

August 5, 2016 (Friday)
2016年8月5日(星期五)

Keynote Section

主题演讲

Moderated by
Dr. Albert Wai-Kit CHAN – Founder and Director of USCIPI

主持人：
陈伟杰博士 – 中美知识产权协会创办人兼总监

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ALBERT WAI-KIT CHAN, PH.D., J.D.
Biographical Information

Dr. Albert Wai-Kit Chan is the Managing Partner of the Law Offices of Albert Wai-Kit Chan, PLLC. He is a former research scientist who forged his legal career by combining his training as a molecular biologist with the emerging legal needs of the biotechnology industry in the late 1980s. Dr. Chan handles all areas of intellectual property law (including technology transfer, patents, trademarks, copyrights, business transactions, and trade secrets), and his specialty is biotechnology patents. He is well-versed in all aspects of prosecution and litigation and is experienced in licensing, technology transfer and the evaluation of intellectual property portfolios. Dr. Chan works extensively with both U.S. and international companies. He has helped scores of scientists and inventors obtain the intellectual property protection they need to be competitive in their fields. His clients range from individual inventors to up-and-coming companies to well-established prestigious research institutes.

Dr. Chan has been frequently involved in transactional work in China, which includes facilitating joint ventures and contracts between East and West companies and building up clients' intellectual property portfolios. For those clients looking to expand their business in China, he has not only provided patent procurement services but also, equally important, patent enforcement. He has performed analysis and evaluation of clients' intellectual property to determine the scope and securement of the protection of their intellectual property.

From 1996 through 2013, Dr. Chan taught as an adjunct professor of law at The City University of New York School of Law. His classes included intellectual property law, patent law, technology transfer, Internet and the law, food and drug law, and international business law. He is currently adjunct associate professor in the School of Life Sciences at The Chinese University of Hong Kong and has adjunct professorship in the Department of Health Technology and Informatics at The Hong Kong Polytechnic University. Dr. Chan is active in a number of legal organizations including, among others, United States-China Intellectual Property Institute, Inc. (a New York Not-For-Profit Corporation) where he is founder and director.

Dr. Chan received his J.D. degree from Columbia University School of Law in New York. He was awarded his Ph.D. in virology at Baylor College of Medicine in Houston, Texas, and he completed his postdoctoral training at Cold Spring Harbor Laboratory in New York as an American Cancer Society postdoctoral fellow. Dr. Chan is a graduate of The Chinese University of Hong Kong, and he was born and raised in Hong Kong.

Dr. Chan is currently a registered foreign lawyer at the Law Offices of Hui & Lam in Hong Kong. Hui & Lam is now in association with Long An Law Firm, a full service law firm headquartered in Beijing, China.

陈伟杰博士是美国纽约陈伟杰律师事务所的合伙人。曾为科学家的他将其在分子生物学领域的知识与生物技术产业自 80 年代后期不断涌现的对法律服务的需求相结合。陈博士精通知识产权法的各个领域（包括技术转让、专利、商标、版权，商业交易和商业秘密），并尤其擅长生物技术领域的专利。他熟悉专利申请及诉讼的各个环节，同时对涉及知识产权的许可证、技术转让以及对知识产权组合的市场价值评估具有丰富的经验。陈博士与众多美国本土及国际企业具有广泛合作。他曾协助众多科学家和发明家取得知识产权保护，从而令他们在各自的领域更具竞争力。陈博士的客户包括诸多发明家，新兴科技企业，及著名研究机构。

陈博士经常参与在中国的技术发展项目，其中包括促使东西方企业之间成立合资企业，签订合同及协助客户构建知识产权组合。针对那些旨在扩大在华业务的客户，陈博士在提供专利申请服务的同时，更提供了同样重要的专利执法服务。他亦对客户知识产权进行分析及评估，以确定其保护范围。

在 1996-2013 年期间，陈博士曾在纽约市立大学法学院 兼 任法学教授。他任教的课程包括知识产权法、专利法、技术转让、互联网与法律、食品和药品法以及国际商法。陈博士目前在香港中文大学生命科学学院兼任副教授，在香港理工大学健康科学与信息系兼任教授。陈博士亦活跃于包括“中美知识产权协会”在内的诸多法律组织。他创建并曾担任美中律师协会的主席。

陈博士在美国纽约哥伦比亚大学取得法学博士学位。在此之前，他在得克萨斯州休斯敦贝勒医学院取得病毒学博士学位，并在纽约州冷泉港实验室作为美国癌症协会的博士后研究员接受培训。陈博士在香港出生，成长，并在香港中文大学获得学士学位。

陈博士目前是在 香港许林律师行注册的外国律师。香港许林律师行是隆安律师事务所的合作机构。隆安律师事务所是一家总部设在北京的综合性律师事务所。

Keynote Section

Impact of China's New "Bayh-Dole" Act on Chinese University IP Operation 中国新“拜杜”法案与中国大学专利运营的新格局

Prof. Dongmin CHEN – Dean of School of Innovation and Entrepreneurship of Peking University

陈东敏教授 - 北京大学产业技术研究院 院长

Abstract

China has recently enacted a new "Act for Promoting Technology Commercialization" 《中华人民共和国促进科技成果转化法》. The revision of this ACT has essentially adopted the basic concept in US Bayh-Dole Act passed in 1980. Universities in China now can enjoy the autonomous right to use, to license/transfer university patents, and to use the proceeds from the university patents, without the approval of the State Property Office. While this will release a new round of market activities around acquisition and licensing Chinese University IPs, there are still critical hold backs that affect a full market driven University IP operation. We will review this new ACT discuss the key points related to this new ACT.



Prof. Dongmin Chen (陳東敏)

Dean, School of Innovation and Entrepreneurship
Director, Office of Science and Technology Development
Peking University, Beijing, China

Prof. Dongmin Chen is the Dean of School of Innovation and Entrepreneurship, and Director, Office of Science and Technology Development at Peking University. He is responsible for leading the reform of university technology transfer practices to better service the national challenge in rapid development of China's innovation capacity. He was a former Sr. Rowland Fellow and an experimental physicist at Harvard University for 15 years, and a serial entrepreneur and co-founder of two Silicon Valley companies. Prof. Chen is the International Adviser of WIPO Global Innovation Index and the Honorary Advisor and former Chairman & President of Chinese American Semiconductor Professional Association. Prof. Chen is an Associate Editor of *Applied Physics letter*. His expertise includes nanotechnologies, RRAM, MEMS-CMOS integration; spin and quantum device physics. He co-authored more than 70 scientific publications and 150 US and international patents.

Keynote Section

Critical Patenting Skills for Scientists: Infringement Determination and Design Around for Follow-On Innovation

科学家申请专利的关键技巧：侵权判定及规避设计以进行后续创新

Dr. Keith CHAN – President and CEO of GloboAsia LLC; Senior Advisor of Cornerstone IP Foundation of Taiwan and National Chengchi University

陈桂恒博士 – GloboAsia公司总裁;国立政治大学及磐安智慧财产教育基金会资深顾问

Abstract

The journey from innovative idea to business success is a long and winding road requires breaking down barriers between disciplines and strengthening the connection between knowledge, science, technology, law, management, business and society. Many scientists, researchers and Innovators (SRIs) are fully aware of the benefits or implications on owning the intellectual propriety rights (IPRs) and protection accorded by appropriate IPRs. However, most scientific researchers lack fundamental understanding of the objective and practice of IPRs. The training of scientific research is to discover new knowledge and share those knowledges via publication free to society while the IPRs is a grant of rights by a sovereign state to exclude others to use that invention for a limited time in exchange for public disclosure. Patent is one of the IPRs and is a legal document to define the invention and its boundary. In a patent or patent application, the claims (or the boundary of the protected invention) define the extent and the scope of the protection and to warn others of what they must not do if they are to avoid infringement liability.

Majority of patents are improvement of existing invention based on prior knowledges. Innovative real world solutions are at the most upstream of the biz value chain. In order to keep our innovation economic value chain alive, various professionals in the downstream process such as legal and business must teach, and the innovators must learn, those skills affecting the downstream processes. Patent is one of those critical skills especially needed at the early stage of the research and development where those innovations are created. SRIs must make timely go/no go decision whether to proceed or to abandon their development efforts based on future hurdle on IP position in order to separate real threat and business opportunity. If those threats are real, then how to avoid those threats and even change their direction of research to capture opportunities are important. Those critical skills needed are understanding of the fundamental concepts of IPR and patent rights, claim construction and its interpretation, infringement determination and freedom-to-operate, patent avoidance and design around, and finally patent re-generation.



Keith Chan, Ph.D.

Keith Chan, Ph.D., GloboAsia LLC, Rockville, Maryland, USA, and Cornerstone IP Foundation and National Chengchi University, Taipei, Taiwan, E-mail: kchan@globloasia.com

Dr. Keith Chan is a pharmaceutical scientist, a regulator, a professor and an entrepreneur. He obtained his Ph.D. degree in Pharmaceutics from University of Minnesota in 1980. He is currently Senior Advisor of Cornerstone IP Foundation, Professor at the Graduate Institute of Intellectual Property and Technology Management, College of Commerce, National Chengchi University at Taiwan. He is also a Senior Research Fellow at Institute of International Intellectual Property at Beijing University Law School. He also serves as Director of International Affairs, GloboAsia LLC, Rockville, MD, USA and as advisors for several research institutes and regulatory agencies in Asia, as well as consultants for several pharmaceutical firms in Asia and in the US.

His co-founded GloboMax LLC, a drug development organization, in Hanover, Maryland in 1997 and served as consultant for numerous multi-national pharmaceutical and biotech firms in the US, Europe and Asia. GloboMax was acquired by ICON, plc in 2003 and Dr. Chan exited from the operation. He also worked for the US FDA as Division Director at the Office of Generic Drugs. He served as adjunct Professor at the School of Pharmacy, University of Maryland at Baltimore for many years and also served as Adjunct Professor and National Board of Advisor, College of Pharmacy, University of Minnesota since 1984. He also taught in Asia including National Defense Medical Center, National Yang Ming University in Taiwan and Shang Yang Pharmaceutical University in China. He worked for Ciba-Geigy Corporation in Ardsley, New York for 15 years and held various senior and management positions. He published more than 150 abstracts and research articles in peer-reviewed journals and over 200 professional presentations. He was elected as fellow of the American Association of Pharmaceutical Scientists (AAPS) in 1995 for his scientific accomplishments on drug absorption in humans.

Even though his major career works are in the States, he also assists Asian pharmaceutical and biotech companies over the last 14 years. He had organized numerous workshops and conferences in China, Taiwan, Hong Kong, Singapore, and Korea. He served and still serving as a scientific advisor for many regulatory agencies in Asia. He lectured frequently in the Asia in the hope to upgrading their pharmaceutical industry. Over the last several years, he had successfully in assisting many Asian companies in their technology transfers and licensing. His most recent accomplishment was to lead a Taiwan company to complete a new drug development program starting from IND up to NDA. The drug is now marketed and launched in Japan, United States, Taiwan and Europe for the treatment of chronic kidney diseases and end stage renal disease involving dialysis.

Keynote Section

Evolution and Raising of IP based Biotech/Medtec Start-ups in Mainland China:

Example of SyMap Medical

以 IP 为动力的生技/医械初创公司在中国大陆的衍生和崛起：信迈医疗实例

Jie Wang MD, /PhD, Vice President/Professor, Jiangsu Academy of Clinical and Translational Research/Jiangsu Province Hospital, Nanjing, China; Columbia University, New York, USA

中国大陆对知识产权的忽视和不尊重一直是被世人诟病的重大问题。但近些年来，中国企业对知识产权的重视程度愈加彰显。特别是在生物科技、医疗科技业界和相关的风险投资界对于知识产权格外关注。去年以来，在中国大陆化学和生物制药领域中的几个初创公司如“再鼎医药” (<http://www.zailaboratory.com>), “信达生物” (<http://www.innoventbio.com>), 和“基石药业” (<http://www.prnasia.com/story/153340-1.shtml>) 等著名重大投资案例中, 都是在基于坚实的知识产权的研发产品之上, 募集了数亿乃至上十亿人民币的资金。无论是初创实体的创始人, 还是投资人, 以及有着政府背景的工业园区当局, 都对企业是否有知识产权作为研发产品的基石给予了高度的关注。这一状况在医疗器械行业亦是如此。“信迈医疗”作为二零一二年在陈伟杰博士主办这一论坛的会议上曾经展示给参会者的实例, 在本次会上将会与诸位共享“信迈医疗”如何以坚实的系列知识产权为基础、从一个概念成长尾去肾交感神经治疗高血压等心血管疾病领域中领跑企业的体会和经验。

王捷

江苏省临床医学研究院/江苏省人民医院

副院长/教授

世界著名的心衰专家，多年从事心血管疾病的研究。对心血管药物和医疗器械的研发有较深的造诣，其在美国哥伦比亚大学所领导的实验室曾是全美著名的心衰研究室之一，对心衰的许多重大问题做出了系统的、多方位的研究。

曾担任过著名制药物公司如礼来，拜尔，EntreMed等公司的顾问和生物医药/医疗器械著名咨询公司Easton Associates的中国区首席顾问。97至98年间做为主要人员之一参与并促成了中药“丹参滴丸”在美国FDA的申报工作。是首先将重组DNA制药产业引进中国的海外学者之一，组建企业生产重组DNA药物。亦是率先将介入心血管器械引入中国进行开发和生产的学者之一。发起和参与了十家以上的新技术研究开发公司。他所参与的去肾神经治疗高血压的方法获得美国2011年度爱迪生发明奖，使用该技术和器械的Ardian公司2010年底被美顿力收购。他在2012年因发明肾神经标测定技术被授予美国心血管研究技术最佳发明奖("CRT2012 Best Innovation Award")。作为PI参与或创立的典型案列还有：CHF Solution (被金宝收购)，Impulse Dynamic (强生和美敦力投资)，Respicardia(雅培投资)，信迈医疗(红杉/软银投资，2015进入CFDA创新医疗器械快速审批通道)。

毕业于美国纽约医学院，获博士学位。在美国杜克大学和哈佛大学做博士后研究。先后任美国哥伦比亚大学长老会医院循环与心衰中心副教授和副教授，南京大学医学院院长，教授等。美国生理学会会员，美国心脏学会会员。已发表专业论文,论著及摘要两百余篇。任美国，英国及日本多家权威专业刊物的编委和评审。现担任江苏省临床医学研究院副院长、教授。



Jie Wang

**JIANGSU ACADEMY OF CLINICAL RESEARCH AND TRANSLATIONAL MEDICINE /
JIANGSU PROVINCE HOSPITAL
Vice President / Professor**

Dr. Wang is an established and a well known expert in cardiovascular research and the industry. He was the pioneer to introduce biotechnology and biopharmaceuticals into China, funded and led three companies in China to manufacture recombinant protein drugs and interventional cardiology devices, respectively. Dr. Wang has served as a consultant to a number of the world's largest pharmaceutical companies, venture capital firms, start-up companies and consulting firms. He guided key animal experiments and first-in-human studies in China to prove the concept of Ardian's renal denervation therapy for hypertension, heart failure and other cardiovascular diseases. He has been awarded "CRT 2012 Best Innovation Award" due to his patents of renal sympathetic nerve mapping/ablation devices. His leadership in both academia and industry has been demonstrated by his extraordinary career path: an associate professor at Columbia University, the Dean of Medical School of Nanjing University, Associate Director of the Skirball Center for Cardiovascular Research, co-founder and President of SyMap Medical Ltd (Approved for "Fast Track" by CFDA; invested by Sequoia and Softbank). Currently, he is the Executive Vice President, Jiangsu Academy of Clinical and Translational Research, Jiangsu Province Hospital.

