

UNITED STATES OF AMERICA
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Person Presenting Testimony:

Zhengzhi Wang, Esq.

Beijing Globe-Law Law Firm,

on behalf of

PATENT PROTECTION ASSOCIATION OF
CHINA

Docket No.: USTR-2018-0005

ZHENGZHI WANG'S TESTIMONY FOR
PUBLIC HEARING REGARDING THE
PROPOSED ACTION IN THE SECTION 301
INVESTIGATION OF CHINA'S ACTS,
POLICIES, AND PRACTICES RELATED TO
TECHNOLOGY TRANSFER,
INTELLECTUAL PROPERTY, AND
INNOVATION

Panel: 16

Room: Courtroom A

Hearing Date: May 15-17, 2018 (Day 3)

Time: 11:30AM

Location: U.S. International Trade Commission,
500 E. Street S.W., Washington DC, 20436

TO THE SECTION 301 COMMITTEE:

I, Zhengzhi Wang, on behalf of the Patent Protection Association of China (the "PPAC" hereinafter) intend to testify as follows at the above-captioned hearing:

1. The Trade Act of 1974 limits the President's power to take only "appropriate" measures. The proposed level of increase in the rate of the duty and the aggregate level of trade to be covered appears to be inappropriate because the discrimination allegedly suffered by U.S. firms in China appears to be overstated.
2. The Section 301 Investigation Findings issued on March 22, 2018 (the "March 22, 2018 Findings" hereafter) mentioned that U.S. firms are mandated to establish a Joint Venture with Chinese domestic firms to do business in China and that the JV are usually used as the vehicle to force U.S. firms to transfer their IP rights to their Chinese partners.
3. These allegations are inconsistent with my experience as a seasoned IP lawyer in China and former

legal counsel for the PPAC who have been handling litigations on behalf of foreign companies to protect their IP rights in China through the Chinese judicial system.

4. As a seasoned Chinese IP lawyer, I have personally handled cases where companies within China that are invested solely by U.S. companies successfully protected their IP rights through the Chinese legal system.
5. In 2007, I handled a case where a U.S. compound material manufacturer established a company in Taicang City, Jiangsu Province, China as the sole investor. To my knowledge, said manufacturer is currently enjoying the growing Chinese market and planning to establish its third factory in Jiangsu Province. Also, to my knowledge, this company's IP rights have been protected through the Chinese judicial system. In 2017, the company, although invested solely by a U.S. firm, successfully protected its IP rights by prosecuting the wrongdoer who infringed its IP rights through the Chinese court, and the wrongdoer had been criminally convicted.
6. Additionally, in 1996, a transmission manufacturer from California, United States, established a company in Jiangsu Province, China also as the sole investor. To my knowledge, said company has been continuously improving its products and is exporting its products manufactured in China to over 30 countries.
7. The above two cases I handled are two clear examples where foreign firms have been able to set up companies in China without forming a JV with a Chinese domestic company and have been successful in protecting their IP rights through the Chinese judicial system even though they are the sole owners of the companies operating in China. It appears to be inaccurate to state that foreign firms are forced to do business in China through a JV with a Chinese domestic firm, and that foreign IP rights are not protected in China. It is also inaccurate to state that foreign-owned

companies could not successfully protect their IP rights.

8. The Trade Act of 1974 mandates that the measures taken under Section 301 by the President must be “appropriate”. As demonstrated by the above-mentioned examples, it appears that the discrimination allegedly suffered by U.S. firms in China has been overstated. The USTR is strongly recommended to further evaluate the reasonableness of the proposed measures according to the “appropriate” standard set forth by the Trade Act of 1974.
9. Additionally, since the issuance of the March 22, 2018 Findings, the Chinese government has made numerous announcements regarding its intended to further enhance protection of foreign firms’ IP rights, which has mitigated the alleged damages suffered by U.S. firms, if any.
10. In conclusion, it appears that the proposed additional duties may have been based on flawed grounds and thus inappropriate.

RESPECTFULLY SUBMITTED by

Zhengzhi Wang

Zhengzhi Wang, Esq.

Representative of the

PATENT PROTECTION ASSOCIATION OF CHINA