

Hernandez, Jesus

From: George Eakin <george@osborneindustries.com>
Sent: Tuesday, October 18, 2011 6:30 PM
To: IP Policy
Subject: 76 Fed. Reg. 64075

Greetings USPTO:

It is my understanding that the USPO is accepting public comments on protecting and defending Corporate IP in China (76 Fed. Reg. 64075). Osborne Industries is an innovative manufacturer located in Osborne, Kansas. We have two segments to our business which include custom plastic molding and manufacturing of a proprietary line of agricultural equipment primarily for the swine industry. Osborne Industries began exporting our livestock equipment products to China in 2001 via a sales/Marketing company that was located in Shanghi, China. We have recently established (June 2011) a majority ownership in a Chinese company in order to compete directly for the Chinese swine equipment market. Osborne Industries' equipment is used for electronic performance testing of animal genetics and electronic animal feeding and management systems. Therefore, we have much technology invested in our products and their operation.

As many people know, the Chinese government is seeking ways to improve their agricultural efficiencies in an effort to feed their large population. Currently, China ranks the lowest in pig production capabilities and genetics worldwide. The Chinese government has recognized that in order to improve their production capabilities, outside foreign assistance will be needed. In 2001, Osborne Industries sold our Feed Intake Recording Equipment (FIRE) system to a provincial government entity to prove that our equipment was beneficial in assisting China in their efforts to improve swine genetics and animal production. We continued to sell our products to the government in several other installations too. However, the provincial government entity reverse engineered our FIRE system and created a new company Guangdong Agriculture Machinery Research Institute who then patented our product. This was also done with our Electronic Sow Feeding (ESF) system.

In 2008, we were notified that Guangdong Agriculture Machinery Research Institute patented our products and we filed suit in the Chinese legal system. We hired Chinese legal representatives to conduct the office actions needed to revoke the issue of the Chinese patents. We contacted our State and Federal Congressional representatives along with Federal Agencies for assistance, but to no avail. Our legal efforts continued for three years without success owing to the fact that the Chinese Courts needed the original shipping bill of lading for our 2001 shipment to the provincial government entity. We had copies of the documents, however, the original documents were retained by the Chinese Customs department and would not be released to us. We requested the courts to ask for the documents and were denied. This stonewalling and fear of placing one Chinese entity against another forced us to accept the judge's decision of denial to revoke the patent issue. During the court proceedings, the judge indicated that a bribe would be necessary to settle the issue. We did not consider this option owing to its potential outcomes. This shows that the Chinese legal system remains corrupt when dealing with foreign entity IP. Since this time, additional patents have been issued on our products both for items that we have sold into China and items listed on our website and have not been sold into China.

There appears to be an attempt to allow companies to conduct "squatting" on other foreign entity's IP. We experienced this too during the legal process when Guangdong Machinery Research Institute offered us the opportunity to buy our IP from them to enable us to sell our equipment into China. The Chinese patent system does not accept existing worldwide applications of technology and therefore allows Chinese companies to patent items that have been known in the rest of the world for years. It is evident that the Chinese government is trying to reign in these rouge justices and under the table dealings, but it will take time. However, in the meantime, US companies like Osborne Industries will continue to sell our products in China knowing that it may become necessary for us to acquire much more assistance

from the USPTO and our Government Trade Department to overcome the barriers that may block us from selling our products against our own products.

If you have any further questions or need additional information, please do not hesitate contacting me. Thank you for taking time to listen to our China IP story.

Best Regards,
Osborne Industries, Inc. - *A 100% Employee Owned Company*

George R. Eakin
President, COO



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