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TRADEMARKS IN CHINA

PUBLISHING PARTNER



Polska Agencja
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HANDBOOK
FOR AMBITIOUS
ENTREPRENEURS

STRATEGY · CREATION · REGISTRATION · DEFENCE





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Who we are?

We are the first point of contact for exporters and investors operating in dozens of markets globally. We provide free consulting in order to grow and promote Polish businesses.

Our mission is to increase the inflow of foreign direct investment into the country and enhance the reach and dynamics of the internationalization of Polish enterprises. We operate both in Poland and through Foreign Trade Offices (ZBH).

20+

years of experience

70+

markets

200+

experts

We raise brand awareness of Polish companies



We educate through webinars, podcasts, and workshops



We support exhibitions, trade fairs and industry events



We connect companies with business support organizations



We work with public entities and regional partners



We organize trade missions



We verify potential business partners

Thinking of expanding overseas? It's time to take action!

We can assist with:

- Analyzing export potential and preparing an expansion strategy
- Verification of business partners and potential contractors
- Knowledge of the local business culture
- Organizing B2B meetings with potential partners
- Promoting business

Contact us



Contact Form



china@paih.gov.pl

General information






What is a TRADEMARK?

A trademark is a special sign that has been used in commerce for decades to uniquely identify the goods and services of a trader and distinguishing them from those of other companies. In other words, the purpose of the trademark concept is to provide legal protection for exclusivity in the marketplace for doing business under a particular brand.

Trademarks are key elements in terms of expansion opportunities, building goodwill, brand image and reputation in the marketplace.

Trademarks can take **many forms.**

The most commonly used signs are word, graphic, word/graphic, sound, positional, spatial or multimedia.



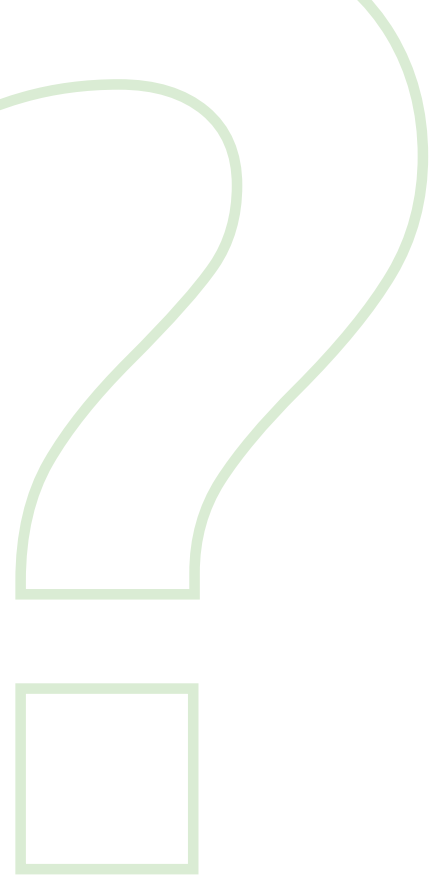
Why PROTECT YOUR TRADEMARK?

- **Protection against competition, unfair competition and counterfeiting.** Registration of a trademark gives the trader the exclusive right to use it in the course of business in a particular territory and for particular products. This means that no other business can mark its products or services in a similar way. And if he or she markets an identical or similar brand, the trademark owner has the legal tools to fight the unfair infringer.
- **Protection against "brand thieves"** - By having an exclusive registered trademark, you take the field away from "brand thieves". There are markets where brand theft is still popular. It is worth knowing that it can be expensive and lengthy to recover rights to a trademark - it is cheaper and quicker to register it in advance.
- **Possibility of redress.** Exclusive rights to a trademark give its owner not only the legal tools to fight unfair infringers, but also the right to seek an injunction to stop unfair acts, damages for infringement or even an injunction against further use.
- **Marketing advantages.** Legal trademark protection is also an element that builds a brand's market position - its reach and economic value. A trademark is one of a company's most valuable assets.
- **Increased goodwill.** Trademarks increase the value of a business by making it more credible and professional.
- **Increased customer confidence.** A company that invests in protecting its trademarks is more trusted by its customers. Trademarks communicate the quality of the product or service offered.
- **Business development opportunities in foreign markets.** Registering a trademark in the European Union or other key foreign markets, such as UE, USA, China, India or Indonesia gives the entrepreneur the opportunity to expand into these markets by licensing the marketing of branded goods to a local partner.
- **The possibility of the sale or licensing of a trademark.** A registered trademark is a valuable asset that can be sold or licensed to other businesses and companies related to the trademark owner. This can generate additional income.
- **Access to the best distribution channels.** This is particularly important in China. Many e-commerce and traditional retailers there require a trademark certificate before accepting a product for distribution. They also expect a licence authorising the local operator to distribute the brand. In this way, the retail chain or e-commerce platform assures local consumers that they are buying an original product from the manufacturer's authorised distribution channels.
- **Border protection of the trademark.** This is a very important and underestimated tool for controlling the import and export of trade-