He has published more than 80 peer-reviewed articles, over 100 abstracts and holds more than 20 patents, obtained many grants and rewards.

He has both clinical degree and research degree (New York Medical College). He completed fellowship training at Duke and Harvard University.

August 5, 2016 (Friday)

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IP Law Updates

知识产权法律的最新发展

Moderated by

Mr. David AI – Director of Knowledge Transfer Office at
City University of Hong Kong

主持人:

艾荃先生 – 香港城市大学知识转移处处长

Dr. David Ai

Dr. David Ai is Director of Knowledge Transfer at the City University of Hong Kong. Prior to 2014, he worked for Stanford University's Office of Technology Licensing for six years, managing inventions while spearheading Stanford's effort to market its technologies to China.

Previously, Dr. Ai was Chief Advisor at Hitachi Corporate VC until 2006, where he scored two successful acquisitions and one IPO among the four VC investments he led.

Earlier, Dr. Ai founded an award-winning e-healthcare in Beijing. As interim CEO he secured \$6M VC investment in the first foreign-owned cancer center in Shanghai. He was VP/GM at Varian Medical (NYSE: VAR), VP of Marketing at Cirque (acquired by ALPS Japan), and Project Manager at Hewlett-Packard.

Dr. Ai received a BS in psychology (National Taiwan University), an MS in computer science (Indiana University), an MBA (Stanford), and most recently a J.D. (Santa Clara University). He is a patent attorney (California).

艾博士于 2014 年 4 月加入香港城市大学，现任知识转移处处长，并任香港城市大学深圳研究院总经理。此前艾博士于美国斯坦福大学技术授权中心服务 6 年余，并担任中国区负责人。艾博士于 2001 到 2006 年在日立公司创投部门（加州硅谷）任副总裁及首席投资顾问，之前也曾在新鸿基集团新意网风险投资基金部门任执行副总裁一年。艾博士的创业经验丰富，曾任北京南山松（健康 123 网站）创始人及 CEO，上海百瑞肿瘤 ProMed Cancer Center 首任 CEO，美国犹他州 Cirque Corporation (成功被日本 ALPS 集团收购) 市场部副总裁。艾博士并在多家科技企业担任高管工作，包括在瓦里安 Varian 医疗系统 (NYSE:VAR) 任副总裁及部门总经理，以及早年在惠普公司 (H-P) 任研发项目经理等职务。艾博士在硅谷 30 余年，涵盖了科技，市场，高管，创业，风投，专利法，技术转移各方面的经验，是少见的全方位专家。

学历：

法学博士 - 美国加州圣塔克拉大学 Santa Clara University (加州注册专利律师)

M.B.A. - 美国加州，斯坦福大学

计算机硕士 - 美国印第安纳大学

心理学本科 - 台湾大学

IP Law Updates

Enforcing Chinese Patents and Defending Infringement Suits in the U.S.

Robert D. Katz, Esq. – Attorney at Law; Partner of Eaton & Van Winkle, LLP New York, US;
Managing Director of Odyssey Consulting Limited New York, US

Abstract

As more and more Chinese companies enter the U.S. market directly or indirectly (Haier, Land Rover, Volvo, Lenovo), management must know how to enforce and defend U.S. patent infringement or validity issues in the U.S. Courts and in the U.S. Patent Office. We will discuss avoiding infringement, post-grant proceedings, patent infringement lawsuits (as plaintiff and defendant); and how Chinese companies can maximize their chances of accomplishing their goals of avoiding litigation or succeeding in litigation, should it occur.



Title: Robert D. Katz | Eaton & Van Winkle

Description: Robert D. Katz has practiced intellectual property law for over 30 years, and his experience encompasses virtually every aspect of intellectual property law.

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Practice Areas

- Intellectual Property Law
- Patent Litigation
- Trademark Law
- Unfair Competition Law
- Patent Litigation
- IP, Copyright and Trademark Litigation

Robert D. Katz

Robert Katz has practiced intellectual property law for over 30 years. His experience encompasses virtually every aspect of intellectual property law.

Experience

Robert has been first chair in a large number of patent, trademark, copyright, unfair competition, and trade secret cases including jury trials, and has also handled arbitrations and mediations. He has obtained and opposed preliminary injunctions and briefed and argued appeals in State and Federal Courts throughout the country. Robert has also handled patent interferences, reissues, and reexamination proceedings as well as trademark oppositions and cancellations in the United States Patent and Trademark Office.

In addition to his active litigation practice, he has counseled clients on patent and trademark validity and infringement issues, has negotiated and drafted numerous license agreements, and has prepared and prosecuted patent applications in many different areas of technology. Those technologies emphasize inorganic and organic chemistry, pharmaceuticals and biotechnology, but also include medical devices, materials science, polymer chemistry, nanotechnology, semiconductors, nuclear energy, and green energy.

Areas of Concentration

- ANDA Patent Litigation
- Preparation and Prosecution of Patent Applications in Pharma, Biotech, Medical Devices
- Patent, Trademark, Unfair Competition, Copyright and Trade Secret Litigation
- Validity, Infringement, Freedom to Operate Opinions
- Patent and Trademark Licensing Agreements
- Reexamination, Reissue, Derivation, Trademark Opposition and Cancellation Proceedings

Representative Clients

- Domestic and Foreign Universities and Research Institutions
- Direct Marketing Companies
- Small Appliance Manufacturers
- Fortune 500 Manufacturing Companies
- Branded and Generic Pharmaceutical Companies
- Biotech Companies

Lectures and Publications

- Stern Graduate School of Business at New York University - guest lecturer, intellectual property law (1990-1995)
- Columbia University School of Business - guest lecturer, intellectual property law (2000-2004)
- University of Hong Kong - guest lecturer, intellectual property law--2011
- Chinese University of Hong Kong - guest lecturer, intellectual property law (2012)
- Practising Law Institute - taught Advanced Patent Prosecution and Amendment Practice course (1995-2000)

Admissions

- State of New York (1984)
- State of Illinois (1980)
- Registered U.S. Patent Attorney (1981)
- U.S. Supreme Court (2010)
- U.S. District Courts for the Southern and Eastern Districts of New York (1984)
- Northern District of Illinois (Trial Bar)
- U.S. Courts of Appeals for the Second (1995), Fifth, Seventh, Ninth and Federal (1982) Circuits

Professional Affiliations and Awards

- Editor, Case Western Reserve University Law Review (1978-79)
- Conner Inns of Court - Charter Member (2008)

- Martindale Hubble - AV Rating Excellence

(2008--present)

- Top 100 IP Attorney
- Expert witness for several patent and trademark cases
- American Intellectual Property Law Association (Chair, Biotech Patent Appeals Committee)
- American Intellectual Property Law Association
- New York Intellectual Property Law Association
- Association of the Bar of the City of New York

Education

- Case Western Reserve University (J.D.), 1980
- Columbia University (B.A., chemistry), 1975

IP Law Updates

Change in U.S. Patent Law for Computer Implemented Inventions

Mr. Rong Xie – US Patent Attorney and Partner of Law Offices of Albert Wai-Kit Chan, PLLC

Abstract

In 2014, the US Supreme Court applied in *Alice Corp. v. CLS Bank* for the first time the 2-Part test derived from *Mayo v. Prometheus* to determine the eligibility of a computer implemented invention. Since then, the USPTO has issued a new Interim Examination Guideline, along with dozens of case law and fact patterns to demonstrate how this test shall be applied in practice. Yet still, among all filed patent applications, e-commerce and computer implemented inventions still have the highest 101 rejection rate. Furthermore, very few software patents have survived the 2-part test at the Federal Circuit. This presentation will examine these patents, analyze why they were hold patent-eligible, and provide the best practice in drafting eligible claims for software patents.

Rong Xie, Esq.

Rong Xie's practice involves patent and trademark prosecution, patent interference, technology transfer, IP-related business transactions and cross-the-border investments. Over the years, he has advised clients in various industries including automotive electronics system, building material, construction, chemistry, fashion and software. He also assists in teaching IP classes at CUNY law school by preparing course materials and giving lectures.

Mr. Xie has a bachelor's degree of law from Shanghai University of International Business and Economics (formerly known as "Shanghai Institute of Foreign Trade") (Shanghai, China), a master's degree of law from Washington University in St. Louis (Missouri, U.S.), and a master degree of science in computer science from Pace University (New York, U.S.). He is licensed to practice before the United States Patent and Trademark Office, the State of New York, and the United States Court of Appeals for the Federal Circuit.

谢融律师

谢律师的执业领域包括，专利和商标申请，专利争议，技术转让，与知识产权相关的商业交易及跨国投资。多年来，他曾向来自包括汽车电子系统，建材，建筑，化工，时尚和计算机软件在内的不同行业的客户提供咨询服务。他还通过编撰教材和授课等方式协助纽约市立大学法学院相关知识产权科目的教学。

谢律师在上海对外经贸大学（原名“上海对外贸易学院”）取得法学学士学位，从美国密苏里州圣路易斯的华盛顿大学取得法学硕士学位，并从美国纽约市的佩斯大学取得计算机科学硕士学位。他是在美国专利商标局注册的专利律师，及纽约州的执业律师，并具有在美国联邦上诉法院的出庭资格。

IP Law Updates

The consequences of Brexit on IP strategies in Europe

Mr. Barry FRANKS – European Patent Attorney, Swedish Patent Attorney and Board Member of BRANN AB Intellectual Property Law Firm

Abstract

Brexit has put a new obstacle in the path of the implementation of the European Patent with unitary effect (“Unitary Patent”) and Unified Patent Court as the UK was one of the three major countries which had to ratify it before it could come into effect and additionally was to house one of the Unified Patent Courts. It is unlikely to do so now, which means a delay – possibly of two or three years - before the new system becomes a reality. Additionally, when the UK leaves the EU it will no longer be possible to use the EU systems for registering designs or trademarks there. My presentation will give advice on what you need to consider in order to safeguard your IP in Europe.

Mr. Barry Franks

European Patent Attorney, Swedish Patent Attorney and Board Member of BRANN AB
Intellectual Property Law Firm

Barry Franks is a senior partner at Brann AB. He started working in IP in 1983 following his graduation from the University of Bath with a degree in Mechanical Engineering with French. Barry has pursued an exceptionally broad career – both geographically and operatively, starting with ten years as an examiner at the EPO in The Hague. He moved to Sweden and spent two years as an entrepreneur before returning to the world of IP as a patent attorney in Stockholm and Uppsala. After five years' experience of drafting, prosecuting and using IP for small, medium and large companies in fields as diverse as diapers (what he calls the “biohazard industry”) and fuel rod extractors for nuclear power plants (a different type of potential hazard), he was headhunted by a global healthcare company. He spent almost seven interesting and educative years as in-house counsel, first in Sweden and subsequently in the UK, responsible for its European hardware IP portfolio. The commercial outlook and pragmatic decision-making skills acquired in industry have been put to first-rate use since he returned to Sweden and re-joined Brann as manager of the Uppsala office. In addition to advising his clients on freedom-to-operate, due diligence, IP strategy and IP management, he started to specialise in oral proceedings before the EPO. As recognition grew of his enthusiasm for (and skill in winning) difficult oral proceedings he relinquished the role of manager to again concentrate full-time on IP matters. As well as a good working knowledge of French, Dutch and German, he is fluent in Swedish - which is much appreciated by his local clients when it comes to advising them on the finer points of IP law or discussing strategies.

Barry lectured for many years for the Swedish Patent Office and the Swedish IP academy and in recent years has been invited to lecture on oppositions and oral proceedings in China, India and Mexico where his practical advice mixed with relevant anecdotes has been warmly received. He has also contributed chapters to a number of well-known IP reference books.

Barry regularly appears in the Intellectual Asset Management magazine “Patent 1000” as a peer-nominated “highly recommended individual” for patent prosecution and is also honoured as a peer-nominated “IP Star” by Managing Intellectual Property magazine.

August 5, 2016 (Friday)

2016年8月5日(星期五)

IP Law Updates II

知识产权法律的最新发展二

Moderated by

Dr. Jacqueline LUI –

U.S. Patent Agent; President of Eagle IP Group;

President of HIPP

主持人：

吕许昭棠博士 –

美国专利代理人、鹰翅知产集团总裁、

香港专利代理人公会会长



Dr. Jacqueline C. Lui, President
EAGLE IP GROUP, HONG KONG, SHENZHEN

US Registered Patent Agent

M.Sc. and Ph.D. (1987) in Biology from the University of Texas at Dallas

B.Sc. in Agricultural Science and Bronze Tablet Scholar from the University of Illinois at Urbana-Champaign



Dr. Jacqueline Lui is a US Patent Agent recognized as one of the World's Leading Patent Individuals by Intellectual Asset Management (IAM). She is also the President of The Hong Kong Institute of Patent Practitioners (HIPP). Dr. Lui has been practicing in the patent field for 20 years, more than 15 of which are in China. Jackie has experience in the areas of life science, materials science, medical devices, manufacturing, mechanical and chemical engineering. She specializes in cross-jurisdiction patent prosecution, strategic planning, portfolio management, patent due diligence and enforcement.

Working languages: English, Cantonese and Putonghua Chinese

Appointments and Membership:

- President of The Hong Kong Institute of Patent Practitioners Limited (HIPP)
- Member of the Steering Committee on Innovation and Technology of the Government of HKSAR
- Member of the Working Group under the Advisory Committee on Review of the Patent System in Hong Kong, Commerce and Economic Development, the Government of Hong Kong SAR
- Member of the Asian Practice Committee of the Intellectual Property Owners Association (IPO)
- Member of Hong Kong Biotechnology Organization
- Former Member of the Health and Medical Development Advisory Committee (2005 - 2011) of the Government of HKSAR
- Former Member of the Board of Directors of the Applied Science and Technology Research Institute Company Limited (ASTRI) of the Commerce, Industry and Technology Bureau of the Government of HKSAR (2004 - 2010)
- Former Member of the Board of Directors of the R&D Center on Nanotechnology and Advanced Materials (NAMI) (2006 - 2010)

IP Law Updates II

Implementing the FRAND Standard in China and its Relationship to Innovation

Prof. Jyh-An LEE – Assistant Professor of Law at the Chinese University of Hong Kong

Abstract

The modern world relies on technical standards, most of which involve standard-essential patents (SEPs). In order to balance SEP holders' fair compensation with standard implementers' access to standardized technologies, standard-setting organizations (SSOs) generally require that their members commit to license their SEPs on a fair, reasonable, and non-discriminatory (FRAND) basis. In recent years, the communications industry has seen a growing amount of litigation concerning SEPs and FRAND, in many jurisdictions. As China has grown into a major player and market in the worldwide communications business, its public policy, court decisions, and private business strategies concerning SEPs and FRAND are likely to have a huge global impact in the high technology sector. Among others, *Huawei v. IDC* is the first Chinese court decision ruling on FRAND-encumbered SEPs issues, which has drawn wide attention. This is also the first Asian case in which the court determined a FRAND royalty rate. On the one hand, Huawei represents Chinese industries' increasingly important part in the global supply chain in the high-tech industry; on the other hand, it is an important indication of how the Chinese judiciary transplants Western intellectual property doctrines and applies them to Western companies.

