

SUBMISSION TO STANDING COMMITTEE ON SCIENCE AND INNOVATION
SUBJECT: **DECLINE OF INTERNATIONAL INTELLECTUAL PROPERTY RIGHTS**

Summary

This submission highlights the impact on Australian innovators of China's failure to recognise patents, trademarks, copyright and intellectual property generally.

It points out that comparisons between Japan in the 1960's and China today in terms of failure to respect intellectual property rights are misleading. There are reasons the Japanese problem 'went away' not present with China today.

This submission recommends that Australia join other Western nations in bringing pressure to bear on China to enforce global standards of fairness in intellectual property protection.

Why the problem of cheap Japanese look-alikes went away

1. There is a long history of emerging manufacturing nations copying Western designs and ideas. Most obvious was Japan in the 1960's. But as well as lacking Western designs, Japan also lacked Western technologies and capital. Early copies of Western designs and ideas were poor imitations and preserved the market for the 'genuine article'.
2. Over time Japan's industrial sector gained sophistication. At the same time their democratic Government ensured a fair distribution of wealth via living wages and the equivalent of Western social structures. These benefited the Japanese as a whole but removed the advantage of cheap labour and low infrastructure costs, forcing Japan to compete at the high end rather than being a manufacturer of cheap copies.
3. Competing at the high end with Western labour rates forced Japan to innovate not just immitate to be first to market with brands, not a late entrant with copies. Thus Japan developed a sense of the value of intellectual property and international relationships possessed mutual vulnerability which engendered respect for intellectual property.
4. Japan is a net food and oil importer. This reliance on the global community and Western nations in particular forced some degree of compliance with international standards of fairness, intellectual property rights among them.

China today is fundamentally different to Japan in the 1960's in scale, access to capital, access to technologies and absence of democracy or mutual vulnerability.

Thus China has been able to erode one of the fundamentals of industrialisation and innovation, the ability of innovators to own and protect their innovations.

5. China's huge manufacturing capability is sufficient to change the global balance to a far greater degree than an emerging Japan when it had the same unfair advantage of non-compliance with intellectual property rights.
6. Global financial markets give China freeflow of capital and access to partnerships not available to an emerging Japan.
7. China does not pay living wages or social security and does not enforce Western industrial safety standards. China's undemocratic government and persistent lack of concern for individual rights make living wages or social security systems unlikely to emerge. Compare this with Japan's situation described in paragraph 2.
8. The Chinese population are suppressed, witness the brutal eradication of the harmless and peaceful form of medication known as Falun Gung. They are misled, as evident from the anti-Western and pro-Chinese propaganda in their government-controlled press. Thus a meaningful labour movement producing higher wages and better safety standards is unlikely to emerge. Compare this with Japan's situation described in paragraph 2.
9. China does not need the West. It may need Western engagement to produce a rising living standard for all. But the illegitimately empowered elite are not concerned with the lifestyle of ordinary Chinese. Benefits of industrialisation so far have not transferred to all levels of Chinese society. Compare this with Japan described in paragraph 4.
10. China does not fear the West militarily as evidenced by its threats of Taiwan despite that independent democracy having the support of the West. Japan by contrast was a conquered nation and had everything to fear from the West.

The breakdown of intellectual property rights on a vast scale is supported by the Chinese government and has reached a 'tipping point' globally.

Western attitudes to intellectual property are weakening due to non-observance becoming the norm. The consequences are devastating to countries like Australia who rely in the export of innovations.

11. Light headed attitudes to China's 'copy watch' industry mask the true gravity of the situation. The issue is not that a copy watch looks like a Cartier, it's that a Cartier looks like a copy watch. Copies erode brand value as well as costing the owner sales.
12. Copy watches and the like used to be poor imitations. Now they can work as well as originals because Chinese industrial expertise grows and sales volumes of pirated goods warrant a greater investment in their manufacture. Note that copying is not limited to brand and design, but includes the technology underlying the brand and used to make it.
13. Intellectual property pirates don't just gain the design, they gain the market experience. It may take Mont Blanc many attempts to finally find a fountain pen that captures the market's imagination. Only when it does do the pirates seize and replicate the design.
14. Intellectual property pirates don't just gain the design, they gain the trade mark and borrow the reputation. This is a zero sum game – either the pirated good is elevated or the original trademark is diminished and innovator's reputation tarnished.
15. The Singapore Straits Times recently reported that Chinese companies have started registering existing trademarks and patents in China. This would appear comical and pointless except that the Chinese government is complicit. When the true trademark or patent owner seeks redress, the sympathetic Chinese courts prolong the matter for years. During this time the trademark or patent owner can be prevented from marketing the authentic product in China.
16. Respect for intellectual property does not arise from some fundamental human goodness. Like many Western cultural norms, it arises from social reciprocity. I return a wallet I find in the street because others do so. Readers Digest dispersed apparently authentic wallets in the streets of the world's major cities. Copenhagen was placed first with an astounding 180 wallets out of 180 returned! The idea of returning a lost wallet in Beijing is unknown. The point of this brief digression is to stress that a country as large as China ignoring intellectual property rights is enough to remove social reciprocity from the global community. It makes no commercial sense to respect intellectual property rights if others are not required to do the same. (Not every reader will understand this point, but sociologists definitely will. For more reading see Peter Singer "How are we to live?")
17. The net result of China causing the intellectual property tipping point (to use a phrase coined by Malcolm Gladwell) is a breakdown of respect for copyright, patents and designs in the West. The sharing of pirated music is an example. After Napster was closed by Western courts, it attempted to stay in business via charging for downloaded songs. But by that time the consumer was so accustomed to music downloads being 'free' and Napster quickly folded. Free downloads continue from private sources.

18. Individual marketers cannot reverse the present decline since those in a position to penalise China via withholding goods or services also rely on selling them. The source countries of innovations protected by patents, trade marks and copyright must act in unison.

19. Innovative nations must require China to embrace and enforce domestically the Western world's understanding of intellectual property rights in default of which China loses favoured nation trading status or some equivalent censure.

Bruce Haddon MA Grad Dip AFAIM
Director
Haddon/Perceptions
Level 7, 275 Alfred Street
North Sydney 2060

(02) 9954 5353

bruce@haddonperceptions.com