REPRESENTING CHINESE COMPANIES IN U.S. LITIGATION: PRACTICAL CHALLENGES

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Business ties between Chinese and U.S. companies have skyrocketed over the past decade. Chinese companies acquire interests in U.S. companies, public and private; purchase and develop real estate; form subsidiaries and joint-ventures to conduct manufacturing and distribution operations in the U.S.; and manufacture countless products in factories located in China, for sale to consumers and business partners in the U.S. Despite what some commentators characterize as a current "slowdown" in the Chinese economy, and the Chinese government's recent attention to restricting unreasonable outbound capital transfers, commercial links between the two countries can be expected to continue expanding.

With business activity in the U.S., however, comes litigation in the U.S.

With litigation in the U.S., comes the need for Chinese companies to engage U.S. lawyers – and for U.S. lawyers to understand the challenges involved in representing a Chinese business in the U.S. litigation system. These challenges are real, and can be daunting. They require U.S. litigation counsel to revise their ways of thinking about certain things, to be more pro-active than usual, and to be sensitive to how the U.S. system looks to a Chinese business-person.

It is important at the outset to understand the different types of Chinese businesses that you may find yourself representing. In general, these types might include:

- State-Owned Enterprises ("SOEs"): These businesses are mainly owned by the Chinese government, in whole or in part, and are typically large, diversified, and sophisticated in doing business abroad. It is likely that SOEs will have some familiarity with the US system, and experience adapting to foreign systems in general. Therefore, some of the comments below may be less applicable to SOEs. However, some of the comments below will be even more apt; for example, SOEs often work in sensitive business niches which fall within the China State Secrets Act (discussed below.) This Act can seriously restrict the types of information which can be disclosed outside China, and can be a major factor in US discovery compliance.

- Private Listed Companies: There are thousands of Chinese companies listed on stock exchanges in Hong Kong, China, and other countries. In general, these companies have well-functioning internal systems, and many have legal and/or compliance departments, as well as English-speaking personnel and experience dealing with outside counsel. This obviously makes your job as US counsel easier. Not all listed companies have this level of sophistication, though, so you should determine early the extent to which your client internal personnel devoted to legal and compliance issues, with experience in the US.

- Mid-Sized Companies and Small Entrepreneurs: Many Chinese companies doing business in the US are medium-sized and small enterprises – the types of entities that might, in the US, be referred to as "close corporations" or "family businesses." These businesses typically have little infrastructure to support US litigation, and little appreciation of the cost, time, and overall process of US litigation. They often lack internal English-language capabilities. These types of businesses can be very challenging to represent in the US and will require considerable attention, education, and planning.

Understanding the type of business you are representing – its size, sophistication, resources – is your first step in effectively representing a Chinese company in US litigation. Just as you will formulate a "case-plan" for defending the lawsuit, you will want to formulate a plan for effectively interfacing with your client, based upon the specific type of Chinese business you are representing.

KEY POINTS OF COMPARISON BETWEEN THE CHINESE AND US LITIGATION SYSTEMS

I. China Has a Civil Law System, Not A Common Law System

China's legal system follows a "Civil Law" model, meaning that it is heavily dependent upon established legal codes. Judges are required to strictly follow the existing laws and the Supreme Court's interpretations. It is beyond the Court's authority to create new rules and legal principles, even if doing so may seem rational and proper in a specific case.

II. The Chinese Litigation System is Inquisitorial, Rather Than Adversarial

In China, Judges take the lead role in determining what facts and information are necessary for decision, and in uncovering evidence. Each party is responsible for proving its own case, but there are no mechanisms for "discovery" into the other party's case. While witnesses are required to testify truthfully, and each party is responsible for providing evidence to substantiate its claim, the Court is much more involved in the information-gathering process than in the US. The Court, when it deems it to be necessary, may order production of evidence beyond what the parties have submitted, and conduct its own investigations. Rather than the US model, which is based upon adversarial fact-gathering, many Chinese lawyers refer to their system as an "inquisitorial" system, in which the Court leads the "inquiry."

