

## ABA/IPL China Trip Report

*--Elizabeth Chien-Hale*

The itinerary of the trip, including the offices we visited and the activities we had, is reproduced below. The delegates had opportunities to listen to reports from a broad range of IP agencies, including the central agencies and courts in Beijing (the capital), and the local agencies in Shanghai (a centrally-governed municipality) and Guangzhou (a provincial capital). Furthermore, the delegates met many IP professionals, judges, and company representatives in the more social events of the trip.

In Guangzhou the format was slightly different. In addition to talking to the local trademark enforcement agency, the local economic development officials also invited us to put on a different hat to discuss how we, as IP professionals, can facilitate in bringing US companies to China.

I also make the following general observations:

1. The Chinese IP system is very new. For example, China did not enact its first patent law until the 1980's. Therefore, it should be commended for having put together an IP procurement and enforcement scheme in such a short period of time.
2. The Chinese IP officials and professionals are aware that there are deficiencies in the system, and at least some are very interested in obtaining comments and suggestions regarding their systems from IP professionals elsewhere in the world. We should keep the communication channel open, or even consider setting up a special China committee to review and comment on the latest IP legislative changes, initiatives, or People's Supreme Court interpretations coming out of China.
3. The delegates, at least some of us, have expressed a willingness to put together a document detailing some of our thoughts regarding the Chinese IP system after having listened to intense reporting from a variety of angles. We have some thoughts about the interactions between the central and local agencies, the existing efforts to combat local protectionism within China, the logistical and other limitations behind the Chinese national resources that can be allocated to combat counterfeiting activities, and the built-in inefficiency of the enforcement mechanisms. It will be interesting, but perhaps too ambitious, to explore how we, as a private American organization, can help to promote and improve the Chinese intellectual property system.

(I also wonder if we need to brief the US government agencies, such as the USPTO or USTR, if we were to undertake such a project.)

4. Our host, the All-China Patent Agents Association, was wonderfully supportive and I hope we will establish long-term cooperative relationship with this organization. It is an interesting organization, not voluntary as ours in many ways. For example, I believe all registered patent agents are required to be its members, and this organization also plays a role in administering the patent bar examination.

Although we gathered that there is a real divide between lawyers/law firms and patent or trademark agents/agencies, an internal problem the Chinese IP professionals are trying to work out among themselves, our host demonstrated it has quite a bit of influence and clout within the Chinese IP community.

5. As Rob Lindefjeld already expressed in one of his e-mail messages, we hope to invite a delegation organized by the All-China Patent Agents Association to attend the ABA/IPL Summer Conference next June in San Francisco.

## Itinerary:

### **JULY 1-4**

Arrival.

### **JULY 5**

Morning: Visited the State Intellectual Property Office

Lunch: with SIPO officials

Afternoon: Visited the Trademark Office of the State Administration for Industry and Commerce

Dinner reception by Host, All-China Patent Agents Association

### **JULY 6**

Morning: Visited the People's Supreme Court

Lunch: imperial cuisine in Bei-Hai Park

Afternoon: Visited the National Copyright Administration of China

Dinner reception by Jeekai & Partners

### **JULY 7**

All-Day IP Seminar

Morning Speakers:

Mr. GAO Lulin, President of the All-China Patent Agents Association  
Judge ZHANG Lumin of Beijing Higher People's Court  
Mr. XIE Guomin, Senior Legal Director of Sina.com

Afternoon Speakers:

1. Litigation Panel:

Albert Jacobs: Greenberg & Traurig

Rob Lindefjeld: Jones Day

Lyle Vander Schaaf: White & Case

Benjamin Bai: Jones Day

2. IP Commercialization Panel:

Adam Ross: U.S. Embassy, Beijing

Steven Ludwig: Sterne, Kessler, Goldstein & Fox

Holly Li: McGlew and Tuttle

Emil Chang: the Law Office of Emil Chang

**JULY 8**

Transfer to Shanghai

Reception hosted Jones Day.

**JULY 9**

Morning: Visited Shanghai Intellectual Property Administration (patent enforcement agency)

Lunch: Working lunch with SIPA officials

Afternoon: Visited Shanghai Customs

Evening Cocktail reception by Lehman, Lee & Xu

**JULY 10**

Free activities

**JULY 11**

Returned to the U.S., or transferred to Guangzhou

## **JULY 12**

Morning: Presentation by Nan-Hai District Economic Development Office, PVC Strategic Consultants Limited on foreign direct investment into China

Afternoon: Visited Guangzhou Administration for Industry and Commerce (trademark enforcement agency)