



Alibaba's Business & IPR Protection Summit

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Author: Yasmina Ashcroft



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Who is Alibaba?

Alibaba Group

Alibaba is a multinational e-commerce company which was started in 1999 by 18 founders and now has over 100,000 employees. The company, including two of its subsidiaries; Taobao and Tmall, has 180,000+ brands selling products across the group's online marketplaces. With 654 million annual active consumers, Alibaba's current gross merchandise volume is around \$853 billion.

The reach of this e-commerce company is apparent during its yearly "11.11" shopping festival where the company transacts \$30.83 billion within 24 hours. This is partly as a result of the difference in the way that Chinese consumers spend their money. In the UK 80% of consumers shop through search engines and websites. In China, however, 99% of consumers shop and research on marketplaces, with 60% of them (30+ years in age) spending an average of 30 minutes per day doing so.

"Trade between the UK and China is valued at around £70 billion"

China receives around 7.4 million trademark applications per year and its e-commerce has revolutionized global trade, although the most common IP issue faced by British companies is Bad-faith trademarks or 'trademark squatting'. Bad-faith trademarks typically involve a trademark being applied for with the intent of selling the usage rights back to the original creator.

The Alibaba Group has many retailing platforms; Taobao, Tmall and 1688.com, which cater for the needs of Chinese customers and businesses, and AliExpress, Lazada and Alibaba.com which serve a global market. The coupled transaction volume of Taobao and Tmall exceeds that of all US retail and e-commerce sites combined. According to Forbes, Alibaba encompasses 77% of the world's most valuable retail brands.

Taobao

Taobao is an online marketplace aimed at facilitating 'consumer to consumer' retail by providing a platform for small businesses and individual entrepreneurs. It is the world's largest e-commerce site and the seventh most visited website, globally. The Alibaba subsidiary, founded in 2003, has around 700 million monthly active users and over a billion product listings.

The logo for Taobao.com, featuring the Chinese characters "淘宝网" in white on an orange background, with "Taobao.com" written in white below it.

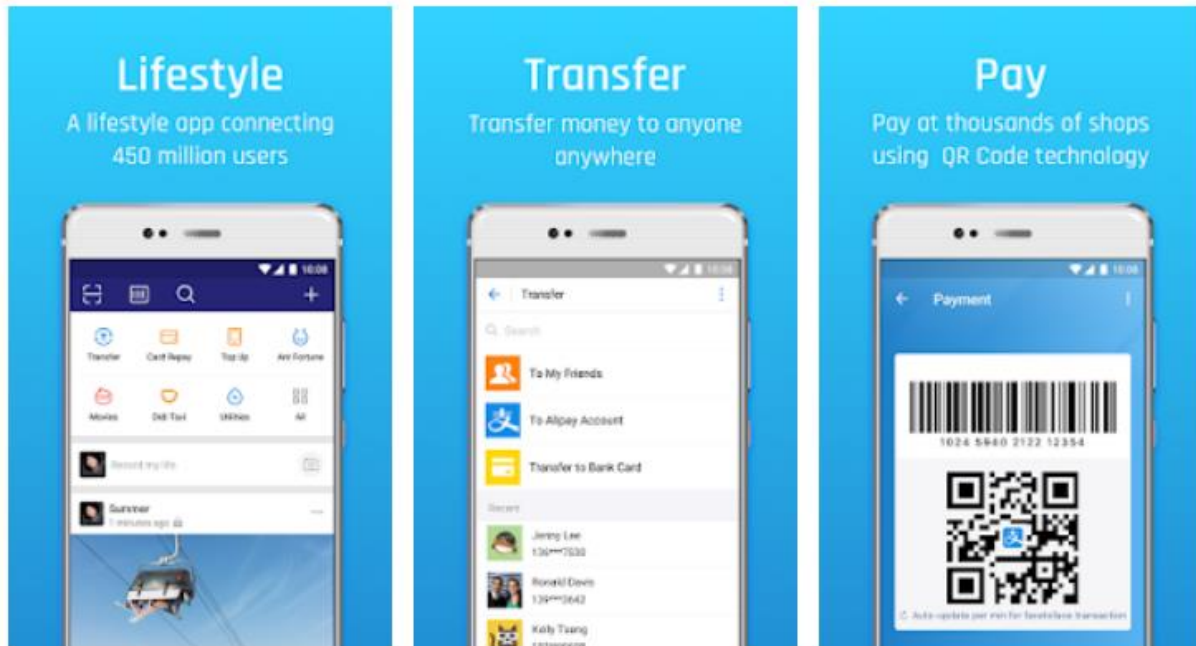
Tmall

Tmall, founded in 2008, is aimed at connecting businesses with consumers and is akin to an online shopping mall. Tmall is a platform for local Chinese and international businesses to sell brand name goods to consumers in mainland China, Hong Kong, Macau and Taiwan. Thousands of brands currently sell their products on Tmall with stores on the platform including Adidas, P&G, Samsung and Lipton, to name a few. The e-commerce platforms open to UK brands include Tmall.Com and Tmall Global and unlike Taobao, Tmall only accepts verified stores, giving customers guaranteed genuine products

