



Intellectual Property in China: *Balancing Risks With Rewards*

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China's Economy: "It's Big and Getting Bigger"

- "Factory to the world"
 - Average annual GDP growth rate is 9.8% for past 25 years
 - \$10 trillion GDP in 2006
 - China's government expects GDP to quadruple by 2020



China's Economy: "It's Big and Getting Bigger" (cont)

- **Growing consumer class**
 - **Population of 1.3 billion people**
 - **More than 20% of world population**
 - **300-400 million active consumers**
 - **July '06 – U.S. exports to China up 35.7% over same period in 2005**
 - **Labor force – 800 million**



China's Economy: “It's Big and Getting Bigger” *(cont)*

- **Growing consumer class** *(cont)*
 - U.S. companies are establishing manufacturing, marketing, research, and development bases in China
 - **Ex.: Chrysler and Qirui (Chinese auto manufacturer)**
 - **Reasons:**
 - Auto assembly line labor – \$4,000/month per unit in U.S. v. \$150/month in China
 - Small cars popular in China



Cultural Differences

- **Viewpoint**
 - **Westerners**: Absolute Right and Wrong exist (Bible)
 - **Chinese**: Preserving harmony in human affairs; acceptance and non-judgment (Confucian classics and Buddhist scriptures)



Cultural Differences *(cont)*

- **Time**
 - **Westerners**: Time is scarce – optimize and manage
 - **Chinese**: Time is fluid and cyclic – no sense of urgency; progress is not linear, few achievements are permanent, and tomorrow is another day



Cultural Differences *(cont)*

- **Relationships**
 - **Westerners:** Separate our work and personal lives; “Get away on weekends and vacations”
 - **Chinese:** Maintain huge network of family, friends, and business people – no desire to get away
 - Chinese live within context of big support system
 - Deals, laws, and profits come and go, but the sponsor and beneficiary of all meaningful gain is the Network...QUANXI



From Shared to Private Rights

- Private property rights are *new* to China
 - Patent laws – since 1984
 - Trademark laws – since 1982
 - Copyright laws – since 1990
 - Unfair competition laws – since 1993
 - “Property Law of the People’s Republic of China” – Oct. 1, 2007 (civil legal code)



Patent System

- For past six years, average growth rate of patent applications filed
 - 22.3% domestic
 - 22.6% foreign
- Jan – Apr 2007

	Total	Invention	Utility Model	Design
Total	171,543	67,687	47,586	56,270
Domestic	137,230	38,247	47,221	51,762
Foreign	34,313	29,440	365	4,508



Patent System (cont)

- **1st Patent Law Amendment – March 12, 1997**
- **2nd Patent Law Amendment – August 25, 2000**
- **3rd Patent Law Amendment –**
 - **1st draft, July 31, 2006**
 - **2nd draft, December 27, 2006**
 - **Expected enactment 2008**



Trademark System

- **Substantial growth in applications filed**
 - 1980-1993 – from 20,000 to 90,000/year
 - 1994-1999 – from 120,000 to 170,000/year
 - 2000-2005 – from 200,000 to 644,000/year
 - U.S. applicants obtained 20% of all registrations in China in 2005
 - 1st quarter 2006 – 245,000 applications



IP Agreements

- **Member**
 - Trade Related Intellectual Property Sections (TRIPS) of GATT
 - World Intellectual Property Organization (WIPO)
 - World Trade Organization (WTO)
 - Patent Cooperation Treaty (PCT)
 - Berne Convention
 - Madrid Agreement
 - Paris Convention



Enforcement

- **“You name it, we’ll fake it.”**
 - Improving enforcement
 - In 2006
 - 14,219 IP suits filed in Courts of first instance
 - China was world’s most litigious country for IP disputes in 2005

Cases	Number Filed	Number Disposed
Patent	3,196	3,227
Trademark	2,521	2,378
Copyright	5,719	5,751
Unfair Competition	1,256	1,180



Some Useful Websites

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- www.sipo.gov.cn – *State Intellectual Property Office*
- www.ctmo.gov.cn – *Trademark Office of China*
- www.gov.cn – *State Council of China*
- www.mofcom.gov.cn – *Ministry of Commerce of China*
- www.chinatax.gov.cn – *State Administration of Taxation*
- www.saic.gov.cn – *State Administration for Industry & Commerce*

Some Useful Websites *(cont)*

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- www.aqsig.gov.cn – *General Administration of Quality Supervision Inspection & Quarantine of China*
- www.molss.gov.cn – *Ministry of Labor & Social Security*
- www.sfda.gov.cn – *China Customs*
- www.fec.mofcom.gov.cn – *China's Foreign Economic Cooperation*
- www.antifraud.gov.cn – *China Anti Fraud Office*

Panel Questions and Answers



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Wolf Greenfield is a full-service intellectual property law firm that builds and enforces strong IP portfolios, assists businesses to manage IP risks, provides IP licensing and deal-making services, and defends them from suit.

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