



Dids MacDonald on working with Chinese companies



Top tips on protecting your IP in China

WHILE huge opportunities for business exist in China, it also presents a serious intellectual property (IP) challenge. Infringers have become very sophisticated and it is now difficult to distinguish fake from genuine.

What can a business do to protect its IP in China? Here are some legal routes for flooring manufacturers and designers to work with Chinese partners:

■ **Trademark registration:** It is very important for a business to obtain trademark registrations in China, for enforcement purposes and to allow Customs and other authorities to take action on your behalf.

Consider registration in China for defensive purposes even if you are not yet trading there, especially where there is a risk that counterfeit products may be manufactured.

Also file Chinese versions of your trademarks and file for goods and services in related classes. It can take two years to get a registration if there are no complications. Once registered, protection lasts for 10 years, and can be extended for further 10-year periods.

■ **Patent and design registration:** Three types of patents can be registered in China: Design, Utility Model & Invention.

Design patents protect original designs of objects, specifically shape and/or pattern (sometimes even colour); utility model patents protect technical models relating to the shape and/or structure of the product; and invention patents are technical solutions that have to be new, inventive and practical.

Chinese design and utility model patents last 10 years; invention patents, 20 years. Timescales vary: Design patents are normally granted within a year, utility model patents in 18 months and invention patents five to six years.

■ **Copyright protection:** This is automatic in China provided an owner can prove that something original has been created.

Copyrights cover literary, dramatic, artistic and musical works, sound recordings, films and computer programs. Protection lasts for 50 years after the death of the author.

As China acceded to the Berne Convention, the work of foreign nationals first published in other

member countries are automatically protected.

■ **Customs procedures:** The scale of counterfeiting is now so great that most brands, as well as using civil and criminal means, also work with government agencies, particularly Customs.

Two modes of IP enforcement are implemented under Chinese Customs laws: Firstly, ex officio enforcement (prior registration with customs required); and

Secondly, enforcement pursuant to an application. Importantly, Chinese Customs will take action on both imports and exports.

■ **Ex officio actions:** To initiate, IP holders must record their rights with China's General Administration of Customs. An electronic application form is filed with other documents (including the IP registration certificate) with a fee of RMB 800 (approx £60).

If successfully recorded, the information is added to the official computer system of Chinese Customs to be shared with every customs office within China.

Trademarks, copyrights and patents can be recorded. If approved, the record is valid for 10 years and can be renewed for further 10-year terms.

Registration makes Customs responsible for monitoring shipments and informing rights holders if they discover potentially

Some useful websites:
 State Intellectual Property Office www.sipo.gov.cn
 World Intellectual Property Organisation www.wipo.int
 China-Britain Business Council www.cbcc.org
 State Administration for Industry and Commerce (SAIC) www.saic.gov.cn
 National Copyright Administration (NCA) www.ncac.gov.cn
 State Quality and Technical Supervision Bureau (SQTSB) www.cqi.gov.cn
 General Administration of Customs (Customs) www.customs.gov.cn
 Public Security Bureau (PSB)
www.cei.gov.cn/homepage/gov/buwei/bw011.htm

infringing goods.

In such cases the rights holders must apply for their detention within three working days – a strict requirement. The IP holder must also deposit monetary security, which varies depending on the value of the goods seized.

Customs then investigates and makes a decision in 30 working days. Where Customs cannot determine whether the goods are infringing or not, the IP holder may apply to the People's Court for an injunction or a ruling of property preservation.

■ **Detention pursuant to an application:** This is another way a trademark owner can work with Customs by filing a complaint when infringing products are identified. In this case, Customs cannot investigate or make a declaration of infringement.

The IP owner has to initiate court action, asking for an injunction or a property preservation order.

Customs will seize the goods if

the court confirms that the products are infringing. The detention pursuant to an application procedure is rarely straightforward and over the past few years, most Customs cases have used the ex officio procedure.

■ **Outcome:** In both cases if the goods are found not to be infringing or if deadlines are not met the goods will be released.

However, if an infringement is found, Customs can seize the goods and impose a fine of up to 30% of the value of the infringing goods. These can sold to the IP owner, auctioned after the infringing parts have been removed, destroyed (if the infringing parts cannot be removed or obliterated) or donated to charity. **CFJ**

Dids MacDonald is CEO of Anti Copying In Design (ACID)

- www.acid.com
- www.acidnews.info

**Further information on
T: 0845 644 3617**

Peter Allan on exporting



Facing the tiger economy: let the British lion roar

THE tiger economy is the nickname given to the economies of Southeast Asia, including Indonesia, Singapore, Malaysia, Thailand, South Korea, and with the biggest tiger of all – China.

Next month the world's eyes will be focused on this manufacturing powerhouse thanks to the Beijing Olympics, but our industry has been watching this country for years.

Flooring in the UK has changed dramatically in recent times mainly due to export giants such as China swallowing up some of the market. It raises the questions – is manufacturing an industry of the past and of little value to the

British economy or is UK manufacturing still a vital underpinning of this country's future?

Let's consider China and the unlikely the UK will ever be in a position to compete against the masses. China is known for offering stunningly cheap products as it has no employment legislation and extremely low cost labour, so for UK manufacturers – no contest.

But I'm not sure that you hear 'Hey look at this fantastic design from China!' This is because China's objectives are for the high volume, mass market opportunities, rather than the

innovative, design inspired market leading strategies.