“Trade between the UK and China is valued at around £70 billion”

Alipay

China has around 160 million outbound tourist visits every year, 400,000 of whom will visit the UK to spend an estimated £1 billion and this is expected to rise. Alipay is an eWallet QR based, secure, no cash system to enable retailers to take payments and gain insights based on the data collected from their customers and is the most widely used third-party online payment solution in China.



Google Play Store, 2019 <<https://play.google.com/store/apps/details?id=com.eg.android.AlipayGphone>>

For reasons of convenience, pride and discounted exchange rates, 90% of Chinese tourists said they would spend more if they could use Alipay for retail payments than they would with cash or card. The mobile payment platform, which was founded by Alibaba in 2004 is the largest in the world, overtaking PayPal in 2013, and has around 870 million users.

IP Protection for ACID Members

Intellectual Property

In 2002 Alibaba formally committed to IPR protection by allowing rights-holders to submit reports of infringement by email, this developed into two IPR online protection platforms; AliProtect and TaoProtect. By 2016, these platforms were integrated into one infringement reporting and takedown system; IPP Platform (ipp.alibabagroup.com). Intellectual Property Rights types in China include; trademarks, patents, design rights, copyright and trade secrets.

The body that issues trademark registrations in China is the China Trademark Office (CTMO), trademarks are issued with less importance placed on the usage of the mark but more on a "first to file" basis. Patents and Design Rights are administered by the Chinese State Intellectual Property Office (SIPO) and can take up to 2 years to process. As a result of China being a signatory to the Berne Convention, copyright will arise automatically for any work created, within or outside of China, however, unregistered designs receive significantly less protection in China than in the UK.

“Alibaba respects and protects ALL intellectual property rights (IPR) and requires ALL sellers on its platforms to do the same”

In China, once IP rights have been secured and an infringement discovered, there are 5 channels available for enforcing rights; Civil Litigation (6-12 months), Administrative enforcement (fast, inexpensive and effective for straightforward cases), Criminal Enforcement (for cases that exceed fixed criminal thresholds), Customs Enforcement (border enforcement can only be benefited from if IP rights are registered with China Customs) and non-official channels e.g. online takedown procedures provided by e-commerce platforms

Notice & Takedown (NTD)

Rights-holders can begin this process by requesting that a potential IPR infringing marketplace listing be removed by Alibaba. The first step is to register an account on Alibaba's IPP Portal. In order to register an account, the rights-holder will need proof of identity i.e. passport or driver's license in addition to company documents and proof of intellectual property rights.

For registered rights-holders, proof can be submitted in the form of a copy of official trademark, copyright or patent certificate. Where designers are reliant upon unregistered rights, the rights-holder must produce a completed Copyright Claim Statement which can be downloaded and completed at the point of IPR submission (pictured overleaf).

How to protect your intellectual property rights on IPP?



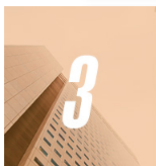
Register an account on IPP platform

1. Create an IPP account with your email. [How to register my account on IPP](#)
2. You can also [login](#) to our IPP platform with a valid account on Taobao.com, Tmall.com, Alibaba.com, Aliexpress.com, and 1688.com.



What intellectual property right(s) do you wish to protect

1. Provide [proof of your identity](#).
 2. Provide [proof of your intellectual property right\(s\)](#).
- Once verified, you do not need to submit these documents again as long as your IP rights documents have not expired.



Let us know where the infringement is

1. Choose the platform where the alleged infringing listing is found, submit hyperlinks to the listings and provide any additional support of alleged infringements.
2. Once the takedown request is verified, we will take down the corresponding listing and notify owners of the removal. If any counter-notification is received, it will be forwarded for your response.



Manage your intellectual property rights enforcement

1. Manage the intellectual property rights documents you submitted.
2. Check the status of your complaint submissions.
3. Review historical records of your complaints.

IPP Platform Instructions, Alibaba, 2019, < <https://ipp.alibabagroup.com/instruction/en.htm#part5> >

Once your registration on IPP is complete you can submit NTD complaints and check the ongoing status of your complaint submission through your IPP account. 96% of takedown requests are processed within 24 hours.