III. The Chinese Litigation Disclosure Environment Bears No Resemblance to the US System

Cultural differences are highlighted dramatically in the two systems' approach to disclosure of information in litigation. All US lawyers are familiar with the broad scope of discovery under the Federal Rules of Civil Procedure and their State law counterparts. It is, however, essential to understand that certain fundamental aspects of Chinese law and Chinese culture will have a material impact on the identification, collection, and disclosure of case-related information by your Chinese client. Chinese legal restrictions affect the ability of a Chinese company to disclose information in some specific areas in ways that US companies do not experience – and the US lawyer must educate himself/herself on these restrictions and be ready to present them to the US

Court at an early point in the case. Some of the more commonly-encountered restrictions are as follows:

- China has numerous laws dealing with data privacy, disclosure of information pertaining to State security, and financial information. These laws are vague and may be applied after-the-fact. Your Chinese client will be legitimately concerned about providing information for use in US litigation, then later being accused of having violated one of these laws. With both civil and criminal penalties available, this potential scenario operates as a strong deterrent to your client being willing to produce information and documents in US-style discovery. Typically, the disclosing party will need to obtain approval from the authorities prior to disclosure, and the receiving party will need to enter into appropriate confidentiality arrangements.

- The Chinese Constitution protects an individual's electronic communications against invasion by any entity except the State. Related regulations expressly provide that an individual's communications of this nature are secret (except for access by the State.) Again, violations can be determined after-the-fact. Thus, a Chinese citizen is likely to view the idea of disclosing emails in US litigation as violating his/her basic rights, and may assert that, in fact, they have no obligation to provide email and the like for production in a US case.

- The Chinese State Secrets laws bar disclosure of any "State secret." That term does not have a specific description, however, and a "discloser" is once again subject to after-the-fact liability. State secret information generally covers matters that the authorities consider connected to national military, economic, and diplomatic strategies and which has the potential to damage the interests of the country. SOEs that operate in the telecommunications, banking, information technology, energy, and natural resources sectors are likely to be subject to the State secret laws. Article 9 of the law indicates that matters involving national economic and social development, science and technology, and major policy decisions on State affairs are to be viewed as "State secrets." The net effect is that a great deal of information that a US litigant would view as routinely commercial could easily be subject to these laws.

- Chinese Accounting Archives and Management laws prohibit taking accounting "archives" outside of China. Again, no definitive definition of "archive" exists. The laws could, however, be construed to refer to basic corporate financial documents that would be part of typical discovery in any US business case.

- Disclosure of "trade secrets" (again, largely a broad and undefined term under Chinese law) could be prohibited under certain circumstances.

The net effect of the above is that before even reaching issues of cost, relevance, burden, preservation, collection protocols, review, privilege, production (the kinds of factors US lawyers think about), and before getting to cultural differences, a Chinese company sued in the US must naturally consider the necessity of meeting its local legal obligations, and the potentially severe consequences it could suffer in its home country simply by complying with normal US disclosure

requirements without obtaining proper local approval. Obviously, as noted, this acts as a major hurdle for the US lawyer attempting to help the Chinese company comply with US rules – and is a major reason why you should seek local Chinese legal advice at an early point.

There is simply no analog in China to the US discovery system. In Chinese litigation, parties typically submit their "evidence" at the time they file their action. The Court then becomes involved in seeking out and collecting the information it believes it needs to decide the case. A party can, by letter to an opposing party, request disclosure of information. But disclosure is not required unless the Court decides the information is necessary. In China, the evidence-gathering process is largely driven and controlled by the Court, and its view of necessary information, not the parties.

The demands of US discovery therefore, quickly become baffling and overwhelming. The differences and tensions between the US and Chinese approaches can crop up dramatically in the following contexts:

A. Identifying Witnesses and Complying with Witness Disclosure Requirements:

The typical US litigator will make it an early priority to canvass the company and identify all current and former employees with knowledge regarding the issues in the case. Early witness disclosure is required under US procedural rules. However, there are typically no witness disclosure requirements in China; therefore, the importance of rapidly identifying and assembling the "witness group" is not readily appreciated by many Chinese clients.

B. Obtaining Affidavits Sufficient for U.S. Courts: In China, a person with knowledge of relevant facts is required to the disclose the facts to the Court, and this disclosure can be in the form of a statement or declaration. However, there is no concept or mechanism equivalent to "swearing an oath." Thus, the "standard" form of a US affidavit may be difficult to obtain. It may be necessary to phrase the affidavit as a Declaration. In this connection, it will be very important to explain the concepts of perjury and impeachment, and the many negative consequences that can result in the case if the Declaration turns out to be false or incorrect, including contempt sanctions.

