



**STRATEGIES FOR PREVENTING SCAMS, FRAUD &
DECEIT IN YOUR INTERNATIONAL BUSINESS**

***Initial Steps & Basic Strategies,
with a China Focus***

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Overview

- **How to get on the path to mitigating your risk in international business, right from your own computer.**
- **Recognizing an email scam**
- **Protecting your IP against theft**
- **Identifying a legitimate buyer/seller**
- **Validating an international hire**



Applications – why do I need this?

- You need to be able to recognize a legitimate business proposition when it lands in your in box, and not waste your time on the stinkers.
- You need to protect yourself in markets you don't even plan on entering – for now, for ever, etc.
- You need to recognize who you *should* be doing business with overseas so you save time, money, energy...
- Taking steps early on can save you bundles of money and tons of grief down the road.
- Almost every tip I give you is still going to cost you some money upfront.



Warning signs of a Chinese Email scam

- **The Chinese company contacted you off the Web.**
- **They have “Import/Export” or “Trade” in their name.**
- **They want to conduct a very large volume of trade.**
- **They insist your senior executive travel to China immediately to sign the contract with them in person.**
- **They request money prior to the trip to pay for a reception in your honor, and/or, once in China, they request money or goods to grease the wheels with local officials.**
- **They have been in business for less than one year.**
- **They can provide no verifiable references.**



Recognizing Email scams worldwide

- Google the company name and “scam” or “fraud” or “cheat”
- Do the same with their fax number
- Search for them on <http://www.ripoffreport.com/>
- Is the email personalized to you and your industry?
- Does it sound too good to be true?



Protect your brand even in markets you think you're not yet in – Domain Name

- Register your domain name extension in any country you're thinking about doing business in, and in China, even if you never plan on manufacturing or selling there.
 - Groupon.cn is NOT owned by Groupon.com!
 - <http://www.domainregister.com/cn.html>
- For China, also register a domain name of your name in Chinese characters, including any nickname your brand has in China.
- If somebody contacts you to sell you your domain extension in China, don't respond before trying to register it yourself online.
- Information about Domain Name Dispute Resolution
 - www.wipo.int/amc/en/domains/



Protect your brand even in markets you think you're not yet in – Trademarks in China

- China has a "first-to file" system, so you better file now before someone else does; it only costs RMB300.
- Check to see if your name is already registered in China: <http://sbcx.saic.gov.cn/trade-e/indexe.jsp>
- China is a member of the Madrid Protocol so your US trademark is recognized, but you must obtain a Chinese confirmation certificate before IPR enforcement action can be taken. This takes about three months.



Protect your brand even in markets you think you're not yet in – Trademarks in China

- You can use a Chinese trademark agent or more recently, local branches or subsidiaries of foreign companies are allowed to register trademarks directly without use of a Chinese agent.
- Also register your name in Chinese characters, including any nickname your brand has in China.
- Trademark registrations can take 1-2 years.
- Trademarks will be canceled after 3 years in China if they haven't been used – having a Web site in Chinese counts as using the trademark.



What's important to remember regarding your trademarks in China

- Pirates can sue you, the genuine owner of a trademark.
- To buy back your trademark generally costs between US\$15k - \$1.5m.
- If they haven't used your trademark for 3 years, you can file to get it canceled.
- The goal of Chinese trademark protection is to protect the people of China against harm, so you must argue the infringement is dangerous to Chinese people.



Protect your IP even in markets you think you're not yet in – Patents in China

- China follows a first-to-file system for patents.
- A foreign patent application filed by a person or firm without a business office in China must be made through an authorized patent agent.
- Patents have a “novelty” requirement, so if you’ve already filed your invention in the US, you might not be allowed to file it in China.



Protect your IP even in markets you think you're not yet in – Patents in China

- Patents are filed with China's State Intellectual Property Office (SIPO) in Beijing.
- The process for registering:
 - a Design Patent takes less than one year,
 - a Utility Patent takes circa 2 years, and
 - an Invention Patent takes circa 2-3 years.
- Patents infringement cases are usually very hard to win in China.



Protect your IP even in markets you think you're not yet in – Copyrights in China

- China is a member of the Berne Convention so any copyright from Berne Convention countries, including the US, will be automatically protected in China.
- However, a recordal of the copyright is necessary before direct IPR enforcement can be based on copyright infringement.
- The recordal process takes about 1 month.
- Copyright infringement is generally an easier IP case to argue than the others.



What should you do if you suspect IP infringement in China?

- If it's at an exhibition (for example with an "offer of sale"), then approach the Complaints Office there, and be sure to have all relevant documentation with you to prove the IP belongs to you, in Chinese.
- For a list of what documents you'll need:
<http://www.reedexpo.com.cn/en/Corporate-Responsibility/IPR-Protection-at-Exhibitions/Exhibitions-and-IPR-in-China/>
- Do not approach the infringer yourself or otherwise give them a heads up that you suspect them – this will only give them time to cover their tracks.



