

# **Intellectual Property Protection in China, Indonesia, the Philippines Thailand and Vietnam**

**Patrice Vidon**

**12 May 2021**

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Founding and Managing Partner of Vidon IP Law Group (Europe - Asia), a network of more than 40 IP consultants, attorneys and lawyers in 8 offices, Patrice has been specializing for 25 years in setting up and implementing worldwide patent and IP business-related strategies, including IPR-driven business strategies, FTO, litigation, and IP & competition law issues in North-Eastern Asia (incl. China), the ASEAN, continental Europe, and the USA.

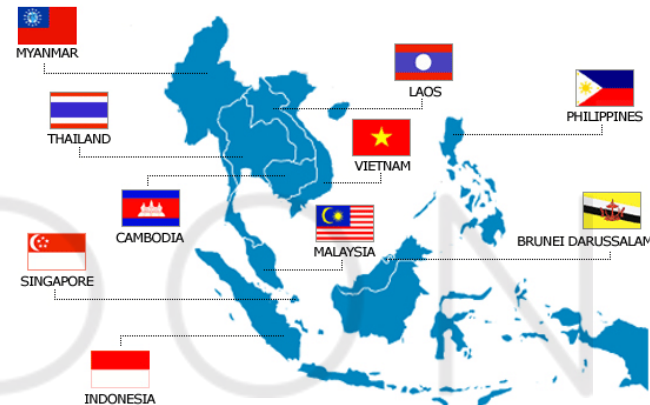
A French ingénieur-diplômé (MSc in Mechanics and Computer Science), with additional education in Law (Pantheon-Sorbonne and Strasbourg) and Economics (Paris Institute of Political Science), Patrice is a registered patent and trademark Attorney at INPI (France), EPO (Munich), OHIM (Alicante) and WIPO (Geneva).

# Agenda

- The Chinese and South-East Asian IP landscape
- First approach of worldwide patenting activity in remote sensing
- Case studies and strategy



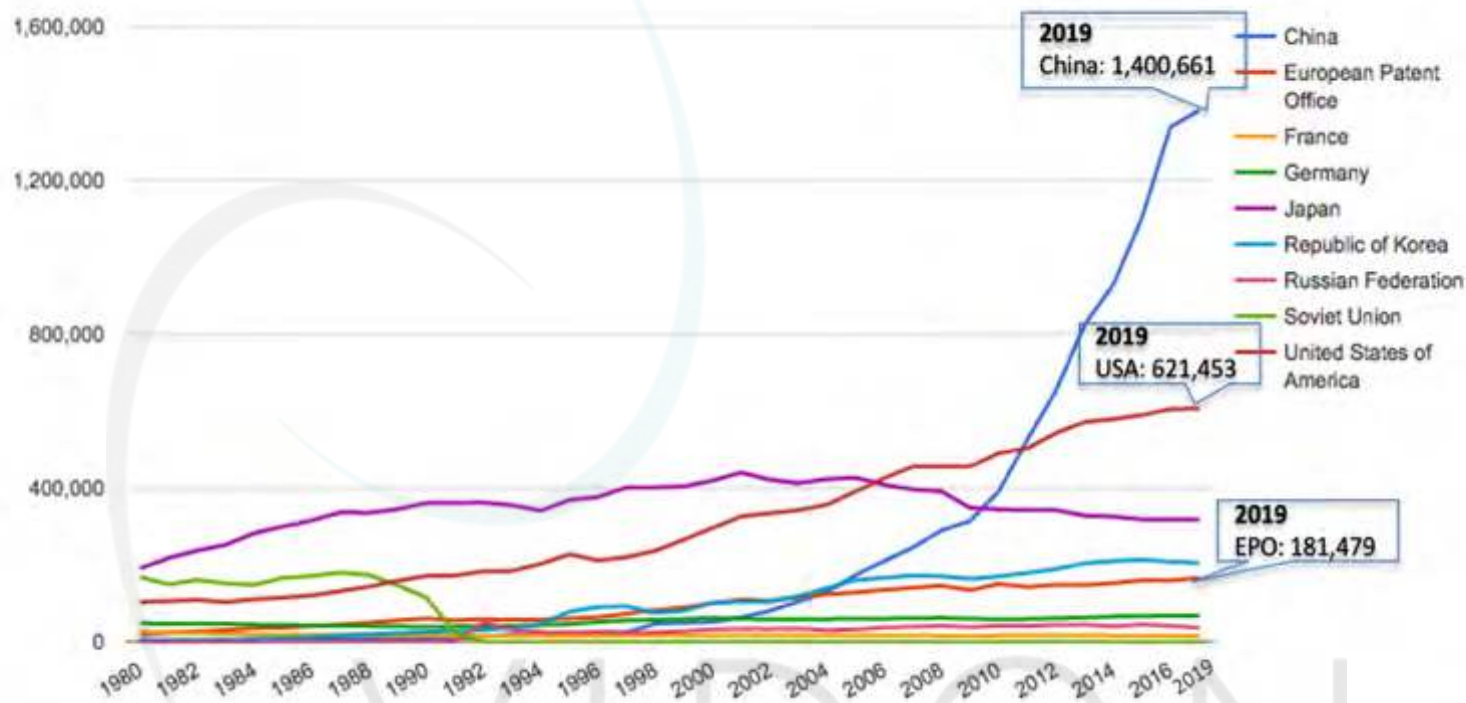
PR of CHINA



# Chinese and South-East Asian IP landscape

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# Applications for patents of invention filed in major countries