C. Collecting and Producing Hardcopy and Electronic Documents: China has no clear rules or requirements addressing preserving evidence for litigation. Parties can request that the Court compel preservation of evidence. It is also common for employees working in small and medium-sized companies to use their personal computers for their business work, thereby mixing personal and business data. Sometimes, these computers are the property of the employee, not the business; and China, as noted, has laws protecting the privacy rights of individuals in their personal devices. Further, it is very common for Chinese employees and business people to use SMS messaging or WeChat as a communication medium; these messages are usually irretrievable over time. The result is that identifying and collecting potentially discoverable electronic documents typically poses a major challenge, both logistically and culturally. With respect to hardcopy documents, Chinese companies typically do not follow retention policies similar to US companies and possession of documents is often decentralized with a company. The "bottom line" is that it will likely be very difficult – and often impossible – to assure yourself or the Court that all

potentially relevant documents (as defined by US discovery standards) have been preserved, located, collected, and produced. And, it will be challenging to convey to your client why this matters.

D. Responding to Discovery Requests from the Opposing Party: Experienced lawyers know that it is difficult enough keeping discovery responses moving on schedule when dealing with other US lawyers. This challenge is greatly amplified when representing a Chinese party. We have already discussed the fact that most China businesses have a hard time digesting the basic concept of discovery, and typically do not make it a high priority. We have also discussed the fact that records retention practices in China are very different than in the US, and electronic material is not available as it is in the US. In addition, as noted, certain aspects of Chinese law pose additional obstacles to disclosure of information that would normally be seen as "discoverable" in the US.

These tensions between Chinese laws on disclosure and "broad" US discovery rules are being addressed with increasing frequency in US Courts, and a review of the cases can provide some guidelines for counsel seeking to navigate these tensions. Many of the cases follow a familiar template: The Plaintiff sues a Chinese company in a US court. Assuming personal jurisdiction is proper, the Plaintiff serves written discovery upon the Chinese defendant under the Federal Rules. The Chinese Defendant objects to the discovery requests on the grounds that Chinese law bars disclosure of requested information without proper authorization from the local Chinese authorities, or that the requested information is simply not obtainable as a practical matter (perhaps because it is located on the laptop of a former employee who has left the company and taken his laptop.) The matter is then "teed up" for the Court to resolve the dilemma.

One early case offers a useful overview of how Courts often approach these issues. In *Richmark Corp. v. Beijing Ever Bright Industrial Co.*, 959 F.2d 1468 (9th Cir. 1992), Richmark had obtained a $2.2 million default judgment against Beijing Ever Bright, a large State-owned financial company, and served written discovery concerning assets upon Beijing Ever Bright during the course of execution proceedings. (Beijing Ever Bright had filed an appeal from the default judgment, but failed to post a supersedeas bond or letter of credit, thus allowing execution to proceed.) A long and tangled procedural saga ensued – the gist of which was that Beijing Ever Bright ignored Richmark's discovery requests, leading Richmark to file a motion to compel, which led to contempt sanctions against Beijing Ever Bright. Although Richmark had served its discovery in July 1990, it was not until the February 1991 contempt sanctions hearing that Beijing Ever Bright raised, for the first time, the argument that the China State Secrecy Act barred it from producing the documents requested in Richmark's discovery. Beijing Ever Bright had only consulted the State Secrecy Bureau a month earlier; and the Bureau, in April 1991, informed Beijing Ever Bright that the requested documents were barred from disclosure. Beijing Ever Bright asserted to the Court, on appeal of the contempt sanctions, that it acted in good faith in not producing documents, because it was barred from doing so by China law. The Court acknowledged the legitimacy of Beijing Ever Bright's quandary, but concluded that Beijing Ever Bright had waived its objections to the requested discovery by failing to raise this issue as an objection to the discovery requests, or in response to Richmark's motion to compel. *Richmark*, 959 F.2d at 1473

(*"*It's objections to the discovery orders and the contempt adjudication based on the PRC secrecy laws were therefore waived.*"*).