What should you do if you suspect IP infringement in China? - Copyrights

- Hire a Chinese-based law firm adept at IP law to handle your case.
- If you've already done all your research to learn who, what, where, when, how, including having import/export shipping records of the goods, then:
 - Send a warning letter in Chinese mailed from within China – preferably from your lawyer, showing clearly your understanding of how they are breaking Chinese law. If they fail to respond or don't show up to the court case, then you've pretty much won your case.
 - Have Chinese Customs stop all imports/exports of the goods (takes about 2-3 months).
 - Have sites listing your goods shut down (TaoBao, etc. can pull down the listing immediately).



IPR resources

- US DOC's China IPR Tool Kit:
http://beijing.usembassy-china.org.cn/protecting_ipr.html
- STOPFakes.gov
 - http://www.stopfakes.gov/events/china_webinar_series.asp
 - "SME IP Training Tutorial" on STOPFakes.gov
 - STOP HOTLINE: 1-866-999-HALT
 - StopFakes.gov has IPR toolkits on 20 countries!
- "Experts' Advice for Small Businesses Seeking Foreign Patents" www.gao.gov/new.items/d03910.pdf
- World Intellectual Property Organization (WIPO):
www.wipo.int - Portal site for SMEs: www.wipo.int/sme/en/



IPR resources

- US Copyright Office: www.copyright.gov (registration and general information)
- “Copyright Term and the Public Domain in the US”: www.copyright.cornell.edu/public_domain/
- International Trademark Association (INTA): <http://www.inta.org/CountryGuides/Pages/CountryGuides.aspx> (for members) has Essential Information on Trademark Protection Worldwide - a searchable database of country profiles offering information on:
 - **trademark filing**
 - **Prosecution**
 - **Registration**
 - **Maintenance**
 - **enforcement**



How do you do you know you can trust your international business partners?

- Check them out!
- **Always** order a report on the company.
 - “Freshly investigated” is best.
 - Subscription services like Skyminder.com.
 - The US Commercial Service’s ICP report (<http://www.buyusa.gov/midwest>).
 - One-offs and custom questions like Glo-BIS.com.
- Standard credit reports include:
 - the registration details, show their ownership, what type of company, litigation record, last 3 years financials, references, recommended credit, trademarks/patents, etc.



What can I do to research a company?

Before visiting them, qualify the companies!

- Google the fax number, not just company's name.
 - If it shows up with negative info, STOP all communication with them!
- Outside China, Google "business registration" and the country or State (US) – you might find free or very inexpensive official company registration info when you search under the company name.
- In these tough economic times, many companies cannot withstand a market slowdown for long = make sure your info on them is current.



What other types of low level due diligence might help me?

- Be sure your first report includes reference checking.
- Always separately confirm any registration documentation received from the company in question.
- Order reports on the other companies associated with the main directors/ shareholders.
- Order reports on their affiliates worldwide.



How to obtain reliable background information on foreign customers and/or suppliers?

- All consulting services are not equal! If you use one, make sure they have third parties investigate the companies they recommend, and aren't just suggesting someone's cousin, etc.
- When ordering a report, decide whether you want the company to know they're being investigated – some DD companies can be discrete.
- In China, to 'save face,' you may use the excuse it's company policy, and/or your legal team requires 3rd party investigations.



China Credit Particulars

- **The credit environment is still very new in China**
 - Chinese companies are not even used to getting credit from other Chinese companies.
 - Even if the references are positive, Chinese still consider the level of 'relationship' with each company/contact in the company to be the most important determinant as to whether they will be a good business partner – just because they paid someone else doesn't mean they'll pay you on time.



Free (or Subsidized) Research

- Governmental (or similar) organizations

- *US Export Assistance Center*
<http://buyUSA.gov/>
- *Foreign Embassies and Consulates in the US*
http://dir.yahoo.com/Government/U_S_Government/Embassies_and_Consulates
- *American Chambers of Commerce Abroad*
<http://www.uschamber.org/chambers/default>



Free Research (continued)

- Associations and Organizations

- *Trade/Industry Associations*

- *The Federation of International Trade Associations (FITA)*

- <http://fita.org>



Vetting Personnel

- Resume inflation is wide-spread
 - Make it clear from the beginning of the hiring process you will be vetting the candidates' CVs.
 - Confirm the educational institution/degree.
 - Confirm the past positions/duties.
 - Check the references.

In China:

- If the individual has a Chinese passport, he/she does NOT have a criminal record.
- PRC ID numbers reveal the location of birth, DOB, and sex of the individual.
- The Chinese character name & DOB should be sufficient to run a background check.



Conclusions

- **Recognizing a scam before you're a victim saves you time, money, and perhaps even your company.**
- **With IPR, the best protection is prevention.**
- **If you've already spent more than a few hours researching a company yourself, you would have saved money by purchasing a report on them & would also be confident the info is unbiased.**
- **Knowing how much credit you can grant a buyer might mean you make the sale instead of your competition.**
- **Vetting personnel before hiring them can help ensure they have the proper qualifications and integrity required.**



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