



AN INSIDER'S LOOK
**AT FEES FOR LEGAL
SERVICES IN CHINA**

What's covered?

- ▶ Are the Chinese courts biased against foreigners?
- ▶ When does it make sense to engage a lawyer when doing business in Asia?
- ▶ In what areas can a Chinese lawyer support me?
- ▶ Where should my lawyer be based if I am dealing w China?
- ▶ What are the different types of lawyers in China & how much do they charge?

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Author's Perspective

During my 20 years living in Asia, I've owned a number of different business entities in greater China, ranging from China manufacturing WFOE's to service companies. Along the way I have dealt with lawyers based in China, back home and in HK. I've engaged (and dismissed) both foreign and local lawyers.

China's legal system is constantly in a state of flux. National laws promulgated in Beijing can be interpreted very differently among local and provincial courts, governments and businesses. So I don't claim to be an expert on all aspects of China law; and anybody that claims to know "everything about China" should not be taken seriously!

I've had my share of success as well as failure in the China courts, and in this whitepaper I'd like to share some of the key lessons, pitfalls and best practices that I learned the hard way when answering the deceptively simple question of "how to find a good lawyer in China?" in a transparent fashion.



Terminology

“Foreign” & “Local”

When I use the term “foreign” I am referring to non-China based business and people. “Local” means China-based.

WFOE

“WFOE” stands for “Wholly Foreign Owned Entity”. The non-Chinese party owns the means of production. There are many variations to the WFOE, such as “trading WFOE”, “service WFOE” or “manufacturing WFOE”. But what makes the WFOE special is that this type of business structure does not require any Chinese partners, yet the business is on a level playing field with Chinese owned businesses (at least in theory, from a legal perspective).

If you want to directly employ a team in China under your own China based entity, which will be owned by you, without any local partners, then you are thinking about a WFOE.

Assumptions about the reader

While the concepts discussed in this whitepaper may be of interest to anyone that wishes to do business in China, regardless if you are on the buy or sell side of the transaction with China. Readers who are thinking about setting up their own offices or factories in China will find the whitepaper particularly useful.

The concepts explained in this whitepaper also apply to personal law, so it's not just business people that may find the white paper of interest.

If you live in China or work with China in some way, this whitepaper is for you.

Are the Chinese courts biased against foreigners?

10 to 15 years ago, foreigners tended to feel they could not get a fair shake in a Chinese court, so they didn't bother to pursue that option. However, with China joining the WTO at the turn of the century and the government committed to improving the rule of law to help bring stability to a growing economy, the perception is changing and there is a feeling among foreigners that the playing field is more level these days.

Regardless of which country you do business in, if you work there long enough, and even if you are the straightest arrow in the bunch, sooner or later there will be a day when you get to see the legal system up close and personal. I'm not sure if I have been lucky, simply well prepared, or perhaps I started with very low expectations, but my experience with the Chinese court system overall has been pleasantly surprising (knock on wood). Here is an overview of one of my experiences with the Chinese courts.

A supplier was holding some funds that belonged to me and diplomacy had failed, so my assistant and I got up early and made it to the court to be the first in line to submit our notarized documents and present our papers to the clerk in order to book a date for the hearing. The clerk went over our papers and everything was in order, except a very technical suggestion in their SOP that we needed a formal letter from my company's board of directors stating that I have the right to represent the company in submitting the paperwork.



That request was quite silly because I am the sole owner of the company and carried the company chop and passport and even business license stating I was sole owner with me that day. But a government officer has a lot of room to interpret the rules as they see fit. So we explained the situation. Plus it helped that I went in person as having a westerner kowtow to the clerk to ask to speak to her supervisor to explain our case actually worked, and after a bit of a wait we got an audience with one of the judges that very afternoon.

We once again explained the situation and politely mentioned how the costs of lawyer fees, court fees and notarization, combined with my time away from the office, travel back from out of town to come to court and so on... are significant when you consider the whole case is for less than 20K USD.

Believe it or not, the judge was receptive and wanted to help. But he couldn't easily overturn his subordinate's stance that we should submit more documents as that would cause his subordinate to lose face. But he did want to help, so he actually picked up the phone and called the defendant in our case to explain that he was "sitting here with Mike, who is very serious about this case and after reviewing the case, if he was the judge, he would probably rule in his favor, so the defendant would be better off paying the amount now rather than risking a loss and even larger payment once court cases and perhaps damages were applied."

The situation made me really pause to reflect on how much China has changed over my 10 years living here. Even as recent as a few years ago:

- 1. The courts would certainly not go out of their way to help a foreign entity***
- 2. The clerk would no way allow her superior to be bothered.***

But in the case above the system was working fairly and both the clerk and even the judge went way out of their way to help. China's court system is more effective than my experiences in the USA. Based on the case above, you could also agree that the playing field was not level, but to my benefit, the foreigner in China!



