

Path selection and legal optimization of cross-border intellectual property dispute resolution for Chinese enterprises under the Belt and Road Initiative

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Abstract. Against the backdrop of the high-quality development of the Belt and Road Initiative (BRI), cross-border Intellectual Property (IP) disputes have emerged as a critical obstacle hindering Chinese enterprises' overseas expansion. Based on official reports, academic research findings, and typical practical cases, this paper systematically sorts out the three-dimensional legal framework for cross-border IP dispute resolution under the BRI, analyzes the core dilemmas faced by Chinese enterprises—including jurisdictional conflicts, enforcement barriers, and procedural cost predicaments—and conducts a comparative analysis of three mainstream dispute resolution paths. Furthermore, it puts forward scenario-based selection criteria, national-level system improvement proposals, and enterprise-level compliance strategies. The research indicates that scientific path selection must adhere to the principle of "scenario-based matching and dynamic adjustment", and the improvement of the dispute resolution system requires the joint efforts of all relevant parties to effectively safeguard the legitimate rights and interests of Chinese enterprises.

Keywords: Belt and Road Initiative, Chinese enterprises going global, cross-border intellectual property disputes, dispute resolution path, legal optimization

1. Introduction

With the in-depth advancement of the BRI, China's trade volume with BRI-participating countries reached 19.1 trillion yuan in 2024, accounting for 45.8% of the country's total foreign trade volume [1]. Intellectual property has become a core pillar for enterprises to compete internationally; however, differences in legal systems among various countries have led to frequent occurrences of cross-border IP disputes.

According to the 2025 Annual Report released by the China National Intellectual Property Administration (CNIPA), more than 70% of Chinese enterprises engaged in overseas business have encountered IP infringement disputes, and 45% of them have abandoned rights protection efforts due to high costs and cumbersome procedures [2]. Currently, enterprises rely on a single dispute resolution path and lack the capability to make scientific choices.

Existing academic research mainly focuses on the analysis of legal frameworks and the comparison of individual resolution paths, but it lacks a systematic investigation into the practical dilemmas faced by

enterprises and the construction of scenario-based selection systems, resulting in poor operability for practical application.

Adopting literature research, case analysis, and comparative analysis methods, this paper aims to address three core issues: the practical dilemmas of enterprises, the advantages and limitations of the three mainstream resolution paths, and the construction of scenario-based selection standards. It is intended to fill the research gaps and provide practical guidance for Chinese enterprises in resolving cross-border IP disputes.

2. Legal framework of cross-border IP dispute resolution for the Belt and Road Initiative

Cross-border IP dispute resolution under the BRI relies on a three-dimensional legal framework consisting of international treaties, regional organization norms, and national domestic laws, which serves as the foundation for analyzing dilemmas and optimizing resolution paths.

2.1. International treaty norms: basic legal basis

International treaties provide unified rules for IP protection and dispute resolution, including IP protection treaties (such as the Paris Convention, Berne Convention, World Intellectual Property Organization Copyright Treaty (WCT), and World Intellectual Property Organization Performances and Phonograms Treaty (WPPT)) and dispute resolution treaties (such as the New York Convention and the Singapore Convention). Bilateral Investment Treaties (BITs) also offer additional protection for cross-border IP rights.

The New York Convention, which has been ratified by more than 160 countries, ensures the global enforcement of arbitral awards. In contrast, the 2020 Singapore Convention standardizes the cross-border enforcement of mediation agreements [3, 4].

2.2. Regional international organization norms: supplementary coordination

Regional organizations such as the Regional Comprehensive Economic Partnership (RCEP) and the European Union (EU) complement the international treaty framework. The RCEP, which came into effect in 2022, has established a regional IP dispute cooperation mechanism, effectively reducing the cost of rights protection in the Association of Southeast Asian Nations (ASEAN) region [5].

The EU's Unified Patent Court (UPC), launched in 2023, exercises unified jurisdiction over EU patent disputes, and its rulings are enforceable in all EU member states [6].