Based on the Chinese government's policy toward technical standards and the case of *Huawei*, this presentation identifies two distinguishing features in China's encounter with standard related issues. The first is the active role played by the government in domestic standard-setting activities, while the second is Chinese courts' civil law approach, associated with good faith, to the enforcement of FRAND commitments. Based on a comparative and critical viewpoint, this Article uses *Huawei* as an example to illustrate the challenges and perplexities for the judicial determination of a FRAND rate. While the reasoning in *Huawei* is far from sufficient and satisfactory, and it is unclear whether the Chinese courts are tasked to implement the government's industrial policy, *Huawei* did identify some crucial factors concerning FRAND and SEPs, and it has had a significant impact on Chinese related standard-setting activities.

Prof. Jyh-An Lee

Jyh-An Lee is an Assistant Professor of Law at the Chinese University of Hong Kong, where he currently serves as the Deputy Director of the LL.B. Programme and Director of the Centre for Financial Regulation and Economic Development (CFRED) in the Faculty of Law. He holds a J.S.D. from Stanford Law School and an LL.M from Harvard Law School. Dr. Lee has extensively published in English and in Chinese on various aspects of intellectual property and Internet law. His publications appear in leading academic journals, such as *Vanderbilt Journal of Entertainment and Technology Law*, *Cardozo Arts & Entertainment Law Review*, *Oregon Law Review*, *Minnesota Journal of Law, Science, and Technology*, *European Intellectual Property Review (EIPR)*, *American University International Law Review*, *UMKC Law Review*, *Jurimetrics*, *Washington International Law Journal*, and etc. He is also the single author of two books: *Coding a Free Society: Open Source Strategies for Policymakers* (VDM Verlag Müller Press, 2007) and *Nonprofit Organizations and the Intellectual Commons* (Edward Elgar, 2012).

During his studies at Stanford Law School, Dr. Lee was appointed as the John M. Olin Fellow in Law and Economics. Prior to joining the Chinese University of Hong, he taught at National Chengchi University and was an Associate Research Fellow in Center for Information Technology Innovation at Academia Sinica in Taiwan. He was the Legal Lead and Co-Lead of Creative Commons Taiwan (2011-2014) and an advisory committee member for Copyright Amendment in the Taiwan Intellectual Property Office (TIPO) at the Ministry of Economic Affairs (2011-2014). Professor Lee is currently a member of the advisory board of the European Center for E-Commerce & Internet Law affiliated with University of Vienna. Before starting his academic career, he was a practicing lawyer in Taiwan specializing in technology and business transactions.

IP Law Updates II

The Actualities and Puzzledom of the Anti-monopoly Execution in Mainland China

中國大陸反壟斷執法現狀及困境

Mr. Wen LIN – Partner of Beijing Jincheng Tongda (Shanghai) Law Firm

林文律師 – 北京金誠同達（上海）律師事務所合夥人

Abstract

The theme of the speech is the actualities and puzzledom of the anti-monopoly execution in Mainland China . Now in Mainland China there are three anti-monopoly law enforcement agencies, they are the National Development and Reform Commission, the State Administration for Industry & Commerce, and the Ministry of Commerce. The National Development and Reform Commission is responsible for the price monopoly cases. The State Administration for Industry & Commerce is responsible for the the monopoly cases except the price monopoly. The Ministry of Commerce is responsible for reviewing the concentration of business operators. The Anti-monopoly Law of the People’s Republic of China has been implemented for eight years , the speaker will introduce the current situation of anti-monopoly execution from two perspectives —— the latest legislation and the law enforcement results of the three agencies from 2008 to 2015. And some of the typical anti-monopoly lawsuits in the past seven years will be mentioned. In the end, the speaker will summarize the working features of the three anti-monopoly law enforcement agencies and the difficulties faced by them through contrast and analysis.

摘要

本次演講的主題是“中國大陸反壟斷執法的現狀與困境”。目前中國大陸負責反壟斷執法的行政機構有 3 家，分別為國家發展和改革委員會、國家工商管理總局、商務部。國家發改委負責查處與價格有關的壟斷協議行為和濫用市場支配地位行為，工商總局負責查處價格壟斷以外的壟斷協議行為和濫用市場支配地位行為，商務部則負責經營者集中行為的反壟斷審查。三家反壟斷執法機構各司其職，互相配合。今年是《反壟斷法》實施的第八年，本次演講將主要從三家反壟斷執法機構的最新立法進展以及截至 2015 年底的執法成果，結合中國大陸反壟斷案件司法審判情況三方面對中國大陸反壟斷執法現狀進行介紹，同時將採用對比分析的方法總結三家反壟斷執法機構的執法特點以及面臨的執法困境。

林文律師 北京金誠同達（上海）律師事務所合夥人

Mr. Lin Wen Partner of Beijing Jincheng Tongda (Shanghai) Law Firm

Biography:

1. Professional Experience

Mr. Lin has worked in the government department for nearly ten years. Then he engaged in legal service. He was employed as a member of the Legal Experts Advisory Committee of Kunming Municipal People's Government for two years, specialized in the legislation and policy formulation on intellectual property. He has a wealth of governmental work experience. Mr. Lin provides perennial legal consultancy service and special legal service to hi-tech companies, pharmaceutical companies, food manufacturing companies, telecommunication companies, etc.. He is not only good at dealing with company's business disputes, labor disputes and other issues, but also has a lot of practice operation experience in the field of intellectual property.

(1) Enterprise intellectual property strategy

Mr. Lin is one of the lawyers who can complete the formulation of IP strategy for enterprises alone in the very early days of development of enterprises intellectual property. He has formulated IP strategy for Dihon Pharmaceutical Group Limited by Share Ltd., HOGOOD Coffee Co.,Ltd., Kunming Luoshiwan International Trade City, Hubei Chinese Tobacco Co.,Ltd. and other large enterprises. And he is the one who first published the general standard of enterprise intellectual strategy service, ending the disordered competition state in the field of enterprise IP strategy.

(2) Anti-commercial bribery

Commercial bribery is one of the main risks faced by the foreign companies and state-owned companies in the Chinese market. Mr. Lin has made anti-commercial bribery compliance systems for Dihon Pharmaceutical Group Limited by Share Ltd., Kunming Yinongda Agricultural Science & Technology Co., Ltd., China Telecom Co., Ltd. Huaihua branch and other enterprises.

(3) Anti-monopoly

Mr. Lin has a lot of practical experience in anti-monopoly cases. He has represented China Telecom, China Mobile, Communication administration department and other parties to deal with anti-monopoly investigation and punishment. In the aspects of the administrative monopoly risk prevention, the centralized declaration of the operators and the construction of the anti-monopoly compliance system, Mr. Lin is good at solving practical problems for the clients.

(4) Intellectual property litigation

In the agent process of intellectual property dispute case, Mr. Lin not only pays attention to the legal theory research, but also can use evidence strategy to solve difficult legal issues. In the agent of copyright, patent, trademark and other intellectual property dispute cases, he is the loyal defender of clients' interest. At the same time, Mr. Lin has obtained the intellectual property rights of the judicial authentication qualification.

(5) Legal counselor service for company

Mr. Lin is familiar with the daily operation and management of various types of

company. He is good at providing valuable solutions for legal issues based on clients' self-interest, dealing with technical contract disputes, labor disputes and labor disputes and other issues, to help clients to prevent legal risks and solve legal problems.

2. Representative Performance

(1) Represented Kunming Luoshiwan International Trade City in the “Luoshiwan” trademark infringement and unfair competition case

(2) Represented Yunnan Didao Liquor Industry Co., Ltd. in the “Didao” trademark administrative dispute case

(3) Represented Yunnan Zhengda Seed Co. in the “Zhengda” trademark infringement case

(4) Former secretary of municipal Party committee Qiu He vs. Qiuhe Liquor trademark dispute case

3. Publications

(1) Legal system and practical skills of anti unfair competition, independent author, Law Press, 2014

(2) Forewarning analysis of pharmaceutical patents of panax pseudo-ginseng, editor-in-chief, Intellectual Property Press, 2013

(3) Basic practice of intellectual property lawyer (in two volumes), vice-editor-in-chief, People's University of China Press, 2013

(4) The diagnosis, control and countermeasures of enterprise labor risk, editor-in-chief, Law Press, 2012

(5) Operational guidelines for the practice of patent litigation evidence, editor-in-chief, Intellectual Property Press, 2011

(6) Operational guidelines for the practice of unfair competition litigation evidence, editor-in-chief, Intellectual Property Press, 2011

(7) Operational guidelines for the practice of copyright litigation evidence, editor-in-chief, Intellectual Property Press, 2010

(8) Practice and guidelines for the administration of the recognition of hi-tech enterprises, coauthor, Yunnan Art Publishing Press, 2010

(9) Practice and guidelines for the operation of consumer rights protection, independent author, Law Press, 2008

演講者簡介：

1、执业经历

林文律师曾在政府部门工作近十年，后转行从事律师服务工作，连续二届受聘为昆明市人民政府法律专家咨询委员会委员，专事昆明市人民政府有关知识产权的立法、政策制定等工作，具有丰富的政府工作经验。林文律师提供常年法律顾问服务和专项法律服务的公司包括有高科技公司、制药公司、食品制造公司、电信公司等，涉足多个行业，不仅擅长处理公司合规业务、商业纠纷、劳动争议纠纷等问题，更在知识产权领域拥有丰富的实务操作经验。

(1) 企业知识产权战略

是我国最早、能独立完成制定企业知识产权战略的律师之一，承揽了如滇虹药业集团股份有限公司、后谷咖啡有限公司、昆明螺蛳湾国际商贸城、湖北中烟等众多大型企业的知识产权战略制定工作。并在国内首次公开公布《企业知识产权战略服务通用标准》，结束了企业知识产权战略无范本参考的无序竞争状态。

(2) 反商业贿赂

商业贿赂是外资、国有企业等在中国市场面临的主要风险之一，曾为包括拜耳集团全资子公司滇虹药业集团股份有限公司、昆明亿农达农业科技有限公司、中国电信股份有限公司怀化分公司等知名企业制定反商业贿赂合规体系。

(3) 反垄断

在反垄断方面有较多实战经验，曾代理电信、移动、通信管理局等当事人应对反垄断调查及处罚，在行政垄断风险防范、经营者集中申报和反垄断合规体系建设等方面，都能较好地为委托人解决实际问题。

(4) 知识产权诉讼

在知识产权纠纷案件代理过程中，不仅重视法学理论研究，更能较好运用证据策略解决疑难案件的代理，在专利、著作权、商业秘密等方面知识产权案件代理中，都较好维护委托人利益。同时已取得知识产权司法鉴定人资格。

(5) 公司常年法律顾问服务

熟悉多种类型公司日常运营和管理模式，擅于从公司利益出发，为客户提供具有实际价值的法律问题解决方案，擅于处理技术合同纠纷、劳动人事争议以及账款纠纷等事宜，协助客户防范法律风险，解决法律问题。

2、代表业绩

- (1) “螺蛳湾” 商标侵权与不正当竞争案
- (2) 云南地道酒业有限公司“地道” 商标行政争议案
- (3) 李某侵犯云南正大种子有限公司“正大” 注册商标案
- (4) 原昆明市委书记仇和与仇和酒商标争议案

3、已出版作品

- (1) 《反不正当竞争法律制度与实务技能》（独著，法律出版社，2014）
- (2) 《三七医药专利预警分析》（主编，知识产权出版社，2013）
- (3) 《知识产权业务律师基础实务》（上下册）（副主编兼反不正当竞争篇作者，中国人民大学出版社，2013）
- (4) 《企业用工风险诊断控制与应对》（主编，法律出版社，2012）
- (5) 《专利诉讼证据实务操作指引》（主编，知识产权出版社，2011）
- (6) 《不正当竞争诉讼证据实务操作指引》（主编，知识产权出版社，2011）
- (7) 《著作权诉讼证据实务操作指引》（主编，知识产权出版社，2010）
- (8) 《高新技术企业认定管理操作实务与指引》（合著，云南美术出版社，2010）
- (9) 《消费维权操作实务与指引》（独著，法律出版社，2008）

IP Law Updates II

Overview of Patent System in HK and Patents (Amendment) Bill 2015

Kam W. Law, Ph.D., J.D.

Mr. Henry Luk

Hong Kong Institute of Patent Attorneys Limited

Hong Kong Institute of Patent Practitioners Limited

Abstract

On June 2, 2016, Hong Kong's Legislative Council passed the motion on Third Reading of the Patents (Amendment) Bill 2015. The Bill now awaits the signature of Hong Kong's Chief Executive and publication in the official Gazette before it becomes law. The Bill introduces several important changes, including an original grant patent ("OGP") system, a substantive examination procedure, refinements on its short-term patents as well as temporary measures to regulate the local patent agency services in order to establish a sound and advanced patent system, promote innovation and strengthen Hong Kong's role as Asia's global IP trading hub.



Kam W. Law

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Practice Focus

- Intellectual Property & Technology
- Life Sciences
- Chemicals
- Patents
- Trademarks

Education

- William Mitchell College of Law, J.D., *magna cum laude*, 2003
- University of Florida, Ph.D., Polymer Chemistry, 1987
- University of Hong Kong, M.PH., Organic Chemistry, 1983
- University of Hong Kong, B.Sc., first class honor, 1981

Admissions

- Hong Kong
- Minnesota
- United States Patent and Trademark Office

Languages

- Chinese (Cantonese, also known as Putonghua)
- Chinese (Mandarin)
- English

Dr. Kam Law, a US patent lawyer and Hong Kong solicitor, advises a variety of clients including Fortune 500 clients on intellectual property (IP) matters. He assists clients in applying for and prosecuting trademark and patent applications worldwide in the fields of renewable energy, pharmaceuticals, biotechnology, chemicals, electronics, mechanics, printing and technology. He frequently engages in patent due diligence and provides patentability opinions, freedom-to-operate opinions, infringement or non-infringement opinions, invalidity or validity opinions, and license agreements. He also advises clients on enforcement of patent rights and other IP matters in various jurisdictions.

Prior to his career in law he worked at Global 500 companies, such as 3M and Samsung Electronics, focusing on both research and development and intellectual property works. He received his US patent agent license in 1999, and his J.D. and US patent attorney license in 2003. As an inventor himself, Kam has obtained more than 300 patents worldwide.

Kam is a member of the American Bar Association, American Intellectual Property Law Association, Minnesota State Bar Association, Asian Patent Attorneys Association and Hong Kong Institute of Patent Practitioners.