If you play by the rules in China, you can expect the courts to be fair. For example, China's Intellectual Property system is a "first to register" rather than "first to market". So if you register your brand back home but not in China, you can't claim the courts are unfair if they don't protect you. It's your fault for not knowing the rules. So in today's China, the most important question to ask is not "are the courts fair?" but rather "am I playing by the rules?" Because the "rules of the game" change pretty fast in China, it makes sense to get legal advice. So in the next few sections of this whitepaper let's explore how to find a lawyer and negotiate a fair price for services.

When does it make sense to engage a lawyer when doing business in Asia?

Overcoming differences in business cultures

In the past, partnering with a Chinese company was much more regulated. It is still very complex, but Chinese and foreign sides are fairly flexible in negotiating the terms of their partnership, be it a Joint Venture or a simple PO to buy products. The foreign side often uses contract templates from back home which they feel comfortable with. The Chinese side tends to see the contract as more of a memo of understanding rather than a strict legal document, and as the China side puts the relationship first, they may sign the agreement without even translating it into Chinese or really understanding it. Unfortunately, this is very dangerous as even if things feel smooth at first, there are most likely icebergs hidden in the water which the foreign partner doesn't yet see coming. So failure by the two sides to communicate the long-term partnership details is a common cause of relationship breakdown.



A professional law firm speaks both languages, understands both business cultures and can be the bridge between the two sides to ensure short-term and long-term interests are aligned and contractually protected.

It makes sense to get the lawyers involved early to offer guidance rather than trying to bring in legal support after the fact. In other words, spend a little money on preventive medicine upfront and avoid costly legal battles later.

In what areas can a Chinese lawyer support me?

Here is an alphabetical list of the typical legal services offered to foreigners who do business with China.

➤ Crisis Management

➤ Debt Collection

➤ Estate Planning

- *Wills*
- *Trusts*
- *Powers of attorney*
- *Inheritance*

➤ Dispute Resolution (Negotiations, Demand Letters & Litigation)

- *Arbitration*
- *Cease and desist*
- *Coordination of local police*
- *Demand letters*
- *Litigation*
- *Mediation*

➤ Due Diligence

- *Corporate Assessment (CA):
Stability, Reputation & Assets*



➤ Intellectual Property Registration

- *Copyright Registration*
- *Trademark Registration*
- *Patent Registration*
- *Utility Patents*
- *Design Patents*
- *Invention Patents*

➤ Family Law

- *Marriage registration*
- *Divorce*
- *Paternity*
- *Jurisdictional disputes*
- *Adoption*
- *Prenuptial agreements*
- *Postnuptial agreements*
- *Anti-harassment protection*





➤ **Foreign Direct Investment (FDI)**

- Strategic planning
- General counsel
- Business formation (approval and registration)
- Corporate control & governance
- Due diligence
- Intellectual property registration, monitoring & enforcement
- Government relations
- Compliance

➤ **Human Resources (client may be an employee or employer)**

- Employment contracts
- Restrictive covenants
- Compensation structures
- Policies & procedures
- Dispute Mediation, arbitration & litigation

➤ **International Trade (import/export)**

- General counsel
- Bi-lingual contract creation or review
- Dispute resolution
- Drafting of legal documents
- Due diligence & verification
- Negotiations with local entities
- Import/Export procedures and compliance
- Corporate intelligence



➤ **Labor Law**

- Employee insurance contributions
- Individual income tax
- Overtime payments
- Hiring & firing
- Environmental protection
- Health and safety
- Import & export standards and quotas
- Foreign exchange controls
- Registered capital contributions
- Taxation
- Transfer pricing
- Mergers & acquisitions
- Shareholder agreements
- Exit strategies

➤ **Real Estate**

Where should my lawyer be based if I am dealing with China? Back home vs PRC?

Having boots on the ground is indispensable. Whether you are operating within Asia or abroad, it is always reassuring having someone on-site and ready to respond at first notice. Additionally, there are many procedures and functions that a foreign attorney, even with an international firm, simply cannot do.

Smart businesses demand competence in the drafting of documents and transactions. Although it may seem beneficial and expeditious to simply pull a template from the internet, even the most expansive generally-termed contract will miss details, especially if you pull a US template and try to use it in China.

Keep in mind, your presence may be required in China for business. During these times, whether you are looking for, or managing vendors, legal consultation is likely to be needed.