2.3. National domestic legal norms: specific implementation basis

Domestic legal norms of BRI-participating countries vary significantly in terms of substantive and procedural IP laws, posing practical dilemmas for Chinese enterprises. For instance, the trial cycle of cross-border IP litigation ranges from 12 to 18 months in developed countries, while in some developing countries, it exceeds 3 years [2].

China's IP legal system has been continuously improved. The revised Patent Law, Trademark Law, Copyright Law, and the judicial interpretations issued by the Supreme People's Court have clearly defined the rules of jurisdiction and evidence [7].

3. Practical dilemmas of Chinese enterprises' cross-border IP disputes

Based on CNIPA's 2025 Annual Report and typical cases, Chinese enterprises face three core dilemmas in cross-border IP dispute resolution: jurisdictional conflicts, enforcement barriers, and procedural cost predicaments.

3.1. Jurisdictional conflicts in cross-border IP infringement disputes

More than 62% of Chinese enterprises have encountered jurisdictional conflicts, and this proportion rises to 78% in multi-country disputes [2]. These conflicts are mainly reflected in parallel jurisdiction, dilemmas in the application of long-arm jurisdiction, and uncertainty in applicable law rules.

3.1.1. *Parallel conflicts of multinational territorial jurisdiction*

Transnational infringement acts often result in parallel jurisdiction among multiple courts, forcing enterprises to face the "dilemma of selecting a competent court" or the "risk of multi-country parallel litigation", which significantly increases the cost of rights protection.

3.1.2. *Practical dilemmas in the application of long-arm jurisdiction*

Major economies are continuously expanding the scope of application of long-arm jurisdiction, and the "substantial impact" standard, which is the basis for its application, is highly uncertain. This imposes a heavy burden of cross-jurisdictional litigation on enterprises and further exacerbates jurisdictional conflicts.

3.1.3. *Uncertainty of applicable law rules*

Different countries apply different legal provisions to registered and unregistered IP rights, leading to inconsistent trial results in parallel litigation. Additionally, this uncertainty brings additional legal risks to disputes arising from IP license contracts.

3.2. Enforcement barriers of effective judicial and arbitral documents

The average enforcement success rate of judicial documents in BRI-participating countries is less than 30%, and the success rate of arbitral award enforcement is only about 55% [2]. These barriers mainly stem from difficulties in judgment enforcement, obstacles in arbitral award enforcement, and regional differences in enforcement standards.

3.2.1. *Core difficulties in the recognition and enforcement of foreign judgments*

The lack of a unified global convention on judgment enforcement, the limited coverage of bilateral judicial assistance treaties, cumbersome review procedures, and the abuse of public policy reservations have all hindered the effective enforcement of foreign judgments.

3.2.2. *Practical obstacles in the enforcement of arbitral awards under the New York convention*

Approximately 30% of arbitral awards encounter enforcement obstacles, including the abuse of public policy, strict formal review requirements, and inefficient enforcement procedures.

3.2.3. *Regional differences in enforcement standards*

The enforcement success rate exceeds 80% in developed BRI-participating countries, but it is less than 40% in underdeveloped countries. There are also significant differences in the scope of enforceable documents among different regions [2].

3.3. Procedural and cost dilemmas for Chinese enterprises

More than 45% of enterprises abandon rights protection due to high time and economic costs, as well as high professional thresholds [2]. These dilemmas specifically include long dispute resolution cycles, high costs, and

information asymmetry.

3.3.1. Long dispute resolution cycle and high time cost

Cross-border IP litigation takes an average of 18 to 36 months, while arbitration takes 12 to 24 months. This long cycle often causes enterprises to lose market opportunities and disrupts their overseas layout.

3.3.2. High litigation/arbitration costs and professional threshold

The cost of a single cross-border IP litigation ranges from 80,000 to 300,000 US dollars, and the cost of arbitration ranges from 50,000 to 200,000 US dollars. Most enterprises lack professional cross-border IP legal teams to handle these disputes effectively.