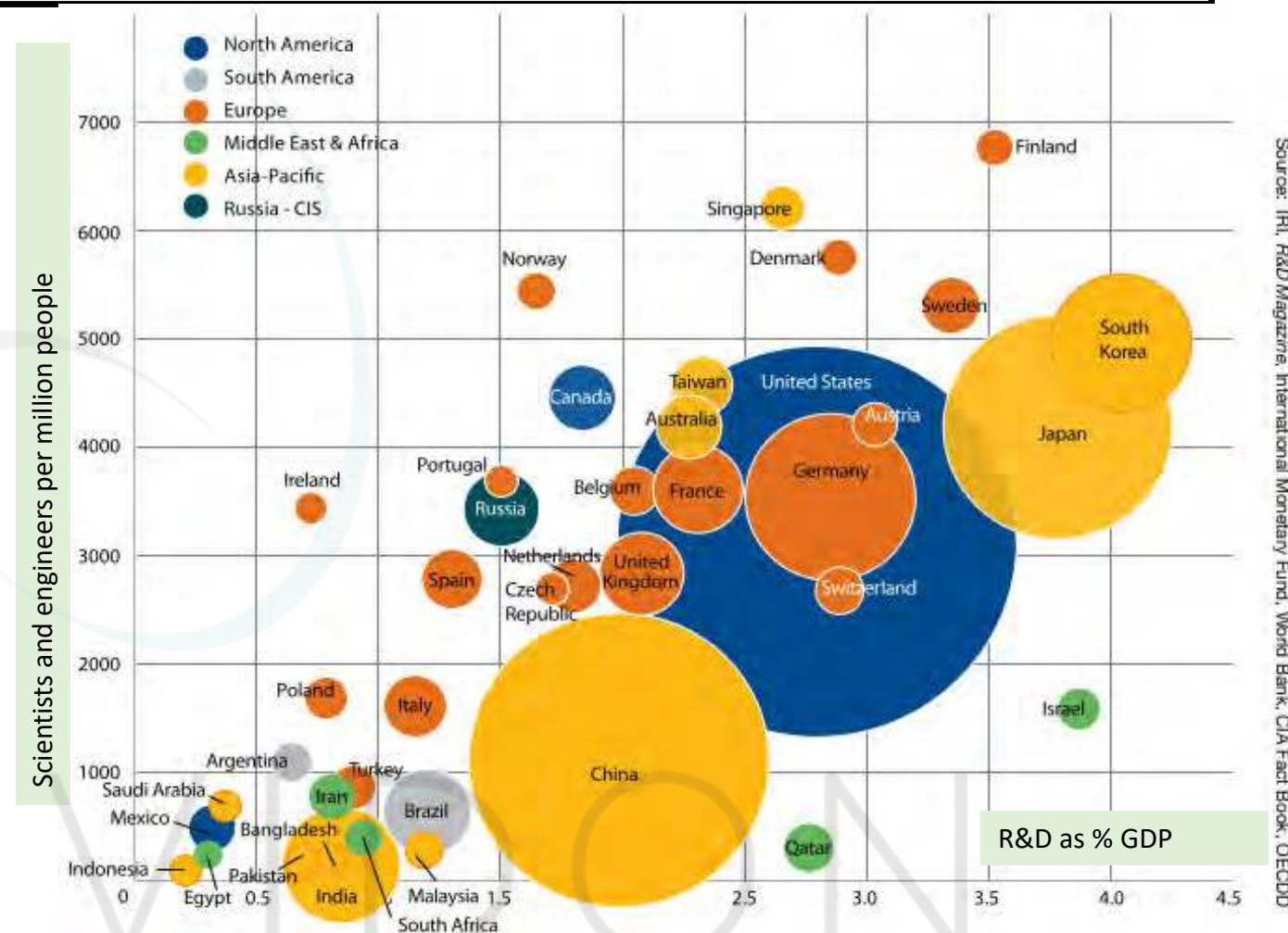


Source : WIPO

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# R&D Worldwide Spendings

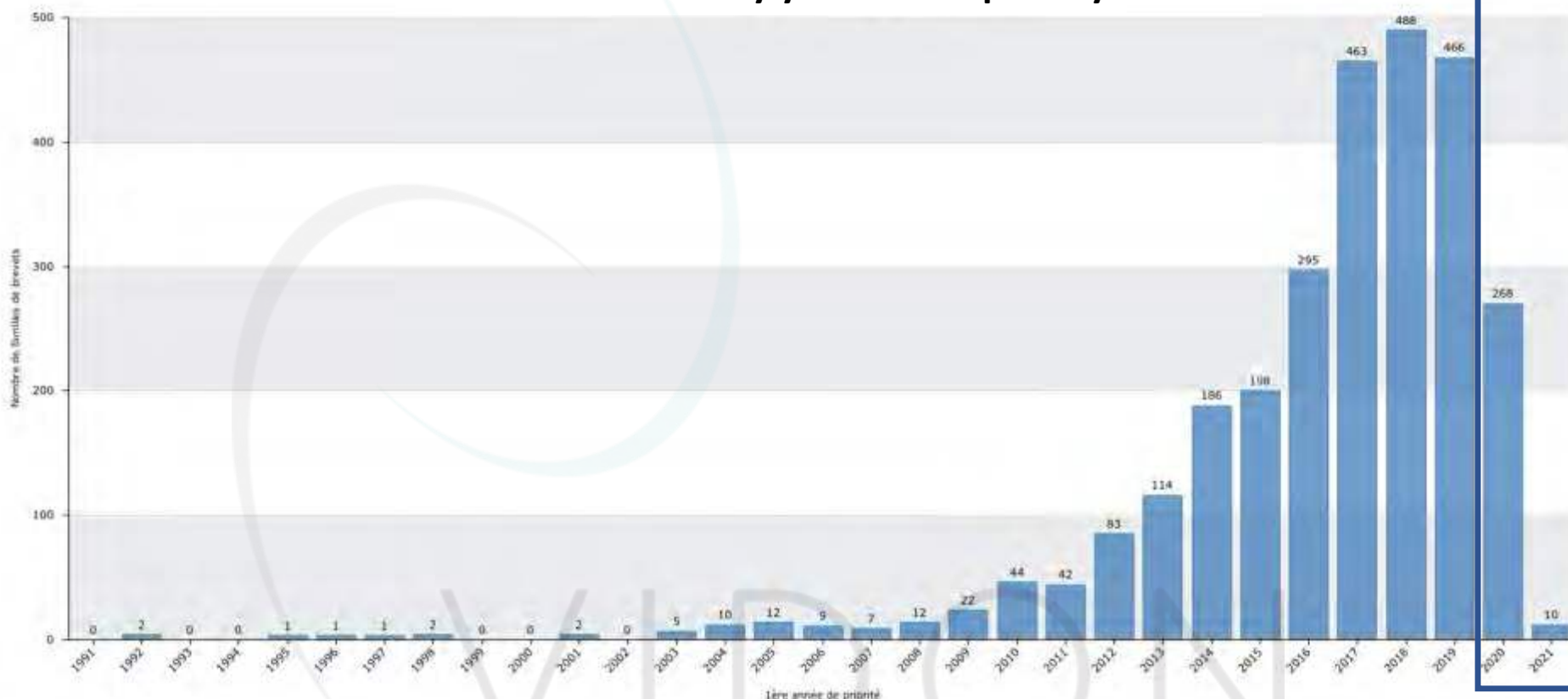


Source: IRI, R&D Magazine, International Monetary Fund, World Bank, CIA Fact Book, OECD