Product safety

At home in the U.S., or in Europe, there is a distributor who is the importer of record and if anything goes wrong, the distributor absorbs liability (or at most shares liability). However, buying direct from China, you are likely to be the importer of record. Even if you are completely unaware or detached of any wrong doing on the behalf of a supplier (e.g., labor disputes, product hazards) the local government may come after you anyway. Do not rest easy when a factory manager tells you that they are “globally insured.” Consider for a moment, would a U.S. lawyer go after a Chinese-based supplier when there is a stateside defendant (you) to go after?

Generally, if you are a U.S. citizen (or even a non-citizen, but with “minimum contacts” in the U.S.) you are always amenable to U.S. jurisdiction. As the importer of record, YOU are directly liable. As such, liability comes with the duty to stay informed of the relevant laws of both the U.S. and mainland China.

Deterrent

Put yourself in the shoes of a supplier. If a supplier knows that you have retained local counsel, it is more likely than not that he or she will exercise more diligence and care throughout production as your response to any wrongdoing will be much more swift and efficient.

Cut out the middlemen lawyers

At times it may seem more convenient to hire a domestic, U.S.-based law firm. But consider this: even for the most basic tasks a U.S. firm might consider it more efficient to outsource its in-house responsibilities to a Chinese firm! With this in mind, it is logical to cut out the middle man and connect directly with the firm handling the matter. Another reason clients may be hesitant to hire Chinese attorneys is that—well let's face it—because it can be a daunting task connecting with a good Chinese supplier, it reasons that it may be just as difficult to find an effective Chinese legal firm. But keep in mind, the key is finding a firm that can communicate with not only you, but also with your associates.

What are the different types of lawyers in China & how much do they charge?

There are essentially 3 types of law firms operating in Asia:

Type 1:

Large multinational firms headquartered in places like New York and London, with offices or partners in China that target large clients with large bank accounts.

Type 2:

At the other end of the spectrum, there are lots of local lawyers in Asia with variable degrees of professional and affordability, yet they often lack the foreign language, project management and customer service skills to successfully engage overseas clients.

Type 3: In the middle you will find China-based, foreign-operated law firms and legal service providers.



General Retainer Fees

Blocks	4 Hours	10 Hours	20 Hours	40 Hours	80 Hours
USD	400	970	1,880	3,640	7,040

Fee for Typical “Fixed Scope” Projects

Common Contracts

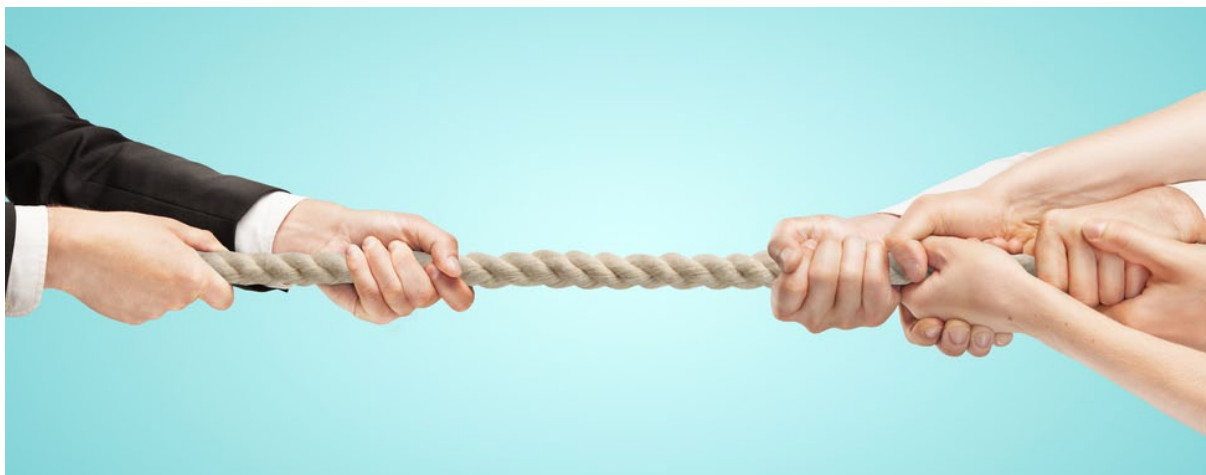


Fee (all inclusive)	Contract Type	Description
990 RMB	Bi-lingual Purchase Order (PO)	1-2 pages
4887 RMB	Simple Bi-lingual Purchase Contract (SPC)	Up to 5 pages. Based on our existing simple contract template. Up to 1 hour of Sr. lawyer’s time included to allow for limited customization. If you desire a highly customized contract, please consider the Comprehensive Bi-lingual Purchase Contract (CPC).
10,810 RMB	Comprehensive Bi-lingual Purchase Contract (CPC)	10-12 pages
5980 RMB	Comprehensive, Customized Bi-lingual Non-Disclosure Agreement (NDA)	7-8 pages
2703 RMB	Bi-lingual Non-Disclosure Agreement (NDA) Template (not customized)	1-2 pages
5980 RMB	Bi-lingual Employment Contracts	7 pages
5980 RMB	Bi-lingual Distributorship Agreements	7-8 pages

Due Diligence

The Corporate Assessment (CA) provides visibility into the stability, assets & reputation of a target company. 2818 RMB all-inclusive. Most reports can be completed in 10 working days or less. Visit [here](#) to learn more and review a sample report.

