

China Patent Litigation Tips

1. Hire good local counsel

Preferably a U.S. litigator that has been practicing in China for at least 10 years

2. 2 year statute-of-limitations

Knew or should have known of infringement

3. Complaint

Not notice pleading must include evidence of infringement

4. Discovery

Not US-type discovery – do pre-suit investigation

5. Venue

Where defendant resides or infringement occurred

6. Investigation

Must investigate “local” connections before filing suit, especially government connections

7. Preliminary injunction

Now available – Article 61

8. Court

Intermediate People’s Court and only one appeal to Higher People’s Court

9. Invalidity

Not a litigation defense – must be brought separately

10. Damages

Can be measured in defendant’s profits, but also could be compulsory licensing

Merchant & Gould

An Intellectual Property Law Firm

www.merchant-gould.com

**HELPING THOSE WHO
CREATE AND INNOVATE
SUCCEED IN THE
GLOBAL ECONOMY.**

Minneapolis/St. Paul

3200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402
TEL: 612.332.5300
FAX: 612.332.9081

Denver

1050 - Seventeenth Street
Suite 1950
Denver, CO 80265
TEL: 303.357.1670
FAX: 303.357.1671
TOLL FREE: 866.357.1670

Seattle

701 Fifth Avenue
Suite 4700
Seattle, WA 98104
TEL: 206.342.6200
FAX: 206.342.6201

Atlanta

Georgia-Pacific Center
133 Peachtree St. NE
Suite 4900
Atlanta, GA 30303
TEL: 404.954.5100
FAX: 404.954.5099

Washington, D.C.

901 Fifteenth Street NW
Suite 850
Washington, DC 20005
TEL: 202.326.0300
FAX: 202.326.0778