

**UNITED STATES
PATENT AND TRADEMARK OFFICE**

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Patent Public Advisory Committee
Quarterly Meeting

OPIA International Update

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UNITED STATES
PATENT AND TRADEMARK OFFICE



Topics for Discussion

- **WIPO Standing Committee on Patents (SCP)**
- **Update on China and other matters**

SCP - Origins

- Created in 1998 to serve as a forum to discuss issues, facilitate coordination and provide guidance concerning the progressive international development of patent law.
- SCP discussions initially included *harmonization of national laws and procedures* (see SCP/1/2).

SCP – Evolution

- The work program of the SCP was dramatically recalibrated when an impasse emerged between developed and developing countries.
- To move beyond the impasse, Member States agreed to a “balanced work-plan”, which includes:
 - Exceptions and Limitations to Patent Rights.
 - Quality of Patents, including Opposition Systems (includes work sharing).
 - Patents and Health.
 - Confidentiality of communications between clients and their patent advisors.
 - Transfer of technology.

SCP – Major Challenges

- **Brazil Proposal on a Manual on Exceptions and Limitations.**
- **GRULAC (Group of Latin American and Caribbean Countries) Proposal on WIPO Manual Update.**
- **Africa Group Proposal on Patents and Health (UN High Level Panel on Access to Medicines).**

SCP – 28th Session (July 2018)

○ **The Secretariat presented:**

- An updated reference document on the exception regarding acts for obtaining regulatory approval (*Bolar*).
- An updated Inventive Step study.

○ **Member States shared experiences with:**

- Cooperation between patent offices in search and examination.
- Publically accessible patent information.
- Ensuring confidentiality of communications between clients and patent advisors.

SCP – Future Work (29th Session)

- **Scheduled for Dec. 3-6, 2018**
- **Agenda:**
 - The Secretariat will prepare a new document on the research exception to the patent right, as well as an expansion of the Inventive Step study.
 - Conference on publically accessible patent databases; sharing session by patent practitioners on experiences negotiating licensing agreements.

SCP – US Objectives

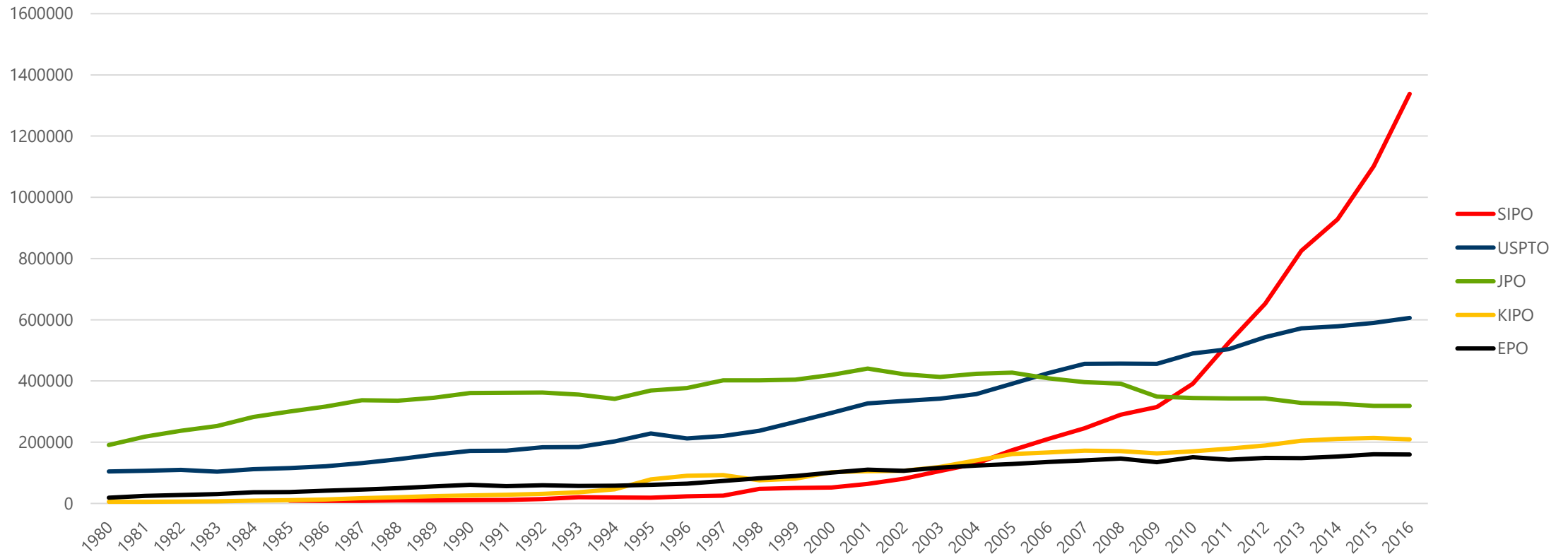
- (Short Term) Focus the work of the SCP on technical matters of benefit to a broad range of offices and away from controversial issues that are impeding progress.
- (Long Term) Create an appropriate environment for, and acceptance of, resuming normative work (e.g., substantive patent law harmonization).

