



China – Are your trade marks protected?

Is China an important territory for your business, manufacturing operations or for the export of your goods out of China? If yes, then it is important to ensure that your trade mark is registered.

Is China an important territory for your business, manufacturing operations or for the export of your goods out of China? If yes, then it is important to ensure that your trade mark is registered. It is advisable to check that your trade mark is available for your use by conducting trade mark searches. If it is available, it is best to immediately apply to register it in order to protect it, as registration is the most straightforward way to prove ownership.

Businesses frequently find that their trade mark has been usurped by a 'trade mark squatter' before they have had a chance to protect it; and may find themselves in the unenviable position of infringing their own trade mark. Trade mark squatting is quite common in China when compared to other countries. It can also be difficult to get the Chinese courts to compel a squatter to surrender the registration. In most situations the only practical option available is to try to buy back your brand at a cost which could be quite exorbitant.

If someone has registered your trade mark in China you would be infringing by using your mark. This means that the trade mark squatter could stop you from using your

trade mark in China, even if you are not selling your goods in China and you are only making goods in China for export. Customs officials are quite active in checking for infringing goods and can seize and stop your products from leaving China; if you cannot show that you have the permission of the registered owner to use the trade mark.

Small variations in font or colour will not make the trade mark different enough to avoid infringement. The coverage of protection and manner of use of a registered trade mark must be carefully considered to effectively acquire, maintain and enforce your rights in China.

It would be prudent to seek legal advice if you are intending to enter the Chinese market and equally prudent to periodically review your scope of trade mark protection in China to ensure it has kept up with and is relevant to the needs of your business.

If you would like to explore your options in China or have any questions about the protection you have or would like to have please speak to one of our [trade mark attorneys](#) for advice. Contact details for our attorneys are available through our website at www.aathornton.com.

Contact

For more information please contact Nidhi Mukhuty via email at nxm@aathornton.com or your usual A.A Thornton & Co. advisor.

For general information please visit: www.aathornton.com

Partners

Vanessa Lawrence
vabl@aathornton.com

Ian Gill
isg@aathornton.com

Martin Hedges
mnh@aathornton.com

Craig Turner
crt@aathornton.com

Rachel Havard
rsh@aathornton.com

Adrian Bennett
arb@aathornton.com

Mike Jennings
mjj@aathornton.com

Emily Cottrill
eehc@aathornton.com

Lawrence King
llk@aathornton.com

Associates

Nick South
ngs@aathornton.com

Heather Donald
hrd@aathornton.com

Sarah Darby
smd@aathornton.com