

Egregious Cases of Chinese Theft of American Intellectual Property

Theft of American intellectual property (IP) is a principal irritant in the U.S.-China trade relationship. China leverages its entire legal and regulatory system to coerce technology transfer or steal IP.

1. DuPont (Wilmington, DE)

Background: DuPont suspects its onetime Chinese partner is infringing its IP. DuPont attempts to resolve the dispute through arbitration in China. During arbitration, Chinese authorities launch an antitrust investigation into DuPont and raid its Shanghai office. Antitrust authorities reportedly tell DuPont to drop its infringement case to resolve the antitrust investigation.

Takeaway: The DuPont example illustrates how China infringes patents, manipulates its IP system, and weaponizes antitrust to coerce technology transfer.

Source: WSJ: How China Systematically Pries Technology from U.S. Companies (9/26/18)

2. Micron (Meridian, ID)

Background: Micron is a world leader in dynamic random-access memory. Fujian Jinhua, a competitor to Micron, works with employees from United Microelectronics Corporation (UMC), a foundry that contracts for Micron, to steal Micron technology. In 2018, Fujian and UMC file a patent infringement suit in China against Micron and receive a preliminary injunction from a local court, blocking Micron products into China. China's antitrust authorities then open a price fixing investigation into Micron.

Takeaway: The Micron case is emblematic of how the Chinese government uses every legal and regulatory lever—poaching talent, subsidies, patent infringement, antitrust, outright theft, and the courts—to pressure individual companies to transfer technology or not pursue cases of theft.

Source: NYT: Inside a Heist of American Chip Designs, as China Bids for Tech Power (6/22/18)

3. Akhan Semiconductor (Gurnee, IL)

Background: Akhan Semiconductor Inc. develops a near indestructible glass, using export-controlled technologies, that can be used as a smartphone screen. It sends Huawei a prototype to win it as a customer. Huawei allegedly breaks the terms of its contract with Akhan by allegedly attempting to reverse engineer the product during testing and violates export control laws.

Takeaway: China goes to great lengths to identify emerging technologies and steal know-how and trade secrets. All companies eager to win large contracts are susceptible to such coercion.

Source: Bloomberg: Huawei Sting Offers Rare Glimpse of the U.S. Targeting a Chinese Giant (2/4/19)

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4. *Tesla (Palo Alto, CA)*

Background: Tesla alleges that a former engineer stole its self-driving technology—including uploading complete copies of its self-driving source code and taking more than 300,000 files—and taking them to a Chinese competitor.

Takeaway: The Chinese government fosters an environment that condones theft of foreign technology in strategically important sectors.

Source: CNN: Tesla is accusing a former employee of stealing self-driving tech (March 22, 2019)

5. *Huntsman Corporation (The Woodlands, TX)*

Background: Chinese authorities require Huntsman, a chemical manufacturer, to submit its products to a regulatory review to enter the market. The review demands proprietary information that is atypical in other jurisdictions. After the review, competitors in China are found using Huntsman's technology. Huntsman files a lawsuit against these companies. The Chinese court hearing the case appoints a review panel, which has an engineer from the company Huntsman was suing.

Takeaway: The Huntsman case shows how reviews can be used to extract key technology from foreign companies and reveals how due process in China is a façade.

Source: WSJ: How China Systematically Pries Technology from U.S. Companies (9/26/18)

6. *Genetically Modified Corn Seeds*

Background: Mo Hailong, an employee of Chinese firm Kings Nower Seed, and six other Chinese nationals were accused of digging up seeds from Iowa farms and planning to send them back to China. Mo was convicted and sentenced to 36 months in prison.

Takeaway: China blocks its GMO seed market from foreign competition and encourages individuals to take any action—including picking up seeds on a country road—to obtain needed technology.

Source: Reuters: Chinese national's seed theft exposes vulnerability (4/11/16)

7. *Motorola (Chicago, IL)*

Background: A Motorola engineer is stopped by customs carrying more than 1,000 documents, including Motorola trade secrets, in her bag to help build wireless technology for Huawei. Motorola files a lawsuit against Huawei. During the lawsuit, China's authorities prolong their antitrust merger review for Motorola. The merger is approved after Motorola drops its lawsuit against Huawei.

Takeaway: The Motorola case displays how China poaches talent from U.S. companies to acquire trade secrets and uses all regulatory tools to punish and pressure individual companies.

Source: WSJ: Huawei's Rise Is Littered With Accusations of Theft (May 25, 2019)