

Summer 2010 Eye on China Newsletter

» 中文版

With unprecedented growth in and influence over the global market — coupled with an ever-evolving legal landscape — China presents as much complexity as opportunity. With internationally recognized IP capabilities and extensive hands-on experience in the Chinese business market, Foley is well positioned to provide legal insight to U.S., Asian, and European companies preparing to do or currently doing business in China. Moreover, China's fast-growing industries and businesses are seeking to expand their international reach. With more than 160 years of experience, 18 offices in the United States, and a network of international partners, Foley is equally well positioned to assist Chinese companies as they expand globally.

We are pleased to offer Foley Legal News: China Quarterly Newsletter, *Eye on China*, designed to offer companies helpful insight as they successfully navigate China's complex and ever-changing legal and regulatory environment.

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News and Noteworthy

Foley Senior Counsel Adria Warren co-authored the "Year in Review" summary of legal developments in China covering the period from December 1, 2008 through November 30, 2009. In the piece, which appeared in the Spring 2010 edition of *The International Lawyer*, Ms. Warren examined the Supreme People's Court's (SPC) efforts to expand access to, and institutionalization of, court-connected mediation as a form of alternative dispute resolution in China. The article also summarizes the third amendment to China's Patent Law; examines developments related to the merger review at China's Ministry of Commerce Anti-Monopoly Bureau; and details the creation of a new Growth Emergence Market at the Shenzhen Stock Exchange. View full article: www.foley.com/files/tbl_s31Publications/FileUpload137/7303/ChinaWarren.pdf.

Current Topics

East Meets West — Current Topics in the United States

- **U.S. Anti-Dumping and Countervailing Duties Increasingly a China-Specific Remedy**, by Gregory Husisian, Foley & Lardner LLP
 On April 27, 2010, the U.S. government announced that it was initiating one of the largest anti-dumping duty cases in recent years on aluminum extrusions. The fact that this case involved the aluminum industry, which has been far less likely to file anti-dumping duty cases than the steel industry, might have been a surprise to some; the fact that it was filed against Chinese respondents, however, was not. Increasingly, trade remedies in the United States are aimed at Chinese respondents. This article provides an overview of the reasons this trend is likely to be permanent, and what Chinese companies — and the U.S. firms that deal with them — can do if they are involved in one of these trade cases. View full article: http://www.foley.com/publications/pub_detail.aspx?pubid=7289.
- **Issues Related to Patent Marking and False Marking in the United States**, by James F. Ewing and Patricia Wu, Foley & Lardner LLP
 U.S. patent laws have both patent marking and false marking provisions. This article discusses key issues regarding those laws and pertinent practices, and provides practical tips on client counseling related to patent marking practices. View full article: http://www.foley.com/publications/pub_detail.aspx?pubid=7291.
- **Maximizing IP Value Under Tight Budget Constraints**, by James F. Ewing and Patricia Wu, Foley & Lardner LLP
 The current economic recession has forced many companies to take a more proactive role regarding their intellectual property (IP)

asset management strategies. This article discusses the ways in which companies with tightened budgets can maximize their overall long-term IP investments in today's difficult economic and financial conditions. View full article: http://www.foley.com/publications/pub_detail.aspx?pubid=7293.

West Meets East — Current Topics in China

- **INTA Comments on Proposed Revisions to China's Trademark Law**, by *Danielle T. Brink, Foley & Lardner LLP*
China's State Legislative Council, the mission of which is to review pending legislation prior to its debate and passage by the National People's Congress, invited the International Trademark Association (INTA) to provide comments on the latest draft revision of the Chinese Trademark Law. INTA has expressed concern regarding several key areas. View full article: http://www.foley.com/publications/pub_detail.aspx?pubid=7295.
- **Seeking Approval for Export and Import of Restrictive Technologies in China**, by *Max Lin and Yan Zhao, Foley & Lardner LLP*
China restricts the export or import of some technology that may involve national security, public interest, or public morality. Governmental approval is required before restrictive technologies can be exported or imported. Failure to comply with this approval requirement may result in confiscation of the profits, fines of up to five times the profits, revocation of the relevant party's foreign trade license, or even criminal charges. View full article: http://www.foley.com/publications/pub_detail.aspx?pubid=7297.
- **The Second Annual Report on IP Cases of the Supreme People's Court of China**, by *Patricia Wu and James F. Ewing, Foley & Lardner LLP*
On April 22, 2010, the Supreme People's Court (SPC) of China issued its annual report on IP cases. This is the second time since 2008 that the SPC has issued its annual report on IP cases to the public. This article provides briefings of the six patent infringement cases in the 2009 report. View full article: http://www.foley.com/publications/pub_detail.aspx?pubid=7299.