# Worldwide patent applications filed by companies under the name « remote sensing »

Patent families by year of first priority



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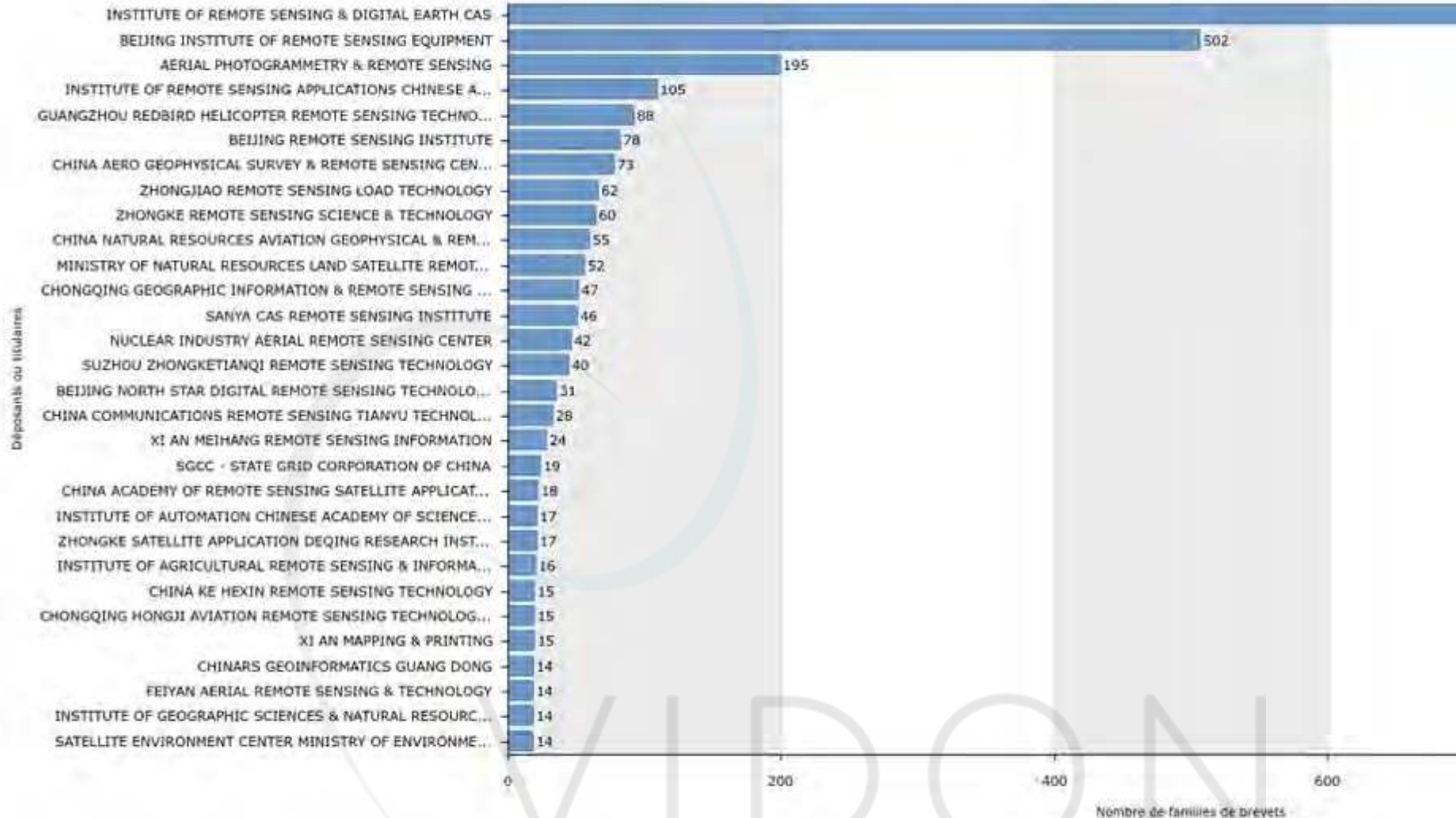
# Top 30 Applicants under the name « remote sensing »