REPRESENTATIVE EXPERIENCE

- Representing a China-based pharmaceutical company in the development and management of a patent portfolio related to a variety of new and generic drugs.
- Representing a renewable products company with patent prosecution strategy and portfolio development regarding renewable biofuels and renewable chemicals.
- Assisting global chemical and oil companies with patent prosecution and portfolio management relating to polymers and petroleum products.
- Enforcing patent rights of an optical company successfully in Paris, Milan and Hong Kong.
- Prosecuting accelerated applications under the accelerated examination program and Green Technology Pilot Program and obtaining patents generally in 6 to 9 months from filing dates.
- Assisting a litigation team in reversing successfully three patent infringement judgments against a Taiwan-based chemical company.
- Representing companies with patent prosecution strategy and portfolio development regarding silicon photovoltaic materials for solar panels and photosensitive materials

Mr. Henry Luk



LL.B., PGDip., M.Sc., AHKIPA

Henry specialises in assisting clients in the management of their patent, design and trade mark portfolios, including filing and prosecuting patents, designs and trade marks, advising clients on global branding strategies, and development and protection of their brand names.

He is currently an academic tutor of the University of Warwick teaching Product Design and Development Management on the M.Sc. He also teaches HK & PRC Trade Mark Law and Practice on the Certificate of IP Laws and Practice provided by the Hong Kong Productivity Council.

Henry holds a Bachelor of Laws and a Postgraduate Diploma in Economics for Competition Law from King's College London. He also holds a Master of Science from the University of Warwick. He has a particular interest in the interface between intellectual property and competition. He has assisted universities, research institutes and political parties in recommending amendments on the Companies Bill, Competition Bill, and the review of the patent system in Hong Kong.

Henry is a Council Associate of the Hong Kong Institute of Patent Attorneys Limited and a Full Member of the Hong Kong Institute of Patent Practitioners.

August 5, 2016 (Friday)

2016年8月5日(星期五)

Patent Financing

专利融资

Moderated by

Dr. Yuanjia HU – Assistant Professor of University of Macau

主持人：

胡元佳 博士 – 澳门大学助理教授

Patent Financing

Explorations and Practices on the Financing of Intellectual Property

知识产权在金融领域的探索和实践

Mr. Jie Ji – Director of Hengqin International Intellectual Property Rights Exchange Center

季节 先生 – 横琴国际知识产权交易中心总经理

摘要

横琴国际知识产权交易中心有限公司（简称“横琴知交中心”）是国家“1+2+20+N”的知识产权运营体系的重要组成部分，承担国家知识产权运营公共服务“金融”与“国际特色”试点平台（简称“国家横琴平台”）的建设运行任务，在金融领域，横琴知交中心将致力于在以下几个层面进行探索和实践 1) 知识产权质押融资业务、2) 知识产权互联网金融 3) 投贷运营基金 4) 知识产权保险

季节 先生



季节，男，汉族，河南南阳人，中共党员。专利代理人，现任国家运营平台七弦琴知识产权资产与服务交易网总经理。

具有多学科专业背景。先后在郑州大学包装工程专业，中国人民大学行政管理专业，中国政法大学民商法专业学习，获得工学、管理学双学士、法学硕士学位。

具有多岗位工作经历。先后在外观设计专利审查、专利行政执法、秘书、知识产权市场管理、综合管理、党务工作、团青工作、中关村知识产权促进局、知识产权运营企业管理等岗位工作。

具有丰富的政策研究和管理实务工作经验。作为核心成员参与编写2011-2014年度全国专利实力状况报告，参与国家专利战略、人才“十二五”、“十三五”规划、外国公司专利集中问题、知识产权发展状况报告、后TRIPS时代全球知识产权变革与走向等课题研究。作为主要成员研究制定全国知识产权系统管理工作“十二五”规划、维权援助政策、专利资助指导政策、执法数据统计、试点示范城市管理辦法、强县工程管理办法、中关村专利保险试点政策、以市场化方式促进知识产权运营服务政策等。

独著论文《试论专利制度的中国化》荣获国家知识产权战略制定工作征文二等奖；参与编写《专利纠纷典型案例评析》、《外观设计专利申请视图提交规范》等书；发表《试论专利制度的中国化》、《知识产权制度在中国》、《试论创新驱动发展战略的实施模式》、《为第四次专利法修改建言：中国专利保护需要正本清源》、《知识产权是创新驱动的核心支柱》等多篇论文。

任中国专利保护协会副会长，中国知识产权报常务理事，国家知识产权青年联合会委员。

Patent Financing

Legal Issues on Patent pledge financing in China

中国专利权质押融资的法律问题研究

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Abstract

Patent pledge financing is an important issue for taking full advantage of patent value in the process of constructing China as an innovative country, and it is not only a concrete manifestation of utilizing or applying intellectual property, but also the strong support to implement the strategy of "mass entrepreneurship and innovation". However, there are many challenges in the field of patent pledge financing in China. For instance, the legal regime on Patent pledge financing is not perfectly established, the quality of patents are not high, patent valuation mechanism and the appropriate institution of the related organs has not been established, and rights and obligations of the participants involving activities of patent pledge financing have not been clarified in the laws and regulations, and etc.. Therefore, the inherent laws of patent pledge activities shall be followed to improve the legal regime on patent pledge financing, and the relevant provisions on patent pledge shall be added in the fourth revision of the Patent Law, the inappropriate provisions on the patent pledge in the Property Law shall be modified, and a sound legal mechanism on patent pledge financing shall be built up, and the legal status of the pledgee shall be clarified. Furthermore, patent quality shall be improved, and a rational system of patent valuation shall be established and accurate definition of the legal status and role of government in patent pledge activities shall be provided clearly.

Key words: patent right, pledge financing, patent right evaluation, legal regime

摘要

专利质押融资是中国建设创新型国家过程中发挥专利价值的重要问题，是知识产权运用的具体体现，也是落实“大众创业、万众创新”有力支撑。然而，中国在专利权质押融资方面存在诸多挑战，如法律制度不够健全，专利质量不高，专利权价值评估机制及相应机构不够完善，相关当事人权利义务不够明确等。为此，应遵循专利权质押活动的内在规律，完善法律制度，在专利法第四次修改中增加专利权质押的相关内容，修改物权法中不适宜的规定，构建完善的专利权质押法律机制，明确质权人的法律地位；提高专利质量，建立健全的专利权价值评估体系，准确界定政府在专利权质押活动中的法律地位与作用。

关键词：专利权 质押融资 专利权评估 法律制度

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1999年7月和2005年7月分别于复旦大学获法学硕士和法学博士学位。1999年-2003年任上海贝尔阿尔卡特股份有限公司法律顾问（合同部负责人）；2003年至2005年，上海汇业律师事务所专职律师；2005年至今，任教于复旦大学法学院，先后在韩国高丽大学法学院（2011.08——2012.08）、美国哥伦比亚大学法学院（2013.08——2014-08）访学。

2005年以来，先后发表学术论文100余篇；出版专著7部。主编2部（第一、第二主编各一）；译著4部（其中3部合译）。先后主持国家哲学社会科学、教育部人文科学、国家知识产权局、上海市哲学社会科学、司法部等省部级以上项目7项；横向项目7项。

2005年以来获奖情况：复旦大学管理学院MBA教学二等奖（2005）；中国科技法学会首届科技法学优秀人才奖（2008）；国家知识产权局第二批“百千万知识产权人才工程”百名高层次人才培养人选（2009）；论文和专著曾分别获上海市第十二届（2014）和第九届（2008）哲学社会科学优秀成果二等奖和三等奖；专著获2014年中国国际法学会“中国国际法学优秀科研成果奖——（航天科工奖）”。2008年至2014年7年间共6次获得复旦大学法学院科研奖，其中一等奖3次（2010、2012与2013），二等奖2次（2008和2014），三等奖1次（2009）。

Patent Financing

Big Data Analysis of Global Literature and Patents in Pharmaceuticals and Drug Delivery Area

从专利和文献角度大数据分析近三十年全球药剂学进展

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Pharmaceutics, as one important discipline of pharmacy, relates to the science of pharmaceutical formulations and drug delivery, which prepare a new molecular entity (NME) into a medication with safe and effective performance to patients. The aim of this study was to compare the literature and patents to provide a landscape of the global research advances in pharmaceutics in recent three decades by scientific knowledge mapping techniques. Over 100,000 publications and patents were identified from 1980 to 2014. Combined big data and information visualization tools were employed for the data analysis. The results showed that Japan had the largest contribution in literature with global share of 26.1%, but a continuing decline trend after 1994. China witnessed an exponential rise after 2005. University of London ranked 1st among top ten the most productive institutions. Pfizer (2nd) and GlaxoSmithKline (9th) led the pharmaceutical industry. Collaborations between USA and Europe were much stronger than that Asia. Keywords bursts detection and co-citation analysis were employed to investigate the research frontiers shifted over three decades. From 1980 to 2000, the hot topics focused on “prodrug”, “metabolism” and “pharmacokinetics” and so on, while the research areas on “liposome”, “microcapsule”, “nanoparticle”, “gene delivery” and “cancer” gained widely attention after 2000. It was revealed the leading topics in pharmaceutics shifted from conventional dosage forms to advanced drug delivery systems. In conclusion, current study provided a comprehensive and systematic insight to literature and patent analysis in pharmaceutics field from global view in recent three decades.

Dr Defang Ouyang



Dr Ouyang has a multidisciplinary background in pharmaceutics & computer modelling, with experience in academia and industry. He obtained his bachelor and master in pharmaceutics from Shenyang Pharmaceutical University, China. He completed his PhD in pharmacy at The University of Queensland, Australia, in 2010 and progressed directly to his faculty position (Lecturer in Pharmaceutics) at Aston University (UK). From the end of 2014, he moved to the University of Macau. Since 2011, he has pioneered the integration of molecular modeling, artificial intelligence, big data and experimental approaches in the field of drug delivery - "computational pharmaceutics". He has published over 20 refereed journal papers in this area. He chaired the 'Computational Pharmaceutics' Workshop in 2014 Controlled Release Society Annual Meeting (Chicago, USA). He edited with Professor Smith the first book in this area <Computational Pharmaceutics - the application of molecular modeling in drug delivery> (John Wiley & Sons Inc., 2015). Currently he supervises three PhD students and five master students. He also had successfully supervised two PhD students and 21 master research projects.

Patent Financing

An Introduction of Intellectual Property Pledge in the Mainland of

China

大陆知识产权质押介绍

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摘要

知识产权质押贷款，是以知识产权为质物担保主债务的履行，通过商业银行、律师事务所、资产评估机构共同参与贷款审查、贷后管理及质物处置的贷款模式。本次演讲主要介绍了知识产权质押的含义、法律依据、知识产权质押的历史、现状和存在的主要问题。

一、专利权质押的含义：

专利权质押：是指债务人或第三人将拥有的专利权担保其债务的履行，当债务人不履行债务的情况下，债权人有权把折价、拍卖或者变卖该专利权所得的价款优先受偿的物权担保行为。

专利权质押：是指为担保债权的实现，由债务人或第三人将其专利权设定质押，在债务人不履行或不能履行债务的情况下，债权人有权设置专利权优先受偿。步入知识产权经济时代，科学技术转变为经济发展的核心元素，越来越多的企业选择申请专利来保护自己的专利技术，并将专利技术实现产业化发展，专利权质押无疑成为实现产业化发展的一个重要途径，专利权质押在知识经济时代，成为企业融资的一条捷径。

二、专利权质押的法律依据：

专利权质押有关涉及权利质权的问题，就我国法律来看，1984年的《中华人民共和国专利法》（以下统称《专利法》）、1992年的《关于修改〈中华人民共和国专利法〉的决定》以及2008年12月27日第十一届全国人民代表大会常务委员会第六次会议《关于修改〈中华人民共和国专利法〉的决定》都未对专利权质押进行规定，而且1986年颁布的《民法通则》也并未规定权利质押，而我国《民法通则》第89条所规定的“债务人或第三人可以提供一定的财产作为抵押物”中的“财产”虽然不限于有形资产，但仍没有明确提出其中包括权利的概念。直到1995年通过并实施的《担保法》79条才明确规定：“以依法可以转让的商标专用权、专利权、著作权中的财产权出质的，出质人与质权人应当订立书面合同，并向其管理部门办理出质登记，质押合同自登记日起生效。”随后，国家知识产权局依据《担保法》和《专利法》于1996年9月19日制定了

《专利权质押合同登记管理暂行办法》，对专利权质押的具体操作规则进行了规定。2007年10月1日实行的《物权法》进一步扩大且具体列举规定了债务人或者第三人有权处分的权利可以出质，其中对知识产权中的财产权出质问题做出了明确的规定。例如：该法第223条规定：“债务人或者第三人有权处分的下列权利可以出质：（五）可以转让的注册商标专用权、专利权、著作权等知识产权。”第227条第一款规定：“以注册商标专用权、专利权、著作权等知识产权中的财产权出质的，当事人签订书面合同。质权自有关主管部门办理出质登记时设立。”第二款规定：“知识产权中财产权出质后，出质人不得转让或许可他人使用出质知识产权中的财产权所得的价款，应当向质权人提前清偿债务或者提存。”而国家知识产权局在2010年出台的《专利权质押登记办法》是为了适应《物权法》对《担保法》相关内容的修改（即《物权法》区分了质押合同与质权生效条件，明确规定以知识产权出质的，质权自有关主管部门办理出质登记时设立）并结合我国专利管理实践的需要，而对《专利权质押合同登记管理暂行办法》的修订。这些法律法规的实施，奠定了我国专利权质押的基础，使得专利权质押融资制度在我国有法可依，有效保障了专利权质押融资制度的实施，而且随着我国专利权质押融资的发展，我国有关专利质押的法律法规也在不断完善中。

1995年《担保法》第79条：以依法可以转让的商标专用权，以依法可以转让的商标专用权、专利权、著作权中的财产权出质的，出质人与质权人应当订立书面合同，并向其管理部门办理出质登记，质押合同自登记日起生效。

2006年是为了规范资产评估的行为，建立评估管理机制，这其中明确了知识产权质押有效融资的应用。

2007年《物权法》第227条规定：以注册商标专用权、专利权、著作权等知识产权中的财产权出质的，当事人签订书面合同。质权自有关主管部门办理出质登记时设立。

2008年国家知识产权局率先开展了知识产权质押的试点工作。

2009年国家知识产权局和财政部联合指导出台的专利资产评估指导意见对评估师的资质，执业要求，评估对象，具体的评估方法，评估事项等要求做出了明确的规定。2009年无形资产评估准则，对评估专利产权内容进行完善。

2010年《专利法实施细则》第十四条规定：以专利权出质的，由出质人和质权人共同向国务院专利行政部门办理出质登记。

2014年，由人民银行牵头，出台了一个文件，明确要进行质押登记，在质押项目的权益保障和知识产权价值评估，产品开发和创新等方面开展工作。

《专利权质押登记办法》

质押登记需要的文件：

a.专利权质押登记申请表；b.专利权质押合同原件；c.出质人和质权人的身份；d.由出质人以及被委托人共同签章的委托书原件和被委托人的身份复印件；e.其他需要提供的材料。

