

Article Information

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Service: Intellectual Property & Technology

Sector: IT & Telecommunications

IPT Alert: Register your trade mark with Chinese Customs

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*In response to global concerns regarding the mass exportation of counterfeit goods, the General Administration of Customs of the People's Republic of China is now proactively seizing goods registered with Customs. **Partner, Tim O'Callaghan** and **Law Graduate, Nisha Pereira** discuss this development.*

The first step in your intellectual property protection strategy will be to register your trade mark in China with the Trademark Office, see [IPT Alert: Register your trade mark in China!](#) China is a first-to-file country, so until you have registered your trade mark in China, you have no rights to that trade mark.

By itself, the trade mark registration does not prohibit the distribution of counterfeit goods. Registration provides you with the legal capacity to enforce your rights to the trade mark. The next practical step is to register your trade mark with the Chinese Customs Office.

The process of registration with the Chinese Customs Office

In order to register with the Chinese Customs Office, you must have a registered trade mark certificate which has been issued by the China Trademark Office. Currently, the timeline for registration of a trade mark with the Trademark Office is 12-14 months. You then need to allow about three to five months for registration with the Chinese Customs Office. While 19 months is a long time, taking the extra measure to register with the Chinese Customs Office could potentially stop the improper circulation of your trade mark around the world. It is an inexpensive process.

Powers to search exports

The Chinese Customs Office possesses the power to search outgoing exports for possible infringement of registered trade marks. The first database they often check is their direct Customs database, which means that even if your trade mark is registered with the China Trademark Office database, it may still slip through the cracks if your trade mark is not registered with the Customs database.

What happens if the Chinese Customs Office discover possible infringement?

If the Chinese Customs Office discover a possible infringement in export goods, they will contact you. You will have three days to request that the goods be seized and you must post a bond for the cost of storage and possible destruction of the goods.

Customs will then inspect the goods and if they conclude that the goods are infringing, the goods will either be donated to charity (only if the infringing mark(s) can be removed) or destroyed. All costs associated with storage and destruction of goods will be deducted from the bond.

If you are already aware of consistent infringement of your registered trade mark, or if you have a portfolio of trade marks, you can set up a "General Bond" with Customs to ease seizure management.

If certain thresholds are met, Customs can notify the local Public Security Bureau and transfer the case for criminal

prosecution.

What should you do next?

If you currently own a registered trade mark in China, you should apply to register that trade mark with the Chinese Customs Office as soon as possible. If you do not yet have your trade mark registered in China, consider the above steps to be taken and follow the process of registering your trade mark with Customs once you have obtained registration with China's Trademark Office.

If you would like to know more about registering your trade mark with the Chinese Customs Office, please contact [Tim O'Callaghan](#) or another member of our [IPT team](#).