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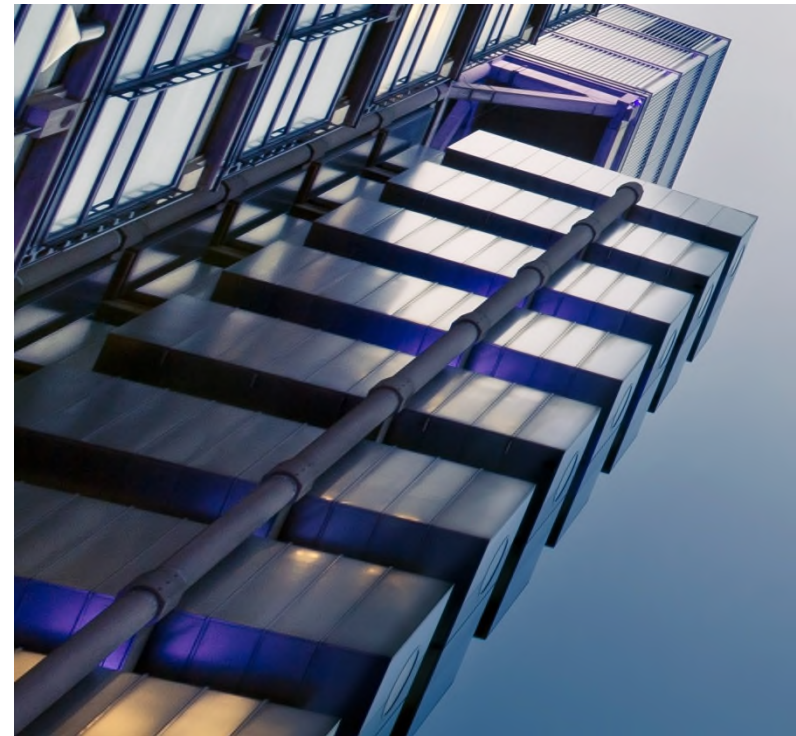
IP Challenges in e-commerce

電商時代知識產權的新挑戰

Eugene Low, Partner

Agenda

- Different forms of e-commerce
- Challenges in IP protection
- Contractual protection
- Domain names
- Notice-and-take down

