- A China Focus

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The trend

- China is quickly becoming an industrialized nation
- It is one of the world’s top R&D dollar spenders
- It is the "World Factory" with both large export and vast domestic market
- China is determined to become an IP exporting country
- IP will decide corporate competitive edge in China
Competition will only intensify

“Future competition is Intellectual property competition …”

Chinese Premier Wen Jiabao, 2004
China is building large patent portfolios

- Government provides significant incentives to apply for patents
- The China State IP Office (“SIPO”) accepts the 3rd largest patent applications in the world
- Since 2005, Chinese IP courts handled more IP disputes than U.S. each year

- Is China becoming more litigious than US?
Why Chinese patents are hot?

• China has become either the exclusive or primarily only place for many foreign and Chinese companies to manufacture goods that are shipped around the world ("world factory")
• Losing a patent infringement suit in China may mean losing the capability to send goods around the world ("de facto worldwide injunction")
• Wining or losing a patent suit in China is becoming pivotal in global patent litigation strategy
Why Chinese patents are hot? (continued)

• Having robust Chinese patents may mean significant advantages to sue, counter-sue or cross license
• Many are seeking opportunities to either purchase or license Chinese patent portfolios
• Chinese NPEs are actively suing in Chinese courts against large multinational corporations demanding big license fees - learning from the US…
• More and more local competitors are filing law suits against foreign competitors – suggesting the gradual maturity of using patent rights
Why Chinese patents are hot? (continued)

- State owned “China Technology Exchange” (“CTEX”) is one of the active platforms for auctioning Chinese patents
- More are watching than buying

(Picture Source: http://www.ctex.cn)
Why Chinese patents are hot? (continued)

- Quality of Chinese patents very uneven in general
- Most domestic companies accept the concept that owning Chinese patents is one of the factors to measure maturity of technology companies
- Local competitors apply significantly more “utility models” and “design patents” (no substantive examination by SIPO) than “invention patents” (substantive examination needed)
- Most high quality patents are still owned by foreign companies
Case Studies

• Smart card case
• Touch screen case
• Game device case
• Smart phone case
• IC chip case
• And more…
Conclusions

• In foreseeable future, your IP portfolio will decide where you stand in the China market – no different from any other market

• Competitors in China are becoming more technologically sophisticated. IP disputes are moving towards infringement away from simple counterfeiting – making patent rights in China even more important

• IP risks in China are manageable – but you must proactively manage
THANK YOU!

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