

Brand protection and IP: what every company needs to know before entering the Chinese market

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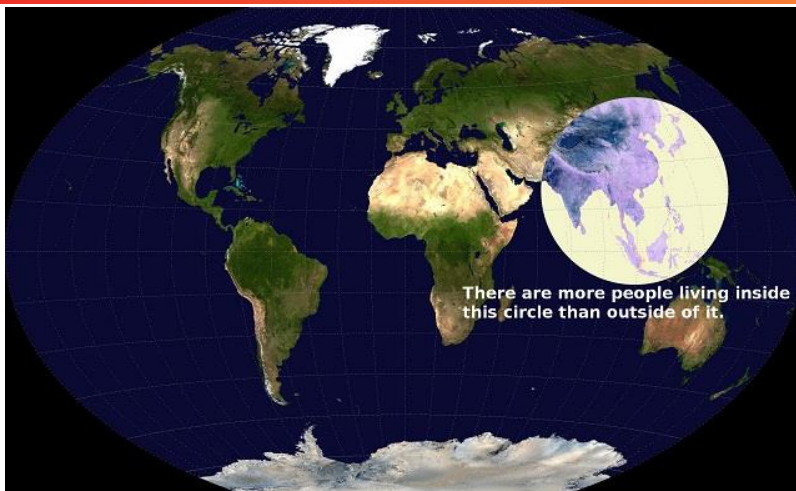
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Why China?



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Australia's Top 10 Two-Way Trading Partners 2018-19

Rank	Trading partners ^{(a)(b)}	(\$ billion)			
		Goods	Services	Total	% share
1	China	174.5	20.2	194.6	24.4
2	Japan	71.3	6.2	77.6	9.7
3	United States	44.0	26.2	70.2	8.8
4	Republic of Korea	49.3	3.0	52.3	6.5
5	India	21.9	7.2	29.1	3.6
6	New Zealand	17.3	11.0	28.3	3.5
7	United Kingdom	13.8	14.0	27.8	3.5
8	Singapore	17.3	10.5	27.8	3.5
9	Thailand	20.4	4.3	24.7	3.1
10	Germany	17.2	5.1	22.4	2.8
Total top 10 trading partners		446.9	107.8	554.7	69.5
Total two-way trade ^(c)		617.6	181.1	798.6	100.0

AUD175 B - China goods trade is larger than the next three markets combined

AUD\$164.6 B

<https://dfat.gov.au/about-us/publications/trade-investment/trade-at-a-glance/trade-investment-at-a-glance-2019/Documents/trade-and-investment-at-a-glance-2019.pdf>

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Brand Protection questions

- What is your brand
- Will it work in China?
- Do you have freedom to operate?
- What is your Intellectual Property?
- What do you need to do with IP to maximise opportunities in China?



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Intellectual Property inventory and plan	Do you have IP?	IP value to your business	Where is IP protected	Where else should they be protected?	Gaps
IP Types	Rate IP strength (0-10)	Value (0-10)	Jurisdictions	Jurisdictions	Notes Actions
Copyright <ul style="list-style-type: none"> • Literary works, computer programs • Dramatic works, Music, Painting, Drawing, Sculpture, Photograph • Engravings and buildings/models • Sound recordings, films, broadcasts • Moral rights 					
Trademark <ul style="list-style-type: none"> • Branding Shape Colour Movement Scent • Get up Design Wine Plant TM Series 					
Designs - Unique product design or packaging					
Patents - Innovations or inventions					
Plant breeds and varieties (and names)					
Confidential information and trade secrets (know how)					
Geographically specific product attributes					
Other <ul style="list-style-type: none"> • Domain, company and business names • Circuit Layouts 					

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Some NOT facts

Some bloke in a pub told me that in China they won't



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China's rapidly developing IP protection framework

China Drives International Patent Applications to Record Heights; Demand Rising for Trademark and Industrial Design Protection

Geneva, March 21, 2018
PR/2018/816

China moved into the second position as a source of international patent applications filed via WIPO in 2017, closing in on long-time leader United States of America, in another record year in the use of WIPO's intellectual property services for patents, trademarks and industrial designs.

Two Chinese technology companies were the top filers of international patent applications in 2017, with Huawei (number one filer) and ZTE (number two) followed by Intel, Mitsubishi and Qualcomm.



"This rapid rise in Chinese use of the international patent system shows that innovators there are increasingly looking outward, seeking to spread their original ideas into new markets as the Chinese economy continues its rapid transformation."
— Director General, Francis Gurry

"In just a few decades, China has constructed an IP system, encouraged homegrown innovation, joined the ranks of the world's IP leaders -- and is now driving worldwide growth in IP filings," said Gurry at a press conference at the United Nations (UN) on Dec.3.



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Suzhou Sino-IP facility



Suzhou Patent Office with 2,000 staff (1 of 9)
Total Chinese Patent Office has 10,000 staff.
Australia's IP office (as a whole) is approximately 1,100 staff, with ~ 400 Patent Examiners.



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IP enforcement in China



From the second consecutive year the number of IP cases processed by the courts rose by 41.8 per cent. Photo: Reuters

China's top judge said the nation's courts handled more intellectual property rights cases last year – a key area of tension in trade relations between Washington and Beijing.

Zhou Qiang, chief justice of the Supreme People's Court, said in his work report delivered at the annual legislative sessions on Tuesday that 288,000 first instance IP-related cases had been concluded in 2018 – up **41.8 per cent from a year ago.**

It was the second consecutive year the number of IPR cases processed by the courts went up by more than 40 per cent. In 2017, Chinese courts handled 213,480 such cases – a rise of 40.4 per cent from the previous year.

Meanwhile, in a separate work report on Tuesday, Zhang Jun, the procurator general of the Supreme People's Procuratorate, highlighted the number of IPR-related prosecutions.

Zhang told the National People's Congress that 8,325 people had been prosecuted in 2018 for acts including infringement of patent and trademark rights and trade secrets – a rise of 16.3 per cent from the previous year.

South China Morning Post

<https://www.scmp.com/news/china/politics/article/3001407/jump-number-intellectual-property-cases-handled-chinas-courts>

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Some facts

- China's IP regulatory framework, systems and courts are rapidly developing
- Systems are different (TM first to file, Trademark hijacking etc)
- 80% of Australia businesses running into issues are at fault – not following local law
- 75% of foreign entities challenging IP breaches in Chinese courts win their case



To consider

Top 4 tips for the audience

1. Learn about the IP protection systems in China from experts with up to date experience
2. Have a China IP plan and budget (even if you are not entering the market)
3. Consider Domain registration, Trademarks in English and Mandarin, Designs, Invention patents, Utility Model, Design
4. Register early