

# Institute looks over the Great Wall of China

**On behalf of the Netherlands Institute of Patent Attorneys (NIPA), a delegation of 12 independent patent attorneys visited China (Beijing and Shanghai) from 20 to 27 June this year. This was a return visit following a visit made by the Chinese counterpart, the ACPAA, to the Netherlands (and also our office) in April last year. Representing Nederlandsch Octrooibureau, Hans Hutter, Maarten Ketelaars and the undersigned were among the delegation.**

It was the first time that the Institute had made such a visit, and so the question being asked beforehand was whether a group of competitors would be able to present themselves as 'professional colleagues'. The China trip appeared to be eminently suitable for this, since China is still uncharted territory for our profession. To give you an idea: Since 1999, every two years the number of European patent filings from China has doubled, from 90 to 1100 in 2008, making China an increasingly important player in the patent world. In short, this was an ideal opportunity for China and the Netherlands/Europe to share experiences. With that in mind, visits were made to the ACPAA (the Chinese Institute of Patent Attorneys) and a number of Chinese offices.

The ACPAA is kept extremely busy with the exponentially growing Chinese IP market. As well as a pending change in the law, during the second half of this year, a code of conduct for patent attorneys will be drawn up, together with greater supervision of the activities of the 10,000 Chinese patent attorneys who are expected in 2015. Now there is only an entrance examination, which incidentally fewer than 10% of the candidates manage to pass. In addition, the ACPAA spends a great deal of time visiting Europe and receiving European visitors. For example, there seem to be contacts with the English, Germans and French. The Dutch are the latest addition to this list.

The ACPAA appeared to be very surprised to learn from us that the EPO has a branch not only in

Munich, but also a similar office in The Hague (in fact close to the office of Nederlandsch Octrooibureau). The virtually equal division of patent applications between Munich and The Hague was not generally known. Up to that moment, our Chinese colleagues thought that all the substantive work was carried out in Munich. We also emphasised that the Dutch patent attorneys are relatively well qualified in Europe. During the ACPAA-NIPA Joint Seminar that followed, we repeated this to a broader audience of some 200 members and gave presentations on the Dutch Patent Act, the European opposition procedure, the upcoming EPC amendments and enforcement in the Netherlands.

While visiting the offices, what was particularly striking was the large number of young patent attorneys and the differences in their company philosophy. Some offices promoted themselves as traditional, attaching great value to good relations with SIPO (the Chinese counterpart of the EPO) and the Party, whereas others came across as being bolder and more Western in their outlook.

Visits were also made to the SIPO, the Shanghai Intellectual Property Administration and Shanghai Customs. The aim of these visits was to find out more about the role of patents in China, and particularly the enforcement of patents for our European clients.

At the SIPO we spoke with a number of examiners. Although the SIPO was based on the EPC more than

twenty years ago, it now feels entirely independent, so much so, in fact, that a reference to a European granting of a patent does not go down very well at all among the Chinese examiners! They are also aware that they interpret the term 'support' much more strictly than their American and European colleagues. One thing was quite clear to us: This will not be relaxed!

It was interesting to hear that taking legal action in China in the event of infringement is now entirely normal. Many Chinese companies use this course of action (between themselves) too. In Shanghai the authorities have set up a kind of accelerated mediation-style procedure as a cheaper and faster alternative to court proceedings, intended above all for those cases where the copying party cooperates.

Our visit to Customs also showed us that if you want to do something against the Chinese urge to copy, you cannot expect much self-initiative from Customs. The will is there, but there is a lack of manpower: The second-largest port in the world has 3,000 ground personnel and 4 IP specialists in the battle against drugs, terrorism and countless other problems. You therefore have to find everything out yourself, but there are IP detective firms, such as Sunfaith, that can help you. The experiences of the delegation on the working visit were unanimously positive. Both parties learned much about each other's patenting practice.



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## Immediate change in fees for Community Trademark registration

From 1 May 2009, the European Trademark Office has reduced the cost of registration of a Community Trademark. This represents a considerable reduction because the registration fee will no longer be charged.

This change will affect all new applications. This makes it even more attractive to register your trademark(s) directly in the European Union, which gives you protection in all 27 member states.

Our readjusted fixed charge for preparing and filing an application for registration of a Community Trademark is available on request.