

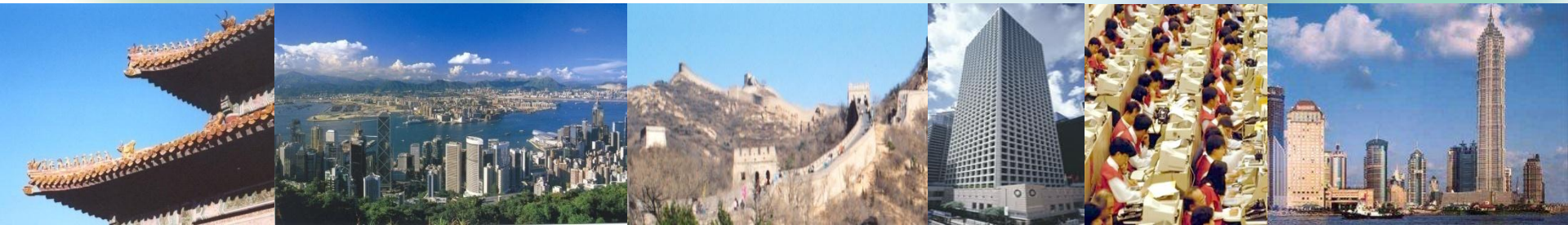
October 14, 2011

Santa Clara University

Defense 2.0: New Strategies for Reducing Patent Risk

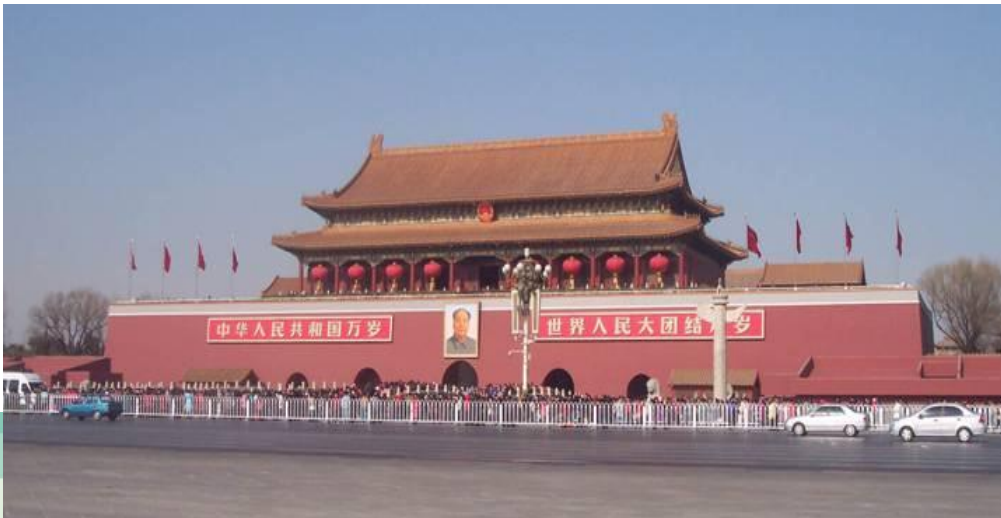
- A China Focus

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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**”)
- Winning or losing a patent suit in China is becoming pivotal in global patent litigation strategy

中华人民共和国国家知识产权局	
	[12] 发明专利 专利号 ZL 2004101
授权公告日 2007 年 4 月 4 日	
申请日 2001.9.26 申请号 200410104833.9	[74]

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>)



China Technology Exchange



Why Chinese patents are hot?

(continued)

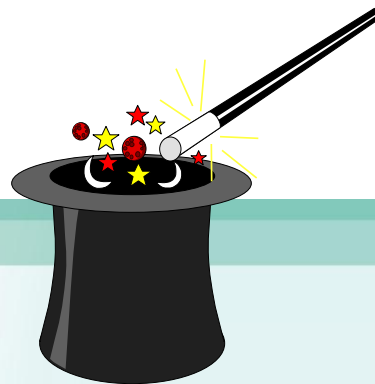
- Quality of Chinese patents very uneven in general
- Most domestic companies accept the concept that owning Chinese patents is one of the factors to measure maturity of technology companies
- Local competitors apply significantly more “utility models” and “design patents” (no substantive examination 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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