USPTO POLICIES CONFLICT WITH NATIONAL PRIORITIES

THE PROBLEM

The US Patent and Trademark Office is weakening the process for challenging invalid patents just as foreign entities—especially those tied to the Chinese Communist Party—flood the system with questionable filings. **In 2024 alone, the agency granted more than 150,000 invalid patents, over half to foreign applicants.** Recent policy changes mean that foreign inventions now face even less scrutiny, while the USPTO has effectively shut down the only reliable way to correct these errors. **This raises costs and risks for U.S. businesses, undermines efforts to reshore manufacturing and advance AI, and poses a direct threat to the U.S. economy and national security.**

CHINA'S PATENT STRATEGY

In 2024, foreign entities received 56% of all U.S. patents—over 180,000 in total. China alone secured 38,775, a 33.8% jump from last year and second only to Japan. This surge reflects a CCP-driven strategy that mandates and subsidizes U.S. patent acquisition. Over the past decade, this has resulted in hundreds of thousands of U.S. patents going to Chinese entities, many CCP-controlled, including organizations identified as national security threats.

- **Huawei**, despite being barred from doing business in the U.S. by being placed on the Entity List since 2019, **was still the USPTO's fifth-largest patent recipient last year with 3,285 patents**. Lacking U.S. business to protect, it has sold nearly 1,000 of these patents to trolls targeting American companies and used the rest to extract billions in licensing fees.

- **BOE Technology Group—the 14th largest U.S. patent recipient in 2024—is under DoD investigation as a suspected Chinese military company.** Tencent (1,109 patents) and Contemporary Amperex Technology (484 patents) have already been designated as such. Several branches of the Chinese Academy of Sciences (CAS), which received 334 U.S. patents, are on the Entity List and tied to China's military, nuclear, and cyberespionage programs. DOJ indictments also link CAS affiliates to theft of U.S. trade secrets and military technology.

- **Yangtze Memory Technologies Co.** (YMTC)—a CCP-owned chipmaker on the Entity List and designated as a Chinese military company—has been granted over 1,000 U.S. patents and is using them to attack American rival Micron. YMTC is pursuing injunctions that could shut down U.S. fabrication plants, deepen reliance on foreign chips, and heighten our vulnerability to Chinese interference with semiconductor supply chains. It has also used litigation to pressure Micron for sensitive trade secrets, raising serious espionage concerns.

THE BOTTOM LINE

China is using our own patent system to undermine U.S. innovation and gain technological dominance. In 2024 alone, nearly 10,000 U.S. patents went to Chinese entities flagged as security threats. **Overall, more than 1.8 million active U.S. patents have been granted for foreign inventions—rewarding overseas R&D, weakening American industry, and raising the cost and legal risk of operating in the U.S.** For major tech companies, litigation and liability can reach billions, pushing chip manufacturing and AI research offshore.

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150,000

invalid patents were granted by the USPTO, with over half being foreign applicants

USPTO POLICIES HARM NATIONAL AND ECONOMIC SECURITY

Unfortunately**, the USPTO's single-minded prioritization of the interests of patent owners has empowered foreign entities**, turning the patent office into an unwitting accomplice in the CCP's scheme to weaponize the U.S. patent system.

Key actions that must be taken to prevent further harm:

- ✓ **End the USPTO's "customer service" mindset:** A GAO report revealed that USPTO leaders resisted more rigorous examination standards because "higher quality outcomes" wouldn't improve "customer experiences." This approach has produced a system where over one-third of U.S. patents are invalid, costing industry billions. Treating patentees as "customers" and treating their satisfaction as "a vital quality indicator" allows them to dictate lower examination standards and other USPTO policies, which is particularly problematic given that most of them are foreign entities, including Chinese military companies and firms on the Entity List. This model effectively gives the CCP and other foreign interests substantial influence over USPTO policy, creating a national security risk.
- ✓ **Restore rigorous review of foreign applications**: The USPTO has cut examiner time for Patent Prosecution Highway (PPH) cases, allowing Chinese applicants to secure U.S. patents in weeks while American inventors often wait months or years. This shift pressures U.S. examiners to rely on foreign patent office decisions—especially China's—letting patents issue with insufficient scrutiny. The USPTO should stop giving foreign entities faster, easier paths to U.S. patents than U.S. innovators.
- ✓ **Restore access to the PTAB:** The USPTO has sharply limited patent validity review before the PTAB, even though they are mostly used to challenge patents on foreign inventions and primarily benefit U.S. businesses. Even though the Patent Assertion Entity acting as the plaintiff in litigation may nominally be a U.S. company, such PAEs are generally shell companies with no assets other than patents that often are controlled by foreign investors or assert patents assigned to them by foreign entities. By prioritizing patent plaintiffs over challengers, the agency is tilting policy toward foreign—and often Chinese—entities at the expense of U.S. industry.

The USPTO should adopt PTAB rules that prioritize—or at least fairly protect—the interests of U.S. companies relative to those of patent assertion entities and foreign patentees.