Dispute Resolution



Fee Structure	Service	Description	Time Frame
1,725 RMB	Detailed Case Review (standard case)	Up to 2.5 hours will be allocated to the review of supporting documents.	Approx. 1 week
2,875 RMB	Detailed Case Review (complex case)	2.5 to 5 hours will be allocated to the review of supporting documents.	Approx. 1 week
2818 RMB	Due Diligence (if needed) Download a sample Due Diligence report: CA SAR Sample (PDF)	Provides visibility into the stability, assets & reputation of a target company.	Approx. 10 days
3738 RMB	Dispute Resolution (standard case)	Inclusive of demand letter, follow up call (if needed) and client updates.	Approx. 2 weeks
9,487 RMB	Dispute Resolution (complex case)	Inclusive of demand letter, follow up call (if needed) and client updates.	Approx. 2 weeks
Free of Charge	Pre-Litigation Initial Case Review	Review of the case files and provision of service proposal	1 day to 1 week depending on project scope
From 4,887 RMB	Pre-Litigation Financial Due Diligence (if needed)	Used to confirm if the individual or company in question has assets and is a position to pay for damages if the case is won. Fee dependent on the number of defendants, location and size of defendant's operations.	Approx. 3 weeks

Intellectual Property Registration

Copyright Registration



Lawyer Fees

1,840 RMB | Search the government database to ensure the IP is not already registered by another party.

4,887 RMB | Prepare all documents. Submit documents to relevant bureaus. Follow the application and update client as the application moves through the various bureaus.

Direct Expenses

- ▶ **Translation Fee:** Applications are required by the government to be in Chinese. Budget and time frame for translation will be approved by client in advance.
- ▶ **Government Fee:** 1000 RMB in most cases.
- ▶ **Petty Cash Miscellaneous expenses such as transportation and express postage.** Project dependent but usually under 500 RMB

Trademark Registration



Lawyer Fees

1,840 RMB | Search the government database to ensure the IP is not already registered by another party.

3,220 RMB | Prepare all documents. Submit documents to relevant bureaus. Follow the application and update client as the application moves through the various bureaus.

Direct Expenses

- ▶ **Translation Fee:** Applications are required by the government to be in Chinese. Budget and time frame for translation will be approved by client in advance.
- ▶ **Government Fee:** 1000 RMB in most cases.
- ▶ **Petty Cash Miscellaneous expenses such as transportation and express postage.** Project dependent but usually under 500 RMB

Patent Registration



Lawyer Fees

Design Patent: **From 8,797 RMB**

Utility Model Patent: **From 9,027 RMB**

Invention Patent: **Project dependent**

Direct Expenses

- 🕒 **Translation Fee:** Applications are required by the government to be in Chinese. Budget and time frame for translation will be approved by client in advance.
- 🕒 **Government Fee:** 1000 RMB in most cases.
- 🕒 **Petty Cash Miscellaneous expenses such as transportation and express postage.** Project dependent but usually under 500 RMB

Related Content

[How to Stay Out of Jail - Importers Need to Know about Engineering, Testing & Inspection](#)

[Protect Your Intellectual Property \(IP\) Rights in China](#)

[“Intellectual Property Rights - Avoid turning Chinese suppliers into future competitor & prevent US competitors from hijacking the China supply chain you have pioneered.”](#)

Legal Service Provider: Introduction to AsiaBridgeLaw

Western lawyers aren't allowed to practice in most parts of Asia and Asian lawyers fluent in European languages are few and far between. Those few local lawyers that can speak your language charge a massive premium. Furthermore, most local lawyers are not trained in the Western concepts of customer service and project management.

The Solution:

- ✓ AsiaBridge Law carefully screens, trains and coordinates a network of local lawyers across Asia.
- ✓ Not only does AsiaBridge Law provide a superior customer service experience, but AsiaBridge Law leverages its case load in Asia to secure preferential fees and can offer clients a lower rate than if the client was invoiced direct from the local lawyers.
- ✓ Lawyers in our network are selected for the right mix of professionalism, honesty and affordability.
- ✓ AsiaBridge Law paralegals coordinate local lawyers on behalf of the AsiaBridge Law clients while providing account management in English, Spanish, Portuguese, French, German, Italian, Russian and other major language



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