Just as important as design is quality and making sure that the final product is identical to the sample, which has been approved by way of quality, colour, packaging, specification etc. This is an area that international brands by UK manufacturers excel at.

Turnaround time from order to delivery is also important. Shipping alone from China can be four weeks even if a product is manufactured and ready for dispatch. UK manufacturers have at their disposal efficient transport

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Help and advice



Dr Eric Brown on why dirt can be a four-letter word

Dirty carpet: Rub-a-dub-dub a scrub in a tub

EARLIER in this series we discussed the effect of soiling on the vibrancy of colours. This has the consequence of making the owner of the carpet believe that the colours have faded rather than simply become dirty.

The persistence of designers and specifiers requiring pastels and especially yellows in hotel and casino carpets is the root cause of this problem.

I have seen a carpet laid in a leading Las Vegas casino where after only three weeks in use, a complaint of fading has been received.

Trying to convince the owner of the carpet that this is simply dirt is often difficult.

Unfortunately in many cases this soiling cannot be removed by conventional carpet cleaning. So, although the first response might be to carry out a cleaning trial, failure to improve the appearance significantly inevitably strengthens the view in the client's mind, that the carpet is faulty.

People raise their eyebrows when I ask for a sample to be removed from the floor. However, this is not as unreasonable as it seems. If the installation is of tens of thousands of square metres, the value easily justifies the drastic action proposed.

In such installations an overage will have been acquired as attic stock, and in any case, there are often areas where back-of-house meets front-of-house, where a sample can be taken without jeopardising the overall appearance of the installation.

The sample taken need not be very large.



Provided that it is representative of all the colours, a 50cm x 50cm piece is sufficient.

This is where the trick comes in. If you take this off-site and try to clean it with an extraction machine there may be little improvement.

Instead you should cut a specimen out of the sample and 'launder' it in a bowl of water at around 45degC containing pure soap flakes

(e.g. Lux).

Now you will really see the dirt come out. Don't be afraid to pour the water away and repeat the operation a few more times before rinsing off thoroughly with cold water.

Of course this is not a practical proposition with respect to cleaning the carpet in-situ, and indeed the tuft definition will have suffered.

However, what the procedure will do is demonstrate to the owner of the carpet that the colours were there all the time and that no fading has taken place.

In many cases you will also see a significant improvement in loft.

At this stage the client will probably say that such colours should never have been chosen.

If that is the case and you are the carpet manufacturer, that's no problem – simply blame it on the designer.

If you are the designer, may I refer you to Mann and Morton, Journal of the Society of Dyers and Colourists 1959 75 522, who comprehensively studied the relationship between colour and soiling.

Neither of the above parties needs to feel responsible if the client has allowed circumstances such as those illustrated to occur. **CFJ**

Eric Brown writes manuals on investigating carpet complaints.

■ www.cleaningresearch.org

Further information on
 ■ T: 01943 462389

Peter Allan on exporting

Tiger economy: Let the British lion roar

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options allowing orders to be dispatched to most areas of Europe rapidly.

I do believe we can compete, particularly within niche markets and low volume manufacture, which is fundamental to the economy of the UK.

Manufacturing and engineering skills should be revered and respected, as once they are lost they will never be replaced.

The BRE A environmental rating achieved at Burmatex is the types of credentials that knock China of its export throne, and we like that.

Is it possible that the China problem has been blown out of all proportion?

Naturally here are only so many goods a country can manufacture and with the UK's wage costs at an all time high, it has become just too expensive to manufacture

certain things.

Shouldn't we be encouraging specialist skills in this country, and moving away from basic manufacture and let China be the sweatshop?

As UK manufacturers we need to pull together to dispel a few myths that leave a sour taste in the factory and bang the drum for our industry.

There are three myths about manufacturing, ones that damage our ability to recruit people and secure investment into the industries and businesses of the future.

■ **Myth one:** Manufacturing is old fashioned and out of date, the industry of the past. It is true we are in the middle of an extraordinary technological revolution – we are living it every day – but these new technologies aren't leaving manufacturing behind.

They are transforming every product, every production process, every sector of our economy.

Ever since the industrial revolution, manufacturing has been about new ideas, new science and new technologies – applied to creating new products and processes without for getting traditional methods and that's what is happening in Britain today.

■ **Myth two:** Manufacturing can't be done in the UK – it's all shifting to low-wage countries like China, India and Eastern Europe.

To reiterate, of course labour-intensive manufacturing will go on shifting to low-wage countries, but high-tech and bespoke manufacturing, using quality materials, is best done in Britain and other leading industrial countries like Germany and Japan.

■ **Myth three:** The UK doesn't need manufacturing because the

service sector is sufficient.

That is simply not the case. We need successful manufacturer, as manufacturing provides well-paid jobs - and if Japan, the highest wage economy in the world, can manufacture successfully, so can we. The smarter we get at producing better products, the better paid jobs in manufacturing will be.

Although a controversial Olympics this time, Beijing will hopefully provide the rest of the world with the opportunity to start on the journey of understanding this complex and powerful country. Wouldn't it be nice to bring a few gold medals back to the UK at the same time? **CFJ**

Peter Allan is business manager for international sales at Burmatex & Ryalux

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 ■ T: 01943 462389