marked products. This legal instrument allows the trademark owner to block unauthorised imports or exports of trademarked products.

- **Protection of the importer's interests in the foreign market.** By having exclusive trademark rights in a foreign market, the exclusive importer is assured that by investing in the promotion of a brand in that market, he will be the only one to benefit from the brand value.
- **The opportunity to benefit from export or expansion support programmes.** Trademark registration is increasingly required for participation in trade missions by national export promotion agencies.
- **Priority right to a domain.** In many cases, trademark registration makes it easier to recover an Internet domain. For example, in China, when fighting for a domain, you must prove that you are the owner or right holder of the trademark used in the domain. The holder of a trademark registration certificate therefore has a good chance of recovering the domain.
- **Attract investors.** Trademark protection can be an asset when you are looking for an investor. It shows that the entrepreneur takes his business seriously, invests in it and cares about its legal protection and thus the company's profits.
- **Brand as collateral.** In many countries, including China, a trademark can be pledged as security for a loan from a bank.





What are the risks of NOT PROTECTING A TRADEMARK?

If a manufacturer delays in filing for trademark protection, it opens itself up to a wide range of infringement possibilities, creating the risk that unauthorised persons may obtain registration of the same trademark, thereby risking serious restrictions in the marketplace or financial loss. Therefore, when planning to launch a new brand or expand into a new market, it is important to secure trademark rights well in advance - preferably before the actual start of sales in the country in question.

How are products selected for trademark protection?

WHAT IS THE NICE CLASSIFICATION?

An entrepreneur planning to apply for protection has to make several decisions – in which territories to apply, in which order, but most importantly, which products or services to apply for. Often, after the market success of a particular brand, its owner decides to use its recognition to expand its market share or to enter a new segment. A good example is cosmetics. It may start out as a colour cosmetics line, then years later the range is expanded to include a personal care line, and finally clothing is promoted under the brand.

If an entrepreneur has similar plans at the time of filing, it is worth considering filing in all classes. There is only one "but" – the trademark protection system allows for the cancellation of unused trademarks, which means that registering a trademark for a "stockpile" in new categories may result in having to defend an unused trademark in the future. We know how to remedy this. We follow the #File1st® principle, which in this context

means that it is easier to defend a trademark than to fight for its protection.

