Surprises or no surprises?

UT CLE Advanced Patent Law Institute – Worldwide Patent Litigation Trends

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Podcast: innovation policy

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The Way China Develops Its Patent Linkage System

- History and Phase One Trade Deal
- Key Issues
- Patent Law Amendment
- Upcoming Implementing Rules

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History and Phase One Trade Deal

- Old Linkage System (if any)
- Policy Changes in 2017-2019
- Phase One Trade Deal (Article 1.11)
  - Meaning of "Effective Mechanism for Early Resolution of Patent Disputes"
    - China shall provide: (a) a system to provide notice to a patent holder, licensee, or holder of marketing approval, that such other person is seeking to market that product during the term of an applicable patent claiming the approved product or its approved method of use; (b) adequate time and opportunity for such a patent holder to seek, prior to the marketing of an allegedly infringing product; and (c) procedures for judicial or administrative proceedings and expeditious remedies
    - China shall establish a nationwide system for pharmaceutical products…
  - Implementation: Patent Law, Judicial Interpretations and Implementation Rules

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Key Issues

- China's orange book
- Stay period
- Courts v. administrative proceeding
- Role of invalidation actions
- Incentives to generics

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Patent Law Amendment

- 2nd reading: Korean model?
- 3rd reading: stay general and leave for Judicial Interpretations and Implementation Measures
- What does this mean?

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