

Brand globalisation: Why planning from an early stage is vital

By [Carmin Cornelius](#)

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The luxury shoe giant, Manolo Blahnik, has won a legal battle to use its own name in China after almost 22 years of litigation. A Chinese businessman, Fang Yuzhou, filed numerous trade marks in China related to the Manolo Blahnik name in 1999. As the Chinese system follows a "first to file" approach, unlike South Africa and many other international jurisdictions that are "first-use" jurisdictions, Manolo Blahnik was barred from entering the Chinese market without infringing the rights of Yuzhou.



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For many years, infringers have abused the system to bar well-known international brands from entering and expanding into China by filing trade marks for the brand before they get a chance to enter the Chinese market. However, in 2019, amendments to the Chinese Intellectual Property Laws paved the way for the cancellation of so-called "bad faith" filings, which has eased the burden for well-known international brands fighting for their own marks in China for decades.

The saying "rather safe than sorry" has never been more apparent than in this case. In an ever-developing digital era, not to mention the expansion thereof into the metaverse, the planned protection of intellectual property has become an essential exercise for many business owners. As even the smallest and newest of brands have been copied in this manner in territories such as China, no business should regard themselves as exempt.

Arming your business with the right intellectual property tools from the get-go will equip you to expand your global footprint without the hassle of decades of litigation to enter the market in a specific territory.



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Before launching your brand into a world of possibility, we suggest getting your ducks in a row by considering the following:

1. What type of intellectual property will you use in trade (copyright, trade marks, patents or designs)?
2. Who owns these rights? The ownership of certain rights is prescribed by legislation. Remember, just because you paid for it does not mean you own it.
3. What are the requirements to obtain protection for these rights locally?
4. In what territories do you aim to trade, not only in the near future but also later on?
5. What are the intellectual property laws and possible applicable Convention Treaties in those territories?

By mapping out your intellectual property needs beforehand, you will be able to mitigate your risks and preempt lengthy litigation in all territories that may be deemed “problematic”.

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