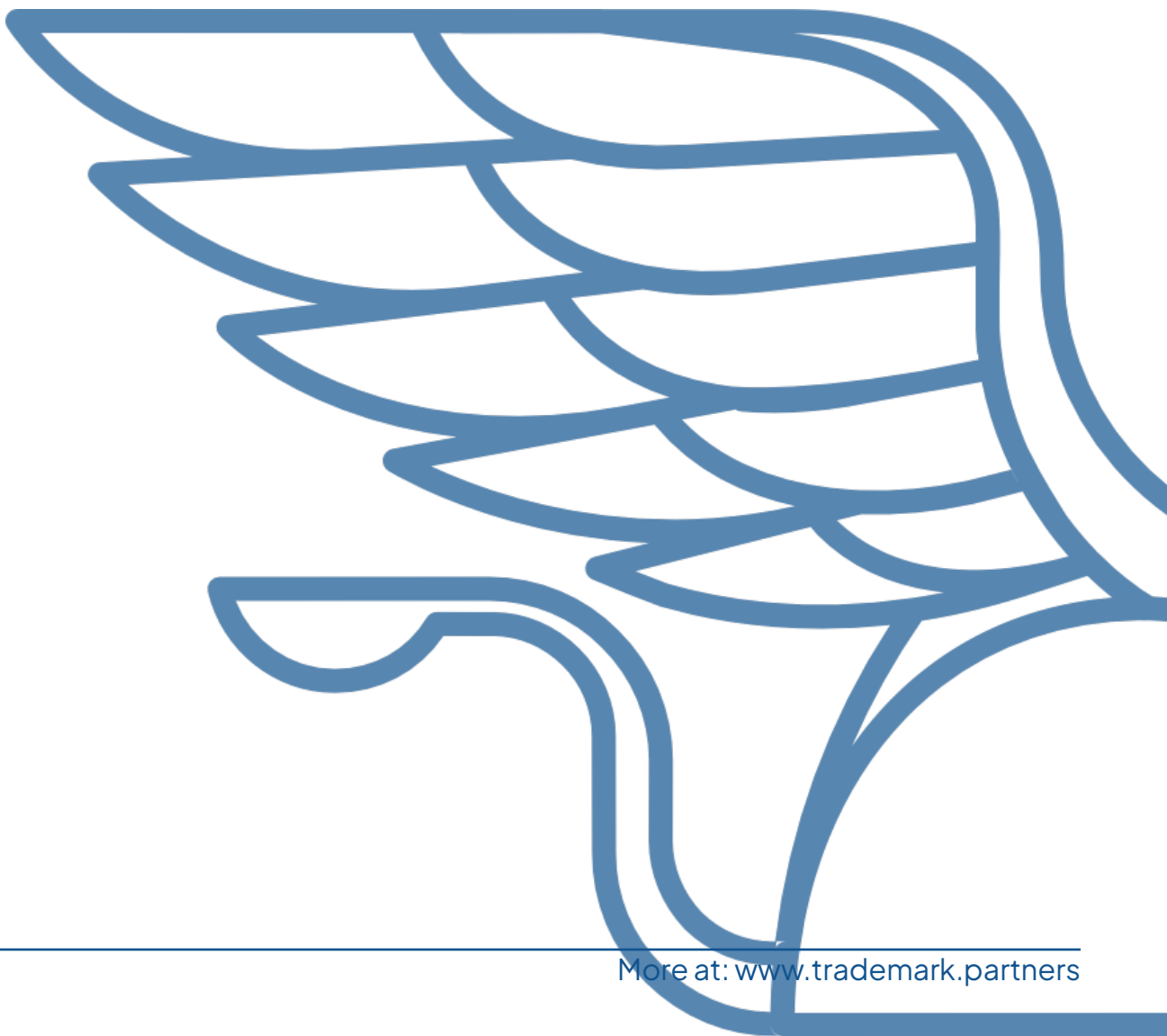
The products to be protected under a particular trademark are identified by the class they belong to. This list is often referred to as the Nice Classification of Goods and Services. It was established by the Nice Agreement of 15 June 1957 and is administered by the World Intellectual Property Organisation. The classification of products into classes is handled by a professional representative, such as Trademark Partners, who works directly with our business partner – local attorney – to prepare and file your trademark application in China.

**The Nice Classification
of trademarks contains
45 classes of application:**

**34 classes of goods
and
11 classes of services.**

#File1st®

Trademarks in China



What types of trademarks can be registered IN CHINA?

The most common types of trademarks filed in China are:

- **word marks** - containing the Latin or Chinese transcription of the mark, or both at the same time,
- **word-figurative** - containing the graphic element of the mark together with the Latin or Chinese transcription of the mark, or both at the same time,
- **figurative**,
- **graphic** (icons, symbols, logo),
- **Internet domains**,
- **sounds**,
- **unique color combinations**,
- **three-dimensional shapes**.

Trademarks consisting of a combination of the above elements can also be filed, but the whole must be unique enough for the CNIPA to recognise its distinctiveness and consequently grant protection.



