



# Chinese IP Enforcement Options—on Trademark Side

Presented by NTD  
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Chinese IP Attorneys

# A Quiz

If someone is infringing upon your Trademark in China, would you select Plan A or Plan B?

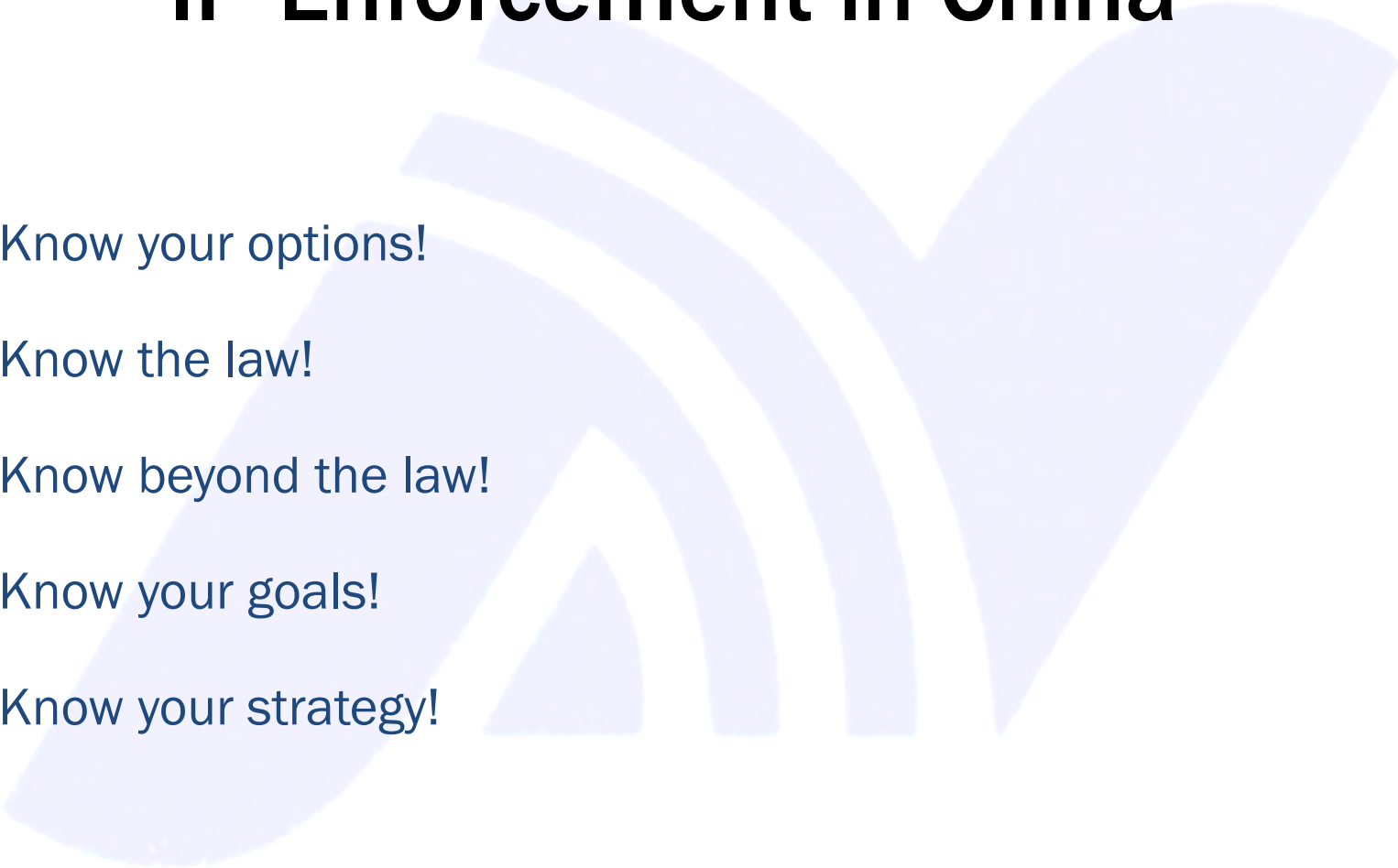
1. Plan A will stop the infringement after two years. Plan B will stop the infringement in a week.
2. Plan A will cost you US\$50,000. Plan B will cost you US\$5,000.
3. Plan A will give you US\$75,000 as compensation. Plan B has no compensation return.