Increased Worldwide Patent Filings by Chinese Entities

- In 2016, worldwide patent filings exceeded 3 million for the first time, an increase of 8.3% relative to 2015.
- This growth was driven overwhelmingly by China, which in 2016 received more applications than the U.S., Europe, Japan and South Korea combined.

Source: World Intellectual Property Indicators 2017, Geneva: World Intellectual Property Organization at 29.

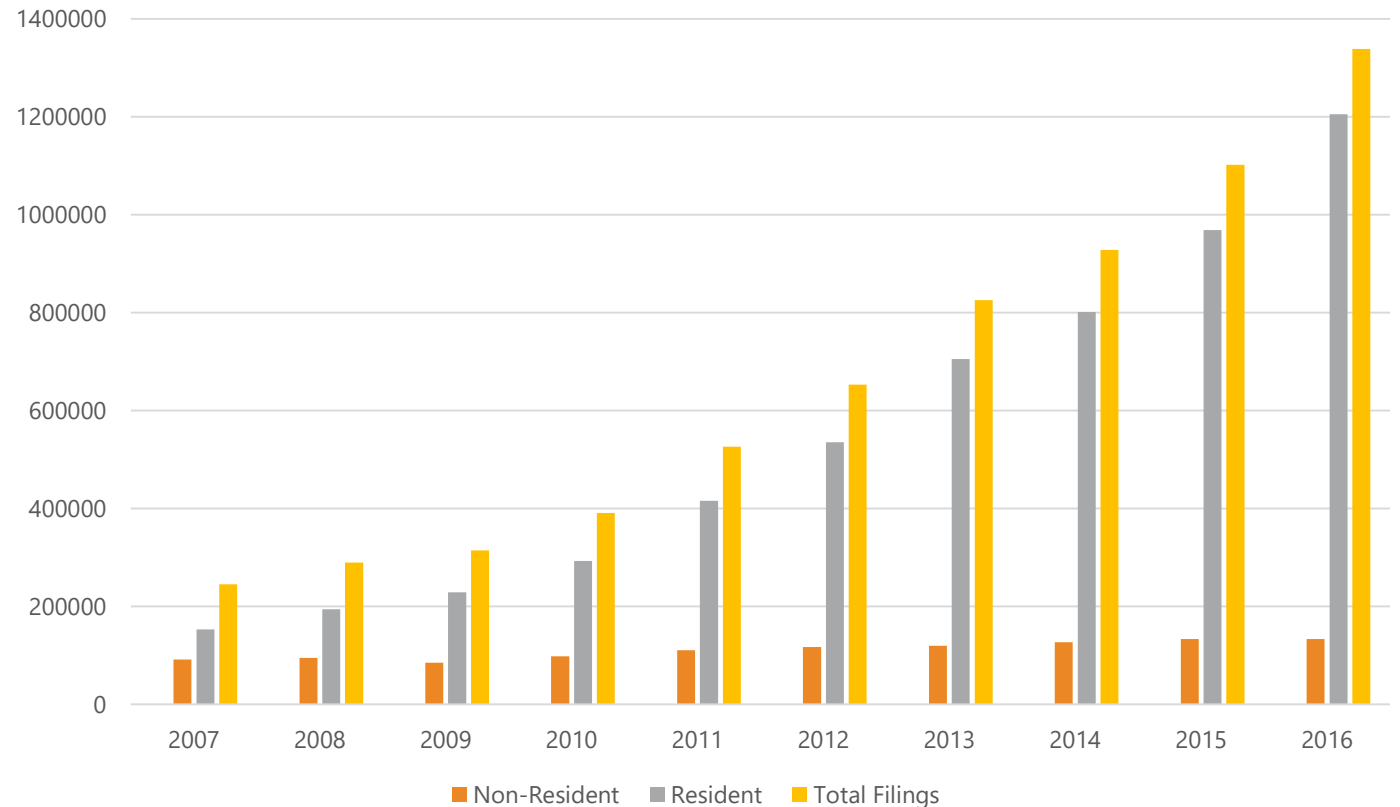
Patent Filing Trends for the IP5 Offices



Source: World Intellectual Property Indicators 2017. Geneva: World Intellectual Property Organization, at 32.

