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GENERAL IPR NEWS

1. Outline of National IPR Strategy Announced: Recently, the State Council issued "The Outlines of the National IPR Strategy." This document seeks to bring China to a high level of intellectual property innovation, utilization, protection, and management by 2020, building towards a truly "innovative nation." The plan lists five strategic goals: perfecting the IPR system; promoting IPR innovation and utilization; strengthening IPR protection; preventing IPR abuse; and nurturing an IPR culture. To curtail IPR infringement, the plan calls for revising laws and regulations to increase judicial penalties and lower IP defense costs. The patent system, including the quality of examination and review, will be improved. Emphasis will be placed on core technologies to support China's high-tech

industries; a compulsory license system will be perfected. Trademark enforcement will be enhanced, reinforcing the legitimate rights of right holders, while encouraging Chinese enterprises to raise the value of their own trademarks and seek "well-known" or "famous" trademark status, particularly for agriculture. Copyrights will be protected through significantly increased penalties for piracy, concentrating on large-scale manufacture and dissemination of pirated products, while addressing copyright protection challenges of the internet. The National Strategy also calls for establishing a trade-secret management system which prevents theft of trade secrets while protecting the freedom to select jobs. Plant-variety protection (PVP) will be enhanced as a means to stimulate agricultural development; improvements will be sought in the protection of geographical indications, genetic resources, and traditional knowledge. The new policy seeks to foster innovation in the integrated-circuit industry by strengthening protection for IC-layout designs, and includes provisions to protect specific intellectual property related to national defense. As a means improving enforcement, the Strategy calls for exploring establishment of a specialized IPR appellate court. (Chinese Source: http://www.gov.cn/zwgk/2008-06/10/content_1012269.htm)

2. China's U.S.-Based IPR Counselor Explains How Americans View the IPR Issue: In the April edition of *China WTO Tribune*, Dr. Yang Guohua, the Intellectual Property Rights Counselor attached to the Embassy of the People's Republic of China in Washington, D.C., explained to Chinese how the U.S. views its IPR problems with China. He opened with a discussion of the three reports that relate to IPR in China which the USG publishes each year: the National Trade Estimate Report on Foreign Trade Barriers; the Special 301 Report; and the Report to Congress on China's WTO Compliance. Counselor Yang described U.S. views that, while China has made great progress in establishing a complete legal system for IPR protection in a relatively short time,

deficiencies in Chinese criminal, civil, and administrative legal remedies have resulted in weak enforcement. While criminal relief is available, high criminal thresholds have created, in effect, a safe harbor for commercial-scale counterfeiting and piracy – a major reason why the U.S. has filed an action against China before the WTO. Dr. Yang quoted U.S. estimates of Chinese copyright piracy rates of 85% to 95% for 2007. He emphasized that such piracy also deprives China of tax revenue. In 2002 alone, the shortfall was an estimated US\$ 3.2 billion, with increased annual losses since then. He noted the U.S. preference to have dialogue and negotiation on these issues, while simultaneously pursuing remedies before the WTO, observing that the U.S. may be enduring adverse consequences arising from the WTO matter. (Source: *China WTO Tribune*, Ministry of Commerce, April 2008, page 95.)

3. 100 IPR Questions for World IP Day: The April 25 issue of *China IP News*, published by the State Intellectual Property Office, featured a 100-question multiple-choice test on intellectual property rights for the Chinese public. The test was released on the eve of World Intellectual Property Day, April 26. The test starts with easier questions, such as what the initials “WIPO” represent, and the subject matter of the Berne Convention. The degree of difficulty rises rapidly with practical inquiries: examining a dispute between a model and photographer over who has superior rights concerning use of a photo; which right is infringed when a film actor's image is used without authorization on a lunch box; disputes over licensed use of registered trademarks; and how soon, after leaving a company, an employee can file a patent in his own name for an invention on which he worked during his tenure there. (Chinese Source: *China IP News*, April 25, 2008, page 6.)
