

Trademark Registration in China

In May 2016, newspaper headlines revealed a situation that seemed to be incredible:

- Apple loses in China the exclusivity of the iPhone brand to a handbag firm (Diario El País, Spain)
- Apple loses iPhone exclusivity in China (El Informador, Mexico)

This issue raised a worldwide warning about the need to protect trademarks in China.

In China, the general principle applicable to trademark applications is "first to apply, first to obtain", so it is very common to find international trademarks that have been registered by others before the trademark arrives commercially to China.

When a company registers a trademark in China it is important to do it also in Chinese characters. This brand in Chinese characters must be carefully planned, since phonetic translations can be harmful to a brand.

The registration period is 10 years from the day of approval, and such registration may be renewed for an unlimited number of times. Each renewal extends the validity of the trademark for another ten years from the expiration date of the previous validity period.

Requirements to register a brand

1. Must be Available: As we saw with the iPhone case, this is rule number 1. No trademarks can be registered for a certain category of products in which there is previously a similar or identical brand.
2. Must be Legal: A trademark can not be the same or similar to the name or flag of a State or other international organizations. Neither can it be of a discriminatory or misleading nature.
3. Must be Distinctive: Generic product or commodity names can not be used.
4. It can not be Functional: In order to register three-dimensional forms, these forms can not be a reproduction of the generic product or represent a technical quality that can prevent a competitor from using that quality in their products.

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