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## **Protecting Intellectual Property in China during the COVID-19 Period**

China's intellectual property (IP) system has continued to function over the COVID-19 period. While some in-person contact is being avoided, solutions have been widely adopted including online and postal case filings and online trials. However, there are challenges that rights owners may now face as a result of travel restrictions, or not being able to meet administrative deadlines.

### **Protection**

China National Intellectual Property Administration (CNIPA) continue to provide rights services. In the [Announcement No.350](#) (in Chinese) and [FAQs for trade mark cases](#) (in Chinese) CNIPA stipulates that right owners who failed to meet relevant deadlines and as a result lost IP rights (patent, trademark and integrated circuit design) due to the COVID-19 outbreak, can apply to resume the right, or postpone the deadline applied, as long as relevant evidence is provided. As described in the FAQs for trade mark cases, relevant evidence includes the proof of applicant being infected/hospitalized, quarantined or restricted for travel due to COVID-19, but excludes any public notifications of regional office/factory shut-down issued by local government. Applicants with multiple cases only need to apply once, with a list of all the case file numbers attached. CNIPA have since clarified that Announcement No.350 applies to all applicants affected by covid-19 (whether foreign or Chinese nationals).

For the Copyright Recordal process (a voluntary copyright filing process, see more details in this [factsheet](#)), regional offices of the Copyright Protection Center of China (CPCC) reopened from late February.

Due to travel and quarantine restrictions still occasionally being applied in some parts of China, right owners in certain industries may need to share sensitive information via online channels more than usual, which will increase the risk of IP infringement. Extra care should be taken under these circumstances to mitigate this risk, and rights owners should continue to:

- a) understand who is on the receiving end of any sensitive information and do comprehensive background checks;
- b) consider registering relevant IP rights in China as early as possible;
- c) apply robust internal policies and technical protection mechanisms for sensitive information and trade secret sharing; and
- d) always engage partners using a contract that has robust, enforceable IP protection clauses, and use Non-disclosure Agreements (NDA) as much as possible before sharing any sensitive information.

If requested, the China IP Attaché team (contact details below) can provide NDA templates and in-depth explanations (see also the [UK-China Film & TV Toolkit](#) and [Research & Innovation Toolkit](#)). We cannot provide legal advice and in using the templates, right owners are expected to engage legal professionals with China experience to draft NDAs or contracts to fit specific scenarios.

### **Enforcement**

Covid-19 restrictions also impact activities such as offline investigation and evidence collection activities, or filing cases with local enforcement authorities. Right owners, especially those who have no ground team and rely on

third-party IP service providers, should take this into consideration when considering any enforcement related action during this period.

Regarding litigation and related deadlines (e.g. the 30-day deadline applied for case filing, the 3-month deadline applied for documentation/evidence submission in administrative litigation, and the general limitation of action for filing any civil cases), there has been no official clarification released yet. The General Provisions of the Civil Law of China do accept Force Majeure as a ground for extending limitation of action, and some courts (particularly Beijing IP Court who handles administrative litigations) have said in media reports that material obstacles will be considered when a relevant deadline is missed without subjective faults. However, considering the online and mail filing channels still work properly despite the COVID-19 outbreak, rights-owners are recommended to respect the set deadlines and relevant procedures of the court as much as possible, and should always consult legal advice in more complicated circumstances.

If the trial is moved online, the process should be straight forward, and in theory is accessible from anywhere with internet access. The court will request both parties and witnesses to install an online trial App and register with personal identification. IT guidance should be sent to legal representatives of the case before the trial.

For more background information on registering and protecting your IP in China, please see the British Embassy Beijing [IP Page](#) and our [factsheet](#) on China's IP environment.