Institute of Remote Sensing and Digital  
Earth, Chinese Academy of Sciences



859



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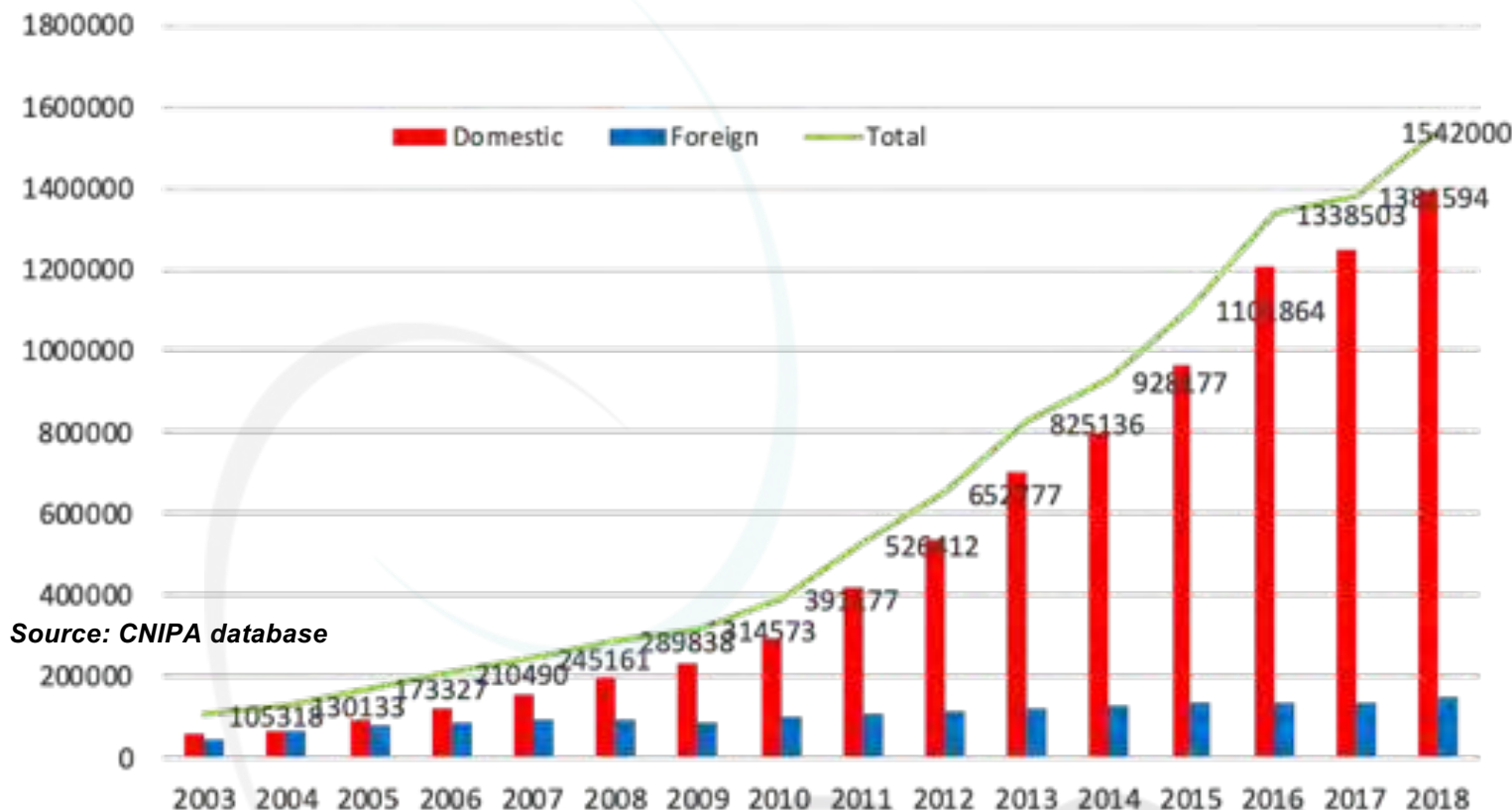
# The Chinese IP Model

- A stimulating ecosystem, moving quickly from a manufacturing economy to an innovation economy
- A local economical patriotism that nurtures traps and pitfalls for unprepared foreign companies, namely:
  - US-China Trade War (with IP being a key issue)
  - Numerous examples of Western companies being trapped
- Key role of intellectual property in the strategy of a foreign company in Far-East Asia

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# Domestic and foreign patent applications in China

