



BUILDING TRUST

The essentials of doing business with—and in—
China can be developed only over the long haul.

By Mia Doucet

the U.S. Embassy in Beijing publishes on its Web site the information that, on average, 20 percent of the consumer products in China are counterfeit. The site is an embassy service called the “IPR Toolkit,” a handbook for protecting intellectual property rights in China, a country that got its first patent law in 1984.

China, the embassy site tells us, was the number one source of counterfeit products seized at the U.S. border in 2006. And China’s counterfeiters are not only knocking off the products of Western companies. People in the know will tell you that the overwhelming majority of Chinese intellectual property rights cases issue from Chinese firms suing other Chinese companies.

The central government in China says that it is pursuing stronger policies and increased enforcement, and that it employs more than a quarter-million people to police IP, but the problem is getting worse, not better. China is a big country and, apparently, it is especially difficult to police intellectual property infractions at the local level.

Rather than waiting for Beijing's policy to trickle down to local government, a company can take its own precautions to protect proprietary technology. This starts with looking deep within the fiber of Chinese society to understand why IP problems occur.

Ideas in the Air

I WAS INTRODUCED TO THE EASTERN VIEWPOINT OF IP BY A THOUGHTFUL, SOPHISTICATED CHINESE EXPATRIATE ENGINEER. I was discussing international trade with a group of executives. The issue came up about the lack of Chinese court protection for a company's proprietary secrets. At the end of the meeting, the Chinese engineer calmly said, "How can a person own an idea? More important than ownership is that large numbers of people make a living from the idea. This is how Chinese people think."

There it was, in a cultural nutshell: How could a Western company, claiming long-term commitment to China, put a price on technology that could benefit the entire country? To the Chinese mind, an idea is not something you can own or sell. Ideas belong to everyone. In China, ideas are like air. Would you expect to pay for air?

Not only is there no stigma in sharing information, but it adds to one's social capital. People look for opportunities to share. That is why—until recently—no legal framework existed for protection by patents, copyrights, and trademarks.

Moreover, copying is embedded in the culture. Chinese students are taught to reproduce thoughts, right down to using a master's words without citation. (In fact, citations hardly are ever used, even in Chinese higher education.)

Finally, China's new culture of greed encourages getting rich at any cost. The Chinese are energetic and mercantile. They were poor and suppressed for so long that it is not surprising that some of them want to make up lost ground at any cost.

The Chinese can also prove to be very, very loyal employees. In fact, China's business culture is based on trust, but a type of trust very different from the Western meaning of the word.

For Asians, building trust takes a long time. You have to prove yourself over and over. Without that level of intensity, there is no loyalty. You either have trust, or you don't. There appears to be no middle ground.

Westerners trust more freely in business relationships. We've been taught to trust at home and at school. We're prosperous and haven't had to live by our wits to survive. And our legal system backs up our written agreements.

Chinese often do business through close-knit webs of

trusted relationships. These relationships may span generations. This is called *guanxi* (pronounced "gwan shee"), or personal connections. *Guanxi* extends beyond the simple exchange of favors between two people. It is a form of currency that can be amassed and exchanged. One does the other a favor. This creates a tacit obligation for the other person to reciprocate at a later date.

Guanxiwang describes a complex network of interlinking exchanges or transactions that occur when other parties become involved. Person A owes an obligation to Person B, and fulfills that obligation through Person C (or D, E, F, and beyond). The system sustains itself through reciprocity and mutual benefit to both parties.

Let's say someone fails to honor a business commitment. Rather than rely on a legal action, you call on someone who owes you a favor. Until recently, all business was done through such relationships, because China had no legal or banking system that one could count on.

Some people would argue that personal relationships play a less important role in business today. Yet every single person I have spoken to in more than 2,000 hours of interviews believes that personal relationships are still the key to business success in Asia.

The get-rich-quick mentality is not unknown in China, but the majority of Chinese would rather do business with those they know well. *Guanxiwang* based on trust can be your protection against corruption. But always remember: If you don't take the time to put the relationship first and hang in for the long haul, you are likely to remain an outsider and fair game for reversals of fortune.

