

# Intellectual Property

## Protecting and enforcing your IP in China

Intellectual Property (IP) protection in China is improving. The benefits of properly protecting your IP in China are growing, while the costs of ignoring this important area are ever increasing.

### Why should you protect your IP in China?

As China has a 'first-to-file' system, it is vital to act early in filing your IP with the correct authorities. Intellectual Property Rights are territorial - even if your brand/patent is registered and recognised elsewhere, if a Chinese company has registered it in China, they will own the rights to it in this market. Trademark squatting, registering another's name or mark with bad faith intent to sell it back to the rightful owner for profit, is a particular problem in China due to this aspect of the Chinese system.

It is relatively cheap to register trademarks and patents early on but can become expensive if another company has registered your invention or brand first.

### How can you register your IP?

SMEs can protect their IP by registering trademarks, patents and copyrights with the relevant administrative office. To do this, a Chinese agent is required to file the relevant paperwork. **Patents & design rights** protection is administered by the Chinese State Intellectual Property Office (SIPO). SIPO defines three types of patent right in China: (a) invention patent, (b) utility model and (c) design patent. Chinese invention patents are broadly analogous to patents in the UK and require a full examination by SIPO before being granted, a process which takes around 2 years.

**Trademarks** are managed by the China Trade Mark Office and can take up to 18 months to be filed. There is no requirement to register **copyright** in China. However, it is advisable to register your copyright so that you can prove ownership in any dispute or court case. Registration is made with the National Copyright Administration

Proper **due diligence** on employees and China partners is another useful way of reducing the risks of IP theft. Using a phased approach when transferring IP to China can be of help, as can initially withholding your latest innovations from the China market.

### How can you enforce your IP rights in China?

CBBC recommends that companies appoint firms with legal and taxation expertise to help them through the process. There are then five main channels for enforcing IP rights in China: civil jurisdiction, administrative enforcement, criminal enforcement, customs enforcement and non-official/informal channels.

### Contact

For more information contact us directly on:  
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China-Britain  
Business Council  
英中贸易协会

## Where can you get advice on intellectual property rights in China?

The **China-Britain Business Council (CBBC)** organises intellectual property (IP) related events and their members include local UK lawyers as well as businesses with direct experience of IP issues.

**UK diplomatic posts** - there is a specialist IP attaché within the British Embassy in Beijing (Tom Duke, IP Attaché Beijing: tom.duke2@fco.gov.uk), as well as FCO and UKTI staff in Consulates-General in Shanghai, Guangzhou, Chongqing and Hong Kong. They cannot intervene with Chinese legal or administrative processes but they may be able to keep a watching brief when cases are brought to Chinese courts, or lobby on your behalf if progress is slow: <http://ukinchina.fco.gov.uk/en>

The European Commission-run **China IPR SME Helpdesk** offers free information, training and first-line advice about protecting and enforcing IP in China: <http://www.china-iprhelpdesk.eu>

The **Quality Brands Protection Committee (QBPC)**, based in Beijing, works with authorities to improve the effectiveness and transparency of IP policy and legislation: <http://www.qbpc.org.cn/>

The **European Union Chamber of Commerce in China (EUCCC)** helps and supports contacts between businesses based in EU member states and China: <http://www.eurochamber.com.cn/en/about-the-chamber>

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