Applications for Invention Patents in China



- Sharp improvement of Chinese R&D

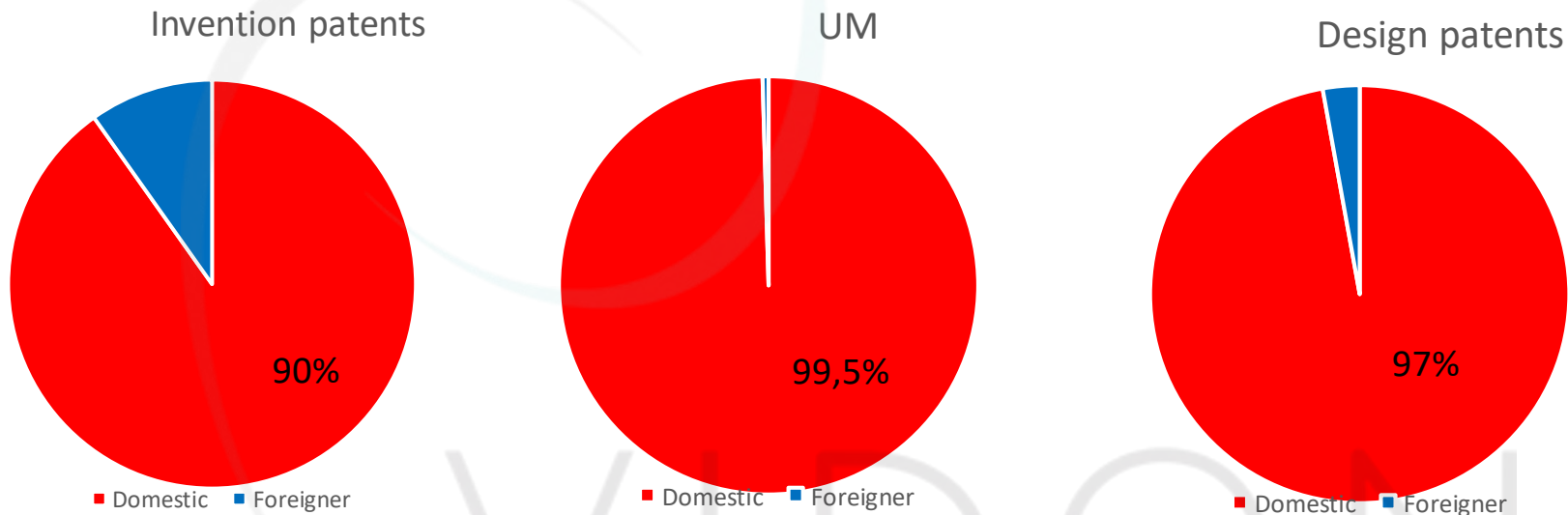
- Chinese firms massively invest in IPR management to override foreign competitors but also Chinese competitors !

# Chinese patent regime

## 3 kinds of « patents » in China

Type of « patent »	Object	Duration of protection	Examination (nature and duration)
Invention	Product Process	20 yrs	Examination : formal and on merit : 3-4 yrs
Utility Model	Shape or structure of a product	10 yrs	Formal examination: 8- 12 months
Design Patent	Aestetical aspect with industrial application	10 yrs	Formal examination: 6- 8 months

# Statistics of patent applications in China by type of patent



Source: SIPO/CNIPA Database

# USTR INVESTIGATIONS USC 301

OFFICE of the UNITED STATES TRADE REPRESENTATIVE  
EXECUTIVE OFFICE of the PRESIDENT

FINDINGS OF THE INVESTIGATION INTO  
CHINA'S ACTS, POLICIES, AND PRACTICES  
RELATED TO TECHNOLOGY TRANSFER,  
INTELLECTUAL PROPERTY, AND INNOVATION  
UNDER SECTION 301 OF THE TRADE ACT OF 1974



March 22, 2018

**China's unfair  
technology  
transfer regime for  
US companies in  
China**

**Unauthorized intrusions  
into US commercial  
computer network and  
cyber-enabled theft of  
intellectual property and  
sensitive commercial  
information**

- joint venture (JV) requirements
- foreign equity limitations
- Technology control laws
- administrative licensing and approvals process

National Medium- and Long-Term Science and Technology Development Plan Outline (2006-2020) (MLP)

***Opinions on Encouraging Technology Introduction and Innovation and Promoting the Transformation of the Growth Mode in Foreign Trade (IDAR Opinions),***

- ***Introduce:*** Chinese companies should target and acquire foreign technology. Methods of "introducing" foreign technology that are specifically referenced include: technology transfer agreements, inbound investment, technology imports, establishing foreign R&D centers, outbound investment, and the collection of market intelligence by state entities for the benefit of Chinese companies.
- ***Digest:*** Following the acquisition of foreign technology, the Chinese government should collaborate with China's domestic industry to collect, analyze, and disseminate the information and technology that has been acquired.
- ***Absorb:*** The Chinese government and China's domestic industry should collaborate to develop products using the technology that has been acquired. The Chinese government should provide financial assistance
- ***Re-innovate:*** "allow enterprises to possess more indigenous intellectual property for core products and core technologies."



## Marks

Indonesia

Thailand

Malaysia

## Designs

Indonesia

Thailand

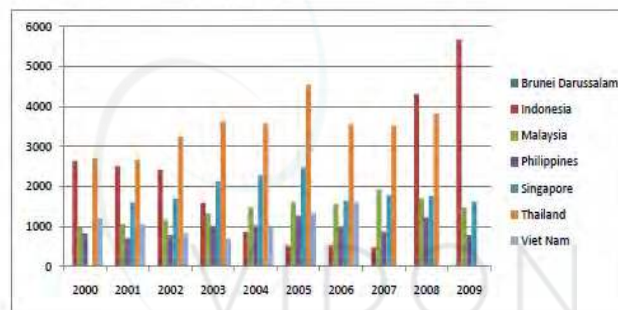
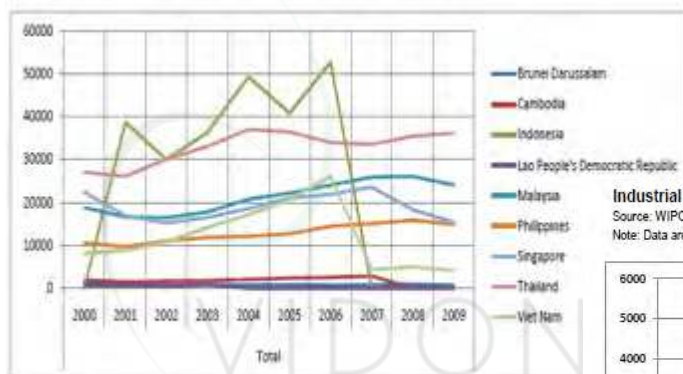
SG/Malaysia