国家知识产权局对提交文件进行审查，并对拟出质专利的法律状态及权利纠纷、专利许可及质押等情况进行核查，确保质押物质符合有关规定

在专利质押期间，对质押专利的法律状态进行监控，当专利权种植或被宣告无效以及未按时交纳年费等导致权利灭失的情况，要及时告知质权人。

专利权出质后，质权人对该专利享有优先受偿的权利，具有对抗第三人的效力。

三、质押工作的历史情况。

国际上知识产权质押的情况：新加坡没怎么开展，印尼跟马来西亚也在支持，他们开展模式跟我国前几年比较像。欧盟从实践上开展不如中国。英国也没怎么开展，他们市场化程度比较高，但由于知识产权在融资过程中要处理的共性在权保障政府提供的支持十分有限，没有一段时间整合起来，所以实践远远落后我国。韩国质押融资做的比我国早，但由于研究方面早期过度依赖资产评估，专利属性没有体现出来，后来出现不良，他们开展也较一般。美国比较零星，国内往往是把共性的问题提出来，作为促进的手段；可能美国是条件都比较具备的时候，会当成总体的一个项目当中的知识产权，量也不大。

我国质押融资取得的进展：第一是风险补偿的解决方式和各地方政府、商业机构提出的一些做法，第二是资产评估跟专利价位分析结合促进应用，第三要把借款和股权投资市场作为两种主体用一种商业模式串起来。

四、质押大体成果

2015年各省市知识产权质押登记分布

省、市	数量（件）	总额（亿元）
天津市	100	16.60
北京市	192	33.60
广东省	169	58.94
四川省	71	20.40
浙江省	240	36.38
山东省	205	80.26
安徽省	156	11.56
黑龙江省	40	5.72
陕西省	258	12.50
福建省	142	23.16

2015年，我国知识产权质押融资工作进展明显，全年新增专利权质押金额560亿元，惠及2000余家企业。对其中20件专利权质押融资项目的抽样调查结果显示，相关企业当年累计新增销售额37.7亿元、利润3.2亿元。

最新统计数据显示，2015年专利权质押融资金额排名前十的省区市依次为山东（80.26亿元）、宁夏（71.46亿元）、广东（58.94亿元）、辽宁（41.92亿元）、浙江（36.38亿元）、北京（33.60亿元）、内蒙古（30.05亿元）、福建（23.16亿元）、江苏（21.95亿元）、四川（20.40亿元）；质押项目数排名前十的省区市分别为浙江（240件）、陕西（235件）、山东（205件）、北京（192件）、广东（169件）、江苏（161件）、福建（142件）、安徽（112件）、天津（100件）、四川（71件）。

五、专利权质押主要问题：

1、企业的弱势地位

专利权质押制度是市场经济发展到一定阶段的产物，它的实施离不开发达的市场环境和政府的宏观调控。原则上是否订立专利权质押合同完全取决于双方当事人意愿，政府基本上不实施任何影响。目前，我国专利权质押主要在企业

银行之间运行,但是在专利权质押中完全实现当事人的自治是欠缺妥当的。无论订立何种合同,当事人双方的地位应该是平等的,但是,在专利权质押中,双方当事人的地位却恰恰是不平等的。尽管“订立专利权质押合同是双方意思一致的表示,但事实上,是否质押只取决于银行。银行有绝对的决策权,企业并没有决策权。企业处于弱势地位,银行处于强势地位。这时如果政府没有进行适度的管理,只任凭银行从自身利益出发自主决定,专利权质押的落实将成为空谈”。

2、专利权价值评估难

在进行专利权质押之前,银行要对专利权人的专利进行价值评估,如何能够准确评估该项专利权的价值,涉及到很多方面的问题。评估过程中对细节问题的不同处理,都可能导致评估结果的巨大差异。银行不仅仅要“考虑该项专利技术的革新程度、市场需求量的大小、专利产品的实用性,而且要考虑该项专利产品被仿制的难易程度、该项专利产品的功能是否能被其他相类似的产品替代以及专利的有效期限等种种诸多问题,”才能对该项专利技术的经济效益进行全面的预测和评估。“值得注意的是,专利权的时间性强,一个专利产品的上市往往经历上市期——认识接受期——畅销期——饱和期,一项专利权在专利产品畅销期的评估价值应比饱和期大得多。”

3、银行承担风险大

专利权质押的风险较大。银行如果仅仅依靠自己的力量很难克服和避免专利权质押中面临的政策、技术、市场等多重风险。商业银行在经营管理过程中,由于专利前景的不确定性、专利效果的不确定性引致信贷资产预期收入有遭受损失的可能性。该项“专利能否商业化、产业化还是未知数。如果专利无法顺利转化为产品并获得赢利,银行的贷款将难以收回。”另外,专利权价值的实现主要取决于市场因素,如何控制、分散市场风险实际上也是专利权质押中存在的一个不可忽略的问题。

4、专利权质押质权实现难

专利权是一种无形资产,不同于有形动产质押。有形动产质押的实现因为质权人占有质物,质权人可通过拍卖、变卖质物从其价款中优先受偿,或以质物折价抵偿。虽然专利权质押也可通过拍卖、变卖、折价抵偿等方式实现,但是动产质押质物的价值有一定的稳定性,其转让也不需要特别的手续,质物占有使用具有唯一性,这些都是专利权所不具有的。同时专利权的转让还受到法律的限制。《专利法》第10条规定:“中国单位或个人向外国人转让专利申请权或专利权,必须经国务院有关主管部门批准。”《专利法实施细则》第14条规定:“中国单位或者个人向外国人转让专利申请权或者专利权的,由国务院对外经济贸易主管部门会同国务院科学技术行政部门批准。”第15条规定:“除依照专利法第十条规定转让专利权外,专利权因其他事由发生转移的,当事人应当凭有关文件或者法律文书向国务院专利行政部门办理专利权人变更手续。”可见,专利权质押质权的实现无论是在方式上还是在程序上都比动产质押实现要困难。

Dr. Yongkang Huang



Yongkang Huang, was born in December 1970, and is a PhD in Business Economics. He serves as a deputy director in Tianjin Xing Tai assets appraisal co., Ltd. He is a senior accountant, a China certified public accountant, a Certified Public Valuer, a member of United Kingdom Royal Institution of Chartered Surveyors (RICS) and a value assessment of the American International Association of Consultants, Valuators and Analysts (IACVA). He published several papers of audit and evaluation, 2 books, and presided over the 5 country's intellectual property projects. For many years, he worked as a financial expert in the Ministry of science and technology, and engaged in reform, investment and listing of joint stock enterprises of science and technology enterprises. He was a member of the National Torch Program experts' database and 863 Plans to Industry Partners City Expert Advisory Committee. And he also is a vice chairman of Tianjin intellectual property appraisal committee.

黄永康，男，1970年12月出生，商业经济学博士，天津兴泰资产评估有限公司副所长，高级会计师，中国注册会计师、注册评估师、英国皇家测量师、美国国际企业价值评估师，发表审计、评估方面的文章多篇，出版著作2本，主持国家课题5项。多年担任科技部财务专家，多年从事科技型企业股份制企业的改造、投资和上市，入选国家火炬计划专家库专家和863计划产业化伙伴城区专家咨询委员会专家，天津市知识产权评估专家委员会副主任委员。

Patent Financing

Patent Financing in China: An Empirical Study of Company X

专利金融在中国：公司 X 的实证研究

Dr. Yuanjia HU – Assistant Professor of University of Macau

胡元佳 博士 – 澳门大学助理教授

Abstract

Patent financing has a rapid development in China during the past decade. This presentation takes an example of a leading assets appraisal company expertised in intellectual property pledge to show the current situation, problems, and challenges of patent financing in the real world. In this talk, descriptive statistics of patent financing business of this company will be reported, while the factors to affect patent pledge will be pragmatically explored on a basis of empirical model.

Dr. Yuanjia Hu



Dr. Yuanjia Hu is Assistant Professor of Biomedical Sciences and Programme Coordinator of Medicinal Administration in Institute of Chinese Medical Sciences, University of Macau (UM). Dr. Hu is doing multidisciplinary research in medicinal intellectual property. He established patent valuation models specific to drugs, analyzed technology innovation and transfer measured by IP, and published results in SSCI journals in economics and management fields, such as, *Technol Anal Strateg Manage*, *Chin Econ Rev*, and *Reg Stud*. On the other hand, he actively develops new pharmaceutical discovery, especially by employing modern network-based analysis approaches to research Traditional Chinese Medicines. He constructed chemical ingredients network of herbal formulae against CHD and drug-target networks, etc., and published results in SCI journals, such as, *PLoS ONE*, *Expert Opin Ther Pat*, *eCAM*, and *Hum Vaccin Immunother*. He supervised about 40 Ph.D. and master students and postdoctoral researchers, led and participated in above 10 research projects financed by European Commission, Eurasia Pacific Uninet, Ministry of Science and Technology of China, Development Research Centre of the State Council of China, the National Social Science Fund of China, and the Science and Technology Development Fund of Macao SAR, and further produced over 70 publications including peer-reviewed articles and monographs. He is also IP consultant of Baocheng Law Firm, Project Researcher in the Research Center of National Drug Policy & Ecosystem, Deputy Secretary-General and Executive Council Member in Specialty Committee on Network Pharmacology of World Federation of Chinese Medicine Societies, and Researcher in International Research Center of Medicinal Administration, Peking University. Dr. Yuanjia Hu received B.Sc. degree from China Pharmaceutical University (CPU), UM-CPU dual M.Sc degree in Medicinal administration, Ph.D. degree in Biomedical Sciences from the UM, and Guest Researcher fellowship in Austrian Institute of Technology.

August 5, 2016 (Friday)
2016年8月5日(星期五)

Innovation

创新

Moderated by
Dr. Waishun LO – General Partner of DL Capitals

主持人：
劳维信教授 – 点亮资本合夥人

Innovation

IP in the Open Innovation Era

创新时代的知识产权

Dr. Waishun LO – General Partner of DL Capitals

劳维信教授 – 点亮资本合夥人

Abstract

Increasingly open innovation is adopted by more and more companies, big or small alike. Here invention need not be created internally but can come from outside, partners or even competitors.

In this framework of open innovation, how should companies look at IPR and IP Commercialization?

Examples from Haier, Tesla, and Cisco will be discussed to illustrate the IP practice in this new era, which is basically a business model innovation.

On top of this, the emergence of new technology such as Blockchain will enable companies to disrupt the traditional businesses which are heavy IP based such as music industry.

So there will be both technology as well well business model innovation to disrupt future businesses involving heavy IP.



Dr. Waishun LO

General Partner of DL Capitals

Dr. Waishun Lo is currently General Partner of DL Capitals (點亮資本), an angel investment fund focusing on disruptive and exponential technologies. He is also Adjunct faculty of The Chinese University of Hong Kong (MSc/Entrepreneurship/ IT Management, EMBA/Innovation, OneMBA/Entrepreneurship), and Visiting Professor of PKU (School of Innovation and Entrepreneurship).

His expertise and current interests include Intellectual Property Commercialization, Business Models Innovation and Technology Transfer.

His previous experience includes positions with Bell Labs, Cable & Wireless Innovation, Hong Kong Telecom, and S Venture, an early stage investment company. He had served as Board of Directors for two listed companies in Hong Kong, as panel of assessors of SERAP (Small Entrepreneurs Research Assistance Program), and as Director of the Young Entrepreneurs Development Council.

Dr. Lo was a Senior Researcher at Harvard Business School's (HBS) Asia-Pacific Research Center. He had conducted many consulting projects for institutions and PE funds such as HK Government (regulatory policy), IFC of World Bank (Investment strategy in China), Intellectual Ventures (Invention Network) and had advised many startups in the past.

He holds BSc and Mphil from CUHK, a Ph.D. from Brown University, and has executive management training from INSEAD.

劳维信教授

点亮资本合夥人

- 点亮资本合夥人
- 香港中文大学讯息工程系兼任教授, 过去 10 年教授硕士及商学院 EMBA 课程
- 北京大学产业技术研究院访问教授
- 国际技术转移协作网络 ITTN 委员 (创新医疗技术)
- 具 25 年中、港、美地区电讯, IT , 高科技行业及风险投资之工作经验
- 研究公司战略、高科技投资、跨国高科技技术转移、知识产权贸易及授权

曾任

- 哈佛大学商学院亚太研究中心研究主任
- 二间香港上市科技公司之董事会成员, 及替多间 IT 企业及 VC/PE 作谘询顾问
- AT&T Bell Labs (贝尔实验室), 香港电讯, C&W Innovations 及 S Venture 管理层职务

香港中文大学物理学士, 哲学硕士及美国布朗大学(Brown University) 物理博士

曾任香港政府公职: 创新科技署 — 创新及科技基金核下之 小型企业研究资助计划项目评审小组评审委员, 创新及科技基金资讯科技项目评审委员会成员 曾任社会公职: 香港青年企业家发展局董事, 并在过去 15 年致力培育香港青年企业家 曾出版有关香港高科技初创公司之书籍

Innovation

High-Tech Projects between China and Europe – Introduction & Roles in the Collaboration

中欧高新技术项目介绍及如何合作

Mr. William LIN – CEO and Operations Director of JUSWE Green Park Incubator

林亮先生 – 今世为·蓝清谷执行董事

一个敬畏科技的时代，千载难逢，你我岂可错失良机！为让更多的优质、创新欧洲科技项目能尽快在中国落地推动，产生可观、可期经济和社会效益，JustWE 今世为·蓝清谷中欧团队将为大家做典型中欧高新技术项目成功案例介绍以及中欧如何更有效合作展开经验分享。创新创意高科技项目包括：1) 《基于 HPC 取暖技术在节能环保领域的创新和应用》该技术利用其独特的科技和商业模式创新，开创了用计算机给建筑物绿色免费供暖的可能,其原理将需要砸重金冷却的计算机废热转化成为日常生活所需的暖气，变废为宝，变革了采暖方式，在我国北方，可替代部分传统取暖，大大减少二氧化碳排放量，在供暖季协力国家“雾霾”治理，同时其新型 HPC 云计算特征为低价 HPC 云服务成为可能，基于大量传感技术的接合，又实现突破家庭智能中心的革新。2) 来自法国的 BRS 充电系统为新能源汽车充电提供一套行之有效的解决方案。其独特的创新商业模式也为当前新能源汽车发展的瓶颈和困扰提供可行的借鉴意义。发言人还将就如何让这些创新科技，让欧洲技术、团队和中国企业、中国资本能快速、有效对接献计献策。

Mr. William Lin

林亮先生

【公司】 今世为、今世为. 蓝清谷

【职务】 CEO

【地址】 中山、深圳、杜塞尔多夫、巴黎

【简要介绍】

1. 具有 19 年与德国技术性人才在中国一起创办实体企业、经营实体企业，共成长的成功经历，与欧洲人、欧洲技术团队在不同文化背景下深度磨合的成功经验。在与欧洲人、欧洲企业的谈判过程中，具有较强的事实基础和说服力。
2. 拥有丰富的一线欧洲高端企业、技术、院校和人才私密资源。在欧洲业务的开展拥有快捷助力通道。
3. 拥有相对丰富的国内人脉资源。在社会形象和社交场合中，以正直、有激情、乐观、正能量为导向表现。
4. 具有亮剑精神，敢于接受对新生事物、新机会的挑战，敢于创新。
5. 经营多家企业，具有全球化思维和意识，在欧洲有自己的海外公司。

Innovation

A sustainable strategy for innovation

一个使创新得以持续发展的策略

Prof. King-Lau CHOW – Professor of Life Science and Biomedical Engineering at Hong Kong University of Science and Technology
周敬流教授 – 香港科技大学生命科学部及生物医学工程学部教授

Abstract

The evolution of our education system in the past century goes towards diversification and specialization. This trend has impacted on an operation facilitating efficient and scaled up production of a well trained workforce with professional competence. However, as globalization is sweeping through every economy and cutting across cultural boundaries, scaling with standardization is no longer of prime appeal. Unpredictable market development, customer-based service, individualized products and niche-oriented solution will be the norm. Compartmentalized knowledge and skill set prepared in our current education system would not allow us to meet the societal need, no matter it is local or global. It would not survive economic and evolutionary selection. Grasping knowledge across disciplines and have a strong experience in practical integration will be in great demand. How should the education system adjust to this need, when our trainers are no more familiar with this new environment? The ones that can quickly embrace this new strategy to blur the disciplinary boundaries with a strong focus on finding practical solution will emerge as the leaders of the next decades. They will shape our future workforce with an emphasis on versatility addressing context-specific problems.