Growth in Patent Applications in China

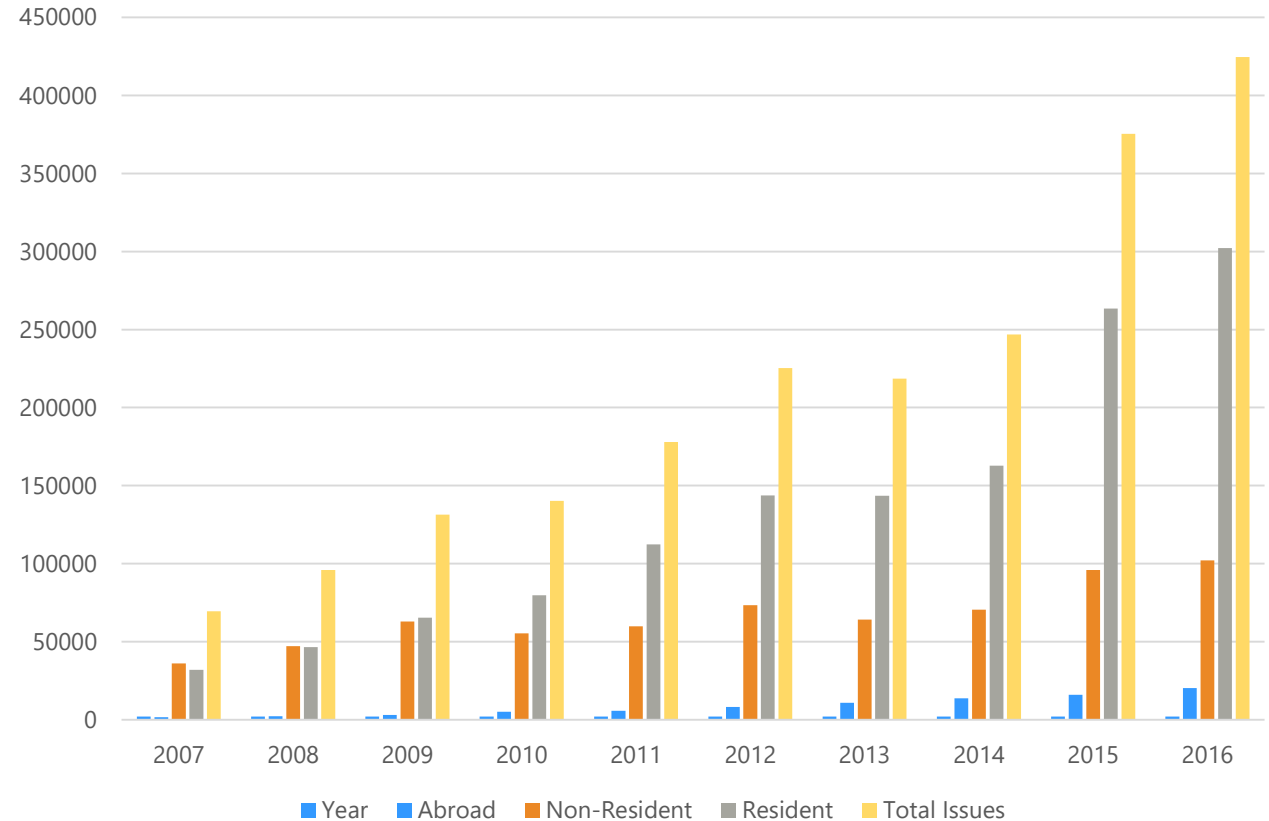
Year	Non-Resident	Resident	Total Filings	Percentage Increase
2007	92,101	153,060	245,161	
2008	95,259	194,579	289,838	18%
2009	85,508	229,096	314,604	9%
2010	98,111	293,066	391,177	24%
2011	110,583	415,829	526,412	35%
2012	117,464	535,313	652,777	24%
2013	120,200	704,936	825,136	26%
2014	127,042	801,135	928,177	12%
2015	133,612	968,252	1,101,864	19%