What are the REQUIREMENTS that a trademark must meet?

To successfully register a trademark in China, the mark should meet the following requirements:

01

Legal compliance – the trademark for which protection is sought must comply with local laws. Among other things, it must not be identical or similar to the name or flag of the state, the name and logo of Chinese government agencies, the logo and anthem of the Chinese army, or specific locations or well-known buildings housing such institutions, the Red Cross and other organisations of an international nature; nor must the mark contain discriminatory content against any nationality or constitute excessive publicity. All of these restrictions are known as absolute grounds for refusal.

02

Distinctive character – the mark should be easily distinguishable the goods or services of one manufacturer from those of another and must not infringe the intellectual property rights of another. In other words, it must be distinctive enough for the CNIPA to consider that it can be granted protection because there is no likelihood of confusion between this mark and another mark in the same industry.

03

The mark should not be similar to another mark with an established reputation and market reach.

04

The mark should not contain descriptive elements or be misleading as to its nature (marks must not mislead consumers as to the nature, quality, geographical origin or other characteristics of the goods).

05

Availability – the trademark must be available for registration, which should be checked in the official trademark database of the China National Intellectual Property Administration (CNIPA), which contains information on both registered trademarks and pre-approved, rejected applications and other status.

06

The mark meets all other requirements for protection under local law.



WHO should apply for trademark protection in China?

Unless the trademark is registered in China, the company has no protection rights under Chinese law. For this reason, the need to register a trademark applies to companies exporting products or services to the Chinese market, importers who outsource production directly to Chinese factories, and companies already doing business with Chinese partners or planning to do so.

WHY should you register a trademark in China?

Trademark registration in China is subject to the "first-to-file" principle, which means that the Chinese Trademark Office will first consider the trademark application of the first person to apply for protection. For this reason, many companies still fall into the trap of not registering their trademarks early enough, thereby risking numerous infringements.

It is not uncommon for a company wishing to do business with China to suddenly realise that its trademark **has already been registered by another Chinese company**. Such tactical registrations are known as bad faith registrations, as it often turns out that the Chinese company is registering with the direct intention of reselling it later at a high profit. If a foreign entrepreneur does not take care of the registration of a trademark in China in advance, this may limit his company's freedom of action. For exporters to China, the lack of trademark rights may prevent them

from entering the Chinese market at all. Companies importing from China may be at risk if the trademark owner blocks the clearance of goods bearing the logo at Chinese customs.

All this means that it is in the direct interest of foreign manufacturers to register a trademark as soon as possible, as it has become the most effective security and brand protection tool in the Chinese market.



品牌中文名称

Chinese equivalent of brand name



An important note for foreign manufacturers entering the Chinese market is that registering a trademark in the Latin alphabet does not fully protect it from unauthorised use in Chinese.

For example, a local distributor may create the Chinese equivalent of a trademark and then file for it. He will then leverage the international reputation of the original to promote 'his' Chinese brand, putting the manufacturer at a strategic disadvantage, especially when the relationship ends. There are plenty of examples of this happening in the market place.

For this and many other reasons, which we describe in more detail here, the recommended practice is to also register Chinese versions of the foreign trademarks.

MUST I HAVE A CHINESE EQUIVALENT BRAND NAME FOR MY TRADEMARK when doing business in China?

Formally, Chinese law does not require this, leaving it to the business owner's discretion. However, it is good practice to have a Chinese equivalent for a number of reasons. Two in particular are worth mentioning.

The first is that the Chinese use Chinese characters rather than the Latin alphabet on a daily basis, which also means that they can remember Chinese names much better and faster than the original.

The second, and perhaps more important premise, is that all internet search reports show that Chinese people are far more likely to type the following when searching for brands

online Chinese name into the browser. As a result, if you only use the original brand name, you are also missing out on the opportunity to reach a wider customer base.



HOW TO CREATE A GOOD CHINESE BRAND – the equivalent of my branding in China?