Prof. King L. Chow

King L. Chow is Professor of Life Science and Biomedical Engineering at HKUST. He has served as Associate Dean of Students, Academic Director of the Common Core Program, Directors of the Molecular Biomedical Sciences Program and Bioengineering Program. He currently holds the position as the Director of Interdisciplinary Programs Office overseeing different interdisciplinary research and educational programs. His own research focuses on molecular genetics, neural development, synthetic and evolutionary biology. He actively engages in various teaching development programs, spearheads liberal arts education and interdisciplinary research at HKUST. He has taught subjects of his own expertise areas, as well as subjects at the juncture between science, engineering, social science and humanity & arts. He delivers classes in traditional lectures, exploratory-project-based courses, MOOC and extensive flipped classes at undergraduate and graduate levels, innovative programs that cut across all disciplines, earning him the School of Science Teaching Award, the Michael G. Gale Medal of distinguished teaching at HKUST.



Mr. Yao Deng

邓尧律师

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Solicitor, England and Wales
China-Appointed Attesting Officer

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中国委托公证人

林靖寰律师毕业于香港中文大学社会科学学士，同时拥有香港中文大学工商管理学硕士学位、英国伦敦大学法律学士荣誉学位、并且在英国法律学院考获律师执业试资格。林律师现时拥有香港及英国律师资格。林律师曾在国际律师事务所及跨国公司任职，是香港许林律师行创办人之一。

林律师在企业收购合并、合资企业、私募股权基金、企业及资产重组、香港公司上市及提供公司服务方面有着丰富经验，曾协助一間石油化工控股有限公司成功在香港上市，及参与多间上市公司重大资产收购项目。

Mr. William CW Lam holds a Bachelor's Degree of Social Science and a Master's Degree of Business Administration from The Chinese University of Hong Kong. He also holds a Bachelor's Degree of Laws from the University of London. He is now a qualified lawyer in Hong Kong, England and Wales. Mr. Lam is one of the founders of Hui & Lam, Solicitors and he has had experience working in an international law firm and a multinational company.

Mr. Lam has rich experience in M&A, joint venture, P.E. formation, corporate restructuring and commercial legal services. He has represented clients in IPO's and has been engaged in multi-billion M & A transactions.

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August 6, 2016 (Saturday)

2016年8月6日(星期六)

Business IP

知识产权商业化

Moderated by

Mr. Yao DENG –

Partner of Guangzhou Office of Lifang & Partners

主持人：

邓尧律师 - 北京市立方（广州）律师事务所合伙人

Business IP

The Prediction of Future Winning Patent Service Model
专利产业未来胜出模式探讨

Mr. Wellsey YU – CEO of Wellsey International IP Consulting Co. Ltd.
余昱辰先生-威尔立国际智权顾问有限公司总经理

Abstract

- (1) IP Industry Service Model Analysis
- (2) How does current trend affect IP industry
- (3) Prediction of future lucrative model among great China

Mr. Wellsey Yu

一、姓名 (Name)：余昱辰 (Wellsey Yu)

二、任職單位/職稱 (Company/Position)：

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Wellsey International IP Consulting Co.Ltd. CEO

三、榮耀 (Honor)：

2014 台灣 第一屆總統創新獎 (個人獎/主題: 專利服務創新)

2014 1st Taiwan Presidential Innovation Award (Individual Prize)

四、簡介 (Brief Introduction)：

- 引入 Philips 與 Apple 專利常勝軍專利布局手法，並依臺灣客觀環境量身打造「主動式三維度專利布局法」，發展創新服務模式，改良傳統專利分析模式，運用新科技打造專利分析平台，服務台灣 LED 指標公司與國際大廠交互授權。
- 開發專利分析平台，協助臺灣產業監控國際重要專利與訴訟判決，提供企業合作深度的專利分析，讓 LED 產業近年雖仍受國際上專利的攻擊，仍能爭取在 IP 上的勢均力敵地位，成果深受客戶滿意，多次循環合作，是 台灣朝技術自主努力方向下，僅有的服務創新典範案例 (摘錄自台灣總統府新聞稿 2014.07.03)。
- 協助有大志向的客戶策略轉型，脫胎換骨為大型 ODM 或品牌公司時，在 IP 上所需要的資源配置、系統/流程/團隊建置/與研發獎勵制度的導引。
協助評估合適搭配的專利代理人，結合其主商業策略執行對應的 IP 策略。

When Wellsey took over his patent role in Taiwan LED industry, there was a large gulf between Taiwan and Western in terms of their patent strategy concepts. Taiwan domestic academic and research units lacked a "systemic solution," so their impact to the industry were limited. To overcome this problem, Wellsey set up a special work force that adopted novel approaches in patent strategic arts and created a patented patent analysis platform (software + methodology), compared to the conventional method used by ITRI. Wellsey made his IP team, R&D colleagues, domain experts and industry staffs work closely integrated to channel their resources under his direction of "Dynamic-3D Patent Layout Methodology + Patent Positioning Analysis". Once if the two were combined, the effectiveness of the overall framework would be revealed. Wellsey's Taiwan customers ended up cross-licenses with foreign giant competitors and won many significant battles in cross boarder patent disputes. This innovative service model was the only successful story in Taiwan and Wellsey was awarded the 1st Taiwan Presidential Innovation Award in 2014.

Business IP

Business Models for the Creative Industry and the Path for Chinese Enterprises

著作权产业盈利模式的探讨及启示

Dr. Jia WANG – Teaching Fellow at the Department of Law, Faculty of Business, Hong Kong Polytechnic University

王佳博士 - 香港理工大学工商管理学院法律系专任导师

Abstract

This talk will examine the digital challenges to the copyright industry and discuss the ways for Chinese entrepreneurs to consider when engage in copyright-related businesses. It will investigate the online business models used for music, films as well as the publishing industry and discuss how to collectively manage copyrights and neighboring rights.

Dr. Jia WANG

王佳博士



Dr Jia WANG is a Teaching Fellow at the Department of Law, Faculty of Business, Hong Kong Polytechnic University. She is concurrently an External Research Fellow at the Applied Research Center of Intellectual Assets and the Law in Asia, School of Law, Singapore Management University. Prior to joining Singapore Management University, Jia was a Research Fellow at the Berkman Center for Internet and Society, Harvard University. Her research interests lie in the areas of intellectual property law, privacy and personality rights, and the intersection between law and technology.

王佳博士现任香港理工大学工商管理学院法律系专任导师，兼任新加坡管理大学知识产权与亚洲法律应用研究中心海外研究员。在加入新加坡管理大学前，她曾任哈佛大学伯克曼因特网与社会研究中心研究员。她的研究兴趣包括知识产权法，隐私与人格权，以及法律与技术的互动。

Business IP

A New Mathematical Model and Algorithm for Evaluating the Value of Patent Right

一种新的专利权价值评估数学模型及算法

Mr. Hu WANG – Consultant of Guangzhou IP Exchange

王虎先生-广州知识产权交易所 顾问

Abstract

The author thinks that the patent evaluation methods which are in use now do not measure the value of an invention patent accurately, because the main influential factors of the value of invention patent should not only be related to the patent itself, but also to the patent holder's market influence, the total market sales value of the patent products, the number of patents attached to the goods, the patent sensitivity to related industries, and the expected return value of the patent, i.e. the protection status at the time of evaluation.etc. Therefore, the author has developed the new mathematical model and computational formula for patent evaluation.

摘要

笔者认为现在采用的专利评估方法并不能合理评估一件专利的价值，因为，决定一件专利价值的主要因素不仅仅与该专利相关，还应当与该专利持有人的市场影响力，该专利产品的市场总值，该专利产品上附加的有效专利数量，以及该产品所属产业的专利敏感度和评估时期的专利价值回报期望值，也就是专利保护状况等重要因素相关，据此，笔者研究出一种新的专利估值数学模型及算法。



Mr. Hu WANG

Mr. WANG Hu is a partner of WAN HUI DA as well as an experienced attorney at law and a registered patent attorney. He is also a senior counsel of IPRC Intellectual Property Right Center.

Prior to his IP career, Mr. WANG Hu had been engaged in CAD (Computer-Aided Design) programming, civil engineering, and corporate management. His educational background covers applied mechanics, law, finance, and business administration. He had been working at the intellectual property authority of Guangdong Provincial Government for more than 10 years. Mr. WANG specializes mainly in intellectual property litigation as well as non-litigation legal affairs. He has both solid theoretical foundation and rich working experience in protection of IP rights, especially patent, software, trade secrets etc.

Mr. WANG Hu is particularly good at corporate IP risk assessment and management and other IP-related counseling. As an official of Guangdong Province, he has cooperated with Hong Kong Productivity Council (HKPC) to carry out the research of the first index system for corporate IP management evaluation in China, i.e. the Innovation Knowledge Enterprise IP Management Practice, which was launched in 2004. In September 2010, the final outcome of the research was issued as a provincial standard (DB44/T 797-2010) by the Administration of Quality and Technology Supervision of Guangdong Province to be implemented across the province. It is one of the earliest standards for corporate IP management in China and proves to be scientific, practical, and easy to operate after tested by several years of experience of over one hundred manufacturing enterprises.

Mr. WANG Hu has organized and conducted over ten IP-related researches, edited several IP books and published quantities of IP articles.

王虎, 万慧达合伙人, 北京君策知识产权发展中心高级顾问, 中山大学工学硕士, 专利代理人, 律师, 华南理工大学法学院知识产权专业兼职硕士研究生导师, 入选国家“知识产权百名高层次人才”(2009年), 并先后担任广东省委宣传部知识产权讲师团成员, 广东省技术标准与知识产权专家库成员, 香港生产力促进局“创新-知识型”企业知识产权评审专家, 广州市知识产权讲师团专家成员等职。

进入知识产权行业之前, 王虎先生曾从事过 CAD (计算机辅助设计) 编程、土建工程, 以及企业管理等工作, 具有应用力学、法律、金融和工商管理等专业背景。王虎曾在广东省政府知识产权管理部门从事知识产权保护和管理的工作十余年, 熟悉国内知识产权诉讼及非讼法律事务, 对于专利、计算机软件、技术秘密等领域的知识产权保护具有扎实的理论基础和丰富的实践经验。

王虎先生尤其擅长企业知识产权风险评估及管理。曾参与广东省政府与香港生产力促进局联合开展国内首部企业知识产权管理标准研究(2004年始)。2010年9月广东省质监局在全省颁布实施该规范(DB44/T797-2010), 成为国内最早的企业知识产权管理标准之一。经过数年百余家外资和内资制造型企业的实践检验, 该指标体系具有科学性、实用性, 及良好操作性等特点。

王虎先生对知识产权行业始终保持着高度的关注, 曾组织和参与了十多项知识产权课题的专题研究, 发表知识产权论文 10 余篇, 编撰知识产权书籍多部。

Business IP

Challenge & Advantages of NPE Practice

NPE 行为于企业的挑战与机遇

Mr. Binqiang LIU – CEO of USinoIP

刘斌强先生-北京优赛诺科技有限公司 CEO

Abstract

People tend to pay close attention when NPE type activities come to public eye, and more than often they criticize such behaviors especially when litigation is involved.

While NPE does bring in much challenges (which has been talked about too much that speaker does not want to spend more time on this aspect) for companies, NPE and NPE type actions can be leveraged at companies' advantage as well. For example, NPEs are more specialized than companies when talking about technology transfer or patent license. Using NPE as intermediary can be more effective and efficient when one wants to commercialize its technology. One more advantage, though may not be very comforting for all, is that NPEs are very useful when one company wants to gain relative competitive advantage against competitors or even to attack the latter, meanwhile the company can avoid direct exposure and sometimes unfriendly reputation. Still, we see many representatively practicing entities doing NPE activities, with IBM, Qualcomm, Nokia, SEL and even Coca Cola as some good examples, who earn huge revenues through NPing-activities.

With all the above said, when working with NPEs or doing NPE activities, one should keep legal risks in mind. One does not want to shoot itself in its foot (for example, a sold patent later being used against itself), and one may also want to have a very good reputation before customers but not a litigious entity.

Mr. Binqiang Liu

Mr. Binqiang Liu is founder and chief executive officer of growing brand USinoIP, which has 3 affiliated companies in Beijing, Xi'an and Dongguan, mainland China.

Mr. Liu has an LLM degree of IP from University of New Hampshire School of Law, formerly Franklin Pierce Law Center. He also has a master degree both in law and technology in mainland China. Mr. Liu has worked for SIPO as invention patent examiner for close to 8 years and currently is certified patent agent before SIPO and nation leading talent in patent information. Binqiang is invited coach for SIPO seminars in model IP cities in China and also arbitrator of Zhuhai International Arbitration Commission. Mr. Liu is member of PIUG, LES US/Canada , AIPLA and several other influential IP organizations.

Mr. Binqiang Liu is good at designing packaged IP solution for companies, especially regarding patenting abroad, patent analysis, patent risk prevention and patent monetization.. He has published more than 20 papers on related topics, done dozens of presentations both in Chinese and English, and been co-author of 3 IP books.

刘斌强

江西吉安人，优赛诺品牌（下辖北京优赛诺科技有限公司、西安优赛诺知识产权管理咨询有限公司、东莞市优智财知识产权服务有限公司）创始人兼总经理。

美国知识产权法硕士、民商法硕士、工学硕士，全国专利信息领军人才，专利代理人，前国家知识产权局专利局资深专利审查员（8年审查工作经历），中国知识产权示范城市培训讲师，珠海国际仲裁委员会仲裁员、国际 PIUG 协会会员、美加 LES 会员、美国 AIPLA 会员。

擅长企业知识产权全方位战略方案设计，尤其是涉外专利申请、专利分析与预警、专利挖掘布局和专利运营货币化实现。发表中英文知识产权论文 20 余篇、在各种高端知识产权论坛做中英文主题发言 10 余次，参与专著编写 3 部。

August 6, 2015 (Saturday)

2016年8月6日(星期六)

Internet & Copyright

互联网与版权

Moderated by

Dr. Jia WANG – Teaching Fellow at the Department of Law,
Faculty of Business, Hong Kong Polytechnic University

主持人:

王佳 博士 – 香港理工大学金融与会计学院法律系讲师

Internet & Copyright

Copyright of Unauthorized Derivative Works

未获授权演绎作品的著作权

Dr. Bo HU – Lawyer, Associate Professor of Jinan University

胡波博士 – 律师、暨南大学副教授

Abstract

According to the current laws of mainland China, unlawful works shall be enjoyed the copyright. Though the derivative works with no permission from the copyright owners of the underlying works are not exactly the same as the typical unlawful works that legislature assumed such as obscene works, we still could follow the train of thought and affirm the unauthorized derivative works could be enjoyed the copyright. To reproduce and distribute those unauthorized derivative works infringe copyright of derivative works owners. Several verdicts from mainland China courts have clarified this issue.

