

**STANFORD UNIVERSITY**  
**SCHOOL OF ENGINEERING**  
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**Doing Business with your Technology in Asia**

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**Fred Greguras  
Of Counsel  
Fenwick & West LLP  
fgreguras@fenwick.com**

Intellectual property management in Asia should be part of overall global management of this important business asset. IP can be a significant corporate asset for companies in virtually every industry. IP is important for companies at all stages but it is different for an early stage company and large company. Neither IP or technology by itself establish a business. An early stage company needs to make sure there is a market for the product in which the IP is embodied a plan to capture that market and execution on the plan.

Creating and protecting such assets are part of management. Using low cost offshore resources to create, maintain and improve IP may also be part of management. For a large company, generating revenue through selling or licensing IP or filing infringement suits is also part of IP management.

1. Understand the IP legal infrastructure in the applicable market country(s)
  - Consider whether you are looking at the country as a service supplier, market or both. In the service supplier situation, are you (or should you) using a captive subsidiary or third party vendor?
  - Fenwick's 2003 International Legal Protection for Software publication (electronic version on our website, [www.softwareprotection.com](http://www.softwareprotection.com)) identifies the software legal protection infrastructure around the world.
  - Does IP protection exist for your type of asset?
    - think broadly about the definition of IP, brand, script in a call center, BPO process, etc.
2. Dot your legal i's and cross your legal t's to the extent feasible, economically and otherwise.

- Consider whether patent and trademark filings should be made in selected countries. International copyright protection generally does not require any filings.
  - In an early stage company, consider using provision patents initially to protect your global position to avoid being barred from patenting for public disclosure.
  - Use NDAs to the extent feasible.
  - Have agreements with employees and contractors in development and other service situations. This is a simple requirement but often overlooked.
  - Have agreements with beta customers, distributors and other channel partners.
  - Consider signed or “click” agreements with customers depending on the product and price points.
3. Recognize that judicial enforcement may be lengthy, tortuous, difficult and ultimately ineffective.
- Impossible if you are a small company.
4. Take practical steps to protect your IP.
- Work with a local partner with clout and/or business reasons to protect your intellectual property.
  - Provisional patents may be a low cost way for early stage companies to temporarily protect its priority of rights internationally.
  - Mark your IP with the applicable proprietary notices: ©, ™, ®, CONFIDENTIAL
  - Outsourced services:
    - Keep certain components of the core software or other technology in the United States.
    - Management clout and execution.
  - Digital rights management and other technical precautions
  - Rapid improvement of your products, good service and support