The *Richmark* case was decided many years ago, but still provides a good discussion of the competing interests at stake when Chinese law meets head-on with US discovery law, the relevant factors in balancing these interests – and, of course, the critical importance of raising issues early, rather than later in the process. A more recent treatment of the issue can be found in *Chevron Corp. v. Donziger,* 296 F.R.D. 168 (S.D.N.Y. 2013.) There, the Court noted that it is "well-settled" that foreign statutes do not deprive a U.S. Court of the power to require a party subject to its jurisdiction to produce evidence in discovery, even in the face of a "blocking statute." The U.S. Court should, however, undertake a "particularized analysis" of the respective interests of the foreign nation and the US litigant. Three other cases of interest, which have elicited considerable commentary, are: *Tiffany (NJ), LLC v. Qi Andrew,* 276 F.R.D. 143 (S.D.N.Y. 2011) (The Court denied Plaintiffs' motion to compel, which sought financial documents from non-party Chinese banks, on the basis that such disclosure would be in contravention of Chinese banking laws and the non-party banks' interests as well as China's interests outweighed the Plaintiffs' interests in obtaining the information. The Court directed Plaintiffs to, instead, request the information through The Hague Convention and gave Plaintiffs the opportunity to renew their application to enforce their subpoenas if the process proved futile.); *Gucci America, Inc. v. Weixing Li,* 135 F. Supp. 3d 87 (S.D.N.Y. 2015) (The Court granted Plaintiffs' motion to compel the production of financial documents by a Chinese bank, concluding that it had specific personal jurisdiction over the Chinese bank with respect to Plaintiffs' subpoenas and that exercising such jurisdiction comported with due process and principles of comity.); *U.S. Securities and Exchange Commission v. Deloitte Touche Tohmatsu CPA, Ltd.*, Exchange Act Release No. 3531, 108 SEC Docket 662, 2014 WL 294565 (Jan. 27, 2014) (The SEC filed a subpoena enforcement action in September 2011, seeking to compel Deloitte Touche Tohmatsu CPA ("DTTC") to produce audit workpapers related to the SEC's investigation of a Chinese company. DTTC refused to produce the requested documents, which were located in China, asserting that it was prohibited under Chinese law. However, in response to the SEC's request for assistance, the China Securities Regulatory Commission ("CSRC") obtained these documents from DTTC and produced them to the SEC, prompting the SEC to request an order dismissing its subpoena enforcement action.).

The essential point is that counsel for the Chinese party must: 1) aggressively investigate the limitations imposed by Chinese law and the client's own practices on the availability and disclosure of case-related information; and 2) alert the Court promptly in order to raise all issues relating to these limitations; and 3) provide the US Court specific information, supported by a compelling record, as to the harm awaiting your client if it discloses the requested information.

E. Deposition Discovery: Depositions are another flash point at which the two systems can collide in conflict. Chinese law regarding depositions is simple and clear. A Chinese citizen may not give a deposition on Chinese soil without authorization from the local governmental authorities. It is against the law to submit to a deposition, or to take a deposition, in Chinese territory. In theory, these prohibitions should not be insurmountable, though, because China is a signatory to The Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters (Hague Convention). The Hague Convention would, therefore, seem to provide a means for obtaining deposition discovery in China. Thus, it is common for Chinese

companies to object to deposition notices served pursuant to the Federal Rules, arguing that any deposition should proceed under The Hague Convention. The Hague Convention has not, however, proven to be an effective mechanism for obtaining discovery from China parties or third-parties. First, the process is inherently cumbersome. The party seeking the deposition in China must commence the process by issuing a Letter of Request to the PRC Ministry of Justice, which then goes through multiple layers of judicial review in China. second, few such Letters of Request are actually approved; some commentators suggest that as few as one per year are approved. Thus, while defense counsel for the Chinese company may assert that proper deference to China law requires the US Plaintiff to pursue depositions under The Hague Convention, Plaintiff's counsel will assert that this process is, at best, a futility, since discovery requests under The Hague Convention are rarely granted, and therefore discovery should go forward under the Federal Rules of Civil Procedure. This position is the one most US Courts appear to be adopting; that the taking of the deposition is not *per se* prohibited, but that the burdens, costs, conveniences, interests, and nuances of China law should be weighed as other factors are typically weighed under Federal Rules discovery principles – this process often leads to the Court requiring, or the parties agreeing, to conduct the depositions of Chinese nationals in Hong Kong, the US Embassy, or another suitable location not "within" territorial China. If possible, seek voluntary agreements with counsel that will allow necessary depositions of Chinese citizens to be taken without a risk of violating China law, and in a manner that shares the burdens.