Key Words: Derivative Works, unlawful works, copyright

摘要

在现行中国大陆法律框架下，非法作品享有著作权。虽然未经许可演绎形成的作品与淫秽作品等立法者设想的典型非法作品不尽相同，但我们仍可沿袭此种思路，确认其享有著作权。未获演绎者授权，复制、发行该当演绎作品，亦构成侵权。大陆法院已有数份判决明确此问题。

关键词：演绎作品 非法作品 著作权



胡波博士

法学博士，暨南大学副教授，硕士生导师，律师，珠海斗门区政府法律顾问，珠海金湾区政府法律顾问，珠海市行政复议委员会委员，珠海仲裁委员会仲裁员，广州仲裁委员会仲裁员，曾任广东省律师协会知识产权专业委员会副主任，现任珠海市律师协会知识产权专业委员会主任，全国律协反垄断委员会委员。

自 2003 年起在暨南大学从事教学和研究工作。主持国家社科基金项目、教育部规划项目等研究课题。其著作包括《专利法的伦理基础》等。在《法制与社会发展》、《知识产权》、《道德与文明》等杂志发表论文二十余篇。

自 1997 年起从事兼职律师工作，代理过各类诉讼或仲裁案件数百件，包括天威诉日本爱普生侵害专利权等有重大影响的案件，处理过企业并购、专利许可、商业秘密保护体系建设等非诉讼法律事务，具有丰富的法律实务经验，曾担任深圳大疆、莆商协会、炬力等公司法律顾问。

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Internet & Copyright

Copyright and the Public Interest: A Tale of Two Digital Library Litigations 版权与公共利益：数字图书馆诉讼双城记

Prof. Haochen SUN – Associate Professor of Law at the University of Hong Kong
孙皓琛博士 – 香港大学法律学院副教授

Abstract

This talk will examine the best ways to promote the public interest through copyright law by comparing the recent litigations over the Google Library Project in the United States and China. The U.S. courts ruled that the Google Library Project was fair use. By contrast, the Chinese courts ruled against Google, holding that its Library Project did not constitute fair use. In the talk, Professor Sun will consider why the U.S. and Chinese courts have made these conflicting judicial opinions. He will further use this comparative study to show that the construction of both legal and cultural infrastructures is essential for promoting the public interest in copyright law.



Dr. Haochen SUN

Dr. Haochen Sun is an Associate Professor of Law and Director of the LLM in Information Technology and Intellectual Property Law at the University of Hong Kong Faculty of Law. Haochen teaches and writes in the areas of intellectual property law. His recent research centers on intellectual property protection of luxury goods, the ideas of social responsibility and justice in intellectual property law, and the reconceptualization of the nature of fair use in copyright law. Haochen has organized international conferences on intellectual property and value pluralism, protection of luxury and fashion brands, and Chinese intellectual property law. He has twice won the HKU Faculty of Law Research Output Prize. He co-edited *The Luxury Economy and Intellectual Property* with Barton Beebe and Madhavi Sunder. The book was published by Oxford University Press in 2015.

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EDUCATION BACKGROUND

Bucerius Law School & Institute of Law of Chinese Academy of Social Sciences
Bucerius Seminar on German, EU and WTO Law, August 2006 – September 2006

Zhongnan University of Economics and Law, Law School
LL.M. in Economic Law, September 2002 – July 2005

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PRACTICE AREAS

- ◆ **Venture Technology and Emerging Growth Companies**
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- ◆ **Intellectual Property and Technology**

INDUSTRY SECTORS

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Main Clients:

- Kingsoft Corporation Limited
- Westhouse Holdings Limited
- Buka Limited
- MICROFOUNTAIN HOLDINGS LIMITED
- YUNZHOU-TECH

PUBLICATION

- Study of Economic Law from the Perspective of Law-economic, China Legal Publishing House
- Introduction of Economic, Dongbei University of Finance & Economics Press
- Introduction to Economic Law Exercises and Answers, Dongbei University of Finance & Economics Press

SOCIAL POST

- Committee Member of JiuSan Society
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教育背景

2006年8月至2006年9月, 德国 Bucerius 法学院、中国社会科学院法学研究所, 研修班

2002年9月至2005年7月, 中南财经政法大学, 经济法硕士

1997年9月至2001年7月, 中南财经政法大学, 法学学士

执业领域

- ◆ 创业技术与新兴成长企业
- ◆ 隐私与网络安全
- ◆ 知识产权与技术

主要行业

- ◆ 信息技术、电信、传媒及娱乐

主要客户:

- 金山软件 (3888.HK)
- 西山居游戏
- 布卡漫画
- 小源科技
- 云洲智能

学术文献

- 参编《法经济学视野中的经济法研究》(中国法制出版社)
- 参编《经济法概论》(东北财经大学出版社)
- 参编《经济法概论习题与解答》(东北财经大学出版社)

社会职务

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EDUCATION BACKGROUND

Northwest University of Politics & Law, Law, LL.B

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PROFESSIONAL SPECIALTY

Chinese and foreign Intellectual Property Law, Company law, Technology transfer

PUBLICATION

Monograph: 《WISDOM TO WIN – practices and strategies on the enterprise intellectual property from IP attorney》, Law Press. China;

Article:

⊙ "the United States 337 survey and response plan" - 《Guangdong lawyer》 selection set 2010.

⊙ "To be a winner -- on how to strengthen the protection of intellectual property rights" -- 《the International business law practice, the hot and difficult issues of International legal affairs》 .

⊙ "The sky is still blue, the future of intellectual property law in Qianhai" - 《Guangdong lawyer》 .

SOCIAL POST

⊙ Western Returned Scholars Association, Member;

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执业领域

中外知识产权法、公司法、技术转让。

学术著作

专著: 《智赢——出自律师的企业知识产权谋略》, 法律出版社出版;

文章:

⊙ 《美国 337 调查及应对方略》—《广东律师》精选集 2010。

⊙ 《成为赢家——谈谈如何强化知识产权保护制度》—《国际业务律师实务——国际法律事务热点与难点》。

⊙ 《明天的天空依旧湛蓝——展望前海知识产权法律服务前景》—《广东律师》。

社会职务

⊙ 欧美同学会会员;

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⊙ 深圳市政府WTO法律专家库专家律师;

⊙ 广东省律师协会知识产权专业委员会副主任;

⊙ 广东律师专家库知识产权专家;

⊙ 中华全国律协涉外律师“领军人才”。

August 6, 2016 (Saturday)

2016年8月6日(星期六)

Trademark Branding in BIP

商业知识产权的商标与品牌

Moderated by

Mr. Johnson LAM –

Director of Origin Business Consultancy Co. Ltd. in Hong Kong

主持人：

林钟逊 律师 - 真原商务咨询有限公司董事

Mr. Johnson Lam

Johnson Lam was graduated from the University of Hong Kong and was admitted as a solicitor of the High Court of Hong Kong SAR in 2005.

Johnson specialized in the intellectual property laws. His areas of practice include the registration of trade marks, domain names, designs and patent; trade mark opposition, revocation, restoration and rectification proceedings; handling domain name disputes; enforcement actions relating to anti-counterfeiting and custom actions; assignment and licensing of intellectual property rights etc.

Johnson has also completed a Master of Laws (China Laws) co-hosted by the City University of Hong Kong and the Remin University of China

Johnson frequently gave talks in relation to IP laws in Hong Kong and China, such as The Law Society of Hong Kong delegation to Chongqing in 2012 and 2013-2015 Asia Adult Expo.

林律師畢業於香港大學，並於 2005 年獲香港高等法院確認成為律師。

林律師專門從事知識產權法律，主要負責處理不同範疇之知識產權事宜，其中包括了商標、域名、外觀設計及專利之註冊；商標註冊之反對/抗辯、撤銷、恢復及改正之訴訟程式；處理域名爭拗之訴訟程式；執行防止偽造/侵權及海關行動；以及知識產權之轉讓及許可申請等等。

林律師也已於 2009 年在北京成功完成論文答辯，並考獲由香港城市大學及中國人民大學合辦及頒授之中國法律碩士資格。

林律師亦經常穿梭中、港兩地，主講各類有關知識產權的講座，包括 2012 年香港律師會訪問重慶之代表團以及 2013-2015 年香港亞洲成人展等等。

Trademark Branding in BIP

Bad Faith Trademark Registration and Counter Actions

不真誠地作出的商標註冊及應對行動

Mr. Jinshan LIU – Trademark Attorney and Senior Partner of Boss & Young Patent and Trademark Law Office

刘金山 律师 – 北京邦信阳专利商标代理有限公司高级合伙人及商标代理人

Abstract

Bad faith trademark registrations and applications are one of the headaches for many trademark owners for their trademark protection in China, and some foreign companies even experienced risks of being driven out from the Chinese market because of the failure in getting their own trademark rights back. The dilemma is, full and wider trademark filings require substantial costs, especially for those companies with limited budget at their initial development, while much more costs may be incurred at a later stage for fighting against squatters or in getting back those trademark registrations if you don't spend sufficient investment on trade mark protection at an early stage.

Mr. Jinshan Liu is of the opinion that under the prevailing PRC Trademark Law and practice, a company should file basic and sufficient application(s) in accomodation of the its business field, distinction of its mark, development of its business and market share, and financial budget, bearing in mind the golden rule - to file as more as possible.

In relation to the headache bad faith trademark registration and application to many owners, he will shed light on various possible actions and steps, including information and analysis of the squatter's background and trademark entries, key points in the opposition/invalidation, and other possible means, as a comprehensive measure.

摘要

不真誠地作出的商標註冊及申請對很多商標持有人在中國的商標保護方面造成挑戰，一些外國公司更曾面臨因未能奪回其商標權利而被擠出中國市場的危機。而兩難之處尤其是對該些在發展初期預算有限的公司而言，就是涵蓋範圍全面而廣泛的商標申請需要高昂的費用，但若在初期沒有充足地投資於商標保護上，往後則可能需要花更昂貴的費用於對抗侵權者及奪回商標註冊上。

劉金山先生認為在中國現行的商標法及慣例下，一家公司應該配合其業務範圍、商標的顯著性、業務及市場佔有率的發展及財務預算申請基本的商標保護，而金科玉律就是盡可能申請最多。

對於棘手的不真誠地作出的商標註冊及申請，劉金山先生會採取各種可能的行動及步驟，包括搜尋及分析侵權者的背景及商標記錄資料、找出反對商標註冊/申請商標無效的關鍵及其他可能的方法，以作全面的應對。

Mr. Jinshan Liu
Trademark Attorney, Senior Partner
Boss & Young Patent and Trademark Law Office

Jinshan graduated from Zhengzhou Engineering & Technologies College, and Luoyang Foreign Languages Institute

Jinshan started his trademark practice in 1995 and worked in two leading intellectual property firms in China. Jinshan re-organized Boss & Young together with his colleagues in 2001 and has been working as a partner till present.

Jinshan mainly handle trademark matters in China and other countries/regions for domestic Chinese and foreign clients, and copyright registration and domain name disputes etc. Based on his long term attention to the world and Chinese economic situation, close relationship with clients and various businessmen, experience and expertise gained in his trademark practice, and his understanding and studies of the Chinese trademark laws and rules, he has been recognized and admired by many of his clients for the quality of his services. He successfully handled quite a few trademark cases with considerable influential impact.

Beside procedural trademark matters, Mr. Liu also specializes in consultation on trademark protection and comprehensive solutions for IP rights, handling trademark related administrative and infringement litigations, and cases of conflict or dispute of trademark rights.

Mr. Liu was repeatedly listed as leading trademark professional by Chambers & Partners, and WTR World Trademark Review etc.

刘金山，商标代理人
北京邦信阳专利商标代理有限公司 高级合伙人

先后毕业于郑州工程技术学院和洛阳外国语学院。

1995 年开始从事商标代理业务，曾先后服务于中国国内两家知名知识产权代理机构。2001 年参与改组邦信阳，任商标代理人、高级合伙人至今。

刘先生的主要业务包括代理国内外客户在中国和其它国家的商标事务以及著作权登记、域名争议等。基于其长期对世界和中国经济的关注、与客户和商业界人士的密切联系和长期商标代理工作所积累的丰富经验，以及对商标法律法规的了解与研究，赢得客户对其知识产权服务的认可与满意，办理众多具有相当影响的商标案件。

除程序性商标注册申请外，还擅长提供商标保护有关的咨询意见和知识产权综合性解决方案、处理商标行政与侵权诉讼、权利冲突与纠纷等案件。

数度被《CHAMBERS & PARTNERS》、《WTR WORLD TRADEMARK REVIEW》等机构评为领先的商标专业人员。

Trademark Branding in BIP

Brand Protection - From Legal, Marketing, PR to Product 品牌保护-从法律、营销、公关到产品

Mr. Billy NG – Chief Advisor of Madhead Limited, Hong Kong
吴汝杰律师-香港疯头有限公司首席顾问

Abstract

Trademark Branding

1. Trademark is not a Brand.
2. Branding is a Strategy.
3. Trademark, domain & trade names registration offer best long term utility.
4. Trademark is your company's best B2B partner and name card.
5. Trademark search is an undervalued (excellent) due diligence.
6. Branding = Making a mark to consumers.
7. Making a mark = Impression = Cost.
 - a. Impression - from Cost Per Click, Cost Per Thousand Impression to Cost Per Action - Digital advertisement takes over!
 - b. Deep Impression - require a combination of different sources of impression(s) - Billboard, TV, Social media, to Printed materials.

摘要

商標 品牌

1. 商標不是品牌。
2. 品牌推廣是一種戰略。
3. 商標，功能變數名稱和商標名稱註冊提供了最好的長期使用（權）。
4. 商標是貴公司最好的 B2B 夥伴和名片。
5. 進行商標搜索是一個被低估了的（優秀的）盡職行為。
6. 品牌推廣=為客戶做出一個標識。
7. 做出標識=留下印象=成本。
 - a. 留下印象 - 從每次點擊的成本，上千種印象的成本到每次動作的成本 - 數字廣告一次搞定！
 - b. 加深印象 - 要求結合不同印象的來源 - 公告牌、電視、社交媒體、印刷材

Mr. Billy NG

Billy is a practicing solicitor in Hong Kong, and England & Wales, as well as an accredited mediator. He is also a member of the Hong Kong Law Society Arbitration Committee.