Alibaba IPP Platform – Copyright Claim Statement

<u>Copyright Claim Statement</u>	June 25, 2019
We / I, the undersigned, state under penalty of perjury that:	
<ul style="list-style-type: none">➤ We are / I am the copyright owner ("IPR Owner") of the items described below;➤ We / I have a good faith belief that product listings identified and submitted via the IPP Platform (https://ipp.alibaba.com) / AliProtect (https://legal.alibaba.com/index.htm) contain our / my copyrighted work without our / my prior consent and therefore infringe our / my copyrights;➤ All the information provided in this statement are true and accurate; and➤ We / I agree to indemnify and hold Alibaba Group Holding Limited and its affiliates ("Alibaba") harmless from all claims, causes of action, damages and judgments arising out of removal of any listings.➤ We / I agree that all information provided in this statement, including the copyrighted work details, will be disclosed by Alibaba to the parties being complained of in order to process our / my claim.	
Details of our / my copyrighted work:	
❖ Name of owner: _____	
❖ Name of creator (if the creator is not the owner, please produce ownership reassignment by the owner to the creator): _____	
❖ Date / time and place of creation: _____	
❖ Creation method (e.g. photographing, programming, audio-visual recording, etc.): _____	
❖ Date of first publication: _____	
❖ Evidence of first publication (e.g. <u>exact location</u> of the copyrighted work claimed to have been infringed as identifiable from official website/catalogue) _____	
❖ Major characteristics: _____	
❖ Number of copyrighted pictures attached to this statement (not required if a valid and official website is stated above) _____	
We / I confirm that the product listings to be submitted by us / me via the IPP Platform / AliProtect infringe our / my copyrights as described above. Therefore, we / I hereby request Alibaba to remove or disable access to them in accordance with Alibaba's IPR Protection Policy.	
_____ Claimant's / Authorized Representative's Signature	

Should the seller receiving the complaint wish to appeal, Alibaba's team will review the case and make a decision. Alibaba also has a point-based penalty system whereby sellers of infringing products receive penalties such as ranking reduction, blocked listings, penalty points and limitations on advertisement.

Marketplaces; Taobao and Tmall, also have a ‘three strikes and out’ and ‘one strike and out’ policy, respectively. Alibaba have also implemented a ‘Good Faith Program’, whereby eligible rights-holders are automatically enrolled when they have a successful takedown rate of 90% or higher and a less than 5% failure rate on seller pushback.

Proactive Monitoring

Alibaba uses sophisticated technologies to analyse information from complaints to user behavior to monitor for potential IP infringing listings across their e-commerce platforms. This supports the proactive removal of counterfeit goods from Alibaba’s marketplaces and as a result in 2018 the platforms had 67% fewer suspected listings.

Offline Enforcement

As counterfeit goods do not originate online, i.e. they must be produced or manufactured ‘offline’, Alibaba supports law enforcement and rights holders in identifying sellers and manufacturers of counterfeit goods. Half of the world’s manufacturing is carried out in China and as a result the prevalence of counterfeit goods is understandably high. Alibaba’s offline anti-counterfeiting team works with law enforcement agencies like the Police Intellectual Property Crime Unit (PIPCU), to provide information for further investigation and action. Alibaba also accesses the Infringing Website List (IWL) maintained by PIPCU to be able to blacklist infringing and pirate streaming sites.

IACC MarketSafe®

The IACC MarketSafe Program is the result of a collaboration between the International Anti Counterfeiting Coalition (IACC) and Alibaba. The program enables SME’s to enroll free of charge to submit NTD requests for infringing goods on Alibaba platforms via an expedited removal procedure. Since the program started in 2014 there has been a 100% take-down when companies stand behind their claims. The storefronts of over 6,800 sellers have been closed and nearly 200,000 counterfeit listings have been removed.

Conclusion

Alibaba Platforms

Intellectual Property (IP) contributes around £135 billion in ‘knowledge assets’ to the UK’s economy. Across Europe the knowledge economy is worth 42% of GDP at a staggering €5.7 trillion. Counterfeit goods are estimated to cause around 9 billion in lost sales.

“Intellectual Property is vital to the UK’s economy” Chris Skidmore, Minister for IP and Innovation

Although Alibaba are seen to be one of the most proactive e-commerce platforms in terms of identifying and removing infringing and counterfeit products, it is advised that designers apply for trademark registration at the earliest point within their exploration into the Chinese market. This is as a result of the reduced protection that is afforded to unregistered design rights in China, versus the UK.

In order to aid ACID members in protecting their IP on Alibaba’s e-commerce platforms, there are a couple of steps that could potentially be taken. Initially the Alibaba IPP Platform should be encouraged to accept ACID IP Databank submission certificates as sufficient evidence of unregistered design rights and copyright ownership, and in lieu of a Copyright Claim Statement. Alongside which, an IPP Platform how-to guide could be distributed amongst members.

ACID would also, ideally, seek membership of the Alibaba Anti-Counterfeiting Alliance (AACA) as a representative of rights holders within ACID membership.

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