trend of the International IP System Represented by the TPPA

If the international multilateral IP rules based on TRIPs Agreement represent the basic rules or the rules of the "old world," then the high-standard regional IP rules represented by TPPA are the development goals of the "new world." This does not mean that the IP rules in the TRIPs Agreement are outdated or no longer applicable to the current global order. But rather, the TRIPs-Plus IP clause in the TPPA represents a new direction of the development of

international IP rules. Some people believe that the integration of IP legislation is essentially an institutional arrangement actively led by developed countries and passively accepted by developing countries. TRIPs-Plus IP clause represented by TPPA puts forward higher requirements for IP protection in developing countries. It can be seen that with the improvement of China's IP legislation, the level of China's domestic IP protection also tends to exceed the international IP rules represented by the TPPA.

By comparing the IP clause in TPPA and the relevant legislations in China, this paper divides the IP clauses in TPPA into three types: equal clauses, insufficient clauses and exceeding clauses.[iv] Equal clauses refer to the provisions of the TPPA that are basically the same as the current legislation in China, or the protection level of relevant IP provisions in China has exceeded that of the TPPA. Insufficient clauses refer to those clauses stipulated in the TPPA while the current legislative protection level in China does not reach such a high level. Exceeding clauses refer to the relevant clauses in the TPPA that surpass China's current economic or social development level, and blind high-level legislation will hinder China's domestic scientific and technological innovation and social progress.

(1) Equal Clauses in TPPA that is Similar to the IP Protection Level in China

As mentioned earlier, the provisions of the TPP provisions are basically the same as China's current legislation, or China's protection level of intellectual property rights has exceeded the provisions of the TPPA. This is mainly reflected in the following aspects.

TPPA breaks through the provisions of TRIPS Agreement, expands the objects protected by trademark law, and deletes the requirement that visibility is a condition for trademark registration in TRIPs Agreement. Under the TPPA, sound can be registered as a trademark, and the contracting parties shall use their best efforts to register the odour trademark. This clause continues the long-standing intention of the United States to expand the types of registrable trademarks. At the same time, the TPPA extends the term of trademark protection from seven years under the TRIPs Agreement to 10 years, which is consistent with the Trademark Law of the People's Republic of China.

In terms of drug patent protection, China's legislative level has been basically the same as that of TPPA. It is generally believed that Articles 18(47) and Article 18 (50) of the TPPA protect undisclosed test data. The measures related to the marketing of drugs in Article 18 (51) and the

provisions on biological agents in Article 18(52) constitute Trips Plus provisions for drug patent protection. The following will analyze the Trips Plus clause in the TPPA from three aspects of drug patent protection, namely, the exclusive right of test data, the extension of patent protection period and patent link. First, the TPPA has a low standard for data protection. Paragraph 3 of Article 39 of the TRIPs Agreement stipulates the requirements for data protection that "as a condition for approving the sale of drugs or agricultural chemical products manufactured by individuals using new chemicals, it is necessary to mention the undisclosed test data obtained with great efforts." The TPPA does not need to prove that "it needs to mention that the traffic has made great efforts to obtain." In terms of data protection mode, TRIPs Agreement adopts the protection mode of anti-unfair competition law, while TPPA promotes the protection of drug test data to an exclusive right similar to patent right.

The TPPA clearly provides a 5-year protection period for new drugs and a 10-year data protection period for undisclosed trials of agricultural chemicals. During the negotiation of China's accession to the WTO, China promised to provide a 6-year data protection period for innovative chemicals (no data protection for biological products), which is significantly higher than the 5-year protection period in the TPPA. In the context of encouraging technological innovation, the opinions on deepening the reform of review and approval system and encouraging innovation of drugs and medical devices issued by the central office and the State Office in 2017 proposed to "improve and implement the drug test data protection system." In April 2018, the State Food and Drug Administration issued the measures for the implementation of drug test data protection, in which Article 5 provides for the protection of innovative therapeutic biological products 12-year data protection period. However, according to the current research and development level of biological new drugs in China, at least in the short term, multinational pharmaceutical enterprises will benefit much more from the data protection system than domestic enterprises. The reason for China's "passive" revision of the law lies more in the interest needs of pharmaceutical enterprises in the United States and other developed countries.

