

Don't let your manufacturer become your competitor- Protecting intellectual property is a must in China!

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Intellectual Property protection is like sunscreen, if you don't put it on before going outside, you will get burnt. Likewise, if you don't take precautions before taking your project to China, your company will be exposed to unnecessary risks – some from which you can recover, and some not!

Sadly, the reality for Australian SMEs who become the victims of IP infringement, or even worse, competitors to the manufacturer they originally introduced their new designs to, seldom fully recover.

If Australia is to continue relying on innovation and cutting edge technology, it is time we got savvy and learnt how to protect ourselves.

So how do SMEs with limited funding protect themselves and why should they bother given the popular consensus that legal protection at least, does not mean anything in China anyway? Protection is about being proactive and investing time and money into laying good foundations with a long-term view.

At China Blueprint we believe that through good management, proactive due diligence and contracts, the following protection strategies can be achieved on a budget;

1. Prepare in Chinese, and have signed, legally enforceable contracts to protect against competition and to maintain confidentiality;
2. Educate your manufacturer to ensure they understand the meaning of the contract/s;
3. Regularly monitor and undertake checks on your factory, even if they belong to your JV partner;
4. Register your intellectual property with the relevant authorities;
5. Seek advice from experts who know and understand the local China conditions - merely being Chinese does not make you an expert; and
6. Have an action plan for the worst-case scenario before it happens - and be ready to enact it at the first sign of trouble.

Educating your manufacturer about the actual meaning of the contract once in place is time well spent. It is easy to assume that all signatories know what they are signing up for, but this is a common area for misunderstanding.

We recently had a shoe manufacturer sign a confidentiality/anti-circumvention agreement. After the signing, the manager was surprised to learn he would not be able to sell the client's designs to his other clients without permission.

It is also important to remember that it may not always be the Chinese manufacturer looking to copy your IP. In our business we see a lot of disgruntled Western employees and business partners taking their ex-Australian employer's knowledge to another manufacturer to go into direct competition with them. It is therefore important to make sure you pay equal attention to your contracts back home as well as those overseas. There are no friends in business!

For more information on IP protection visit the China Blueprint website: www.chinablueprint.com.au or contact Lisa Goodhand in Sydney
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