In his legal career history, Billy has served as Solicitor, Legal Counsel, Senior Commercial Counsel and then General Counsel of various corporations with wide exposures in Intellectual Property management and protection. His most recent working position was Chief Strategy Officer, managing the Finance, Legal and External affairs of Asia's leader mobile game application developer Madhead.

Currently, Billy is the Executive Director and Owner of Dennings, an advisory tech firm and he is also the Chief Advisor of Madhead.

吳汝杰律師是香港和英國的執業律師，一名專業調解員，並且是香港律師會仲裁委員會的成員。

縱觀吳律師的法律生涯，他曾出任律師、法律顧問和資深商業顧問，並在之後擔任不同企業的法律總顧問過程中，廣泛接觸了智慧財產權的管理和保護。吳律師近期擔任了亞洲領先的手機遊戲軟體發展者“瘋頭”的首席戰略官，主管其經濟、法律和對外事務。

吳律師現在是科技諮詢公司“丹寧”的執行董事和公司所有人，同時擔任“瘋頭”的首席顧問。

Trademark Branding in BIP

How to Protect Brands in the US – Start with Trademark

Registration

如何在美国保护品牌 – 从商标注册开始

Ms. Weizhong (Rachael) YU – Of Counsel of Law Offices of Albert Wai-Kit Chan,
PLLC

于伟中律师-陈伟杰律师事务所 律师

Abstract

This topic is about brand protections in the U.S. and it will start from trademark registrations - about basic concepts of trademark, strength of trademark and focus on trademark registration filing issues (intention to use, in use). It will also briefly cover trademark enforcement protections against counterfeit marks.

Ms. Weizhong (Rachael) Yu

Weizhong Yu, M.Sc., LL.M., Patent Attorney, focuses on practicing intellectual property law, corporate laws and business immigration. She has extensive experience in dealing with trademark, patent and copyright infringement cases, trademark & patent prosecutions, licensing, branding, technology transactions, patent commercialization and other cross border business transactions. Ms. Yu consults with start-up companies on corporate governance and compliance, corporate finance, patent and trademark licensing issues, sales agreements, distribution agreements, and other legal issues related to the companies' business and operation. Ms. Yu helps clients in immigration area as well (L1, EB1, EB2, EB5). Ms. Yu has a bachelor's degree of law in Intellectual property Law from Renmin University of China (Beijing, China), a master's degree of law from School of Law of University of Pittsburgh (Pennsylvania, U.S.), a bachelor's degree of engineering in Metal Material from Huazhong University of Science and Technology (Wuhan, China) and a master's degree of science in Computer Science from University of Bridgeport (Connecticut, U.S.). Ms. Yu is registered to practice before USPTO (2012) and has been admitted to practice law in China (1994), New York (2001), US District Court Eastern District of New York (2004), US District Court Southern District of New York (2004).

Trademark Branding in BIP

One Belt One Road: the Opportunity and Significance to Brand Macau 一帶一路：澳門品牌的地位與機遇

Dr. Peng Chao – Assistant Professor of City University of Macau; Director of Macao One Belt One Road Research Center
周平博士– 澳門城市大學助理教授；澳門“一帶一路”研究中心主任

摘要

澳門不僅是一個品牌，而且是一個知名品牌。澳門品牌的特別之處在於，它是一個區域組織品牌。澳門開埠 480 年的歷史積澱，尤其是新中國成立後中子和經濟建設的需要，加之澳門回歸後特區政府的著力打造與推廣，澳門已經越來越為人們熟知和接受。

澳門品牌的形成，既有歷史的積澱，也有東西文化融合的作用，同時也有澳門特殊的區位優勢和政治品牌作用的功勞，還有政府的打造與推廣以及澳門居民對品牌的愛惜維護；不能回避的是，澳門博彩業一業獨大的局面也為澳門品牌留下了一絲揮之不去的陰影。

可喜的是，經過不斷努力，澳門作為世界遺產、東西方歷史文化融合、世界旅遊休閒、“一國兩制”的範例、乃至娛樂勝地的品牌已經逐漸被世人認可，但是，澳門品牌供給和品牌保護仍差強人意。從供給側來看，傳統供給沒有大的問題；但公共交通和熱點景點休憩場所供給不足；特色紀念品和世遺文化產品（紀念品）供給嚴重不足。從需求側來看，歷史景點的活化不夠，欣賞“死”的建築物非常乏味；從品牌的管理維護側來看，特區政府尚未認識到澳門品牌的特殊意義和經濟價值，在品牌管理和維護上著力不多。客源市場嚴重依賴內地，抵禦風險能力低下。

“一帶一路”倡議，通過共商共建共用和五通（政策溝通、設施聯通、貿易暢通、資金融通、民心相通），不僅給澳門品牌發展在葡語系國家、東盟國家、非洲國家帶來發展機遇，也將在新絲路經濟帶和 21 世紀海上絲路沿線國家提供了難得機遇。為澳門品牌“請進來，走出去”提供了可能。澳門品牌“請進來與走出去”的幾點設想。

Dr. Peng Chao

Director of Macao One Belt One Road Research Center , City University of Macau
PHD, Peking University

Be Visiting Professor, Guanghua School of Management, Peking University;
Researcher, Development Research Center of the State Council P.R.C; Consultant,
Faculty of Education and Graduate School, University of Macau; Teaching Assistant,
Lecturer and Associate Professor, Henan Normal University

周平 博士

澳門城市大學

澳門“一帶一路”研究中心主任

北京大學博士

曾任北京大學光華管理學院訪問教授、國務院發展研究中心副研究員、
研究員、澳門大學研究生院、教育學院顧問、河南師範大學助教、講師、
副教授

August 6, 2016 (Saturday)

2016年8月6日(星期六)

Panel Discussion on IP in Asian Countries

知识产权商业化

Moderated by

Mr. Yao DENG –

Partner of Guangzhou Office of Lifang & Partners

主持人：

邓尧律师 - 北京市立方（广州）律师事务所合伙人

Ms. Ling Huang

Ms. Huang Ling, Master of Laws, Senior Partner, Chief Lawyer and Patent Attorney at Sichuan Altitude Law Firm, Director of Intellectual Property Right (Information Network and High-Tech) Committee of Sichuan Province Lawyers Association, the third Arbitrator of Chengdu Arbitration Commission, the sixth Vice Chairman of Chengdu Lawyers Association, adjunct professor of Lawyer College of Renmin University of China, Secretary General of Copyright Society of Chengdu, Director of Expert Advisory Committee of Chengdu International Copyright Exchange Center

Ms. Huang has been working in internet and IP legal practices for a long time. She acted as a legal adviser to many enterprises and public institutions including www.189store.com of China Telecom, Chengdu Culture, Broadcasting, Television, Press and Publication Bureau and Financial Affairs Office, handled many cases regarding contract, copyright and patent disputes and recovered hundreds of millions of economic losses for clients. She published the paper titled "Study of P2P Copyright Liability" and served as the co-editor of the book titled "Application and Protection of Copyright – Legal Analysis of 80 Cases regarding Personal Right and Property Right". Her paper titled "Brief Analysis of Intellectual Property Policy of Online Games" won the Top Ten Papers Award at China Lawyer Intellectual Property Practice Innovation Forum 2010.

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黄玲律师

黄玲，法学硕士，四川雅图律师事务所高级合伙人、主任律师、专利代理人。兼任四川省律师协会知识产权（信息网络与高新技术）专业委员会主任、成都仲裁委员会第三届仲裁员、成都市律师协会第六届副会长、中国人民大学律师学院兼职教授、成都市版权协会秘书长、成都国际版权交易中心专家顾问委主任。

长期从事互联网、知识产权等法律实务工作，曾担任中国电信天翼空间、成都市文广新局、金融办等多家企事业单位法律顾问，代理数件合同、著作权、专利权纠纷，为客户挽回数亿元经济损失。发表《P2P 版权责任探究》等文，参编《著作权的应用与保护——律师评析人身权和财产权案 80 例》一书，论文《浅析网络游戏的知识产权策略》获 2010 中国律师知识产权业务创新论坛十佳论文奖。

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Un Ka Ioi, Lawyer

2009: Bachelor of Law at University of Macau ,

2009-2013: Registered Trainee Lawyer in Macau

2013- Now: Registered Lawyer in Macau

Professional Experience

Un Ka Ioi expert in civil, criminal and administrative litigations, has been handled in over billions dollars multinational cooperation projects, developments and transactions and manage its mediation and litigation; assist some of the leading corporations for the trademark registration in Mainland China, Macau and Hong Kong.

He has been a Lecturer at the University of Macau, where he lectured Business Law, and lectured Real-Estate Mediation Law at the City University of Macau from 2012 to 2013.

Professional Area includes:

- Change and Transfer of Corporation Shares and Investment;
- Litigations between Shareholders;
- Establish company and its relevant changes in Mainland China, Macau and Hong Kong;
- Share Transfer and Investment for Foreigner;
- Establish Companies, branches, offices and related matters for foreign corporations in Macau;
- Trademark Registration
- Sale and Purchase Agreement for Real-estate
- Corporate Financing.

Litigation Sectors:

- Civil

He has handled over 100 civil cases, includes Damages, Unjust Enrichment, Trade Dispute, Marriage, Paternity, Inherit, Civil Damages, Traffic Compensation, etc;

- Criminal

He has handled over 200 criminal cases, includes Fraud, Breach of Trust, Forgery, Theft, Gambling, Encroachment, Drug, Injury, Trademark Infringement, Copyright Infringement, etc;

- Administrative

He has handled over 50 administrative petitions and administrative litigation

cases, includes immigration, Corporate Registration, Tax matters, etc.

阮嘉銳大律師，
2009年畢業於澳門大學法律學士，
2009-2013註冊執業實習律師，
2013年註冊執業律師。

專業經歷

阮嘉銳大律師熟悉民、刑、行政訴訟實務，曾處理逾十億港元的跨國合作土地發展項目合同談判事宜等商業項目、工程爭議的調解與訴訟，為數家著名廠商辦理中國大陸、香港及澳門專利商標註冊。

在法律教育方面，於2012年期間曾在澳門大學教授商業法律課程，並在2012-2013年擔任澳門城市大學房地產中介法律證書課程講師。

專業領域

- 協助辦理公司股權及投資之變更、移轉事宜
- 協助處理股東會相關訴訟
- 辦理中國大陸、香港及澳門公司設立及變更登記相關事務
- 辦理外國人投資及股份移轉相關事務
- 外國公司及個人來澳投資註冊設公司、分公司及代表人辦事處相關事務
- 辦理商標登記註冊事務
- 樓宇買賣契約
- 協助處理公司企業融資貸款

訴訟領域

● 民事案件實務

承辦民事案件數合計已逾100件，涵蓋損害賠償、不當得利、買賣糾紛、婚姻、親子、繼承、民事損害及交通賠償等案件類型。

● 刑事案件實務

承辦刑事案件數合計已逾200件，涵蓋詐欺、背信、偽造文書、竊盜、賭博、侵占、毒品、傷害、違反商標法、違反著作權法等案件類型

● 行政救濟實務

承辦行政訴願、行政訴訟案件數合計已逾50件，涵蓋移民政策、移民政策、稅務等案件類型。



Jinsang Jeong (鄭 鎮祥)

Senior Partner

Patent Attorney

Contact: jsjeong@jnp-ip.com

Education:

Seoul National University, Textile Engineering (1976)

Hanyang University, Electronics and Communication Engineering (1983)

Experiences:

Senior Partner, Jeong & Park (2010 – present)

Senior Partner, Lee International IP & Law Group (2007 – 2010)

Senior Partner, Y.S. Chang & Associates (1985 – 2006)

Technical Staff, S.Y. Cha Patent & Law Office (1979 – 1985)

Vice President, APAA Korea Group (2009 – 2012)

Council Member, APAA Headquarter (2009 – present)

Auditor, APAA Korea Group (2006 – 2009)

Director, APAA Korea Group (1997 – 2006)

President, Korea Trademark Society (2003 – 2004)

Secretary General, Korea Trademark Society (1995 – 1998)

Chairman, Fees and Tax Research Committee, Korean Patent Attorneys Association (KPAA) (2007 – present)

Chairman, Special Committee for Protection of Trademarks, Designs and Copyrights, KPAA (2011 – present)

Committee Member, Trademark Committee, KPAA (2000 – 2002)

Standing Committee Member, KPAA (2000 – 2002)

Council Member, Trademark Law Revision Council, Korean Intellectual Property Office (KIPO) (1996)

Membership:

Korean Patent Attorneys Association (KPAA)

Asian Patent Attorneys Association (APAA)

International Trademark Association (INTA)

International Association for Protection of Intellectual Property (AIPPI)

International Federation of Intellectual Property Attorneys (FICPI)

Licensing Executive Society (LES)

American Intellectual Property Law Association (AIPLA)

European Trademark Association (ECTA)

China Trademark Association (CTA)

Korean Trademark Society

Korean Intellectual Property Institute

Languages:

Korean, English, Japanese



Ms. Wong Oi Man

Ms. Wong Oi Man, the first Macau citizen that became licensed lawyer in Mainland China. She is the senior partner of Guangdong Zheng Ao Law Firm, also the president of Macao Trademark Association.

Since 2005, Ms. Wong Oi Man has been working on intellectual property registrations, and has been involving in many relevant cases such as retrieving in patents and trademarks applications, objections, re-examinations, withdrawals of improper registrations, disagreements, permissions of trademarks, and trademark transfers. She is experienced in the area of Intellectual Property in Macao, and has close connections with many well-known experts in China. Ms. Wong Oi Man is sophisticated in the process and regulations of the trademark registration in Macao, has been dealing with a lot of cases with international clients successfully and earned the trust of her clients. The well-known cases she had dealt with include XTEP and Apple Storage. Her published works including Intellectual Property Law System in Macau, Intellectual Property Issues on the Macao exhibition Industry, Agent systems of Macao Intellectual Property, Analysis and Suggestions on Applying for Guangdong Well-Known Trademarks for Macao Companies that doing business in Guang Dong etc.

王愛民女士

王愛民女士，系第一位通過 CEPA 的優惠政策在內地成為執業律師的本澳居民，現為廣東正澳律師事務所高級合夥人及主任律師、澳門商標協會會長。

自 2005 年起王愛民律師開始從事知識產權業務，處理過大量與知識產權有關的案件，包括：專利及商標檢索、申請、異議、複審、不當註冊撤銷、爭議、商標權許可、商標權轉讓以及提供與商標有關的諮詢服務等等，在知識產權法律事務領域有十分豐富的經驗，與國內知名律所和知識產權事務所保持著十分密切的聯繫。

王愛民律師精通中澳兩地知識產權法律制度，處理過大量國內外客戶的註冊商標案件和異議案件，獲得了成功，取得了客戶的信任。比較知名的有“特步”商標異議、“APPLE 蘋果迷你倉”商標答辯、“陳光記”內地維權等。著有《澳門的知識產權法律制度》、《澳門會展業的知識產權問題》、《澳門知識產權代理制度》以及《在粵澳資企業申請認定廣東省著名商標政策分析及建議》等文章，分別發表於《知識產權實務論壇論文集》、《澳門日報》、《一國兩制研究》和《中華商標》等期刊和著作上。