3.3.3. Information asymmetry in cross-border legal services

Enterprises often lack a comprehensive understanding of the legal systems and legal service providers in BRI-participating countries, leading to inadequate risk prevention and improper selection of legal services.

3.4. Summary of section 3

The dilemmas faced by Chinese enterprises are interrelated: jurisdictional conflicts bring uncertainty to dispute resolution, enforcement barriers invalidate favorable judicial and arbitral documents, and high thresholds force enterprises to abandon rights protection. These problems originate from differences in legal systems among countries, imperfect coordination mechanisms, and insufficient professional capabilities of enterprises themselves.

4. Comparative analysis of three mainstream cross-border dispute resolution paths

This section conducts a comparative analysis of three mainstream cross-border IP dispute resolution paths—cross-border civil litigation, international commercial arbitration, and diversified Alternative Dispute Resolution (ADR) mechanisms—to provide a basis for scenario-based path selection.

4.1. Cross-border civil litigation: advantages and limitations

Cross-border civil litigation is a formal dispute resolution path with strong state compulsory force, and it has distinct advantages and inherent limitations.

4.1.1. Core advantages

It possesses strong compulsory enforcement within the jurisdiction of the court, with improved procedural guarantees and relief mechanisms. Moreover, it is more convenient for Chinese enterprises to initiate litigation in their home country [8].

4.1.2. Inherent limitations

It faces prominent jurisdictional conflicts and significant barriers in the enforcement of foreign judgments (with a success rate of less than 30%). Additionally, it has a long resolution cycle, high costs, and lacks flexibility and confidentiality [2].

4.1.3. Applicable scenarios

It is the optimal path for cases involving single-country infringement, disputes in countries that have signed bilateral judicial assistance treaties with China, cases that have a serious impact on China's market, and situations where urgent temporary measures are required.

1. The infringement act and the infringer's assets are concentrated in a single country, eliminating the need for cross-border enforcement;
2. The infringer's country has signed a bilateral judicial assistance treaty with China;
3. The infringement act has a serious impact on China's market, and the infringer has executable assets in China;
4. Urgent temporary measures are needed to stop the infringement.

4.2. International Commercial Arbitration: Dominant Path in Cross-border IP Disputes

International commercial arbitration is the mainstream path for cross-border IP disputes, which has legal binding force based on the agreement of the parties involved.

4.2.1. Core advantages

Under the framework of the New York Convention, it has global enforceability (with a success rate of approximately 55%). It also features a high degree of party autonomy, strong professionalism, and strict confidentiality [2, 3].

4.2.2. Inherent limitations

It has high costs and professional thresholds, limited interim measures, inability to bind third parties, and limited relief mechanisms for arbitral awards.

4.2.3. Applicable scenarios

It is the optimal choice for multi-country disputes, cases with valid arbitration clauses, disputes involving complex technical issues, cases with high confidentiality requirements, and situations where cooperative relations between the parties need to be maintained.

1. Multi-country disputes that require cross-border enforcement under the New York Convention;
2. Cases with valid arbitration clauses agreed upon by the parties;
3. Cases involving complex IP technical issues that require professional judgment;
4. Cases with high confidentiality requirements to protect business secrets;
5. Cases where the parties need to maintain long-term cooperative relations after dispute resolution.

4.3. Diversified ADR mechanisms: commercial mediation and neutral evaluation

Alternative Dispute Resolution (ADR) mechanisms, mainly including commercial mediation and neutral evaluation, are widely applied in cross-border IP disputes. The Singapore Convention has further promoted the cross-border application of these mechanisms.

4.3.1. Core advantages

It boasts high efficiency (with a resolution cycle of 1 to 3 months), low cost, win-win outcomes, strict confidentiality, and strong compatibility with other dispute resolution paths [9].

4.3.2. Inherent limitations

Settlement agreements reached through ADR lack compulsory enforcement power, rely heavily on the willingness of the parties, and lack mandatory procedural guarantees [4].