Secondly, the TPPA provides for the extension system of drug patent protection period to compensate the patent owner for the unreasonable shortening of the patent validity period caused by the listing licensing procedure. The system is not reflected in the TRIPs Agreement. China solicited public opinions on the draft amendment to the patent law of the People's

Republic of China (second deliberation draft) in July 2020. Among them, Article 42 the compensation system for the protection period of new drug patents: in order to compensate for the time occupied by the review and approval of new drug listing, the new drug invention patents that have obtained the listing license in China can be given time compensation. The compensation period shall not exceed five years, and the total valid patent period after the listing of new drugs shall not exceed 14 years. This provision is consistent with the drug patent protection period compensation system in the United States.

Finally, the TPPA also provides a "patent link" system of Trips Plus, which requires parties to establish a link mechanism between the drug marketing license application system and the patent system 8. In recent years, China has made active legislation on the establishment of patent link system. Three new paragraphs are added to Article 75 of the draft amendment to the patent law of the people's Republic of China (second deliberation draft), which attempts to construct the design of China's patent link system. The system adopts the administrative led confirmation system before the opening of the patent link system, which endows the State Intellectual Property Office with an important role of administrative adjudication. In September 2020, the State Food and Drug Administration issued the draft of the measures for the implementation of the early resolution mechanism of drug patent disputes (for Trial Implementation), which put forward the "waiting period" for the first generic drug enterprise to apply for challenging patents and the "market monopoly period" for the first generic drug. This is a beneficial attempt to establish the patent link system in China.

(2) The Level of IP Protection in China is still Inadequate Compared with TPPA

The TPPA incorporates the protection of geographical indications into Chapter 9 of Trademarks and requires Contracting States to give geographical indications the same protection as trademarks. It also stipulates the administrative procedures for the protection or recognition of geographical indications, the objection and cancellation reasons of geographical indications, and the protection date of geographical indications in a special chapter. The United States, Europe and other countries and regions adopt two different legislative protection modes for geographical indications. First, special law protection. Under the origin protection law of France, geographical indications are considered as a "collective property right"[v]. Second, trademark law protection. The United States and other common law countries take geographical indications as certification trademarks and collective trademarks into the system

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of trademark law protection. TPPA adopts the way of trademark law protection for geographical indications, but the degree of protection is weak[vi]. Where a geographical indication may conflict with a prior bona fide registered trademark or a registered trademark or a prior trademark that has obtained rights in the contracting state, or it is a common term in the common language or as the common name of the relevant goods in the territory of the contracting state, the interested party may raise an objection to the protection or recognition of the geographical indication. This provision defines the withdrawal mechanism of geographical indication protection, so that the particularity of geographical indication protection in TPPA is covered up.

Based on the requirements of the United States, the TPPA also adds the protection of domain names: for the management of national domain names, the contracting parties shall be based on the principles or models established in the unified domain name dispute resolution policy approved by the internet name and digital address distribution agency. In addition, they shall also establish an information database with online access to relevant domain name registrants. The United States has always been a strong protectorate of domain names. In June 2020, the U.S. Supreme Court even included the combination of common terms (such as "Booking") and common top-level domain names (such as ".com") into the scope of trademark protection in the judgment of the U.S. patent and Trademark Office (USPTO) v. "Booking.com." The United States Supreme Court held that the logo of the common name ".com" can convey some characteristics of identifying the source to consumers. When consumers see this logo, they will be associated with a specific business entity; Moreover, consumers do not regard "Booking.com" as a synonym for the category of online hotel reservation service, so it does not belong to the common name[vii].