## Invention

Singapore

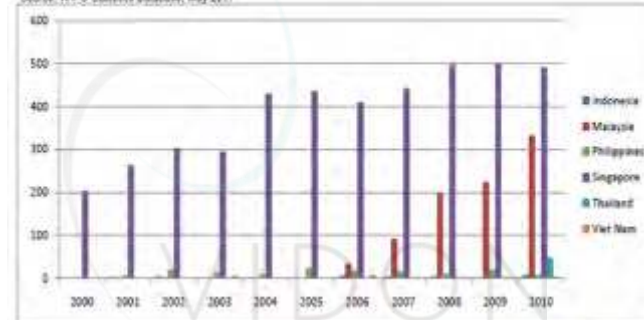
Thailand

Malaysia



Number of PCT Filings by Office

Source: WIPO Statistics Database, May 2011



ASEAN PATENTSCOPE

## *IP landscape in the 10 ASEAN countries (Membership to IP international)*

Countries	Convention of Paris	WIPO (OMPI)	PCT	WTO (ADPIC)	Conventions of Berne and Geneva	Arrangement and Protocol of Madrid
Singapore	1995	1990	1995	1995	1998(B)	2000(P)
Malaysia	1989	1989	2006	1995	1990(B)	NO
Philippines	1965	1980	2001	1995	1997(B) ; 1955(G)	2012(P)
Indonesia	1950	1979	1997	1995	1997(B)	2018
Thailand	2008	1989	2010	1995	1931(B)	2017
Vietnam	1949	1976	1993	2007	2004(B)	1949(A) ; 2006(P)
Brunei	2012	1994	2012	1995	2006(B)	NO
Cambodia	1998	1995	NO	2004	1953(B)	NO
Laos	1998	1995	2006	2013	1954(B)	NO
Myanmar	NO	2001	NO	1995	NO	NO

# Geopolitics of intellectual property

## Official positions of the EU on IP issues in Far-Eastern countries

### EU watch list



**Priority 1: China**



**Priority 2: Argentina, India, Indonesia, Russia, Turkey et Ukraine**



**Priorité 3: Brazil, Equator, Malaisia, Mexico, the Philippines, Thailand and the United States of America**

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# Geopolitics of intellectual property

## Official positions of the EU on IP issues in Far-Eastern countries



Brussels, 21.3.2018  
SWD(2018) 47 final

## EU watch list (2018)



**Priority 2: (...) Indonesia, (...)**

COMMISSION STAFF WORKING DOCUMENT

Report on the protection and enforcement of intellectual property rights in third countries

### ***Progress :***

- ✓ ***Madrid Protocol (international Trade marks)***
- ✓ ***New Trade mark Law***
- ✓ ***Protection of Geographic Indications***
- ✓ ***New Regulations on online infringement***
- ✓ ***New customs Measures against infringement***

### ***Sources of improvement***

- ◆ ***Manufacture and export of a substantial volume of infringing goods***
- ◆ ***Too long judicial proceedings***
- ◆ ***Insufficient coopération between administrations in charge of fighting countefeiting***
- ◆ ***New patent Law allowing forced local exploitation of local patent rights***
- ◆ ***Insufficient protection of medical data and second medical use***
- ◆ ***Fraudulous filing /squatting foreign brands***
- ◆ ***Not yet Member of The Hague nor UPOV***



# First approach of worldwide patenting activity in remote sensing

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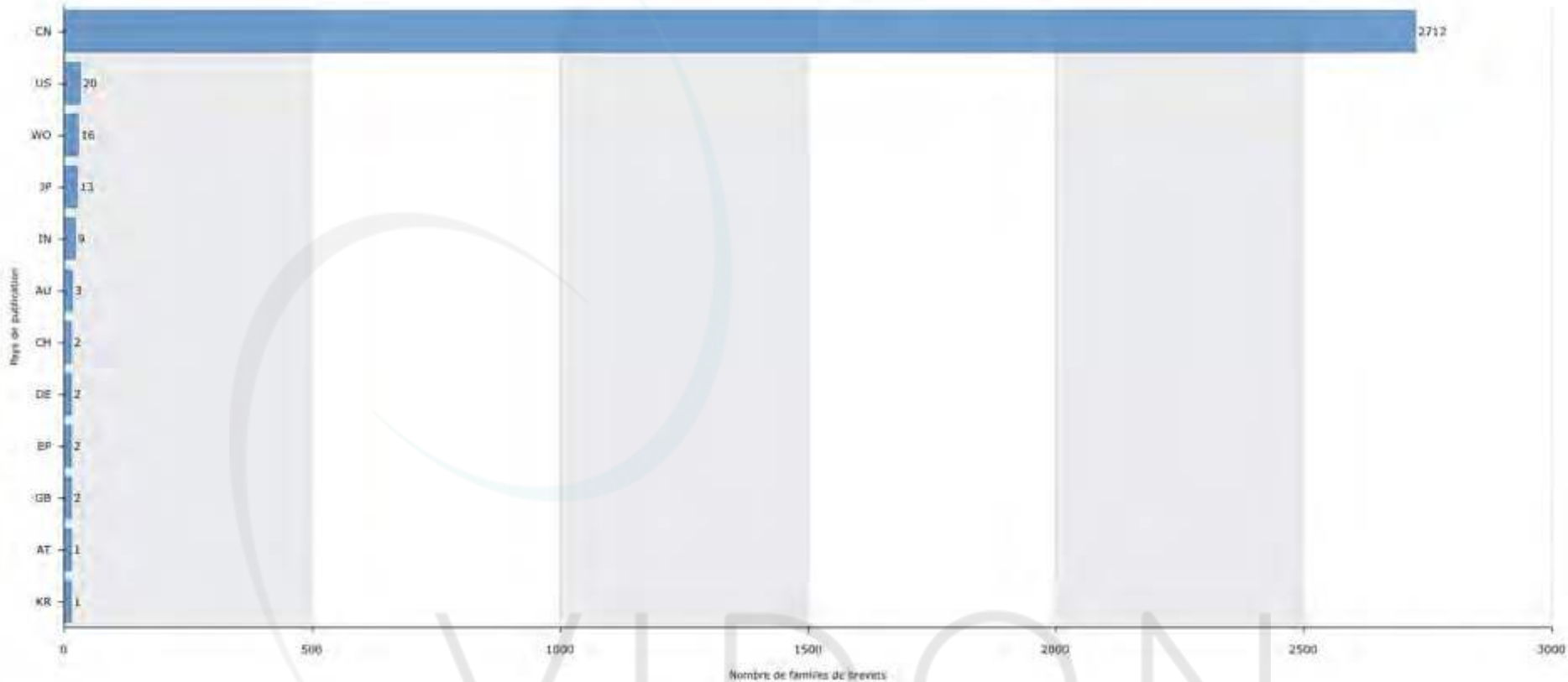