Let us be clear:

Creating a strong brand
that resonates with the world
of your brand and product
values **is an art.**

The more sophisticated your target audience and your brand, the greater the challenge. The Chinese name you choose as the Chinese equivalent of your brand must also be protectable, making its creation a very demanding act of verbal art.

There are several popular strategies for creating a Chinese brand equivalent:

01

The brand name is pronounced similarly to the original, but has an additional meaning, e.g. Coca Cola:

可口可乐®

(pronounced: kě kǒu kě lè), which can be read as 'taste and feel happiness' or 'taste happiness'.

02

The mark has the intended meaning, but the sound is different from the original, e.g. Apple:

苹果

(pronounced: píng guǒ), which simply means „apple”.

03

The brand name sounds similar but has no specific meaning, e.g. McDonald's:

麦当劳

(pronounced: mài dāng láo).

04

The name is the result of a combination of the above approaches, and may include certain brand-specific characters, such as Starbucks:

星巴克

(pronounced: xīng bā kè – **note that** letter 'x' should be read as 's')

The first character means 'star', the next two are pronounced very similar to the word 'bucks'.

For more super-interesting examples of how Chinese brand sounds are created, click

HERE

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What else do you NEED TO KNOW?

If you do not create a Chinese trademark,
your distributor will.

You will lose control over the sound and
meaning of the trademark.

It is also likely that he, not you, will be the one to file
the trademark and start building its popularity. If you
separate from this partner for business reasons, he
will keep his trademark to himself.

Take control of the sound
composition of your Chinese
trademark and register it first
if you want to avoid this.

#File1st®

Trademark registration procedure in China



WHAT IS THE TRADEMARK REGISTRATION PROCESS in China?

When applying for trademark protection in China, [there are two ways to register a trademark](#) – entrepreneurs can use either the direct national or international procedure.

NATIONAL REGISTRATION SYSTEM

The national system is, in our opinion, [the most preferable form of application](#). It consists of filing an application directly with the China National Intellectual Property Administration (CNIPA). Such an action [requires the assistance of a professional representative](#), as no foreign company or individual can prepare and file an application for protection on their own.

[The advantages of filing a national application directly with the Chinese Trademark Office \(CNIPA\) are first and foremost:](#)

- [speed of action](#) and short processing time of an application for protection,
- [the possibility of a better selection of products and services](#) from the list approved by the CNIPA,
- [the appointment of a local representative](#) who can be contacted directly in the event of problems. This can be essential when

For many years, many multinational companies have been filing their applications directly, locally in China.

This is a good and recommended practice.

appealing against a refusal or responding to an objection, when documents need to be gathered in a short time to support an appeal or to respond to an office,

- [obtaining a Chinese Trademark Registration Certificate immediately after registration](#), which is a document issued by a local authority in Chinese. Such a document has a much more comprehensive application than a certificate issued by international institutions.

For more information on the use of the Chinese certificate, please click

HERE

There are several stages to the national procedure:

01

Filing the application with the CNIPA through a representative – the application must be filed in Chinese.

02

Approximately 4 weeks after filing, the Chinese office will assign a registry number to the case.

03

The application is then subject to formal and substantive examination, which takes a further 3–4 months. The examination includes the existence of grounds for refusal: **absolute** (e.g. illegality) and **relative** (conflict with other previously filed trademarks, lack of distinctiveness or other grounds).

If the Office decides that there are no obstacles to granting protection to the mark, it will publish its decision (this is known as **publication of the mark**) in the official electronic bulletin of the CNIPA (China Trademark Gazette). The 3-month **opposition period** then begins.

In case of refusal, CNIPA will issue a statement of reasons. The applicant then has a short period in which to decide whether to appeal and have the application re-examined by the Office. Only at this stage is it possible to attach numerous supporting documents. The appeal is a separate procedure and usually takes about 9–12 months.

04

If no one files an effective appeal, the Office will issue a final decision on the registration of the trademark in China within a further 3 months from the date of publication of the decision. The national procedure ends with the issuance of the trademark registration certificate.

INTERNATIONAL REGISTRATION SYSTEM

A second, less recommended way to register a trademark in China is through an international registration under the so-called Madrid system. An application is not filled out in China, instead throughout International Bureau of the World Intellectual Property Organisation (WIPO) in Madrid, indicating China as the territory of application.

