

## Crossing the Great Wall of Application - The CTMO Registration Process

Hey, welcome back everyone to our video series helping you navigate the do's and don'ts of national and international trademarks.

In this video, we'll travel through the winds and rain of the Chinese trademark application process to reach the sunny side of registration.

Unlike the Great Wall of China, our trademark journey doesn't follow a straight, clear path, so take a deep breath and let's get started.

After all, China works on a "first to file basis" so you want to begin this process as soon as you can. In fact, you may want to register long before you even start planning to market your goods and services abroad.

The first question you have to ask yourself before beginning your journey is "who am I?" No hold on, this isn't a video on soul-searching, don't worry! What I mean is, who are you geographically? Are you a foreign applicant? If that's the case, you can apply to China as an individual or as a company.

Funnily enough, Chinese citizens cannot apply as individuals -- they must be a part of a company to register a trademark.

The second question you need to ask yourself is, what do I need to bring with me? In your travel bag you may have thought to bring clothes and toiletries, but something an individual needs when both traveling or applying for a trademark in China is a passport! You will need to include your passport information in your filing.

If you are applying as a company, you will need to supply your incorporation document.

You'll also need a guide -- a trademark agency who can represent you in China. Who could do that, you ask? Hmm, I have no idea, who could possibly . . .? If only there was a company that made great videos about trademarks AND could help you file one in China....

But enough about Witmart . . . for now.

Once you've settled on your representative of choice, you're ready to begin your journey.

The first step is to fill out that application! I will repeat here because I cannot stress it enough, China is a first to file country. So you should conduct a thorough trademark search before filing. Why? Well, with thousands of trademarks being filed in China every day, you have to be aware of the risk that your desired mark may already be taken in China.

If you have determined that your mark is free to file, get started on that application! There are three kinds of trademarks you can file in China: a word mark, sound mark, or design mark.

- A word mark is any word, phrase, or slogan that you use to distinguish your goods and services from others like Nike for the shoe and "I'm lovin' it" for McDonalds.

- A sound mark is a bit more unusual. It's the roaring lion from MGM or that 20th Century Fox intro that gets stuck in your head.
- A design mark is a particular visual, logo, or package design that distinguishes your products, such as the coca cola bottle shape.

Design marks in China have a 50% percent rejection rate, so the wisest thing is to register your word and design marks separately to increase your chance of acceptance. Otherwise, if you put all your eggs in one basket, you face a higher risk of having both rejected at once.

Once you know what kind of a mark you have, you need to figure out what classes your goods and services fall under.

I'm not going to lie, this is the hardest part of the application. Just like many other countries, China uses the Nice system of classification. It's not as nice as it's spelled.

You'll need to determine under what classes your goods and services fall. It's important to remember that one good or service could fall under many subclasses within a class and sometimes you really need to stretch your imagination to make sure you are completely covered.

Remember, you don't need to prove that you're using all of these subclasses, so it may be best to select everything you can.

Once you've selected all of your classes and subclasses, you're ready to send your application to China!

Keep in mind, the Chinese examiners are very meticulous so you should be too. As they say: when in China, do as the Chinese do!

The Chinese Trademark Office (CTMO) is the institution that will receive your application. Even before your application is examined for registerability, they will check your filing for completeness, so make sure you have filled out all of the appropriate sections or you will face automatic rejection.

Also try to make sure you have all of your company's required information filled out correctly like a signed Power of Attorney, a list of your goods and services, a representation of your mark, and of course all of your classes and subclasses.

The next stage is a rigorous examination process. You, the weary traveller, will stand before the gates of China, waiting for the powers that be to grant you entry.

If all goes well, your filing will be accepted and published in the Trademark Gazette. Remember, registration denial is still possible at this stage. Even if you pass examination, you could always be opposed by another company.

Here are some of the reasons your trademark may be rejected or opposed:

- Your trademark has been registered by another business
- Your trademark is too similar to another company's trademark
- There is an issue with the details of your filing.

In the event of an opposition, the CTMO will manage your dispute. If the grounds for opposition prove valid, your filing will be terminated.

As always, this is not the end of the road! For any rejection or termination you can request a review of the case from the Trademark Review and Adjudication Board (TRAB) within 15 days of rejection or losing an opposition case.

The TRAB will look over your application again and come to its decision.

Of course, the best way to avoid any issues is to do your research, be first to file, and file meticulously.

Should no issues arise, your trademark will be registered and you'll receive a Certificate of Trademark Registration, which you will need to renew every 10 years. All in all, the entire process could take 12-15 months.

And there you have it! You have walked the Great Wall and you hold a Chinese registered trademark in your hands. The whole Eastern world is your oyster and all you can do now is grow and prosper.

Remember, none of this can be done without a trademark agency and Witmart has everything in place to help you take off to China. Stay tuned for our next video where we get into the legal deal of maintaining your trademark in China. Goodbye for now!