

File First in China — or Risk Forfeiting Your Brand

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Can you say your brand name in Mandarin? If not, it might be time to learn.

With more than 721 million internet users, China has become a mecca for online shopping — as well as the source for more than 60 percent of the world’s counterfeit goods, according to the [Organisation for Economic Co-operation and Development](#) (OECD).

The country’s trademarking law adopts a [first-to-file](#) principle, which grants exclusive trademark rights to the earliest party that applies to register. If you’re overseeing a brand with worldwide appeal, this is worth noting.

While there are possible legal grounds for protecting unregistered trademarks and other commercial material in China, each case requires careful management, and failure to do so can open a door to infringing listings. The consequences of these goods competing with your legitimate products are obvious when it comes to consumers: fake goods, poor quality — even health risks.

[Recent research](#) shows that many consumers don’t question the validity of health and wellness products until it’s too late: 34 percent of surveyed respondents said they only identified goods as fake after a poor health reaction to the product. Another 50 percent said poor quality alerted them post-purchase. What’s more, over a third of shoppers agree that it is a brand’s job to protect them.

For brands, the impact can also have unforeseen consequences: damaged reputation, diminished perceived product value and siphoning off sales that you didn’t even know existed. Former National Basketball Association star Michael Jordan [became an example](#) of this in an ongoing clash with Qiaodan Sports Co. for rights to his own name in China. In the ultimate and latest irony, the company accused the athlete himself of slander.

Nearly any brand can become vulnerable. Applications [were submitted](#) in June on behalf of President Donald J. Trump’s brand for rights to his intellectual property in any future Chinese casinos, construction, hotels and real estate. Sources say that DTTM Operations, the company that runs the brand, is taking measures to protect Trump’s name in Macau — also known as the [“Vegas of China,”](#) along with his Cantonese alias, “Chun Pou.”

You’ll need to stay proactive to stay protected. First, make sure you’re working with a trustworthy partner. Reports have highlighted the problem of [“fake” law firms](#) that scam, disappear and rendered brand owners looking to protect themselves defenseless. Trustworthy sources are backed by recognized agencies and associations, such as law enforcement and ICANN, and should boast a healthy portfolio of successful clients.

Comprehensive trademark registration is a must. Get to know your brand name in relevant languages and dialects. Recruit help from partners familiar with external markets to ensure you haven’t missed any gaps in translations or coverage, and remember that China isn’t the only first-to-file country; others include France, Germany, Japan and Spain. Fortify IP portfolios and taking a [consumer-focused](#) approach to monitoring that includes:

- **Geo-specific search results**, which mirror listings exactly as they appear by location
- **Threat level analytics** that relay the most suspicious findings
- **High-value targeting** to show you which enforcements will yield the most effective results

Get up to speed on these solutions and more with MarkMonitor experts Zac Wolf and Trevor Robbins by checking out [this new educational webinar](#) on protecting your brand in the Chinese market, featuring trends, best practices and real world examples.