Source: WIPO Statistical Country Profiles: China (June 10, 2018)

Growth in Patent Grants in China

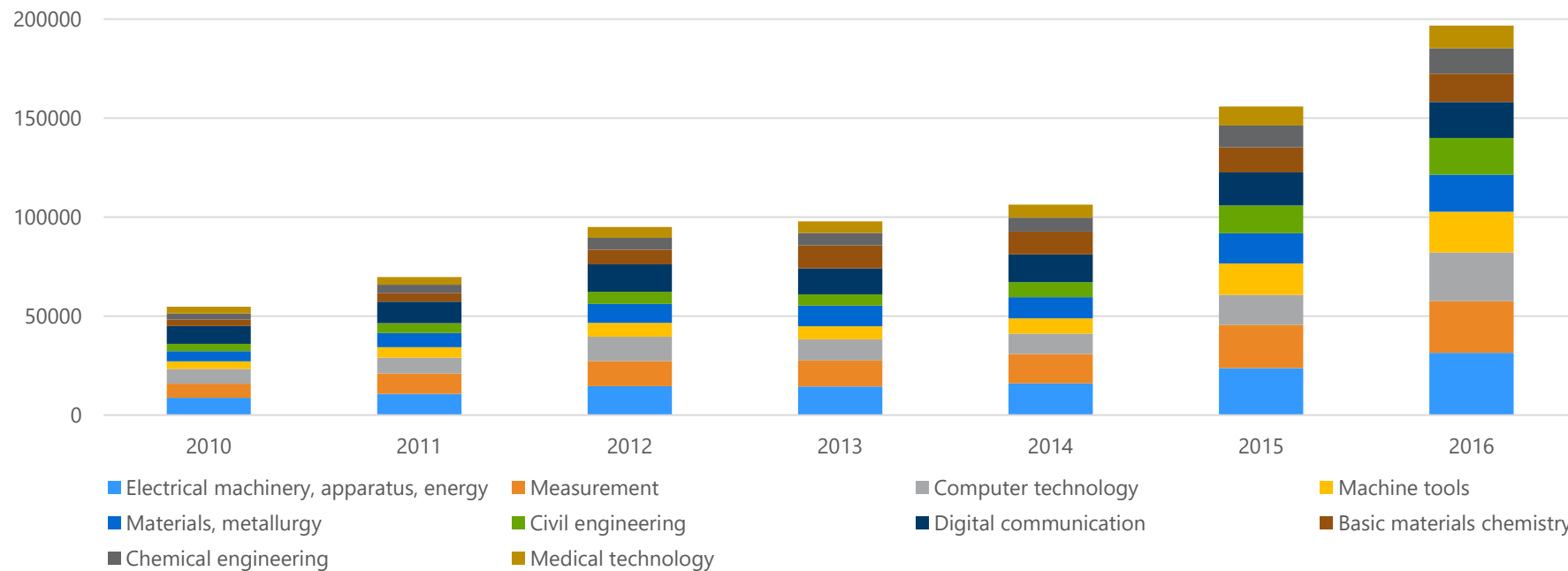
Year	Abroad	Non-Resident	Resident	Total Issues
2007	1,557	36,003	31,945	69,505
2008	2,329	47,116	46,590	96,035
2009	3,110	62,998	65,391	131,499
2010	5,047	55,343	79,767	140,157
2011	5,783	59,766	112,347	177,896
2012	8,289	73,297	143,808	225,394
2013	10,936	64,153	143,535	218,624
2014	13,667	70,548	162,680	246,895
2015	16,072	95,880	263,436	375,388
2016	20,348	102,072	302,136	424,556



Source: WIPO Statistical Country Profiles: China (June 10, 2018)

Growth in Chinese Patent Grants

- Much of the growth has been in the areas of computer and medical technology, which increased by 62% and 20% respectively from 2015 to 2016.



Based on data from WIPO IP Statistics Data Center

PCT Filings by Chinese Residents

- **In 2017, China was the second-largest source of PCT applications, closing in on the U.S.**
 - **Since 2003, the annual rate of growth of PCT applications originating in China has exceeded 10%.**
 - **Both of the two entities who filed the most PCT applications were of Chinese origin.**

Other Matters

- EU proposal to carve out certain exceptions to *Supplementary Protection Certificates* (SPCs) (which serve to extend the term of certain EU patents for regulated products).
- October 23-24 dialogue with experts from other IP5 offices on patent subject matter eligibility.

Questions and Comments

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