Enforcement of trademark rights in China is an ongoing issue faced by numerous corporations. Invalidating or canceling a trademark registration in the Chinese market is time-consuming and costly. The best way to defend your company’s valuable intellectual property assets is to put in place as many protections as possible. If your company owns a creative design mark, consider going beyond the standard trademark registration and getting the “super trademark” by obtaining copyright registration for this artistic design element.

The current trademark protection system in China can be frustrating. First, registration is mandatory to establish trademark rights as China is a “first to file” instead of “first to use” jurisdiction. The covered goods and services in your trademark application are grouped into classes based on the Nice classification system with further subclasses, with protection generally only offered in the exact classes and subclasses protected. There are 45 classes, and each class added to an application comes with additional government fees. Thus, it can be a very expensive endeavor to cover all classes. Further, the trademark registration process takes time as it can take a year or longer for your trademark application to mature to registration.

If money is an object, and time is of the essence, how does a company best protect its creative design marks? Consider filing a copyright or a “super trademark” to protect your design mark. Unlike the trademark application, there is no restriction on the designated goods and services covered in a copyright application. Further, the examination period for copyrights is relatively short. If there are no objections during the application process, you might receive your copyright registration in one or two months. The copyright registration certificate can be used as proof of rights for complaints and cease and desist letters.

Please note that a copyright must be filed with the Copyright Protection Center of China (CPCC), whereas a trademark is filed at the China Trademark Office (CTMO).

It is best to file a copyright registration in China immediately after the creation of a logo design as it will create prima facie evidence of copyright ownership. Early filing also presents strong evidence of the prior creation of your work, which is helpful if enforcing your trademark in trademark opposition proceedings.

A downside to a copyright action is the standard of similarity is higher than in trademark actions as the pirated version must be identical or nearly identical. Therefore, it is helpful to have both trademark and copyright protection for your design marks and one method should not be used in place of the other.

Already have an issue in China where a third party is using your design mark and only own a U.S. copyright registration for your design mark? Unfortunately, there is no such thing as an international copyright. However, China is a member of multiple international treaties and conventions such as the Berne Convention for the Protection of Artistic and Literary Works and the World Trademark Organization (“WTO”) with adherence to the