Managing your IP in Medical and Pharmaceutical Industry in China and South-East Asia

China & South-East Asia IPR SME Helpdesk

Philippe Deltombe
Attorney at Law
China and South-East Asia IPR SME Helpdesk
External Expert

23 October 2017
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Helika Jurgenson
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For 9 years, Philippe has been assisting innovation players from Europe to China and to South East Asia.

He provides legal and strategy advices in areas ranging from IP strategy to technology transfer assistance and the corresponding contractual documents’ drafting & negotiation.

Philippe speaks English, French, Spanish, Italian and German.

Philippe is admitted at the Brussels Bar since 2003.

He joined Helpdesk in 2013
Agenda

✓ China/ SE Asia Business Environments
✓ Intellectual Property Crash Course

✓ IP Strategy – what we need to do
  o Case Studies

✓ IP Strategy – what we should avoid doing
  o Case Studies

✓ Making Headway in China/SE Asia

✓ Take-away messages
China/SE Asia Business Landscapes

- Legal environments predictability
- Operational costs effectiveness
- Economic growth/demand rates
- Political factors/stability
Intellectual Property Crash Course

- **Patents**
  - rewarding your industrial R&D efforts (inventions) by granting
    - a territorial monopoly, for a set period

- **Trademarks**
  - prohibiting third-parties from using your name or brand (sign)
    - in the protected territory, for a set – renewable – period
Intellectual Property Crash Course II

- **Copyrights**
  - rewarding your literary, musical & artistic creation by granting you
  - the exclusive right to publish, reproduce and record in 168 countries

- **Designs & Models**
  - prohibiting third-party from imitating the design or look of your products
  - in the protected territory, for a set period
Know-How, Trade Secrets

A trade secret is virtually anything that is secret, and that imparts value to its holder as a consequence of that very secrecy.

- > the IP right that you would better not register
Discoveries are not patentable!

Pharma sectors are patent-rich sectors of the economy

-> freedom to operate is key
to ensure that the commercial production, marketing and use of
their new product, process or service does not infringe the IP rights of others
Medical and Pharmaceutical IP Specifics

- *File before publishing!*
  - Press release, Request Clinical Trial
  - Abstract book
  - Online publishing ahead of printing
  - Negotiation without NDA
China Patent Guidelines
Recent Modifications

• Experimental data submitted after the date of filing for chemical inventions has been widely refused to be acknowledged by Chinese examiners, especially in invalidation proceedings.

• This very strict principle is now softened by allowing examiners to look at later submitted supplementary data.
SE Asia/China IP Strategy: What We Need to Pay (massive) Attention To

- IP Due Diligence
- IP Registration - or not
- The Right Territories
- Freedom to Operate
- Human Factor & Asian Values
Case Study

- Trust Building
- Time Management
- Hierarchy matters!
- Beware of face loss!
Actually, no textbook provides us this information…

But to find some answers, we might need to look into

CASE STUDIES
Take-away Messages

- Picking the Right Local Partners
- Involving the Local Authorities
- Registering before Going
  - Time Management
  - Cross-cultural Abilities
A Last Word...

“The more I come to Asia, the less I understand”

“You are on the right way!”

THANK YOU!
Q&A

Name: Mr. Philippe Deltombe
Firm: Partner at AGM abogados
Location: Barcelona, Paris, Shanghai
Email: pdeltombe@agmabogados.com
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**China Helpdesk**

T. +86 (10) 8527 6922  
E-mail: question@china-iprhelpdesk.eu  
www.china-iprhelpdesk.eu  
www.yourIPinsider.eu

**South-East Asia Helpdesk**

T. +84 8 3825 8116  
E-mail: question@southeastasia-iprhelpdesk.eu  
www.southeastasia-iprhelpdesk.eu  
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✓ Local partners
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✓ Or to simply learn about the local landscape and adapt your IP plan accordingly – something which can save you EUR in the long term