To initiate the international procedure, an entrepreneur must have a national or regional trademark registered (or at least applied for) at the patent office of one of the territories belonging to the Madrid system (e.g. EUIPO). The application to extend the registration of the trademark to China must be filed within 6 months from the date of filing the trademark application in the country of origin or Europe.

In the case of an international procedure, the applicant does not receive a certificate confirming the registration of the trademark in China. Such a document is automatically issued only in the case of a direct national application in China.

In addition, due to small but existing differences in the classification of goods and services, the reason for refusal of an international application may be the indication of a product or service that is not accepted by the CNIPA.

The lack of a designated local attorney who can immediately prepare an appeal in the event of a refusal is another disadvantage of the international application. This is very important in the context of the given period of time that is left for an appeal to be filed. In practice, the notifier, having no representative and received an refusal, rushes to seek assistance, which is not always effective.

If the registration is obtained through the international procedure, the entrepreneur **will not receive** a Chinese trademark registration certificate. He or she will have to apply for this document in a separate application directly to the CNIPA, which will involve further **months of waiting and additional costs**. We can of course help with this, we know exactly how to do it.



Direct Filing vs. WIPO Filing – WHICH IS MORE EFFICIENT?

Although both the Chinese and international trademark registration systems are based on the international Nice Classification of goods and services, it is important to remember that in China they are classified into classes and subclasses, which are not used in the European system.

This fact can be a problem when filing in the international system, as it is not possible to determine the subclasses yourself, in which case they will be indicated top-down by the CNIPA examiners, which somewhat limits the possibility

of obtaining full trademark protection. For this reason, registration through the national system is proving to be a more efficient and popular solution.

There are also sometimes differences in the products and services that are eligible for registration, which may determine whether a trademark is more fully protected in China or not registered in an international application due to the designation of products that are not accepted by CNIPA.

COMPARISON TABLE

	National notification procedure directly in China	Notification procedure by international institutions
Duration of protection of the mark	 10 years from the date of registration	 10 years from the date of registration
Speed of application processing in China	 The Chinese Trademark Office (CNIPA) processes the application as soon as it is received. The fastest procedures take about six months from application to issuance of the certificate (in individual cases, if there are refusals, objections or complications).	 The application will first be processed internally at WIPO and then, after a few months, it will be forwarded to CNIPA in China for full processing.
Local representative	 Local representative appointed immediately upon application, available for immediate action in case of registration problems.	 When applying for trademark protection in China through WIPO, no attorney is appointed. In the event of a refusal, this poses a significant problem, as the only acceptable form of appeal or response to an opposition is to file the documents directly with the CNIPA through a local representative. Since the applicant has not appointed a representative at the time of filing, he or she must rush to find a suitable representative before the CNIPA in order to meet the deadlines.
Classification	 Selection of products from the list of standard products and services within classes and subclasses adopted by the CNIPA at the preparatory stage.	 Classes (no subclasses), less precise selection of goods and services (risk of selecting products outside the standard CNIPA list and thus obtaining a refusal)
Chinese certificate	 Issued immediately after registration (approximately one month after registration of the trademark). Certificate issued at no additional cost (included in the price of the service), which is necessary to enforce the rights conferred by the registration of a trademark.	 Lack of certificate. The applicant still needs to appoint a local representative in China and apply separately for a local registration certificate, which can take several months and incur additional costs.

How much does trademark registration in China cost?

The total cost of preparing and filing a trademark application in China depends on the number of trademarks to file and the number of classes included in a single application. We offer decent discounts when filing multiple trademarks, multiple classes, or applications across different territories simultaneously. Details can be found in our [pricing list](#).

Why is it important to choose the right classes of goods and services?

An important note for foreign companies registering their trademarks in China remains the fact that the Chinese list of protectable goods and services differs only in detail from the list applicable under the Nice Classification, which proves to be extremely important in the context of direct filings in China. The main difference is in the arrangement of the goods and services themselves. Whereas in China they are assigned to classes and subclasses, in the international system only classes are listed. Only the right choice of product and service classes ensures full trademark protection beyond the Great Wall.



