

CHINA 華牌 BRAND®

NEW CASES OF PIRACY – A CHECKLIST

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Munich, January 2018

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Patents

- Are the company's patents valid? Until when are these patents valid?
- Did the company grant licenses? When and to whom was a license granted?
- Are the licensee and his employees trustworthy? Do they have the appropriate means to protect the information?
- Did the forger register his own patents? Is he currently filing any patent applications?
- When did he register these patents?
- Where did he register these patents?
- Have these patents been re-registered?
- Do they infringe upon the company's patent?
- Are the suspected patents nearly identical to the original patents, or is there newly developed technology?
- Is it possible to prove pre-publication or pre-use by the company?

Utility Models

- Are the company's utility models valid? Until when are they valid?
- Did the company grant licenses? When and to whom was a license granted?
- Did the forger register his own utility models or is he currently registering utility models?
- When did he register these utility models?
- Where did he register these utility models?
- Do they infringe upon the company's utility models or patents?
- Is it possible to prove pre-publication or pre-use by the company?

Designs

- Did the company apply for any designs in China?
- If not: Is there any protection by other types of IPR possible, e.g. copyright?
- Are the company's design applications valid? Until when are they valid?
- Did the company grant licenses? When and to whom was a license granted?
- Did the company apply for any designs in Germany or other countries?
- Since when?
- Are these designs valid?
- Can the company prove pre-use or pre-publication outside of China?
- Did the forger register his own designs? Is he currently filing any design applications?
- When did he register these designs?
- Where did he register these designs?
- Do they infringe upon the company's design?
- Are the designs only slightly different?
- Are parts of the design functionally required?

Trademarks

- Are the company's trademarks valid?
- Are the company's trademarks well-known?
- Did the forger register his own trademarks?
- Did the forger register trademarks similar to the company's trademarks?
- Is the applicant in a business relationship with the company?
- For which classes and subclasses did he register the trademarks?
- When did he register these trademarks?
- Where did he register these trademarks?
- Did the forger apply for trademarks of the Chinese name / brand of the company in Germany / Europe?
- Do they directly violate the company's trademarks?
- Is there a danger of confusion?
- Has the deadline for objection already expired?
- Can one allege and prove bad faith?

Copyrights

- Does the company own work which is protected by copyright?
- Does the company own industrial copyrights?
- Did the company register industrial copyrights in China?
- Did the forger copy this work?
- Are copy and original almost identical?
- Does the forger have access to the work? Can he be an employee?

Trade Secrets and Know-how

- Has technical know-how been stolen?
- Have company / commercial trade secrets been stolen or disclosed?
- Are they really trade secrets?
(Not disclosed to the public, of commercial value, protected by verifiable security measures)
- When was the loss / theft discovered?
- Did the suspect have access to the company's know-how or trade secrets?
- When did the company notice the loss of know-how / disclosure of trade secrets?
- Is the know-how being used without the consent of the company?
- Does the user have any business relation with the company?

Legal Framework in China

- **Patent Law of the P.R. China**
中华人民共和国专利法
- **Copyright Law of the P.R. China**
中华人民共和国著作权法
- **Trademark Law of the P.R. China**
中华人民共和国商标法
- **Regulation of the P.R. China on the Customs Protection of Intellectual Property Rights**
中华人民共和国知识产权海关保护条例
- **Regulations on Protection of Integrated Circuit Layout Design**
集成电路布图设计保护条例
- **Unfair Competition Law of the P.R. China**
中华人民共和国反不正当竞争法
- **Criminal Law of the P.R. China**
中华人民共和国刑法
- **Several Provisions on Prohibiting Infringements upon Trade Secrets**
国家工商行政管理局关于禁止侵犯商业秘密行为的若干规定
- **Advertisement Law of the P.R. China**
中华人民共和国广告法
- **Product Quality Law of the P.R. China**
中华人民共和国产品质量法
- **Consumer Rights Protection Law of the P.R. China**
中华人民共和国消费者权益保护法

Further Questions

- How severe is the damage caused by the infringement?
- Does the company have a sample of the counterfeited or copied goods / works?
- How well were the goods / works copied?
- Does the company already have evidence of infringement that can stand up in court?
- Has the company already taken legal action against the infringement?

Further Information and Contact

Find further information on our services for anti-counterfeiting here:

Flyer Anti-Counterfeiting in China

<https://www.chinabrand.de/en/competencies/counterfeiting-and-piracy.html?file=files/content/en/competencies/counterfeiting-and-piracy/Anti-Counterfeiting-in-China.pdf>

Flyer Investigations in China

<https://www.chinabrand.de/en/competencies/compliance-and-data-security.html?file=files/content/en/competencies/compliance-and-data-security/Investigation-in-China.pdf>

Flyer Research and Analysis of Chinese Patents

<https://www.chinabrand.de/en/competencies/intellectual-property-and-know-how.html?file=files/content/en/competencies/intellectual-property-and-know-how/Research-and-Analysis-of-Chinese-Patents.pdf>

Flyer Intellectual Property Competitive Intelligence

<https://www.chinabrand.de/de/innovation-und-wettbewerb.html?file=files/content/de/kompetenzen/innovation-und-wettbewerb/Intellectual-Property-Competitive-Intelligence.pdf>

Video (in German language) Combatting Counterfeiting and Piracy in China

<https://www.youtube.com/watch?v=f3EcR7bQq8Q&t=1s>

Video (in German language) Research and Analysis of Chinese Patents

<https://www.youtube.com/watch?v=7QOWvJsBEqQ&t=166s>

Video (in German language) Counterfeiting and Piracy in China – Trends und Counterfeiters' Strategies

<https://www.youtube.com/watch?v=wBwECsY60vg&t=3s>

Blog article Counterfeiting Takes Off

<https://en.blog.chinabrand.de/2018/01/11/counterfeiting-takes-off/>

Blog article Camouflage and Deception: The New Routes of Counterfeiters

<https://en.blog.chinabrand.de/2017/10/15/camouflage-and-deception-the-new-routes-of-counterfeiters/>

Blog article Anti-Counterfeiting Trends 2018

<https://en.blog.chinabrand.de/2017/08/18/anti-counterfeiting-trends-2018/>

Blog article E-Waste and Counterfeiting

<https://en.blog.chinabrand.de/2017/10/05/e-waste-and-counterfeiting/>

Blog article Will China Further Strengthen IPR Protection?

<https://en.blog.chinabrand.de/2017/08/08/will-china-further-strengthen-ipr-protection/>

Blog article The UAE – a Hub of Chinese Counterfeiting

<https://en.blog.chinabrand.de/2017/11/20/the-uae-a-hub-of-chinese-counterfeiting/>

Blog article 3D Printing Boosts Product Piracy

<https://en.blog.chinabrand.de/2017/10/30/3d-printing-boosts-product-piracy/>

Kontakt und Feedback

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