The TPPA provides for civil and administrative procedures and remedies for IP rights in Article 18 (74). The TPPA grants the obligee the right to determine the damages, so that it can provide any legal evaluation method according to its own subjective judgment, and stipulates the rules of punitive damages. In terms of temporary measures and border measures, the TPPA expands the application links of border measures. The border measures for counterfeit trademarks and pirated goods stipulated in trips are only applicable to the import link[viii], while the TPPA clearly applies the border measures to the import, export and transit links, and strengthens the customs law enforcement. In terms of criminal measures, the TPPA does not define the "commercial

scale" quantitatively, that is, the specific constituent factors and quantitative standards constituting the "commercial scale" are still vague[ix]. This ambiguity makes some large-scale utilization without commercial nature fall into the scope of criminal crime and reduces the threshold for the application of criminal measures.

(3) Provisions in TPPA That Go Beyond China's Current IP Protection Level

The transcendence clause in TPPA is the relevant provisions that significantly exceed the reasonable scope of protection and should not be adjusted in China's legislation. For example, the TPPA strengthens the protection of well-known trademarks, and the owners of well-known trademarks enjoy the right of cross category protection whether they are registered or not. In the TRIPs Agreement and In the Trademark Law of the People's Republic of China, the premise for a well-known trademark to obtain cross category protection is that the use of the trademark in such trademark or service will imply a connection between such trademark or service and the registered trademark owner, and to the extent that the interests of the registered trademark owner are likely to be damaged due to such use; the TPPA significantly extends the protection period of copyright, "70 years after the author's life plus death; or no less than 70 years from the date when the work was first authorized for publication." This provision far exceeds the protection period of Articles 12 and 14 of the TRIPs Agreement and Article 7 of the Berne Convention. Encouraged by domestic interest groups, the United States requires contracting parties to extend the copyright protection period in almost all regional free trade agreements. In the original draft proposed by the United States, the United States even put forward the requirements of 95-year and 120-year protection period for works not calculated based on the life expectancy of natural persons, which was finally compromised due to the opposition of most countries such as Canada and Japan. In the field of patents, the TPPA significantly expands the patentable objects: after making general provisions on novelty, creativity and practicability, the TPPA reduces the requirements of novelty, thus reducing the threshold of patent authorization. This provision enables pharmaceutical, chemical and other enterprises that master core technologies to advance in their patents. When entering the public domain, it is easy to regain the patent right with insignificant improvement, which protects the interests of core patent holders in the United States.

NEW FEATURES OF THE INTERNATIONAL INTELLECTUAL PROPERTY SYSTEM

Bilateralization and Regionalization Oriented by the Domestic Interests of Each Country

IP is the key for developing countries to move towards new industrialization institutional choice. The introduction of foreign legal system or international legal system is not only a process of "rational choice," but also a process of "legal localization."[x] The problem is that the IP system in developing countries cannot fully achieve its expected objectives. In this regard, John Barton, President of the International IP Association, once pointed out that the gap in IP between developing and developed countries lies not in the system itself, but in the application of the system. This evaluation is worth considering when developing countries formulate and apply IP policies.

In January 2017, the United States withdrew from the TPPA. The original signatories of the TPPA such as Australia, Canada and Japan, revised the text of the TPPA and formulated the CPTPP Agreement. The CPTPP Agreement shelves a total of 11 IP provisions of the TPPA. For example, after shelving, the Contracting States are allowed to give a higher degree of protection to their own works and performances, reduce the types of objects that can be granted patent rights, and cancel the quasi patent protection after the disclosure of drug data and the protection of biological agents. In January 2020, President Trump signed the revised USMCA. The USMCA reflects the interests and needs of the United States to a certain extent. Some provisions further strengthen the protection of intellectual property rights on the basis of the TPPA. For example, the protection period of medical data and new drugs is changed from 8 years to 10 years, the protection period of industrial design is at least 15 years, the copyright protection period is increased to 75 years, and trade secret protection measures are added, such as new law enforcement, interim measures, confidentiality, livelihood relief, licensing and transfer, unauthorized prohibition, etc.

