

Factsheet - IPR Protection in China

When it comes to IPR Protection in China, it is well-known that China has acquired a bad reputation for large-scale IP infringements including copying of foreign company names, brands, and products.

But this no longer gives a fully accurate picture of the current situation and ongoing measures taken by China to strengthen its IP laws, regulations, and courts to decisively crack down on IP infringement.

It is important to mention that China is a signatory to the existing international IP treaties and thus follows the same rules but also applies its own special IP rules. It is thus critical to get it done right from the start.

No matter if you consider, plan or already sell offline and/or online in China, you are strongly advised to register your trademarks (name and logo) before market entry and key (design) patents before the official product launch or you risk loss of control to outsiders through (lawful) copying and counterfeiting which can harm your company revenue, good reputation, and brand in China.

Advice & Support*

By letting us manage your IP Rights in China, you will benefit from our local presence in Shanghai with an experienced and competent Chinese legal team who take care of matters directly on the ground in China. This is a more **efficient and quicker** way to protect your IP Rights in China.

Trademarks

- Search Report: Conduct trademark search for registration availability in selected international trademark classes and Chinese sub-classes including advise.
- Registration: Prepare and file trademark application and deliver Trademark Registration Certificate.
- Infringement: Prepare and file Trademark Opposition or Trademark Invalidation against “bad faith” applications or registrations of original company name, brand, or logo.
- Enforcement: Prepare and file official complaint to the local authorities and/or file lawsuit at the People’s Court against infringer for illegal trademark copying.
- Chinese naming: Prepare proposal for company name in Chinese (characters, pronunciation, meaning).

Patents (design, utility model and invention)

- Registration: Prepare and file patent application and deliver Patent Registration Certificate.
- Infringement: Prepare and file request to get registered patent declared invalid due to illegal copying.
- Enforcement: Manage, prepare, and file official complaint to the local authorities and/or file lawsuit at the People’s Court against infringer for illegal copying or counterfeiting.

- Evaluation Report: Prepare and file application and deliver official evaluation report required to enforce design patents and utility model patents with the local authorities, courts, and e-commerce platforms.

Copyrights

- Registration: Prepare and file application for formal copyright recognition via China's Voluntary Registration System and deliver Copyright Registration Certificate.

Other

- Online Monitoring: Check selected online/e-commerce platforms for possible IPR infringements, and file complaint to operators to take-down illegal product pages, links, and photos.
- Customs Recording: Set-up company account and register Chinese IP Rights in the IP Recordal system of China Customs to stop the export of infringing goods.

*** As a registered service firm, we do not handle legal disputes and similar directly but cooperate closely with a few selected Chinese law firms that execute on our behalf.**

Important Facts

- **Territorial:** IP Rights are only enforceable in China with a valid Chinese registration and certificate.
- **First-to-file System:** Whoever registers the IP first will get the exclusive usage rights in China.
- **Absolute Novelty:** Patent contents cannot previously have been disclosed, published, or commercialized anywhere in the world prior to the filing date of the Patent application in China.
- **Claim Priority:** Grace period of either 6 or 12 months depending on IP-type during which the filed IP application in China will be given first priority from the filing date of the equivalent IP-application in other countries/markets.
- **Classification:** China divides each of the 45 international trademark classes into several sub-classes that each include their own specified product or service items.
- **Validity:** Trademarks 10 years but unlimited extension subject to renewal fee. Design Patents up to 15 years, Utility Models up to 10 years and Invention Patents up to 20 years; all subject to annuity fees.

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