III. The Decision-Makers in The Chinese System Are Judges, Not Juries

Civil actions in China are decided by Judges, not juries as US lawyers know them. A Chinese Court may appoint a "People's Jury" – in practice, these "juries" follow the Judge's decisions and rulings. Chinese parties will have little understanding of trial testimony before a US jury, trial presentation, "jury appeal," or trial dynamics. You should begin educating your witnesses early on these basic aspects of the US system.

IV. Enforcement of Judgments

The essential fact to grasp with respect to enforcement of judgments in China is this – there is NO treaty or accord between China and the US which provides for mutual enforcement of civil judgments.[1] In order to enforce a US civil judgment in China, it is necessary to commence a new action in a Chinese Court, seeking an Order from that Court for enforcement. The US judgment will simply be "supportive evidence," but is not binding upon the China Court. While empirical data is not available, anecdotal reports suggest that few such enforcement actions are successful. Thus, you should expect your Chinese defendant-company to question whether it makes sense to defend the US lawsuit at all, if it has no assets in the US. It is not at all uncommon, for example, for Chinese companies to default in the underlying action, and only later try to mount an appeal if an untenable judgment has been entered. You should, therefore, be prepared to discuss the full range of potential legal consequences of default with your client – which will include explaining how judgments are executed in the US, and what sorts of assets can be reached. The client can then make an informed decision as to whether default makes business sense.

[1] Arbitral awards have a better chance of being enforced, as China is a member of the New York Convention.

ISSUES THAT YOU MUST BE PREPARED TO DEAL WITH, AND PRACTICAL TIPS

A. Clearly Define the Scope of Your Engagement and Fee Agreement: The fundamental concept of a "contract" has different meaning in Chinese and US cultures. In China's business culture, a contract is often a "living document" which serves as a guide and a memorialization of good relations – but is expected to change over time as conditions change. Of course, defining the specific scope of engagement is extremely important, from an ethical standpoint, for US lawyers. The US lawyer must take care to insure that the scope of his/her engagement is very clear, and that changes in scope are properly documented.

*** Practical Tip:** Clearly establish the scope of your engagement and your fee arrangement at the outset, in writing. Set forth clearly what you are engaged to and what you are not engaged to do. Memorialize the engagement in both Chinese and English. If the scope of your engagement changes, memorialize this clearly as well.

B. Investigate Jurisdictional Defenses: Many Chinese businesses have a legitimate personal jurisdiction defense, which should always be carefully considered at the outset. This will require a thorough understanding of the exact nature of your client's ties to the US, and review of documents relating to its US connections.

*** Practical Tip:** Because Chinese companies often do business in the US through intermediary-entities (e.g., distributors, agents, subsidiaries), they often have valid personal jurisdiction defenses. Get and early grasp on the precise structure and organization through which your client is involved in the US, and the State in which the lawsuit is filed. It will also be important to mount an early effort to gather all relevant internal information and documentary support from your client, which will require explaining the concept of personal jurisdiction.

C. Obtain Local, On-Site Legal Help to Assist with Complex Logistical, Language, and Cultural Issues: It is enormously challenging to adequately represent a Chinese company in US litigation without assistance from local China counsel. Language is only part of the issue.

*** Practical Tip:** This is a critical point. Unless you are working with a sophisticated Chinese company that has strong internal English capacities, it will be very important to work with local Chinese counsel who can supply the language and cultural interface, as well as act as the on-site "implementer" of the witness-identification and information / document-collection efforts that will be required. For example, China-licensed counsel can, under certain circumstances, be permitted to view "State secret" material in a controlled environment and report to the US Court, in aid of Chinese party's effort to demonstrate good faith in its discovery-compliance efforts.

D. Timeliness / Speed of Decisions: Do not expect case-related decisions to be made quickly. Chinese culture is essentially hierarchical, and employees below the top-executive level are typically not empowered, or willing, to make decisions relating to the case; including decisions

relating to how much information to share with their US lawyer. In addition, there are numerous national holidays in China, which have a significance that US holidays typically do not. It is not an exaggeration to say that businesses basically "shut down" for the two-week Chinese New Year holiday, for example. Do not expect to be able to contact your Chinese client, or have any progress or decisions made on your case, during these holiday periods.