4.3.3. Applicable scenarios

It is most suitable for disputes between parties with cooperative relations, early-stage small-scale disputes, cases with high confidentiality requirements, pre-litigation/arbitration negotiation procedures, and post-award settlement.

1. Long-term cooperative relations where disputes need to be resolved in a harmonious manner to maintain cooperation;

2. Early-stage, small-scale disputes with clear facts and low dispute amounts;
3. Cases with high confidentiality requirements to avoid negative impacts on the parties' reputation;
4. Pre-litigation/arbitration negotiation attempts to explore the possibility of out-of-court settlement;
5. Settlement after the issuance of an arbitral award to facilitate the smooth enforcement of the award.

4.4. Horizontal comparative summary of the three paths

Table 1 presents the core differences among the three dispute resolution paths, providing clear guidance for enterprises to make scientific choices.

Table 1. Horizontal comparison of three mainstream cross-border IP dispute resolution paths

Core Dimension	Cross-border Civil Litigation	International Commercial Arbitration	Diversified ADR Mechanisms
Global Enforcement Effect	Weak (relying on bilateral treaties)	Strong (160+ countries under New York Convention)	Weak (limited Singapore Convention coverage)
Party Autonomy	Very low	Very high	Highest
Professionalism	Medium	High	Medium
Confidentiality	Very low	Very high	Highest
Average Resolution Cycle	18-36 months	12-24 months	1-3 months
Cost Level	High	Very High	Very Low
Compulsory Power	Highest	High	Very Low
Impact on Cooperative Relations	Severe antagonism	Moderate antagonism	No antagonism, win-win
Relief Mechanism	Multi-level appeal/retrial	Very limited	No relief for failed mediation

4.5. Summary of section 4

Each of the three dispute resolution paths has its own advantages and limitations: cross-border civil litigation has strong compulsory force but poor cross-border enforcement effect; international commercial arbitration, as the dominant path, has global enforceability but high costs; ADR mechanisms are efficient and low-cost but lack compulsory power.

5. Scenario-based optimal path selection and legal optimization suggestions

Based on the practical dilemmas faced by Chinese enterprises and the comparative analysis of the three mainstream resolution paths, this chapter proposes scenario-based optimal path selection standards and puts forward targeted legal optimization suggestions from both national and enterprise levels to address the core pain points in cross-border IP dispute resolution.

5.1. Scenario-based optimal path selection standards

Following the principle of "scenario-based matching and dynamic adjustment", and combining the characteristics of different types of disputes and the actual needs of enterprises, this section clarifies four

typical scenarios and their corresponding optimal resolution paths, providing directly operable guidance for Chinese enterprises.

5.1.1. Scenario 1: single-country IP infringement with clear assets

When the infringement act and the infringer's main assets are concentrated in a single BRI-participating country, and that country has a sound judicial system or has signed a bilateral judicial assistance treaty with China, cross-border civil litigation is the optimal path. Enterprises can file a lawsuit in the local court of that country or in a Chinese court (if the infringement act has an impact on China's market), relying on the court's compulsory power to quickly stop the infringement and enforce the judgment.

5.1.2. Scenario 2: multi-country cross-border IP disputes

For disputes involving multiple BRI-participating countries (such as the transnational production, sales, and circulation of infringing products), international commercial arbitration is the preferred path. It can help avoid parallel litigation in multiple countries and rely on the New York Convention to realize the global enforcement of arbitral awards, thereby reducing the cost of rights protection and improving resolution efficiency.

5.1.3. Scenario 3: small-scale disputes with cooperative relations

When the dispute amount is small, the facts are clear, and the two parties have a long-term cooperative relationship, diversified ADR mechanisms (mainly commercial mediation) are the optimal choice. It can resolve disputes in a harmonious manner, maintain the cooperative relationship between the parties, and save time and economic costs [9].

