MAJOR MARKETS PATENT FILINGS
1883-2007

Trends in patent filings at selected patent offices

- United States of America
- Japan
- China
- Republic of Korea
- European Patent Office
- Soviet Union

Explosive growth, but who are those filers?

Source: WIPO
RESIDENTS AND NON-RESIDENTS PATENT FILINGS

RESIDENT FILINGS

- 2007
- 2003
- Average annual growth rate: 2003-2007 (%)
- Resident filings almost triple

NON-RESIDENT FILINGS

- 2007
- 2003
- Average annual growth rate: 2003-2007 (%)
- Non-Resident filings: China not even on the radar screen

Source WIPO
PATENT FILINGS AND RESEARCH AND DEVELOPMENT (R&D) EXPENDITURE RELATIONSHIP

Source WIPO
MAJOR MARKETS DESIGN FILINGS

Trends in industrial design applications at selected offices

Source WIPO
STRATEGY 1: PROTECT YOUR IP – ALL OF IT

• **Utility Patents (Invention Patents)**
  - High cost, strong protection

• **Utility Models (Petty Patents)**
  - No-U.S., easy procedure, useful for consumables, Replacement parts, etc.

• **Design patents**
  - Inexpensive, Protects Aesthetic Aspect

• **Trademarks**
  - Inexpensive, Counter Marketing

• **Copyrights**
  - Protects Expression. Software, Graphics

• **Trade Secrets**
  - Diligence Protection, Harder to Prove
• Low-voltage equipment maker Chint Group of Wenzhou sues France’s Schneider for patent infringement

• 2007, a court in Wenzhou awarded damages of RMB 330m ($48m) in a patent lawsuit against Schneider

• Schneider appealed to the province’s highest court

• 2009, Schneider agreed to settle the case for roughly half the original damages ($23m)

**Paradigm shift?**

*Traditionally, plaintiffs have usually been foreigners suing Chinese and damage awards have been small*

*Here a Chinese suing foreigner company and damages are rather large*
Changzhou Asian Endergonic Electronic Technology Co. Ltd. v. Best Buy

Filed July 2009 in E.D. Texas
Design Patent Case Study

This truck is:

a. Toyota Tacoma
b. Nissan Frontier
c. Mazda B3000
d. None of the above
Design Patent Case Study Cont’d

Will the REAL Nissan Frontier please stand up…
Design Patent Case Study Cont’d

The missing link
How to Spell “Starbucks”

星巴克
Copyrights Case Study

$11,140
TSMC v. SMIC

• Trade secret lawsuit filed in CA
• Theft of recipes and computer files
• Hiring of 162 TSMC employees
• Settled for $162M
• TSMC engineer indicted in absentia in Taiwan

Email from SMIC to TSMC engineer requesting:
"detailed process flows . . . including process target and equipment type … Sorry for the long list, but we need a lot of material to set up the new operation."
PARTNERING WITH THE ENEMY

• Cooperate with valid competitors for improved enforcement

"We do not regard the other studios as competition like in other markets. We regard them as partners."

Edward Cheng, marketing director at CAV Warner

• Partner with Best Counterfeiter and make them your enforcer

*French La Coste partnering with Hong Kong’s La Coste*
MODIFIED MARKETING

Market Share Strategy

Harry Potter and the Goblet of Fire and Poseidon

- Dubbed in Chinese
- Release prior to worldwide distribution
- Priced at about 1/10th of worldwide price

Progressive Value Strategy

- Normal Edition $1
- Silver Edition $3
- Gold Edition $4
A WORD ABOUT TAIWAN

• Taiwan’s importance as a market has decreased
• Filings in Taiwan are decreasing
• BUT: new IP Court may revive activity
  – Fast filing to resolution
  – Inexpensive (relatively)
  – Preservation of Evidence
  – Invalidation defense available
  – Very difficult to slow/delay the process
  – 1480 cases were lodged in first year
  – 70% closure rate in the first year
Thank You