

# Protecting Intellectual Property in Hong Kong and China

Presented by **Christopher Britton, Partner,**  
**Intellectual Property Department,**  
**Deacons, Hong Kong**

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# Intellectual Property Rights in Hong Kong and China

- One Country, Two Systems
- All IPRs are now recognised in Hong Kong and China
  - Patents
  - Designs
  - Copyright
  - Trade Marks
  - Trade Secrets
  - Unfair competition
- However, the enforcement of IPRs is different in each country
- In China, it is still subject to unique and specialised considerations by way of Administrative Enforcement procedures and through the Intellectual Property Division of the People's Court
- In Hong Kong, enforcement is by way of litigation, arbitration or mediation

# Strategies for IPR Enforcement in Hong Kong and China

## Manage the Risks

Intellectual Property is regarded as the biggest risk area for companies with Chinese manufacturing operations in the technology sector.

- Control use of IPRs by local associates
- Conduct regular IP Audits
- Record Commercial Agreements in writing
- Secure and review your registered IPRs
- Take a pragmatic holistic approach
- Plan carefully
- Co-operate with local authorities
- Personal connections (Guanxi)
- Avoiding difficulties caused by local protectionism
- Forum shopping
- Using Hong Kong as a base from which to protect your IPRs in China

# The Strategic Role played by Hong Kong

- HKSAR and HKTDC are fully committed to the protection of IPRs
- Pre-1997 Hong Kong law on the protection of IPRs was UK law based
- Post-1997 Hong Kong IPR laws have been “localised” but continue to be influenced by UK legislation
- English Common Law continues to be highly persuasive in the Hong Kong Courts
- Government Policy and the Court system is open, transparent and certain
- Arbitration and mediation is readily available

# Advantages of using Hong Kong as the business platform to expand into China

- Excellent R&D infrastructure
  - HKSAR government funded organisations
  - Innovation and technology commission (5 R&D Centres) – Automotive parts and accessories systems (HKTC)
  - Information and communications technologies (ASTRI – around 300 researchers)
  - Logistics and supply chain management enabling technologies (HKU, HKCU, HKUST)
  - Nanotechnology and advanced materials (HKUST)
  - Textile and clothing (HK PolyU)
  - Chinese medicine (HKCU)
  - Innovation and technology fund – approved fund HK\$2.6 billion as of 1 August 2006
  - Technology Universities
    - HKU
    - HKCU
    - HKUST
    - HK PolyU
  - Hong Kong Science & Technology Park

## In Summary

- Hong Kong businesses have the knowledge, experience and expertise to help companies to identify and protect their IPRs in Hong Kong and China
- The Hong Kong legal system provides a secure base from which IPRs can be extended into China
- Hong Kong businesses are sensitive to these issues and are well-versed in developing the strategies necessary to protect IPRs in China

## Further Reading

**Developing an Intellectual Property Protection  
Strategy for Today's China  
Doing Business in China**

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