

## Are you losing out NOT registering your copyright in China?



A copyright registration in China can be a powerful shield to protect your business. Copyright protects literary, dramatic, musical and artistic works, sound recordings, films, television and sound broadcasts and a copyright owner can control how his/ her works are used, by whom and on what terms. For brand owners, copyright may also subsist in stylized trademarks such as logos, devices and product images.

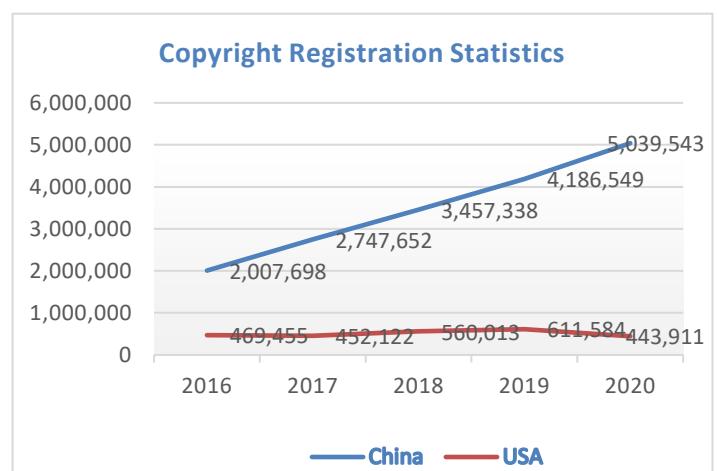
Originally created copyright works enjoy protection in China, via the Berne Convention, without the need for registration. China however also offers a voluntary copyright registration regime since 1994 and the number of copyright registrations has drastically increased in recent years.



(A sample copyright registration certificate)

- ❖ Official statistics show that in year 2021, China granted around 7.7 million trademark registrations and 6.2 million copyright registrations.

- ❖ China copyright registrations have outgrown USA copyright registrations by 4 times in 2016 and over 10 times in 2020.



(China statistics at NCAC,

<https://www.ncac.gov.cn/chinacopyright/utills/search.shtml?word=%E8%91%97%E4%BD%9C%E6%9D%83%E7%99%BB%E8%AE%B0%E6%83%85%E5%86%B5&type=title;>

USA statistics available at USCO,

[https://www.copyright.gov/history/annual\\_reports.html](https://www.copyright.gov/history/annual_reports.html))

- ❖ The EU Commission (*Copyright Protection in China: a guide for European SMEs*, 2021, <https://data.europa.eu/doi/10.2826/290166>) and the UK Government (<https://www.gov.uk/government/publications/copyright-recordal-in-china>) both recommend seeking China copyright registration.

### Key Advantages of a China Copyright Registration

- ✓ **Litigation and Enforcement** – A simple Copyright Registration, quick and economical to obtain, can replace the cumbersome notarization and legalization process required to prove documentary evidence for administrative or judicial proceedings in China. A China Copyright

Certificate serves as preliminary evidence of the existence and ownership of copyright, for example, it is a relevant proof of prior rights to support trademark oppositions or invalidation procedures.

- ✓ **Notice-And-Takedown (NTD)** – Online infringements are rampant, and e-commerce platforms such as Alibaba (阿里巴巴), Taobao (淘宝), JD (京东), TMall (天貓) etc will require a Copyright Certificate to support the complainant's copyright claim in NTD procedures.
- ✓ **Customs & Border Control** – Registered IP rights, including copyright registration, can form a basis for recording with China Customs to stop particular shipments of suspected infringements or to proactively monitor against possible infringement passing the border.
- ✓ **Efficient Enhancement to IPR Portfolio** – Copyright registration is relatively low in cost and not difficult to obtain, and it is not

restricted / tied to any confined goods / services (*unlike trademark registration which is limited by different class numbers*), and it does not require any renewal. To obtain a copyright registration can serve as a fall back if a brand owner, for any reason, cannot or has yet to secure his/ her own trademark registration in the relevant/ all classes of goods/ services in China.

- ✓ **Commercial Utility** – A copyright registration helps to simplify due diligence in commercial transactions such as mergers and acquisitions, assignments and licensing activities. Recordation of pledge, mortgage or other security interest documents for copyright is mandatory in China. Registration can help confirming important factual information such as the owner and other details of copyright works.

If you require further advice or assistance in registering copyright in China, please contact us at [ip@chloelee.hk](mailto:ip@chloelee.hk) or [law@chloelee.hk](mailto:law@chloelee.hk).

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