*** Practical Tip:** Alert both the Court and opposing counsel as early as possible regarding timing / scheduling issues.

E. Collection of Witness Information: Do not expect to have ready and easy access to fact witnesses in China. And do not expect to obtain meaningful information via telephone.

*** Practical Tip:** Utilize your local China counsel to discuss witness issues with company executives, and to locate and interface with potential witnesses. Go to China and interview your witnesses live.

F. Collection of Documentary Evidence: Do not expect your client to have neatly organized and readily accessible hardcopy or electronic records. Because the "discovery culture" does not exist in China, businesses simply do not put the same emphasis on retaining records as in the US. Nor are there legal strictures requiring retention of records. Thus, the reality is that records are typically kept in a haphazard fashion, and may or may not be accessible. Further, because the production of complete records is not significant in China litigation, you cannot rely on company employees to conduct a thorough records search. There is simply no "model" of an appropriate records retention policy or search/collection in Chinese law.

*** Practical Tip:** Aggressively identify document custodians and hurdles with respect to preservation, collection, review, and production. Once again, your local China counsel can play a critical role here, visiting on-site with local business managers and explaining the importance of discovery compliance, and also assembling the facts you will need in order to credibly explain to the US Court when and why strict compliance is not possible.

G. Collection of Electronic Evidence: E-discovery, which of course is part of the norm in US litigation, is a concept only just beginning to finds its way into Chinese litigation. The US model of a business issuing its employees a computer for business use, with all business e-documents being stored and archived on a network and system owned by the business – is often different in China. Employees typically use their personal computers for work purposes, and take this information with them when they change jobs. There may well be no central repository of electronic evidence.

*** Practical Tip:** As you would with a US client, acquire an understanding early about your client's electronic data structure. Form an understanding as who owns the various devices which may contain relevant information, and the nature of that information. Then identity the potential "problem" areas from the standpoint of what the US court will expect in terms of ESI compliance,

and raise all these issues early with the Court. A live visit to your client in China is also advisable. Your local China counsel will be extremely helpful. Transmitting e-data out of China can potentially create legal risk; have your local China lawyer advise you and the client on this process; after consulting with the proper State agencies if necessary, to obtain clearance. Processing and storing ESI in China, rather than the US, may help guard against the China legal risk. Preservations/litigation hold protocols are largely unknown and cannot be relied upon.

H. Collection and Production of Financial Information: The Chinese State Security Act can impact disclosure of your client's financial information. Identify these issues at the outset and raise them with the Court. Notably, it is not uncommon in China for businesses to maintain dual sets of books; one for the tax authorities, another for running the business. This is simply a fact of life with respect to many Chinese businesses. You will need to probe to make sure you understand which set you are dealing with in the case, and do your best to obtain the accurate books. (Note that this can become a serious problem if your client's claim in the US is that its business was generating strong profits, but the Chinese books show weak profits, or even losses.)

*** Practical Tip:** Once again, bring your local China counsel into this process. Your China counsel can also be critical in assisting you in demonstrating to the Court the legal restrictions your client is facing under China law. For example, Courts have tended to find it unpersuasive for US counsel simply to assert that China law prevents your client from producing a given type of information or documents. Having a report or opinion from qualified China counsel will be more effective in persuading the US Court that your client faces legitimate limitations with respect to disclosure.

I. Deposition Discovery: Understand that China law seriously impacts the taking of depositions in China, and develop a game-plan early in the case.

*** Practical Tip:** Develop a strategy early on how to address deposition requests by the opposing side for depositions of your party-witnesses located in China, and third-party witnesses located in China. Decide whether to try and assert that discovery should proceed under The Hague Convention, or under the Federal Rules of Civil Procedure.

J. Helping Your Client Understand the Role of the US Court: Because of their unfamiliarity, Chinese clients can be prone to misinterpret actions taken by the US Court. Losing a minor motion may be seen as a catastrophe; winning a minor motion may be construed as "victory" in the case. Routine Court directives can take on outsized meaning.

Representing Chinese companies in US litigation requires US to counsel to step outside familiar paradigms and expectations and think differently. This can be challenging – but the increase in commercial connections between China and the US makes it inevitable that US litigators will be called upon to represent Chinese clients in US Courts with growing frequency, so that learning how to do so effectively will become an important part of US lawyers' "tool kits."