



HELPDESK UPDATE

Issue 6 - Focus on Trademarks

About Trademarks in China	Case Study	E-learning Modules
Learn about trademarks and its importance to your business	How to secure the removal of infringing goods from a trade fair in China	Take the 30-minute interactive guides to gain practical information on IPR protection and enforcement

About Trademarks in China

1. What is a trademark?

A trademark is a visual sign that distinguishes one good or services from another. Trademarks allow customers to identify a provider and as the basis of a brand, properly registering and protecting your trademark is an important part of building and protection a strong brand identity in the market.

In China, a registered trademark:

- Is any distinct sign that identifies goods or services
- Grants the owner the exclusive right to use the sign to promote goods or services within the PRC

2. Why should you register your trademark in China?

If you do not register your trademark in China, you cannot prevent other companies using that mark to promote their goods or services, or from producing goods for export to other markets. This can lead to loss of sales reputation in not only the Chinese market but also other external markets. It is important to note that your European trademark registration gives you no rights in China. Furthermore, China is a first-to-file jurisdiction meaning other companies can and often will register your mark, and therefore preventing you from selling under that trademark even producing for export in China. This will require you to carry out a trademark invalidation procedure or even to buy back your mark, which can be time consuming and expensive.



3. How do you register a trademark?

There are two ways to gain trademark protection in China. You can either register your mark directly with the China Trademark Office (through national registration) or you can extend the protection you already possess in a different territory by way of an International Registration, via the World Intellectual Property Organisation (WIPO). There are three steps to a domestic registration:

- a. Formal examination: Ensures your trademark file is complete and that all fees have been paid.
- b. Substantial examination: Verifies that the various criteria applicable to trademarks in China have been met.
- c. Publication in the trademark gazette: Allows a three-month window for other parties to file an objection with the CMTO. At the end of this period, if no objections have been filed or if objections have been filed but fail, the trademark is registered and valid for ten years.

This entire process, although simple, can take up to three years. You should also note that if you do not have a registered office in China, you must hire a Chinese trademark agent to register your trademark domestically.

4. How much does it cost to register a trademark?

Domestic Registration

Trademark registration fee (includes ten sub-categories): **RMB 1,000**

Trademark renewal fee: **RMB 2,000**

Length of application process: **18 months - three years**

The cost to extend an international trademark to cover China can vary. For more details, please visit www.wipo.int/madrid/feecal to use WIPO's online fee calculation tool.

Once registered, your trademark is valid for ten years, which can then be renewed without limit for an additional ten years.

Case Study

In 2002, a Netherlands-based SME called MusicNow began a full production of speakers in a factory based in southern China to export their finished goods for sale in to Europe. MusicNow did not register its trademark in China as they were not selling goods in the Chinese market. Several years later, the company decided to move production to another China-based supplier. However, when a new shipment of speakers reached port, MusicNow was informed that the goods had been seized and were being held by the General Administration for Customs (GAC).

MusicNow investigated the situation and discovered that the original Chinese supplier had legally registered its trademark, meaning the Dutch SME could no longer produce labelled speakers in China.

The original supplier then offered to sell back the trademark to the Dutch SME for EUR 4 million. MusicNow could not pay the sum and could not apply to have the trademark cancelled as the five year statute of limitation had already expired.

MusicNow was forced to produce speakers again, without a trademark attached, adding the trademark in Europe, following export. Due to their IPR being infringed, the SME lost millions of Euros due to the goods seized at Customs and the loss of sales.

Key Lesson

- Register your rights in China. By not registering their trademark in China, MusicNow positioned itself in a very vulnerable position. If it had proactively registered its own trademark in China, the company would have avoided compromising its trademark and substantial loss of earnings.

E-learning Modules

To learn more about trademarks, please visit the first in a series of E-learning modules from the Helpdesk [here](#). The second E-learning module addresses IPR issues at trade fairs and can be found [here](#).

Written by Helpdesk experts, the 30-minute online trainings assist SMEs in learning how to design an IPR strategy, understanding how to minimise IPR risk and gaining practical information on protection and enforcement. The interactive modules include interviews with IPR experts, downloadable checklists, MP3 guides and real-life case studies.

Upcoming Events

[Protecting Your IPR at the Canton Fair on 6 March 2010 in Guangzhou](#) - Learn what to prepare before the fair, what steps you can take if you encounter IP infringement at the fair, and how to follow up with enforcement after the event.

[Small Member States Event: Managing Intellectual Property and Fraud in China on 11 March 2010 in Beijing](#) - The Helpdesk and EUCCC SME Forum jointly offer an event specifically for SMEs and SME intermediaries of the new Member States to learn more about IPR and fraud in China and how to protect their businesses.

[IPR Protection for Textiles, Furniture and Leather Industry on 24 March 2010 in Bucharest](#) - The Helpdesk and IPeuropAware are jointly holding a series of events in Europe to address IPR issues specific to the textile industry. The third in this series of events will take place in Bucharest.

[IPR Protection for Textiles, Furniture and Leather Industry on 25 March 2010 in Alicante](#) - The fourth in the series of events addressing IPR issues in the textile industry jointly organised by the Helpdesk and IPeuropAware will take place in Alicante.

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