In addition, the Chinese Trademark Office does not allow trademark protection to be extended to new goods or services at a later date, so if a company is planning to expand its existing business into new products or services in the near future, it should take this into account when registering the trademark.

How do I renew my trademark?

In general, a trademark registration in China is valid for **10 years** from the date of registration. Prior to the expiration of the term, the business owner has the option of renewing the rights for another ten years. This is done upon special application by the trademark owner, which should

be filed **no earlier than 12 months and no later than 6 months** before the expiration date. The application for renewal is filed in the same way as the application for protection, i.e. in a national or international procedure.

How many classes can I apply for when registering a trademark?

Any number of classes may be claimed in the application, but each additional class of goods or services constitutes a **new application**. In China, only one trademark per class can be registered under one registration number. The final cost of registering a trademark in China is strictly dependent on the number of classes applied for.

Does registration in China imply registration in other territories, such as Hong Kong?

No. Rights in China are only valid in mainland China. If you wish to apply for protection in Hong Kong or Macau, you must prepare and file applications directly with the relevant patent offices. Of course, as Trademark Partners we are ready to assist you, we know how to register trademarks whether in Hong Kong or in other territories.

How to recover stolen trademark in China

It's not hard to imagine the frustration of a business owner upon discovering that their brand has already been [registered in China](#). One can only guess how the mix of irritation and anger feels, compounded by a sense of guilt for failing to register the trademark in advance. The frustration can be even greater if the company previously held rights to the brand in China but lost them due to negligence. Unfortunately, this happens too.

To avoid claims of infringement, the only option may be to pause business plans in China—at least until the unauthorized party's [trademark protection is revoked](#). Afterward, it's time to take on the challenge and start the fight to [recover protection for your own trademark](#). The situation is difficult but not hopeless — Chinese law allows for such actions, and success is becoming increasingly common. However, the outcome depends on many factors.



Click on the image
to read the full article on
this topic





How to recover stolen trademark in China step by step?

www.trademark.partners



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TO EXPAND FASTER





Trademark infringe- ments

The issue of trademark infringement can be divided into two categories:

01

Infringement of a trademark prior to its formal filing with the Chinese office

(e.g. bad faith registration, knowingly using a trademark similar to another).

02

Infringement of an already registered trademark
(e.g. sale of counterfeits).

Trademark infringement is a problem that even large, well-known companies face.

For example, a high-profile example of a trademark dispute in China involved Tesla

HERE

HOW TO ACT in the event of (attempted) trademark infringement?

If a company learns that an attempt has been made to register its trademark, or that it has already been registered by someone else, there are a number of ways to proceed. Any combination of these may be used, depending on the situation. The details will be determined on a case by case basis.

1 Opposition

If an entrepreneur finds that an unauthorised person is attempting to register its trademark in China, may file an opposition. This is only possible at the publication stage, within a period of three months from the date of publication.

In order for an opposition to be effective, the opponent must show that granting protection to the mark in question would amount to an infringement of his rights in the mark or other previously acquired intellectual property rights.

In order to file an opposition, it is necessary to act through a professional representative, such as Trademark Partners, who will prepare and file the relevant legal documents with the CNIPA. The entire opposition procedure usually takes about nine months.

If the Office rejects the opposition as unfounded, the trademark will be registered.

2 Cancellation of a trademark

However, an infringement may be encountered after the trademark has been registered.

In such a case, the proprietor may seek to have the trademark declared invalid on the following grounds:

- registration in bad faith,
- fraud,
- infringement of prior rights,
- failure of the registration to comply with local legislation.

Filing an application for cancellation requires the assistance of a professional representative, such as Trademark Partners, who will prepare and file the appropriate legal documents with the CNIPA on behalf of the interested party. The whole process usually takes 12–18 months.



3

Cancellation of a trademark

In certain cases, it is also possible to initiate proceedings for the cancellation of a trademark. This is the case if the trademark has not been used for the last three years.