## Patent families by country of first priority



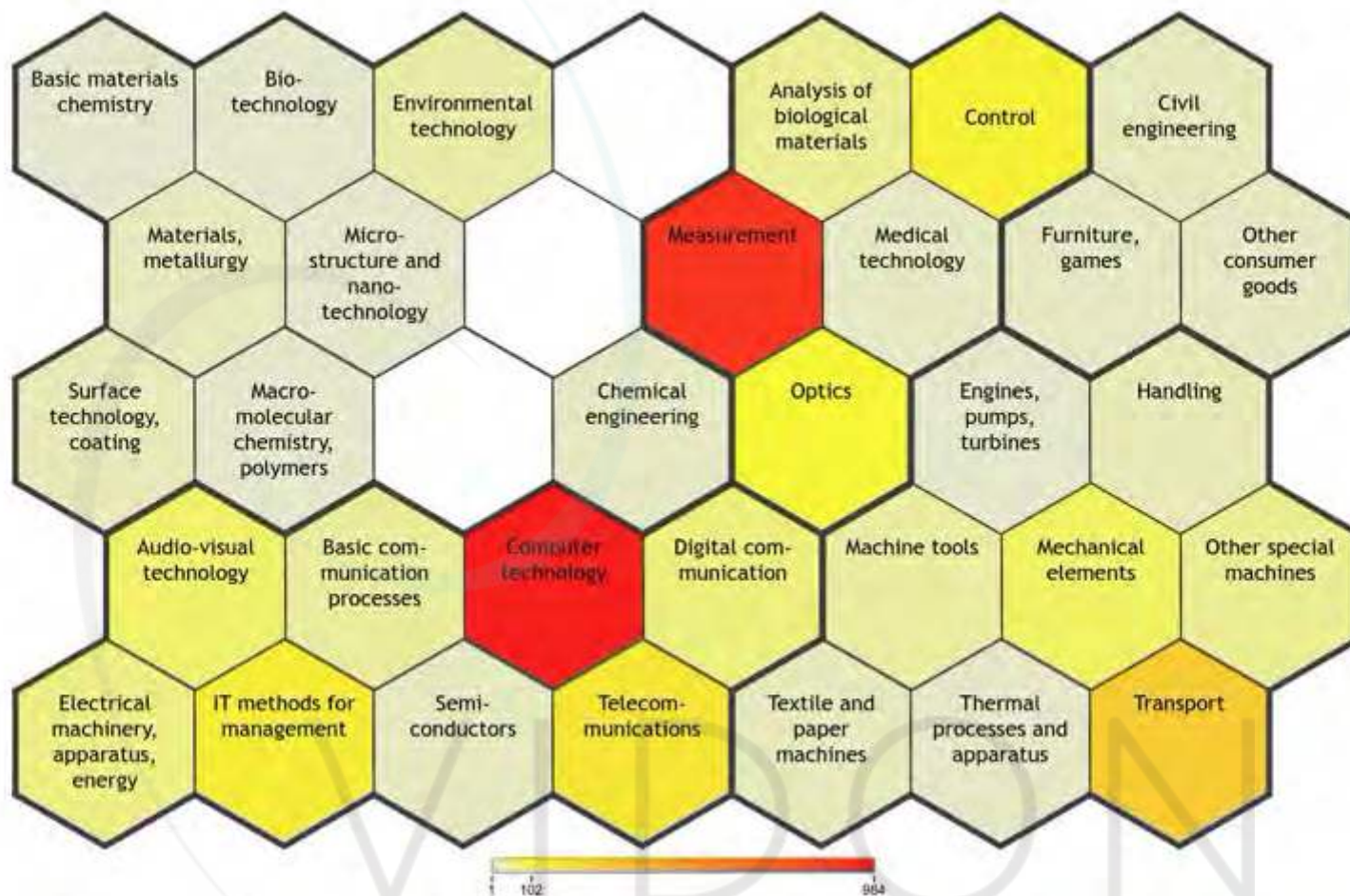
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## Patent families by country of publication



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## Patent families by technological domain



2021



7. Satellite communication phased-array antenna beam rapid switching method

★ Inventeur: HUANG YIN WANG ZHONGLIN (+2)	Demandeur: BEIJING REMOTE SENSING EQUIPMENT INST	CPC: <u>H01Q21/00</u> <u>H01Q3/26</u>	CIB: H01Q21/00 H01Q3/26	Informations sur la publication: CN112290218 (A) 2021-01-29	Date de priorité: 2020-09-14
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8. Satellite communication phased-array antenna beam synchronous switching method