The CPTPPA has deleted 11 articles of the TPPA in the Chapter of IP, while the USMCA has greatly increased the protection of some IP rights on the basis of the TPPA. Shelving does not mean that the overall protection of intellectual property rights is weakened, and the enhancement of protection cannot ensure the development of innovation and social progress. The strong intellectual property protection clause in the USMCA is a reflection of the national interests of the United States and the interests of consortia, including pharmaceutical

enterprises, which is intended to create a new international IP protection standard through regional negotiations and agreements. However, in the context of the withdrawal of the United States from the TPPA, the changes made by the newly formed CPTPPA to the intellectual property provisions of the original TPPA truly reflect the attention of all countries to the interests of intellectual property. The economic development of various countries is at different stages, and the protection level of intellectual property is different. The interest groups of developed countries represented by the United States excessively improve the protection level of intellectual property provisions in regional agreements, which will not promote international intellectual property cooperation, but will curb the development of developing countries.

Confrontation between the Unilateral Self-Help Measures led by the US and the Trade Counteraction Led by the Developing Countries

Since August 2017, the United States, in accordance with article 301 of the Trade Act of 1974, has launched an investigation into the countries included in the list of observer countries in the fields of intellectual property rights and technological innovation, so as to urge countries that refuse to accept some TRIPs Plus provisions to amend their relevant rules[xi]. In recent years, Article 301 pays special attention to Article 39(3) of TRIPs Agreement, that is, the reform of data protection and patent link system in the field of medicine, and lists China as a priority observer. In order to deal with Clause 301, China also frequently uses the self-help mechanism of "trade counteraction" or counteracts it through the WTO dispute settlement mechanism.

Internationalization of Domestic Laws and Internalization of International Rules

During the negotiations of the international treaties and agreements represented by TRIPs, the negotiation models of WTO expert group and appellate body are mostly based on the domestic law of a country, and the international law forming domestic norms is also in the form of binding international norms, which are interpreted by the WTO expert group, appellate body and arbitral tribunal and form the international case law, domestic legal norms of Member States, government administrative acts and judicial acts[xii], and gradually internalized into a country's domestic law.

CHINA'S COUNTERMEASURES UNDER THE NEW DEVELOPING TREND OF INTERNATIONAL INTELLECTUAL PROPERTY SYSTEM

China plays a more important role in the formulation of TRIPs Agreement, mainly as the roles of participants and passive recipients. Under the new pattern of intellectual property global governance system, China should rethink its strategic positioning, "standing at the height of participating in intellectual property global governance, re-understand the pattern change and path choice of intellectual property legal modernization and integration,"[xiii] and play the role of reformer and perfecter in international affairs.[xiv]

Building an Intellectual Property System in Line with China's National Conditions

China needs to stand alone and build an intellectual property legal system suitable for its own national conditions based on the balance clause, deficiency clause and transcendence clause in the TPPA and based on its own national conditions and benchmarking with reasonable international rules. First, for the drug patent protection in the balance clause, China needs to clarify its legal basis. In July 2020, the Draft Amendment to the Patent Law of the People's Republic of China (second deliberation draft) added the design of patent link system. The Measures for the Implementation of the Early Resolution Mechanism of Drug Patent Disputes (Exposure Draft) issued in September 2020 proposed the "waiting period" for the first generic drug enterprise to apply for a challenge patent and the "market monopoly period" for the first generic drug. The above rules are still vague about whether the listing application of generic drugs constitutes patent infringement. Whether it is the traditional patent link system or the early dispute settlement mechanism in the China-US phase I Economic and Trade Agreement, a core issue of the original drug research enterprises for the judicial relief before the generic drug enterprises obtain the listing approval is the legal basis of the right of action.

