

**THE TWENTY-THIRD ANNUAL FALL LECTURE**

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**Trademark Squatting in China**

**DANIEL C.K. CHOW**

Frank E. and Virginia H. Bazler Chair in Business Law  
The Ohio State University - Moritz College of Law

**THURSDAY, NOVEMBER 10, 2016**

**2016 VENUE:**

**Four Seasons Hotel**

1300 Lamar Street, Houston, Texas

Reception 5:30 p.m. • Lecture 6:15 p.m.  
One Hour of CLE Credit

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**Daniel C.K. Chow** is the Frank E. and Virginia H. Bazler Chair in Business Law at The Ohio State University Moritz College of Law. He teaches and writes in the areas of international trade law, international business transactions, international intellectual property, and the law of China. He has published numerous books and articles in these areas, including leading casebooks in International Business Transactions (3d edition 2015, Aspen), International Trade Law (2d edition 2012, Aspen), and International Intellectual Property (2d edition 2012, West). He received his B.A. and J.D. from Yale University.

Professor Chow previously lived and worked in China for several years as in-house counsel for Procter & Gamble (China), Ltd. He handled all of P&G's legal work, including the protection of the company's intellectual property against counterfeiters and infringers. He also handled the establishment of joint ventures and wholly foreign-owned enterprises, which involved technology transfer agreements as part of the set up. He continues to work as an advisor to companies with intellectual property and other business problems in China.

### **Trademark Squatting in China**

Multinational companies (MNCs) with world famous brands are finding that a trademark squatter has already registered their trademarks even before they enter the China market. The squatter registers a Chinese transliteration of the English (or other foreign language) trademark. Under China's first-to-file system for trademarks, the squatter now becomes the owner of the Chinese language trademark. As most people in China do not speak or read English on a daily basis, most consumers in China know the trademark only by its Chinese transliteration, not by its English language name. When MNCs attempt to cancel the Chinese language trademark, they often resort to the famous marks doctrine. Under Chinese law, the MNC must prove that the English language name achieved fame in China before the Chinese transliteration was registered by the squatter. In most cases, consumers only know the brand by its Chinese name, and not by its English name, due to the dominance of Chinese language in everyday life. The English language trademark never achieves fame in China before the registration of the unauthorized Chinese transliteration. As a result, the Chinese trademark cannot be cancelled and is owned by a squatter creating a host of legal and business problems for the MNC.

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