

"Patent Progress"
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By Zhou Yan

With China's all-round efforts to beef up intellectual property protection, many multinational companies are now setting up their technology-intensive research and development bases in the country, which used to be considered by foreign investors as a safe haven for rampant product piracy and counterfeiting.

Statistics show that over 1,160 R&D centers have been set up in China by foreign companies as of this April, compared with 124 in 2001.

The surging number, to some extent, reflects China's sustainable progression in intellectual property rights (IPR). This is a sentiment, which is echoed by Foley & Lardner LLP, an American law firm with 166 years of hands-on experience in providing legal services to multinationals in Europe, America and in Japan

"International companies consider that there's more (IPR) enforcement ability in China, or they would not continue to bring more R&D into China," says Sharon R. Barner, chair of Foley's Intellectual Property Department.

Spurred on by its business acumen, extensive IPR practices and summoned by its Fortune 100 clients, Foley decided to enter the Chinese market, setting up its first office in the heart of the country's financial hub - Shanghai.

"We are obviously a late entrant into this market, but we saw our opportunities in one of our practice areas: Intellectual property rights, where we, particularly in some industrial segments, have a national and international reputation, and where we saw the convergence of our capabilities and developments in the local market," expresses Ralf-Reinhard Boer, Foley's chairman and CEO.

He says that the company is one of the first law firms that focuses purely on IPR strategy in this market, "it's where we can differentiate ourselves", he adds.

With more than 200 IP lawyers worldwide, Foley provides a broad range of IP-pertinent services, including litigation, regulatory affairs, and general business counseling, to serve clients from small start-up companies to large multinational corporations.

"China, given its industrial development, is one of the greatest expansion opportunities for our clients. After a number of our attorneys had visited China to counsel with universities, and technology centers, we knew that IPR will become increasingly important in the country, and we knew that Chinese companies were looking beyond China. So we recognized there's an opportunity for us," Boer notes, saying that its clients are aware that China is becoming "increasingly important in a much more developed way" than the low-cost manufacturing industry into a technology-intensive nation.

There are four lawyers working at Foley's Shanghai operation currently, who place their primary focus on assisting multinational companies in China and domestic Chinese companies in developing strategic and proactive IP programs, particularly in the life sciences and automotive arenas.

In 2007, "China filed 700,000 patent applications, almost a 104 fold increase over the last 60 years," Barner says, "that's a huge change. They (the Chinese) understand they need to have intellectual property." As Chinese industry moves toward true innovation and contribution of technology to the products it produces, the need for strong patent protection will move the balance toward stronger patent protection, she adds.

At a recently held press briefing in Beijing, Yin Xintian, the State Intellectual Property Office (SIPO) spokesman, said that SIPO has accepted 690,000 patent applications in 2007, a 21 percent year-on-year rise. Yin says that over 2,200 IPR infringement cases have been investigated by the public security department in 2007, and around 110 million pirated audio and video products were confiscated last year.

In June, the State Council issued an outline of the national IPR strategy, emphasizing the developing independent IPR and its enforcement, and protecting the interests of innovators and inventors, so as to strengthen the competitive edge of the country's economy.

The progression of IPR enforcement in China since it entered into the World Trade Organization (WTO) in 2001 is tremendous, although barriers still exist. Given there's no long legacy for Chinese IPR, "the biggest obstacle to Chinese companies is developing and understanding and education of what private property is", Barner notes. "You have to teach a generation how to respect ownership of intangible assets." She says competition creates value in the products. "The whole goal of IPR is to support and promote creation, so that you continue to get people who want to innovate more, not just copy and sell."

According to Catherin Sun, Foley's Shanghai Office managing partner and Asia Practice chair, China will continue to strengthen IPR businesses in the aspects of IP promotion and training, IP information construction and promotion of intermediary IP service agencies.

"When an economy emerges to produce original products, strong patent protection is necessary to protect local innovation against competition," Barner says. He believes that China has already stepped up to increasingly emphasis on technological leadership.

"The reason why we thought the time is right for us is because of this development in the marketplace," Boer stressed. In 10 or 20 years time, when Chinese businesses become more mature, they will probably seek for more investment opportunities in Europe and the United States, where the IPR protection of Chinese enterprises will become crucial for their further development in the overseas markets, he continues.

"So for us, coming to China isn't all about representing American, European or Japanese companies, Foley would expect that over time, most of our businesses are representing Chinese companies, both here and outside of China," Boer says.

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