The United States and Canada solve this problem by establishing fictitious tort rules. In this regard, this paper provides two ideas. First, it is proposed to be a lawsuit of infringement. First of all, we can try to interpret the Bolar exception in Article 69.5 of the Patent Law of the People's Republic of China as excluding "submission of drugs for marketing approval." At the same time, we can interpret Article 11 and article 69.5 of the Patent Law of the People's Republic of China to clarify that the submission of generic drugs for marketing approval belongs to "manufacturing" specified in Article 11 Part of the Act, but it does not belong to the

"manufacturing" act taken to "provide information required for administrative examination and approval" as stipulated in paragraph 5 of Article 69. The second is to formulate it as a confirmation action. Consider allowing the original drug manufacturer to file a confirmation lawsuit after receiving the listing application of the generic drug manufacturer to confirm whether the generic drug falls within the protection scope of the patent right of the original drug. If the confirmation lawsuit is established, the drug regulatory department will continue to suspend the approval of the listing application. If the confirmation lawsuit makes it clear that generic drugs do not fall within the scope of patent protection, the drug regulatory department can approve the listing application of generic drugs when other conditions are met. In addition, considering the current high demand for clinical innovation, China should not always learn from the encouragement for imitators and even infringers to challenge innovative patents in the American hatch Waxman act, but should adjust its positioning and be based on the protection of pharmaceutical innovation patents. If the exclusive period of authorization is not limited to encourage the patent challenge of the first generic drug, although it will bring the benefits of the decline in the price of patented drugs in the short term, it may pay the long-term cost of damaging innovation.

For the relevant provisions of geographical indications in the insufficient provisions, we should focus on and strengthen the protection. China's current legal system for the protection of geographical indications is lack of systematicness, and the current "Three Laws" (Trademark Law of the People's Republic of China, Administrative Measures for Geographical Indications of Agricultural Products and Provisions on the Protection of Geographical Indication Products) lack internal coordination. In this regard, this paper puts forward three suggestions: first, speed up the formulation of the law on the protection of geographical indications, and "based on the particularity of geographical indications as a kind of special commercial signs, clarify the trademark law as the main legal mechanism for the protection of the private rights of geographical indications"[xv]; Second, improve relevant legislation and uniformly stipulate the legal concept and protection conditions of geographical indications, the authorization and confirmation system of geographical indications and the relief system of geographical indications infringement[xvi]; Third, actively reach the China-EU agreement on geographical indications with EU countries, actively fulfil their obligations, and strengthen bilateral and regional protection of geographical indications.

Coordinating the Global Governance of Intellectual Property from both Domestic and International Levels

China's intellectual property legal system has the characteristics of "tight inside and loose outside" in the construction of domestic and international rules. "It advocates the flexibility and policy space of the intellectual property system internationally, while it advocates the implementation of a more stringent intellectual property protection system at home."[xvii] Since the China-US phase I Economic and Trade Agreement was reached, China has successively issued opinions on strengthening the punishment of intellectual property infringement in accordance with the law in order to fulfil its commitments Interpretation on Several Issues concerning the application of law in the trial of civil cases involving infringement of trade secrets and reply on the application of law in disputes involving infringement of network intellectual property rights A series of judicial documents have raised China's intellectual property protection standards to a higher international level. China has realized the improvement of the intellectual property system from a low level to a high level in only more than ten years, without going through the necessary transition period. In this regard, the author suggests that the Supreme People's Court and relevant legislative organs should not formulate laws with too high standards too soon. We should learn from the experience of the United States and other developed countries, internally protect private intellectual property rights, exchange temporary monopoly authorization for the development of science, technology and culture, and externally use intellectual property rights as policies and tools to safeguard national interests.

