

Introduction to Intellectual Property Rights (IPR), and How to Protect IPR in China

U.S. Foreign Commercial Service and

U.S. Patent and Trademark Office

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Pre-Show Webinar

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Discussion Topics

- Types of Intellectual Property
- Territoriality
- Intellectual Property is Private Property
- Protecting Your Intellectual Property



Types of Intellectual Property

- **PATENT:** Protects an invention, design, or plant. Term of protection (non-renewable): 14 years for design patent; 20 years for invention and plant patents.
- **TRADEMARK:** A word, phrase, symbol, or design, or a combination of words, phrases, symbols, or designs, that identifies the source of goods or services of one party from another. Term of protection (renewable): 10 years. (*The term “counterfeiting” is used with trademark matters.*)
- **COPYRIGHT:** Protects an original work in a fixed medium of expression (books, music, sculpture, movies, software). Term of protection (non-renewable): Life of the author plus 70 years. (*The term “piracy” is used with copyright issues.*)
- **TRADE SECRET:** Confidential information, such as a formula, business plan, or manufacturing technique.



Territoriality

- Registrations of patents, trademarks, and copyrights are good only in the country in which they are registered. Rights stop at the border.
- This means that these rights must be secured on a country-by-country basis.
 - U.S: First to *USE* or *INVENT*
 - China: First to *FILE*
- U.S. Patents and Trademarks: www.uspto.gov.
- U.S. Copyrights: www.copyright.gov.
- Chinese Patents: http://www.sipo.gov.cn/sipo_English/
- Chinese Trademarks:
http://sbj.saic.gov.cn/english/index_e.asp
- Chinese Copyrights: <http://www.ncac.gov.cn>



Intellectual Property is Private Property

- Intellectual property rights are private rights. Only the owner of a patent, trademark, or copyright who finds it being infringed or illegally copied can commence action to stop it. The U.S. Government cannot act on an owner's behalf.
- The U.S. Government cannot serve as a rights-holder's attorney. Individuals and businesses should protect their rights using the services of qualified local counsel. Discussions with Embassy and Consulate officials are not a substitute for hiring counsel to protect your rights. This office also cannot recommend counsel, which is a personal and business decision.
- The Chinese statute of limitations is two years, which is considerably shorter than that of the United States.



Protecting Your Intellectual Property

- Register your patents, trademarks, and copyrights in the U.S., China, and wherever you do business, or think you will do business. Unless you have registered your IP, it may be more difficult to seek legal redress.
- Before you go into a foreign country or attend a trade show, work with counsel to develop an overall intellectual property rights protection strategy.
- Conduct due diligence of potential foreign partners. Vet them thoroughly, and continue to monitor them, even after a relationship has been established. The U.S. Foreign Commercial Service can help: www.export.gov and www.buyusa.com.
- Record U.S.-registered trademarks and copyrights with U.S. Customs and Border Protection; <https://apps.cbp.gov/e-recordations/>.



Thank You!

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