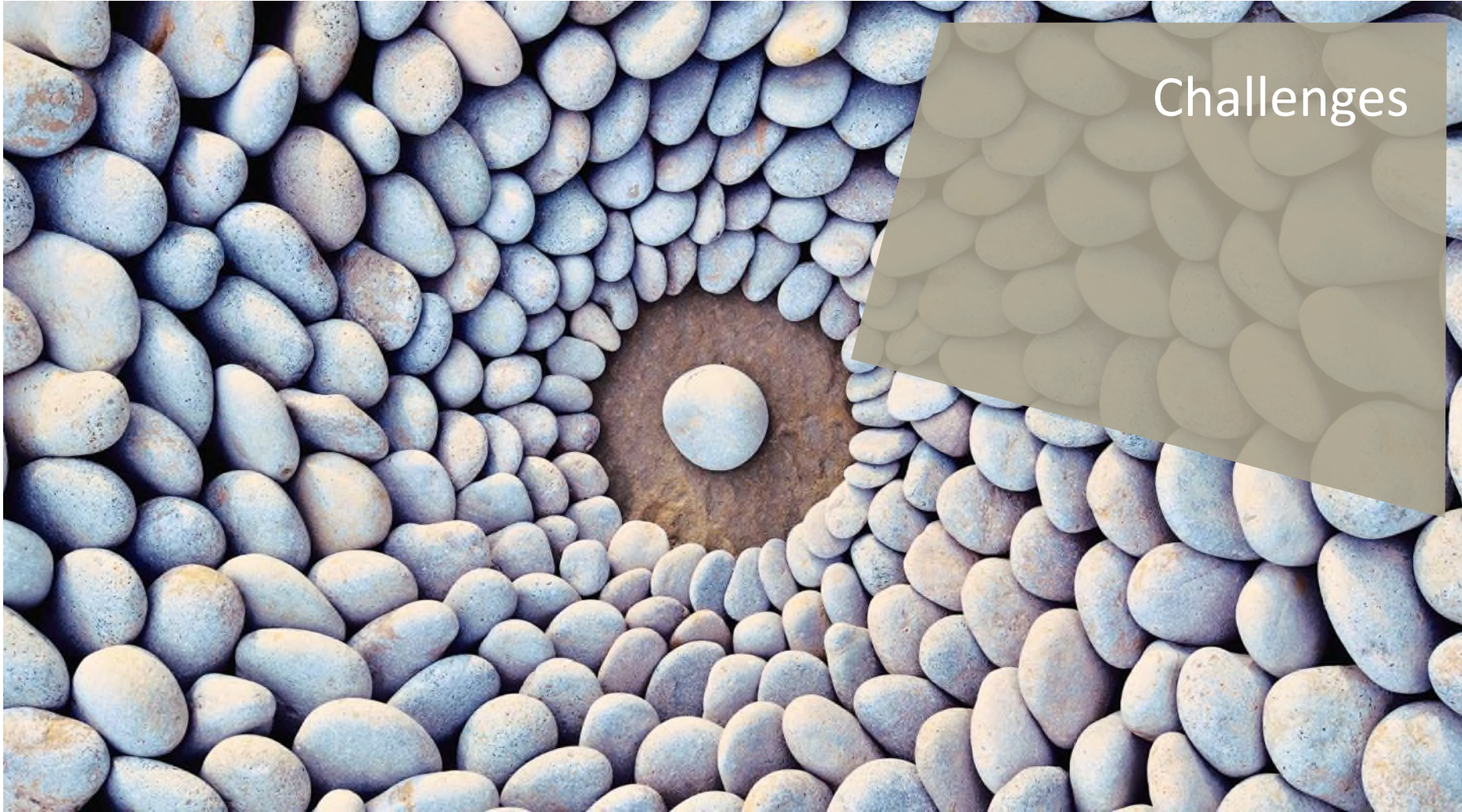




Different forms of
e-commerce

Different forms of e-commerce

- Website
- Mobile application
- Online marketplace
- Auction site
- E-wallet
- Retail, wholesale, goods, services, informational
- B2B, B2C, O2O



Challenges

Challenges in IP protection

Variety of IP



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Watch: IP opportunities and risks for brand owners exploring opportunities in the esports space

esports is competitive video gaming at a professional level and revenues are expected to grow to US\$1.4 billion by 2020.

Watch this video to learn how esports is a key opportunity for brand owners to evaluate in the coming years.



Challenges in IP protection



Challenges in IP protection





Contractual
protection

Contractual protection

- Website / mobile application developer
 - IP ownership
 - Confidentiality / NDA
 - Non-infringement warranties

Contractual protection

- User T&Cs
 - IP notice
 - IP symbols
 - Permitted use
 - Attribution
 - Draw users' attention to these T&C
 - Digital watermarks
 - Technical measures





Domain names

Domain names

- From “.com” to:

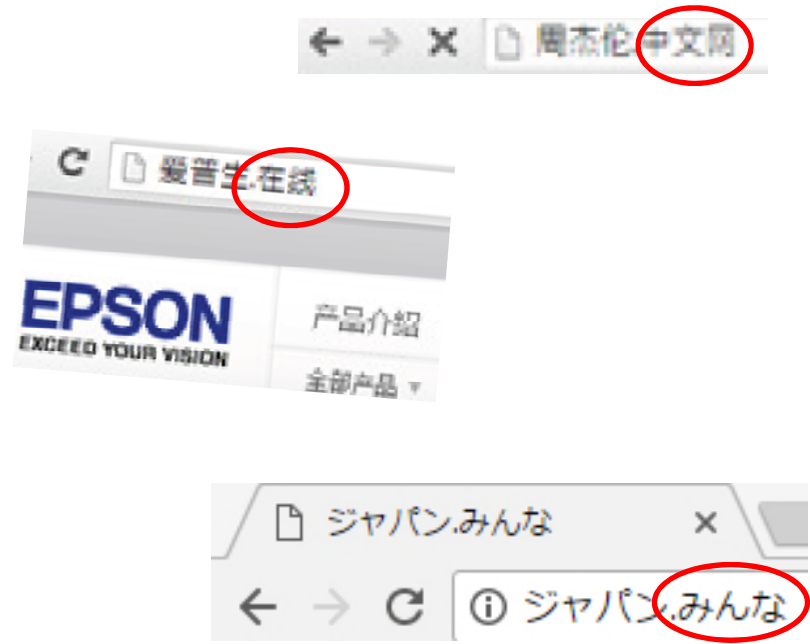
abc.xyz



Domain names

apple.wang
kindle.wang
aws.wang
kindle.wang
ipad.wang
foxtv.wang
amazon.wang
alexa.wang
21stcenturyfox.wang

www.qq.wang
alibaba.wang



Domain names

Strategy

- Trade mark registration
- Domain name registration
 - Important to prioritise
- Monitor
- Enforce

Domain names

- Cybersquatting

Legitimate	Malicious
www.youtube.com	www.y0utybe.com
www.myspace.com	www.myspnace.com
www.playstation.com	www.playtstation.com
www.google.com	www.googep.com
www.wikipedia.com	www.wikjipedia.com

Domain names

Enforcement options

- Cease and desist letters
 - Negotiations
 - UDRP, URS and others
 - Lawsuit
 - Wait for expiry
- Factors: merits, commercial need, publicity, territory

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Domain names

Domain name complaints

- Domain name complaints (e.g. UDRP)
 - Paper-based online dispute resolution
 - Aims at cybersquatting
 - 3 elements to be proved
 - Trade mark rights
 - No legitimate rights
 - Bad faith

Domain names

Domain name complaints

- Domain name complaints (e.g. UDRP)
 - Service providers, e.g. HKIAC, WIPO, CIETAC
 - List of panelists/arbitrators
 - Quick: 2-3 months
 - High success rate

Notice and take down



Notice and take down

Relevant laws

- US Digital Millennium Copyright Act
- China E-Commerce Law
- Hong Kong Copyright Ordinance?

- Very commonly adopted in major e-commerce / social media platforms

Notice and take down

Usual requirements

- Proof of IP rights (registered IP preferable)
- Infringement
- Counter-response
- Removal/termination/blacklist



Summary

Summary

E-commerce presents unique challenges for IP protection

- Contractual protection
- Domain names
- Notice and take down
- Review and strengthen your IP

Questions?

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