★ Inventeur: HUANG YIN WANG ZHONGLIN (+2)	Demandeur: BEIJING REMOTE SENSING EQUIPMENT INST	CPC: <u>H01Q21/00</u> <u>H01Q3/26</u>	CIB: H01Q21/00 H01Q3/26	Informations sur la publication: CN112290217 (A) 2021-01-29	Date de priorité: 2020-09-04
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9. Radiometer for remote sensor in-orbit atmospheric correction

★ Inventeur: LIU YINNAN JIA XIAOWEI (+6)	Demandeur: QIDONG OPTOELECTRONIC REMOTE SENSING CENTER OF SHANGHAI INST OF TECHNICAL PHYSICS CHINESE ACADEMY OF	CPC: <u>G01J3/0297</u> <u>G01J3/2823</u> <u>G01N2021/0112</u> (+5)	CIB: G01J3/02 G01J3/28 G01N21/01 (+2)	Informations sur la publication: CN112284533 (A) 2021-01-29	Date de priorité: 2019-07-24
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10. Pipeline oil spilling path analysis method and device, computer equipment and storage medium

★ Inventeur: ZHANG PENGFEI GUO QINGSHAN (+5)	Demandeur: AERIAL PHOTOGRAMMETRY AND REMOTE SENSING CO LTD	CPC: <u>F17D5/02</u>	CIB: F17D5/02	Informations sur la publication: CN112283595 (A) 2021-01-29	Date de priorité: 2020-11-13
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11. Least square matching method based on adaptive object-side element

★ Inventeur: YANG NAN	Demandeur: SHENZHEN RES CENTER OF DIGITAL CITY ENGINEERING NAT LABORATORY FOR INFORMATION ENGINEERING IN SURVEYING MAPPING AND REMOTE SENSING	CPC: <u>G06K2009/363</u> <u>G06K9/36</u> <u>G06K9/6202</u>	CIB: G06K9/36 G06K9/62	Informations sur la publication: CN112288030 (A) 2021-01-29	Date de priorité: 2020-11-10
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# Case studies and strategy

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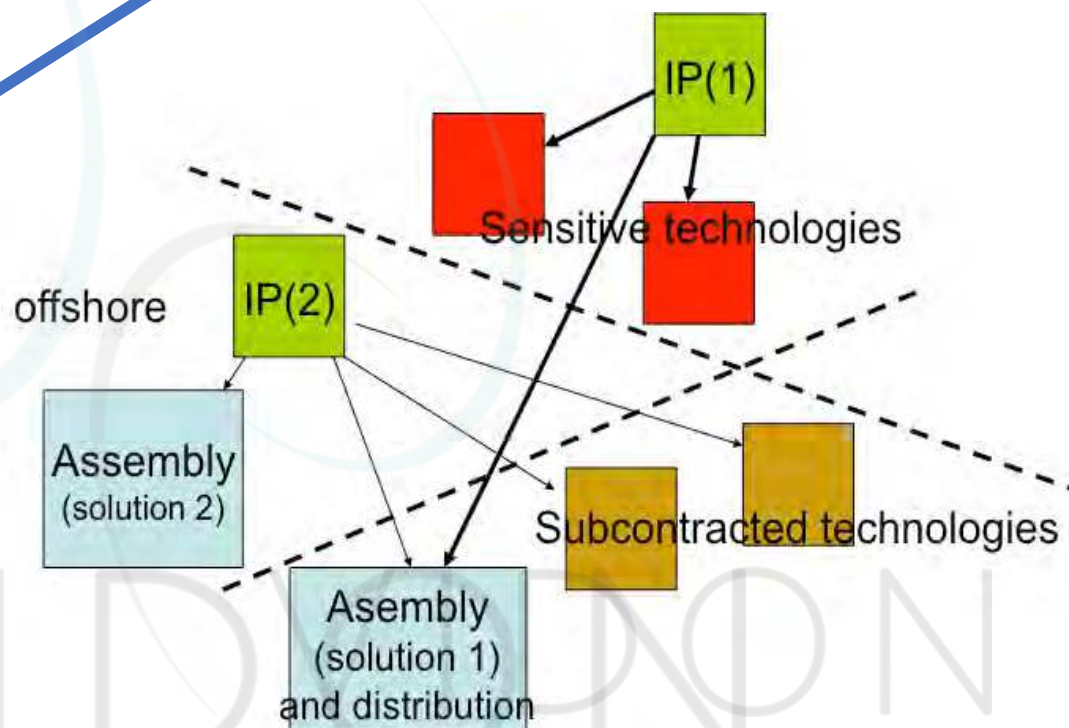
## Spatial Remote Sensing



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## **1.- Build a strong proactive IP policy**

- ✓ at home and in the target countries
- ✓ early priority filing of IPR and recording of KHS

## **2.- Pre-analyze**

- ✓ market study, IP surveys and due diligence
- ✓ understand China specificities (high comp<sup>o</sup>; prevalent public action; huge market, partners potentially too smart or too unprepared; patriotism..)

## **3.- Prepare negotiations**

- ✓ NDAs
- ✓ build a strategy and a roadmap (be proactive)

## **4.- Strategic safe harbours and tight monitoring of partners**

- ✓ contract management (incl. R&D; employment contracts)
- ✓ enforce

# Questions?



South-East Asia: [question@southeastasia-iprhelphdesk.eu](mailto:question@southeastasia-iprhelphdesk.eu)

China: [question@china-iprhelphdesk.eu](mailto:question@china-iprhelphdesk.eu)