



On behalf of the ABA Section of Intellectual Property Law, Pattishall Attorneys Thad Chaloeintiarana and Phillip Barengolts Met With a Delegation From the People's Republic of China to Discuss U.S. Trademark Law

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By [Phillip Barengolts](#), [Trademark Attorney](#)

On September 2, 2011, the Legislative Affairs Office of the State Council of the People's Republic of China (PRC) issued the most recent version of proposed amendments to the Chinese Trademark Law.¹ A delegation from the PRC is meeting this week with several U.S. intellectual property law groups to discuss aspects of U.S. trademark law as part of their efforts to gather comments on the new Chinese trademark law and to better understand the U.S. approach to trademark enforcement and protection.

On September 26, 2011, Pattishall attorneys Thad Chaloeintiarana² and Phillip Barengolts,³ Bruce Longbottom, Associate General Counsel – Trademarks, Copyrights & Information Technology, Eli Lilly and Company, and Jonathan Hudis⁴ of Oblon Spivak McClelland Maier and Neustadt, LLP, met with the PRC delegation on behalf of the American Bar Association Section of Intellectual Property Law. On behalf of the PRC delegation, from the Economic Law Department, Commission of Legislative Affairs, Standing Committee of the National People's Congress were:

¹ The full text of the proposed revised Chinese Trademark Law is available for comment here (but only if you read Mandarin – no official translation was available as of the date of this blog post): http://www.gov.cn/gzdt/2011-09/02/content_1939013.htm. The comment period ends on October 8, 2011.

² Thad currently is the Vice Chair of the Trademark Division of the ABA Section of Intellectual Property Law.

³ Phil currently is the Chair of the Defining Counterfeiting Sub-Committee of the Trademark Legislation Committee of the ABA Section of Intellectual Property Law.

⁴ Jonathan currently is the Chair of the Trademark Division of the ABA Section of Intellectual Property Law.



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- Yang Yong Ming, Director;
- Wang Qing, Deputy Director – General;
- Chen Yanguye;
- Li Jiangua, Researcher; and
- Wang Xiang.

Also in attendance was Zhou Yan, Deputy Division Director, Law Department, State Administration for Industry and Commerce. Attending on behalf of the International Trade Administration of the U.S. Department of Commerce were Nicole Melcher, the Director of the Office of China and Mongolia, and Ning Lu, International Trade Specialist for the Office of China and Mongolia.

During the four hour discussion, the PRC delegation and ABA IPL Section representatives discussed a wide variety of U.S. trademark issues, including:

- conflicts between registered and unregistered marks;
- damages for trademark infringement and counterfeiting;
- dilution; and
- “landlord” or contributory liability for trademark infringement.

The discussion included a detailed review of the separation between common law trademark rights developed through use and the federal registration system administered by the United States Patent and Trademark Office, and their impact on enforcement of trademark rights; the trademark rights enforcement implications of recently enacted dilution legislation in the U.S.; and the implications of recent decisions concerning potential liability under trademark law for Internet companies that host third-party content that contains infringing material or offers infringing or counterfeit products for sale.

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Phillip Barengolts is a partner with [Pattishall, McAuliffe, Newbury, Hilliard & Geraldson LLP](#), a [leading intellectual property law firm](#) based in Chicago, Illinois. Pattishall McAuliffe represents both plaintiffs and defendants in [trademark](#), [copyright](#), and [unfair competition trials and appeals](#), and advises its clients on a broad range of domestic and international intellectual property matters, including [brand protection](#), [Internet](#), and [e-commerce](#) issues. Mr. Barengolts' practice focuses on litigation, transactions, and counseling in domestic and international [trademark](#), [trade dress](#), [Internet](#), and [copyright law](#). He teaches trademark and copyright litigation at John Marshall Law School, and co-authored [Trademark and Copyright Litigation](#), recently published by Oxford University Press.