Differences in Eastern and Western culture can also play to our vulnerabilities. Take silence, for example. Silence is a natural part of Chinese communication. It is considered useful, a time to think and process information and explore what is being said.

The Meaning of Silence

MOST WESTERNERS FIND SILENCE UNCOMFORTABLE. OUR IMPULSE IS TO FILL THE VOIDS IN A CONVERSATION. What do most of us do when confronted by silence? We open our mouths and say too much.

Most Westerners would rather take shortcuts than miss out on China's booming market. A high-ranking official in the commercial section at the Canadian Embassy in Beijing told me that many firms cut corners in order to expedite the approval process for doing business in China:

"Many fail to take steps to protect their intellectual property rights and do not register their trademarks or their patents," the official said. "Some fail to carry out due diligence on partners, agents, and/or distributors, and others fail to include clear contractual protection for all intellectual property. In most cases, infringement is made by a partner, distributor, or former employee. In many cases, what appears to be only an IP problem turns out to involve contractual problems."

Protecting Property

THERE ARE MANY STEPS WESTERN FIRMS CAN TAKE TO PROTECT THEIR INTELLECTUAL PROPERTY. HERE ARE SOME OF THEM:

First, protect yourself legally. Whatever the shortcomings of Chinese intellectual property rights enforcement, this is where you start. Consult a law firm that does business in both China and your home country. Cover all the bases because your Western business instincts are unlikely to pull you through. And make sure you register your own intellectual property. Never allow a potential distributor or business partner to register your IP.

Second, do not rush to share your technology and business secrets. In the early stages of a relationship, your hosts will be trying to learn as much as possible from you. Remember, anyone with whom you share information is a potential competitor. You need to understand what they ultimately want. What is their strategy? Where are they going with their request?

Short-term gain is not just monetary. You may, for example, hope to get the relationship going by providing a specification and hope that the Asian party will appreciate the favor and reciprocate. As a friend of mine says, “Ain’t gonna happen.” Don’t feel you have to say yes to every request.

Third, protect your product knowledge. As a general rule, don’t give specifications until you’re well past the courtship stage of the relationship. In the early stages, make generic presentations that show relationships between concepts or percentages. Do not disclose exact figures and specifics.

A potential client who asks for samples may want to copy them. If prospects need a sample, see if you can run a demonstration at your Asian facility. If you must lend samples, do so for a fixed amount of time—enough to verify performance, not enough for a teardown analysis. Do not share your validation and analysis tools.

If you e-mail drawings for quotation or approval, sanitize all identifying information. Remove business names, phone or fax numbers, engineers’ names, device titles, part numbers, or any other information that someone could Google to learn more.

Fourth, hire carefully. The loyalty of your Chinese employees may depend on your hiring practices. Do not hurry to hire. Screen more carefully than you ever have done before, and remember that people in support positions have access to vital information.

Covert, unofficial background checks are fairly easy to do in China. This is one area where a well-connected trusted liaison can be worth his or her weight in proverbial gold.

People with international degrees are more aware of acceptable Western business practices. It is an advantage to hire right out of school, so that you can instill your own company’s values rather than inherit the work practices of others. Pay employees well, so they have a strong economic incentive to remain loyal.



Women are often overlooked for all the reasons they were once devalued in Western culture. Yet the consensus among Westerners who teach in China is that the women are focused and work hard.

When you hire senior managers, make sure their contracts make them responsible for protecting your trade secrets. Introduce policies that create personal connections built on trust, and spend time during and after work to reinforce them.

Fifth, train. Educate your Chinese employees in Western business practices. Indoctrinate them into your corporate culture. Educate your Eastern—and Western—employees with access to confidential information about the risk of IP theft and how they can personally protect against it.

It is easy to blame the Chinese for their IP transgressions. But the onus falls squarely on Western companies to do everything they can to keep their intellectual property safe. ■

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This article is abstracted from her forthcoming book, Are You Giving Away Your Million Dollar Secrets? For more information on the book, contact the author at mia@miadoucet.com.

“IPR Toolkit: Protecting Your Intellectual Property Rights in China” can be found on the Web site of the U.S. Embassy in Beijing at http://beijing.usembassychina.org.cn/protecting_ipr.html.