On the other hand, China should make full use of international rules, actively integrate into the international mainstream discourse system, express its interest demands at the international level, and realize the domestic and international coordinated intellectual property protection strategy. China's use of international rules does not mean imitating the United States through invocation 301 and other unilateral measures to manipulate international intellectual property rules. China should make full use of bilateral agreements and regional agreements to turn into multilateral agreements, and then rise to the legislative model of international intellectual property system to participate in global governance. China should first strengthen one belt, one road, international cooperation, strengthen international dialogue on intellectual property rights, enhance the right to speak in regional legislation, and promote cooperation in the

legislative aspects of international organizations such as ASEAN Intellectual Property Cooperation Organization, European Patent Organization and Eurasian Patent Organization. In addition, actively explore joining the CPTPP, promote the formulation of regional trade agreements such as the regional comprehensive economic partnership agreement (RCEP), and actively implement the China EU agreement on geographical indications. These are beneficial attempts made by China to overcome the limitations of trips standards through the design of intellectual property provisions in bilateral or regional free trade agreements at the international level[xviii].

Participating in and Promoting the Reform of the International Intellectual Property System Actively

China has always been a member of the multilateral rule system represented by WTO, as well as an active advocate for building a community with a shared future for mankind. China should adhere to the concept of joint consultation, joint construction and sharing, actively participate in and promote the reform of intellectual property protection system represented by WTO, and actively lead global intellectual property governance in some fields. Specifically, China can take the domestic clinical trial data protection system as a model to promote the WTO to rebalance the relationship between maintaining public health and intellectual property protection in the field of medicine. China's measures for the implementation of drug test data protection extended the data protection period of innovative therapeutic biological products to 12 years; Article 18.50 of the TPPA stipulates at least 5 years, and article 18.51 stipulates an 8-year protection period for undisclosed experimental data or other data of biological agents. Both of them are shelved by CPTPP contracting parties, and the protection period is shorter than that of China. Therefore, it is suggested that WTO should learn from China's standards, strengthen the right protection of drug R & D enterprises, and re balance the relationship between public health maintenance and intellectual property protection. In addition, China should also actively promote the international protection of trademarks. The TRIPs Agreement stipulates that the infringement of trademark rights should be liable for compensation, but it does not require Member States to give punitive compensation. The TPPA only encourages Member States to establish punitive compensation system, which means that the punitive compensation system in China's trademark law has obviously exceeded the requirements of the TRIPs Agreement and the TPPA. In short, China should pay attention to grasp the basic trend

of the development of intellectual property system in the post trips era, actively promote the reform of international intellectual property system, and take the development of a fairer, fair and reasonable intellectual property legal system as our strategic goal.

Finally, China's participation in and promotion of the reform of the international intellectual property system should adhere to the general principle of taking development as the first priority, and emphasize that "for the purpose of promoting the sustainable development of mankind and building a community with a shared future for mankind, we should reasonably balance the intellectual interests of the 'north and South'"[xix]. To promote the reform of the international intellectual property system, China should also take strengthening the application of intellectual property and encouraging innovation as the overall goal, improve the living standards of all mankind and share the achievements of intellectual property development.

CONCLUSION

"For more than half a century, the multilateral trading system and regional trade liberalization have accompanied and evolved alternately, and jointly promoted the process of globalization. China is an active participant, defender and contributor of the multilateral trading system. It advocates that the multilateral trading system represented by WTO is the main channel of Global trade rules, regional trade liberalization is its beneficial supplement, and the two promote each other And common development."[xx] The existing international intellectual property legal system is still a rule system dominated by developed countries and regions such as the United States and Europe. From the above analysis of the intellectual property provisions in the TPPA, we can see that the level of intellectual property legislation in China is by no means backward. China should actively try to change its role, become an active participant and contributor in the global governance system of intellectual property, jointly promote the improvement of the international intellectual property system under the multilateral trading system represented by WTO, truly realize the development goals jointly formulated by all members and build a community with a shared future for mankind.

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