A STRONG TRADEMARK

can be instrumental in winning new customers when establishing a brand in China. Because you invest time and money into building the reputation of your company, it would be very damaging to your business if someone else began using your name to sell their own products or services. It is important to note that China uses the ‘first-to-file’ system, meaning that you may lose legal protection in China if a similar trademark has already been registered in China.

HOW TO REGISTER YOUR TRADEMARK

A trademark can be registered through the ‘national’ or ‘international’ system and can only be effectively protected in China once it has been registered. China has a centralised registration system; the assessment and registration process is outlined below. Foreign applicants without residency or a foreign enterprise intending to apply for trademark registration in China have to authorise a legally formed trademark agency to do so. A list of the qualified trademark agents can be found on the CTMO’s (China Trade Mark Office) official website: https://www.chinatrademarkoffice.com/
3 WAYS TO CHOOSE A TRADEMARK

Create a literal translation
Apple Computers chose the brand name ‘Ping Guo’ (苹果), which is Chinese for ‘apple’.

Create a phonetic translation
‘McDonald’s’ is known as ‘Mai Dang Lao’ (麦当劳), to local Chinese consumers.

Combine a literal and phonetic translation
Coca-Cola finally settled with ‘Ke Kou Ke Le’ (可口可乐), which means ‘taste and be happy’.

Register trade marks in Chinese
Because the registration of a trade mark in roman characters does not automatically protect the trade mark against the use or registration of the same or similar trade mark written in Chinese, it is highly advisable to register a Chinese version of a foreign trade mark.

Bad-faith trade mark registrations in China: Be aware!
As China uses a "first-to-file system", many SMEs are caught out because they fail to register their trade mark in China, and then at the time they want to do business there, they find out that their trade mark has already been granted to a Chinese company. Very often the Chinese company in these cases registers the mark with the intention of selling it back to the foreign company at an inflated price.

File in all product and service classes and sub-classes
The exclusive right to use a trademark is limited in scope to identical and similar goods or services. For convenience, products and services are classified into 45 product and service classes. China is unique in further dividing these classes into sub-classes.

Language of application
If you use the international system, you can make your application in English, French or Spanish. However, if you follow the national system, the application can only be made in Chinese. As a foreign company, you will have to use a Chinese trademark agent.

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