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Protecting Your Intellectual Property in China

About Maucher Jenkins:

Maucher Jenkins is a firm of European Patent and Trademark Attorneys with offices in the UK, China, Germany and Switzerland.

We work with international clients across all fields of technology and commerce to protect and enforce patents, trademarks and other intellectual property rights around the world.

Our presence in China began in Beijing in 2012 and has steadily increased with our regional offices in Shenzhen and Nanjing opening in 2018.

Our dedicated team in China includes Partner Handong Ran, Associates Dr Matthew Yip and Dr Edward Rainsford, and Yun Chen. Our team can guide your business through the complex IP processes in China, as well as ensure your European rights are secured.

Patents

As in Europe, China has a first to file system meaning that the first person to file a patent application for an invention is entitled to the patent.

The novelty requirements in China are similar to Europe and the USA and, in order to meet these requirements, the invention must not have been disclosed anywhere in the world prior to filing the patent application. The inventive step requirements in China are similar to Europe.

The term of protection of a Chinese patent is 20 years from the filing date.

Trade Marks

China has a first to file system.

Multiple classes can be filed in the same application in order to reduce costs. Trade marks are substantively examined.

Trade marks can be cancelled if there has been non-use for 3 consecutive years.

Utility Models

Chinese utility models allow a quick and cost effective way of obtaining intellectual property protection in China. A utility model can be viewed as a limited version of a patent and they are not substantively examined.

Utility models are often used to protect smaller innovations that would fail the stricter inventive step requirements for a full patent application. They are granted quickly (3 to 9 months) and the filing fees are relatively low in comparison to a full patent application.

Utility models can only be filed for products. Methods and processes cannot be protected by utility models. The term of a Chinese utility model is 10 years from the filing date.

Registered Designs

Registered designs protect the look of a product, e.g., a product's shape, texture, colour and combinations thereof. There is no examination for design application and they are granted quickly in about 3 to 6 months.

As in Europe, China allows for multiple designs to be filed in the same application, which reduces filing costs. The term of a Chinese registered design is 10 years from the date of filing.

Advantages of IP protection in China:

- Why apply for intellectual property protection for your brand and product in China? Because if you don't, someone else will!
- If your brand has value, then if you have not registered your company name and logo as a trade mark a third party may register your branding. This can lead to the extremely difficult situation in which someone else owns your company name in China and you can't sell your product in the second largest economy in the world without infringing your own trade mark.
- Consider creating a Chinese-language brand name for your product and registering this as a trade mark. Just because you have the English-language version registered, does not mean that the Chinese-language version is also protected.
- Multiple designs can be filed in a single application, therefore reducing costs.
- The utility model system is cheap and cost effective. We would highly recommend filing at least a utility model in China for any new product with new shapes/structures.
- A utility model and a patent application for the same invention can be filed simultaneously if directly filed with the Chinese Patent Office. Therefore, valuable protection can be obtained quickly through a utility model while your patent application is under examination.
- Always seek professional legal advice before entering into a contractual agreement to ensure satisfactory intellectual property protection and enforceability of the contract.

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Patents | Trade Marks | Designs

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