Staying Connected

Please Join Us — Future Events

Foley's Global Marketplace: Eye on China series programs are designed to offer companies helpful insight as they successfully navigate China's complex and ever-changing legal and regulatory environment. Upcoming events include:

- **Eye on China: Web Series**, *Innovation Management and Technology Transfer in China: The Big Picture and the Little Details*

China has made great strides toward becoming an "innovation nation" and a center for emerging technology. Successful partnerships in the development of innovation in China require an understanding of the potential pitfalls involved in facilitating the transfer and commercialization of technology. This program will explore the hotbeds for innovation in China as well as practical strategies for effectively navigating the complexities of technology export and development.

When: Thursday, July 22, 2010; 11:00 a.m. Central

Where: Web Conference

View Event Page or Register: http://www.foley.com/news/event_detail.aspx?eventid=3357

In Case You Missed It — Recent Events and Activities

- **Eye on China: Workshop Series**, *Building Company Value Through Global Partnership Executive Workshop*

Foley was proud to sponsor and host ChinaBio's 2010 Executive Workshop on April 14, 2010 in Guangzhou, China. The program addressed critical topics for life sciences executives, entrepreneurs, and investors wishing to leverage global partnerships to help fund the growth of their companies. Topics included securing and managing global partners, raising funding, and generating global IP rights.

View the event page and presentation materials: http://www.foley.com/news/event_detail.aspx?eventid=3246

- **Eye on China: Conference Series**, *Safeguarding Your Critical Innovation in China, the United States, and Beyond*

On June 24, 2010, Foley hosted a high-level forum on Chinese and U.S. IP protection that explored how China-based manufacturing companies can protect their IP assets when expanding into U.S. and global markets. Topics included IP enforcement strategies in the United States and China as well as practical guidelines for facing U.S. International Trade Commission (ITC) investigations.

Our special guest speaker, **Sharon R. Barner**, Deputy Under Secretary of Commerce for Intellectual Property and Deputy Director

of the USPTO, provided the keynote presentation, "Patent Leadership — The Roles of China, the United States, and the IP5," which focused on the impact of cooperation between the USPTO and the State Intellectual Property Office of China (SIPO) and the need for timely and quality patents.

View the event page and presentation materials: http://www.foley.com/news/event_detail.aspx?eventid=3353

Legal News: China Quarterly Newsletter, *Eye on China* is part of our ongoing commitment to providing legal insight to our clients and our colleagues preparing to do or doing business in China. If you have any questions about this publication or would like to discuss the topics presented here, please contact your Foley attorney or the following:

Steven J. Rizzi

Chair, China Practice
New York, New York
212.338.3543
srizzi@foley.com

Catherine Sun

Office Managing Partner, Shanghai
Chair, Asia Practice
Shanghai, China
86 21 6100 8900
csun@foley.com

James F. Ewing

Vice Chair, Chemical, Biotechnology & Pharmaceutical Practice
Boston, Massachusetts
617.342.4088
jfewing@foley.com

Yan Zhao

Senior Counsel, Intellectual Property Department
Shanghai, China
86 21 6100 8900
yzhao@foley.com

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ABOUT FOLEY

Foley & Lardner LLP continually evolves to meet the changing legal needs of our clients. Our team-based approach, proprietary client service technology, and practice depth enhance client relationships while seeing clients through their most complex legal challenges. In a recent survey of *Fortune* 1000 corporate counsel, conducted by The BTI Consulting Group (Wellesley, Massachusetts), Foley ranked first for superior client service and value. We also were named to the *InformationWeek* 500 list for four consecutive years for our client-focused technology. Whether in the United States or around the world, Foley strives to provide high-caliber business and legal insight.

Foley & Lardner LLP Legal News is intended to provide information (not advice) about important new legislation or legal developments. The great number of legal developments does not permit the issuing of an update for each one, nor does it allow the issuing of a follow-up on all subsequent developments.

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