



Australian Government
IP Australia



Australian Government
Department of Industry, Science,
Energy and Resources



Study into the experience of Australian firms enforcing their intellectual property rights in Asia

125 EXPORTERS SURVEYED:

63% micro and small businesses (under 19 employees)

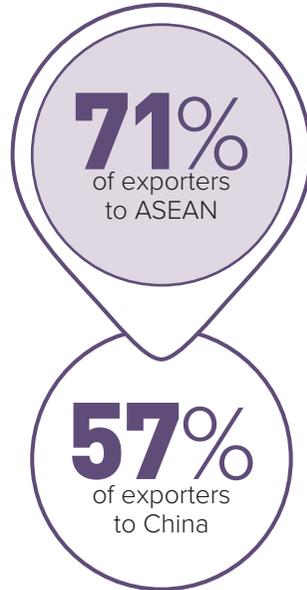
94% operating in China, Singapore, Indonesia, Malaysia, Vietnam and Thailand.

Rights holders:

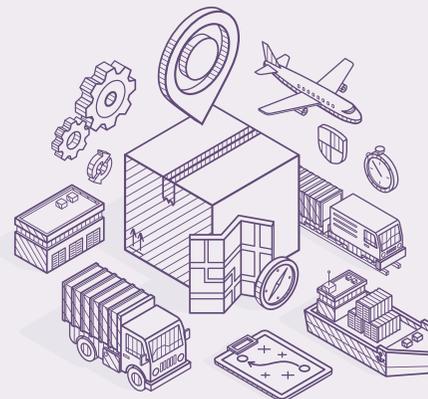
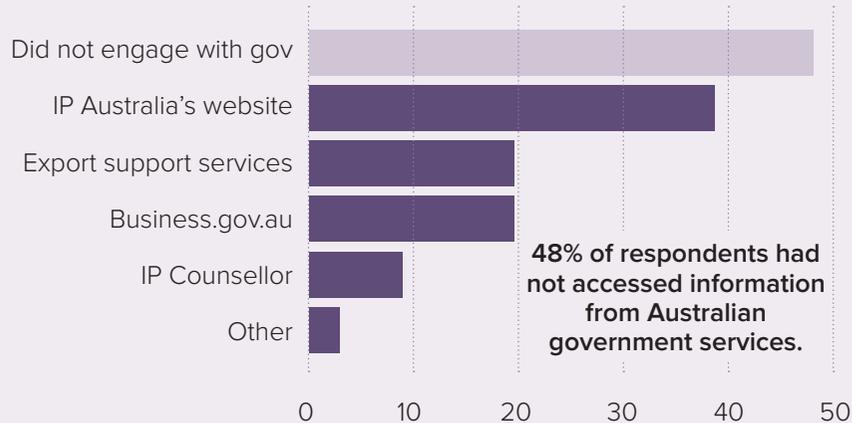
- 27%** trade mark
- 13%** patent
- 9%** design

Top industries:

- manufacturing
- wholesale trade
- professional services
- agriculture



A high rate of respondents had not registered their IP before operating abroad



The findings have validated the issues Australian businesses face with IP when doing business in China and South East Asia.

A PROACTIVE MINDSET ABOUT IP

Being proactive in protecting IP significantly reduced the onset of IP breaches particularly in managing the risks inherent in first-to-file regimes in China and most ASEAN markets.

FILING TRADE MARKS INTERNATIONALLY

Exporters were generally confused about the benefits of using the Madrid Protocol or choosing to file directly in the destination country. Often following legal advice without making a conscious decision about the investment in their brand.

FINDING FOREIGN REPRESENTATION

Selecting the right legal representation, including filing agents abroad was an important factor for an exporter's strategy in protecting their IP. Choosing the wrong lawyer resulted in significant and unplanned expenses.

ROLE OF PARTNERS IN PROTECTION

Local partners in the destination country frequently detected IP breaches, supporting timely IP enforcement. The role of partners is more pronounced when dealing in China and ASEAN where cultural norms enhance the need for building trusted relationships.

RECOMMENDATIONS

The Australian Government is implementing the four recommendations of the Export Council of Australia's report:

1. Embedding IP protection early, as part of the commercialization strategy
2. Assisting exporters to understand the role of partners in IP protection
3. Improved and interactive IP information
4. Creating a network with export assistance organisations