

权利人在涉及知识产权刑事案件公诉和审判
程序中可以行使那些权利？

**What rights IP owners may exercise during
public prosecution and trial of criminal IP
cases?**

Presented by

**Jack Chang Vice Chairman of QBPC/CAEFI
(One of The Founders of QBPC and Former Chairman for
13 years)**

**张为安 中国外商投资企业协会 优质品牌保护委员会副主席
(QBPC创始成员之一 曾担任13年主席)**

权利人是否是知识产权刑事案件的被害人 Are IP owners victims of IP Crimes

- 一个真实的故事 A True Story
- 如何运用品保委平台推动刑事司法制度的完善
How to Leverage QBPC Platform to Improve Criminal Justice System
- 权利人可以行使哪些权利
What Rights IP Owners May Exercise
- 展望未来 Looking Forward

如何运用品保委平台推动刑事司法制度的完善

How to Leverage QBPC Platform to Improve Criminal Justice System

2014, 03: 与上海市人民检察院金融检察处首次邂逅

First meeting with the Financial & IP Dept. (FIPD)
of Shanghai People's Procuratorate (Shanghai PP)

07: 与上海市人民检察院金融检察处签署合作备忘录

Signing cooperation MOU with FIPD of Shanghai PP

2014-2017: 上海市八个区检察院金融检察科在市检察院金融检察

处指导下实施权利人诉讼权利义务告知制度 (“告知
制度”) 8 district procuratorate implemented the

system of notifying IP owners to exercise and
fulfill their rights and obligations under the guidance
of FIPD of Shanghai PP “System”

如何运用品保委平台推动刑事司法制度的完善

How to Leverage QBPC Platform to Improve Criminal Justice System

2017, 06: 与北京市人民检察院经济犯罪检察部签署合作
备忘录

Signing cooperation MOU with Economic Crime
Prosecution Dept. of Beijing People's Procuratorate

2018, 01: 与上海市人民检察院金融检察处会商于全市推广
告知制度的可行性

Discussing with the FIPD of Shanghai PP the
feasibility of implementing the System in all
procuratorates in Shanghai

如何运用品保委平台推动刑事司法制度的完善

How to Leverage QBPC Platform to Improve Criminal Justice System

2018, 05: 上海市人民检察院金融检察处向全市各分院、区院、上海铁检院侦监、公诉、未检、知识产权及金融处/科发出书面通知，要求在审查逮捕、审查起诉阶段办理生产、销售伪劣商品罪和侵犯知识产权罪两类案件中向被侵权的知识产权被害人（单位）制发权利义务告知书

FIPD of Shanghai PP issued a notice to Investigation Supervision, Public Prosecution, Juvenile Crime Prosecution, IP and Financial Dept. of all procuratorates in Shanghai to implement the System recognizing IP owners are victims of IP related crimes and demanding implementation of the System

如何运用品保委平台推动刑事司法制度的完善

How to Leverage QBPC Platform to Improve Criminal Justice System

- 2019, 02:** 拜会最高人民法院经济犯罪检察厅（第四厅）领导
Visit to the leadership of Economic Crime Prosecution Dept. (ECPD) of Supreme People's Procuratorate (Supreme PP)
- 2019, 04:** 致函最高人民法院领导建议在江苏、浙江、广东、福建试点实施权利人诉讼权利义务告知制度
Letter sent to the leader of Supreme PP recommending to initiate a pilot program in Jiangsu, Zhejiang, Guangdong & Fujian to implement the System

如何运用品保委平台推动刑事司法制度的完善

How to Leverage QBPC Platform to Improve Criminal Justice System

2019, 11: 最高人民法院第四厅向北京市、上海市、江苏、浙江、福建、广东省检察院第四监察部发出关于印发《开展侵犯知识产权刑事案件权利人诉讼权利义务告知工作试点方案》的通知 (为期一年)

The 4th Dept. of Supreme PP issued a notice to its counterparts of Beijing, Shanghai, Jiangsu, Zhejiang, Fujian & Guangdong to conduct a 1 -year pilot program implementing the System

如何运用品保委平台推动刑事司法制度的完善

How to Leverage QBPC Platform to Improve Criminal Justice System

2020, 11: 最高人民法院第四厅函复品保委表示“知识产权刑事案件权利人诉讼权利义务告知试点工作是在贵委的推动下开展的，目前试点尚未结束，我们正在总结经验的过程中，欢迎贵委在适当时候与我厅就这项工作开展交流”

The 4th Dept. of Supreme PP thanked QBPC for recommending to initiate the pilot program and welcomed QBPC to exchange thoughts and experiences when the program is completed

权利人可以行使哪些权利

What Rights IP Owners May Exercise

- 要求提供作证条件和保密的权利
Right to fully & objectively provide evidence and confidentiality
- 提供自行调查收集的证据材料的权利
Right to provide self-gathered evidence
- 提供与本案相关犯罪线索的权利
Right to provide intelligence related to the case
- 知悉用作证据的鉴定意见的权利
Right to know appraisal opinions used as evidence

权利人可以行使哪些权利

What Rights IP Owners May Exercise

- 知悉证明文件、核对笔录和亲笔书写陈述的权利
Right to be shown the prosecutor's ID, to review query transcript and to provide self-written case report
- 知悉诉讼进程、强制羁押措施变更情况的权利
Right to inquire whether the case is prosecuted and whether the court has accepted the case, the status of coercive measures imposed on the suspects, to request the court for non-public trial of trade secret case
- 委托诉讼代理人 and 发表诉讼意见的权利 (查阅、复制案卷材料和认罪认罚)
Right to be represented by agent ad item, to review, summarize & copy the case files subject to the procuratorate's approval, to express opinions about the facts, criminal charge, applied laws and the system of leniency for pleading guilty and accepting punishment

权利人可以行使哪些权利

What Rights IP Owners May Exercise

- 申请回避的权利
Right to request for recusal of prosecutor(s) and/or officials working on the case
- 获得保护的權利
Right to seek protection from the procuratorate
- 控告权
Right to press charge against official(s) working on the case, who insults, coerce, threat, cheat or seduce the IP owners or uses unlawful means to violate IP owner's rights or to gather evidence

权利人可以行使哪些权利

What Rights IP Owners May Exercise

- 使用本民族语言文字进行诉讼及获得翻译的权利
Right to use native language and to be provided with translation services
- 未成年知识产权权利人的特殊权利
Enjoy special rights available to IP owners, who are juvenile



展望未来 Looking Forward

- 总结并学习试点经验争取进一步推动权利义务告知的实践成为全国检察机关通行机制

Summarize and learn the experiences from implementing the pilot program and try to promote the System to be adopted as a national system for all procuratorates

Thank You!

Email: jackwachang@gmail.com

Wechat ID: QBPC001

[linkedin.com/in/jack-chang-a35928168](https://www.linkedin.com/in/jack-chang-a35928168)

www.qbpc.org.cn

