

My IP has been infringed. Do I need a lawyer?

You might first consider trying to tackle the problem 'in-house' before engaging a lawyer. Intellectual Property is an area regulated by government.

Government agencies have been established in China to address areas of IP violation. As a first step you might contact China's Service Centres for Intellectual Property Protection and inform them about the nature of the IP infringement. The China IPR SME Helpdesk is able to assist you in contacting the Service Centres. For more information please contact question@china-IPRhelpdesk.eu

The hiring of a lawyer is an important decision that should not be based solely upon advertisements or recommendations. Before you decide, ask the target firm to send you free written information about its qualifications and experience. It is recommended that you contact several lawyers (normally three) and compare their experience and costs. To do this effectively, make a list of questions that you will ask each lawyer including if they have worked on similar cases and what outcomes were achieved.

Also, in general, law firms provide a free first time consultation. This will provide the opportunity to assess the quality of the firms you are planning to consider and to gather information that will help you in your decision making process.

It is important to establish the facts/ information about the problem before discussing with a lawyer. This will allow a lawyer to put the problem in context with the local laws and regulations.

- To confirm before meeting the lawyers:

1. Find out if you can get a FREE first consultation before setting up the meeting.

a. If yes: how long and how detailed can a free meeting be?

b. If no: how much does it cost for an introductory meeting? (Consider trying another law firm before going ahead with an initial meeting.)

Finding a lawyer: Where can I find a lawyer to help me with IP in China?

The China IPR SME Helpdesk does not provide a list of recommended lawyers. To find a lawyer that can help you with your IP rights in China you should consider contacting the lawyer's association in your country; the directory of lawyers maintained by your country's Embassy or Chamber of Commerce in China; or an online law firm directory. If you would like further general information on choosing a lawyer or access to these lists, please contact questions@china-IPRhelpdesk.eu

How can I effectively manage the relationship with the lawyer I have chosen?

- To ask in the meeting so that effective comparisons can be made between firms

- 1. Ask for an overview of the firm.
- 2. Fee structure and pricing
- 3. What is the firm's area of expertise and main experience?
- 4. Specific IPR competence? (Patents/ Trademarks/ Designs: Filing applications; support on administrative cases of civil proceedings/ legal action)
- 5. Who are the firm's practitioners you would be dealing with?
- 6. Does the firm outsource to other service providers (for example, trademark/patent registrations, litigation etc.)?
 - a. If yes, to whom?
 - b. Request information about this other firm/service provider
- 7. Discuss the details of your particular case and ask the lawyer to provide you information on:
 - a. How they define the problem. It is best practice to understand options to solve your problem and its possible resolution
 - b. Which IPR, if any, does the issue concern (trademark, patent, copyright, trade secret, other)?
 - c. What steps to take next

- At the end of the meeting ask for:

1. A summary email and overview of the issues you discussed in the meeting
2. A written fee and service agreement which should include payment conditions
3. Look for limitations of liability on the part of the firm and if you can accept the limitations provided by the firm
4. Do not sign any agreement until you have had the time to think it over, have a good idea of the firm and perhaps met with more than one

What else can I do to ensure the effective handling of my case by my lawyer?

- Keep a file with copies of all of the documents relating to your IP rights and any evidence or developments concerning the case.
- It is prudent to request that your lawyer provides you with regular feedback, at least once per month in relation to work undertaken and costs incurred (which should itemise in detail the activities, costs and time used on your case).