

October 2009

## Intellectual Property Alert

### **Canton Fair Intellectual Property Enforcement Opportunity**

The 106th China Import and Export Fair ("Canton Fair") begins on October 15, 2009, in Guangzhou, PRC. Considered "China's No.1 Fair", the Canton Fair has recently become a source of intellectual property infringement.

#### **The Canton Fair**

The Canton Fair runs from October 15, 2009, through November 4, 2009. Started in 1957, the Canton Fair is hosted in Guangzhou, PRC twice a year under the direct organization and supervision of China's Central government. Thousands of China's foreign trade companies, factories and research institutions, divided into 48 industry-specific delegations, attend the Canton Fair to exhibit their products and to meet with companies and businesses from all over the world.

#### **The Issue of IP Infringement at the Canton Fair**

Despite the significant economic success of the Canton Fair, starting in the late 1990s, the issue of intellectual property infringement at the Canton Fair has drawn critical and high level attention in China and worldwide. Products targeted for copying are home appliances, electronic products, lights, computer and telecommunication products, tools, small equipment, auto parts, bathroom equipment, and construction and decoration materials.

To cope with the increasingly serious issue of IP infringement at the Canton Fair, in 1997, the Chinese government set up a temporary but specialized IP Complaint and Enforcement Center (the "Center") which deals with the complaints initiated during each Fair. Each year, the Center receives IP infringement complaints against 700 to 800 Chinese exhibitors/exporters, regarding potential infringement of the IP rights of both Chinese domestic and foreign companies. Among these complaints, over half are determined to constitute actual infringement and result in administrative measures such as fines, cessation of exhibition, and temporary or permanent disqualification of future participation in the Fair.

#### **Enforcement of IP at the Canton Fair**

The key to successful enforcement at the Canton Fair is proper identification of potential infringement, swift and accurate preparation of documentation and effective communication with the enforcement officers at the Center. In addition, the enforcing party needs to provide properly notarized and consularized authorization documents, and all English documents must be accompanied by an official translation in Chinese provided by a qualified Chinese translation company. For each type of IP to be enforced (patent, trademark, and copyright), the IP owner needs to provide the relevant registration document(s).





With our relationships and resources in China, Michael Best is able to assist our clients with their IP protection and enforcement needs during the Canton Fair and generally in China. Michael Best can also provide post-Canton Fair IP enforcement assistance with regard to i.) further investigations on the background, sales channel and supply chain of an infringer, ii.) governmental and customs seizures, and iii.) dispute resolution involving commercial arbitration, settlement and litigation.

For more information on how to protect and enforce your intellectual property during the Canton Fair or otherwise in China, please contact one of the authors of this alert or your Michael Best attorney.

This Alert is a publication of Michael Best & Friedrich LLP and is intended to provide clients and friends with information on recent legal developments. This Alert should not be construed as legal advice or an opinion on specific situations. For further information, feel free to contact article authors or other members of the firm. We welcome your comments and suggestions regarding this publication. © 2009 Michael Best & Friedrich LLP. All rights reserved.

