



# IP PROTECTION IN CHINA

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# General Introduction

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- IP legal systems are developing rapidly and efficiently
- Four major IP laws
  - Patent law
  - Trademark law
  - Copyright law
  - Unfair competition law



# Legal protect system

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- Courts play an important role in IP protection
  - Judicial review now the last resort
  - Issue judicial interpretation
  - Special jurisdiction and experienced judges
  - Specific methods to enforce IP cases



# Patent law

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- Patents' classification
  - inventions
  - utility models
  - designs
- Protection terms

Different patents have different terms
- Three criteria for patent application



# Patent law

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- Administrative authority  
State Intellectual Property Office (SIPO)
- Patent Re-examination Board
  - Re-examination
  - Invalidation
  - Judicial review



# Patent law

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- Enforcement mechanism
  1. Pre-suit preliminary injunction
  2. Administrative adjudication
  3. Transfer for criminal sanction



# Trademark protection

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- How does one protect a trade mark in China?
  - First to file
- Application process
  - Similar to Australia



# Trademark protection

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- Protection of well-known trademarks in China
  - Extensive protection and cross-protection
  - Case study  
Burberry, Chanel, Gucci, Louis Vuitton and Prada v Silk Market and their tenants



# Trademark protection

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- Enforcement measures
  - Pre-suit preliminary injunctions in court
  - Administrative measures including injunction, confiscation and imposing fines etc (SAIC)
  - Criminal liability



# Copyright Protection

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- Voluntary registration
- Enforcement update
  - New interpretation has been issued
  - Lowered crime threshold for copyright infringements
  - Same threshold for corporations and individuals
  - Suspended sentence is limited



# Internet Copyright Protection

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- The new regulation for protecting copyright over internet
  - Clarification of operation of right of communication to the public
  - Fair use
  - Clarification of aspects of the statutory licence
  - Operation of exceptions for libraries, archives, and cultural institutions
  - Safe harbour for ISP&ICP



## 2007 IP news

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- China's Action Plan on IPR Protection 2007
  - Drafting, revision and formulation of laws
  - Strengthening enforcement
  - Other measures



# Breaking News

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- Verdict of Hong Kong's highest court with respect to copyright crime on Internet.



# Conclusion

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China is going to become a safe harbour for the world's IP owners.



Questions?

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Thank you!

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