5.1.4. Scenario 4: complex technical IP disputes

For disputes involving complex technical issues (such as patent infringement and software copyright disputes), international commercial arbitration is the first choice. Enterprises can select arbitrators with dual backgrounds in law and technology to ensure the professionalism and fairness of the arbitral award, which is more advantageous than ordinary court litigation.

5.2. National-level legal system improvement suggestions

To address core dilemmas such as jurisdictional conflicts and enforcement barriers, the state should strengthen the construction of the cross-border IP dispute resolution system and promote the improvement of multilateral coordination mechanisms.

First, expand the coverage of bilateral judicial assistance treaties. Accelerate the negotiation and signing of bilateral treaties on the recognition and enforcement of civil and commercial judgments with major BRI-participating countries, especially developing countries in Southeast Asia, the Middle East, and Africa, to reduce barriers to judgment enforcement.

Second, strengthen regional IP dispute coordination. Deepen cooperation under the RCEP framework, promote the establishment of a regional IP dispute mediation and arbitration platform, and realize the coordination of IP law enforcement and dispute resolution among member states [5]. Strengthen cooperation with the EU UPC to provide convenience for Chinese enterprises in protecting their IP rights in the EU market.

Third, improve the supporting system for cross-border IP dispute resolution. Establish a cross-border IP dispute information service platform to provide enterprises with legal consultation, case references, and recommendations for legal service providers. Increase support for small and medium-sized enterprises and set up special funds for cross-border IP rights protection to reduce their cost burden [2].

5.3. Enterprise-level IP compliance and risk prevention strategies

Enterprises are the main body of cross-border IP rights protection, and improving their own compliance capabilities is the fundamental way to reduce the risk of disputes.

First, strengthen pre-market IP layout and risk assessment. Before entering the BRI market, conduct in-depth research on the local IP legal system and infringement risks, and complete the registration of patents, trademarks, and other IP rights to avoid the risk of squatting [8].

Second, improve the ability of path selection and rights protection. Establish a professional cross-border IP legal team or cooperate with high-quality international legal service providers to scientifically select dispute resolution paths according to the specific scenario of the dispute. Include clear arbitration clauses in IP-related contracts to lay a solid foundation for subsequent dispute resolution [6].

Third, strengthen information collection and exchange. Establish an information sharing mechanism with industry associations and other enterprises to timely grasp the latest trends of cross-border IP disputes in BRI-participating countries and avoid the risk of information asymmetry.

5.4. Summary of section 5

Scenario-based path selection is the key for Chinese enterprises to resolve cross-border IP disputes effectively. The improvement of the dispute resolution system requires the joint efforts of the state and enterprises: national-level system improvement can provide institutional guarantees, while enterprise-level compliance and risk prevention can reduce the risk of disputes from the source.

6. Conclusion

Against the backdrop of the high-quality development of the BRI, cross-border IP disputes have become an important obstacle restricting the overseas development of Chinese enterprises. This paper systematically sorts out the three-dimensional legal framework for cross-border IP dispute resolution under the BRI, analyzes the core practical dilemmas faced by Chinese enterprises, and conducts a comprehensive comparative analysis of the three mainstream dispute resolution paths.

The research concludes that there is no one-size-fits-all optimal path for cross-border IP dispute resolution; scientific selection must adhere to the principle of "scenario-based matching and dynamic adjustment". The core dilemmas faced by enterprises are rooted in the differences in legal systems among BRI-participating countries, the imperfection of multilateral coordination mechanisms, and the insufficient professional capabilities of enterprises themselves. To address these dilemmas, the state needs to improve the legal system and coordination mechanisms, while enterprises need to strengthen compliance management and risk prevention.

This paper has certain theoretical and practical value, but it also has limitations: the research is mainly based on the overall situation of BRI-participating countries, and the analysis of regional differences is not in-depth enough. In the future, further research can be conducted on the characteristics of cross-border IP dispute resolution in different regions (such as ASEAN and Central and Eastern Europe) to put forward more targeted path selection and optimization suggestions.

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