



Textile industry

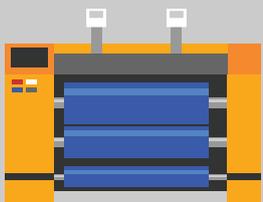
Why in China?

It is a major market for those supplying production technologies and a key supply base for textiles and finished goods.

Why care about IPR?

Foreign technologies and brands that are not adequately protected often fall victim to infringement by Chinese competitors.

Yarns and specialty fabrics, finished fabrics (i.e. pattern of apparels) and textile machinery can receive IP protection in China.



The most commonly encountered types of IP in the textile industry

1 Patents

Must be registered in China: a patent registered overseas is not enforceable in China.

“Absolute novelty” standard for patents: patented product or invention should not have been disclosed anywhere in the world before the patent registration application.

2 Trademarks

Provide protection against use of identical or similar marks on similar goods.

China uses a ‘first-to-file’ system, meaning that companies may lose legal protection in China and take the risk of infringing others’ trademarks if the same or similar mark has already been registered in China by someone else.

3 Copyrights

Are granted automatically, although China does allow voluntary registration.

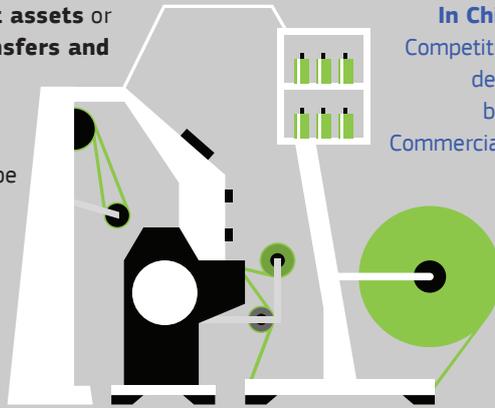
Copyright registration will be accepted as evidence of copyright ownership in the event that you wish to enforce your copyright against an infringer and greatly reduces the preparation of evidence.

4 Transfer of technology

When manufacturing **in China**, either directly or through a third party (supplier, joint-venture partner), **companies will often import their technology from Europe** and appoint agents or distributors who assemble, install and service the equipment.

In order to avoid loss of important assets or even loss of markets, **know-how transfers and technology transfers should be accompanied by contracts** with licensees, suppliers, employees, sub-contractors, etc., covering the scope of each party's rights and obligations, as well as the geographic restraints, time scopes, confidentiality and non-competition issues.

Companies licensing technologies to Chinese entities in the form of technical solutions or services should comply with China's technology transfer regulations.



5 Trade secrets

Trade secret protection is particularly common for processes, making it difficult or impossible for a competitor to discover the process through reverse engineering. **Reverse engineering** (i.e., disassembling a machine or product to learn how it is made) **is a common practice in China**.

In China: on November 1st, 2019 the Anti-Unfair Competition Law will come into effect. In this law the definition of trade secrets is expanded beyond business and technology related information. Commercial know-how can now also be protected as a trade secret in Chinese courts.

Measures to ensure confidentiality should be adopted and include NDAs, passwords and marking of documents as confidential. Trade secrets protection is lost as soon as the information becomes public.



WATCH OUT!

Trade secret misappropriation can be disadvantageous, and its use should be carefully considered. As an example: trade secrets in certain dealings with governments must be revealed.

6 Additional IP Issues

for Makers of Brand Apparel & Accessories



Dealing with Local and Overseas **Distribution Channels**



Anti-Unfair Competition Law



Control of Suppliers
Preventing Leakage of New Designs or Products from Factories



Dealing with **Online Sellers and Exporters**



China Customs

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