The party against whom cancellation is requested will be given an opportunity by the Chinese Patent Office to prove that it is using the mark. If it is successful, the trademark will not be cancelled.

The whole process usually takes about 10–12 months.

4

Negotiation

The quickest way to recover a trademark is often to negotiate with the person who registered the trademark or who has already obtained it.

Negotiations should be conducted by a professional mediator. Properly conducted, even if they do not result in the transfer of rights in the mark, they can help to make the whole process of recovering the mark more efficient.

If there are no grounds for filing a trade mark in bad faith, buy-back negotiations can be one of the quickest ways to obtain rights.



WHAT ARE THE PENALTIES for trademark infringement in China?

China has tightened its rules on penalties for trademark infringement. Under the current law, the trademark owner has the right to demand the destruction of goods bearing the counterfeit logo, as well as the materials and tools used in the manufacture of those products.

If a trademark infringement is found, there are several legal avenues available:

01

Administrative route – filing a complaint with the local Administration for Market Regulation (AMR), which will result in the seizure and destruction of the goods and a maximum fine of RMB 250,000.

02

Civil action – filing a lawsuit for trademark infringement, which may result in a cease and desist order, confiscation and destruction of goods and equipment used in production, and/or an award of damages up to a maximum of RMB 5 million.

03

Customs proceedings – filing a declaration with the customs authorities to block the export or import of counterfeit products, with the customs authorities having the right to seize and destroy the counterfeit products.

04

Criminal proceedings – report to the Public Prosecutor's Office, the court can sentence the guilty parties to imprisonment for up to 7 years or a fine.

It is POSSIBLE TO RECOVER a trademark that has been REGISTERED in bad faith IN CHINA.

CHECK OUT CASE STUDY



The graphic features the Trademark Partners logo in the top left corner. The main text reads: 'Food company successfully recovers its trademark in China'. Below this is the website 'www.trademark.partners'. On the right side, there is a photograph of a golden Buddha statue holding a tablet with Chinese characters. Below the photo is the hashtag '#File1st®' and the tagline 'TO EXPAND FASTER'. A QR code is located in the bottom right corner.



Sale of a trademark in China



In China, it is permissible to sell both new trademarks and trademarks already in use.

The former is most often the case when the [trademark in question has been created with a view to its immediate sale](#). In such a situation, the transfer of the rights to the trademark usually takes place almost immediately once a suitable buyer is found and the parties to the transaction agree on mutually satisfactory terms of sale.

The second possible scenario involves the [sale of a trademark that has been registered by an unauthorised third party](#). The second possible scenario involves the sale of a trademark that has been registered by an unauthorised third party, a so-called bad faith registration, where the person who applies for protection of the trademark does so knowing that he or she does not own the registered trademark. Although China has significantly tightened its regulations on such practices in recent years, the battle to successfully re-

gain rights to a trademark can still be time consuming and challenging. However, if the buyer is willing to repurchase the rights to its own trademark, the parties should agree the terms of the trademark sale and then safely formalise the transfer of trademark rights in accordance with the letter of Chinese law.

A different situation in the context of brand sales is the [purchase of a brand that is already operating in the market](#), has achieved a certain percentage of market share and is present on social media. The purchase of such a brand involves a more complicated procedure, which should always be preceded by a detailed audit of the company that owns the brand, as well as a valuation of the acquired brand and a properly drafted legal agreement regulating the transfer of all sources of value of the brand.

WHAT IS THE PROCEDURE for transferring trademark rights in China?

If the trademark has been registered in China by filing an application directly with the China National Intellectual Property Administration (CNIPA), the transfer of the trademark rights should be carried out through an analogous procedure. To **formalise the transfer of trademark rights**, an application, signed by both parties to the transaction, must be submitted to the Office. It is important that both parties have the right of representation at the time of filing. In the case of legal entities, this means that they must have an active status. In other words, they must be registered as an operating company with the right to make declarations of intent.

If there are no formal deficiencies in the application, the new owner should receive an official decision on the transfer of rights within approximately six months from the date of application.

The trademark transfer process **requires the assistance of a professional attorney such as Trademark Partners.**



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