A. Plan A

B. Plan B

C. I need more information

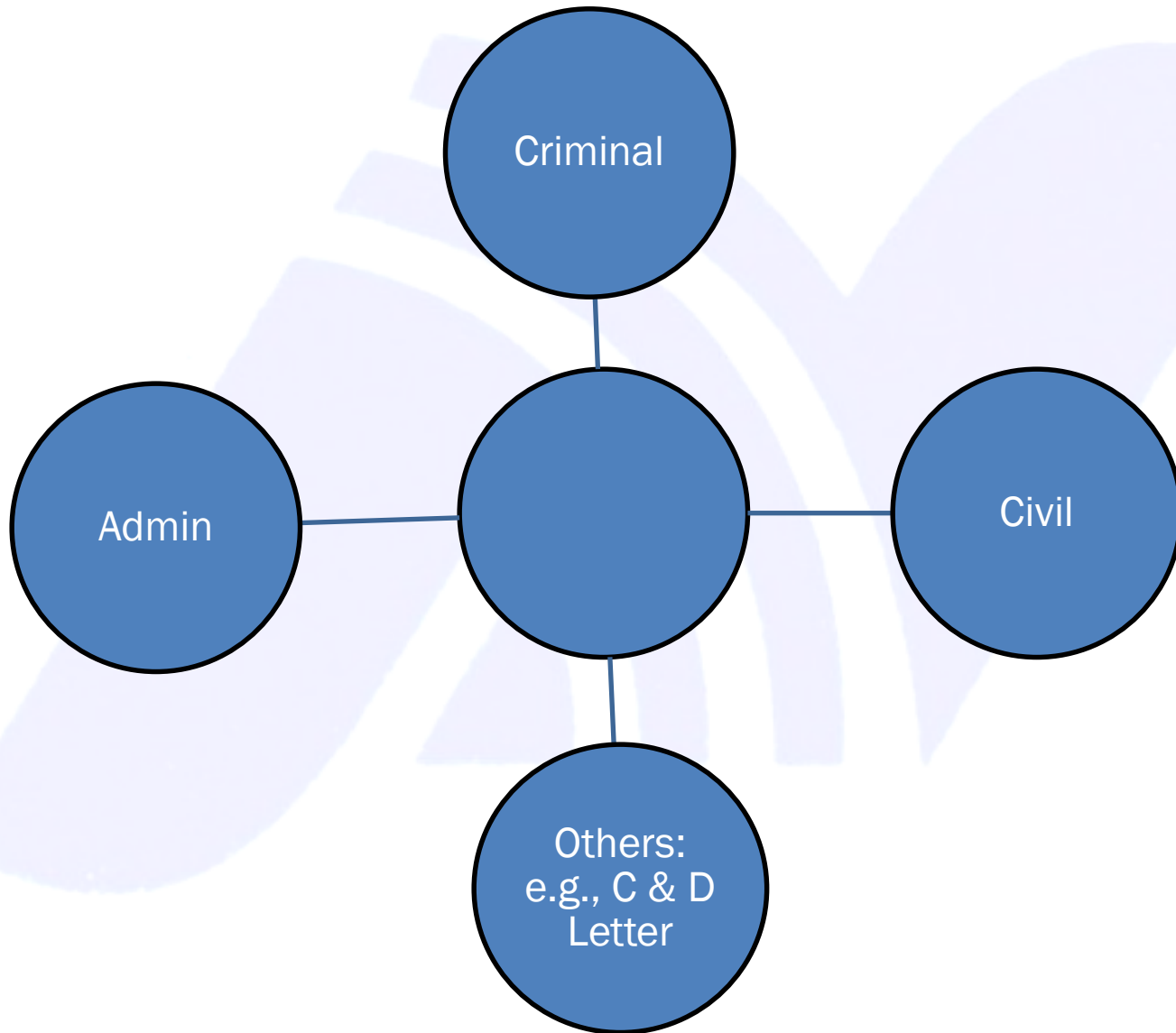
# Five Things You Need to Know About IP Enforcement in China

1. Know your options!
  2. Know the law!
  3. Know beyond the law!
  4. Know your goals!
  5. Know your strategy!
- 



**1**

Know Your Options





**2**

Know the Law

# Where to go?

- CIVIL
  - Court



- ADMINISTRATIVE
  - Local AMR (former “AIC”)
    - Trademark infringement
    - Unfair competition
    - Quality issues



- CRIMINAL
  - Local PSB (Police)
  - Prosecutor – Court



# When available?

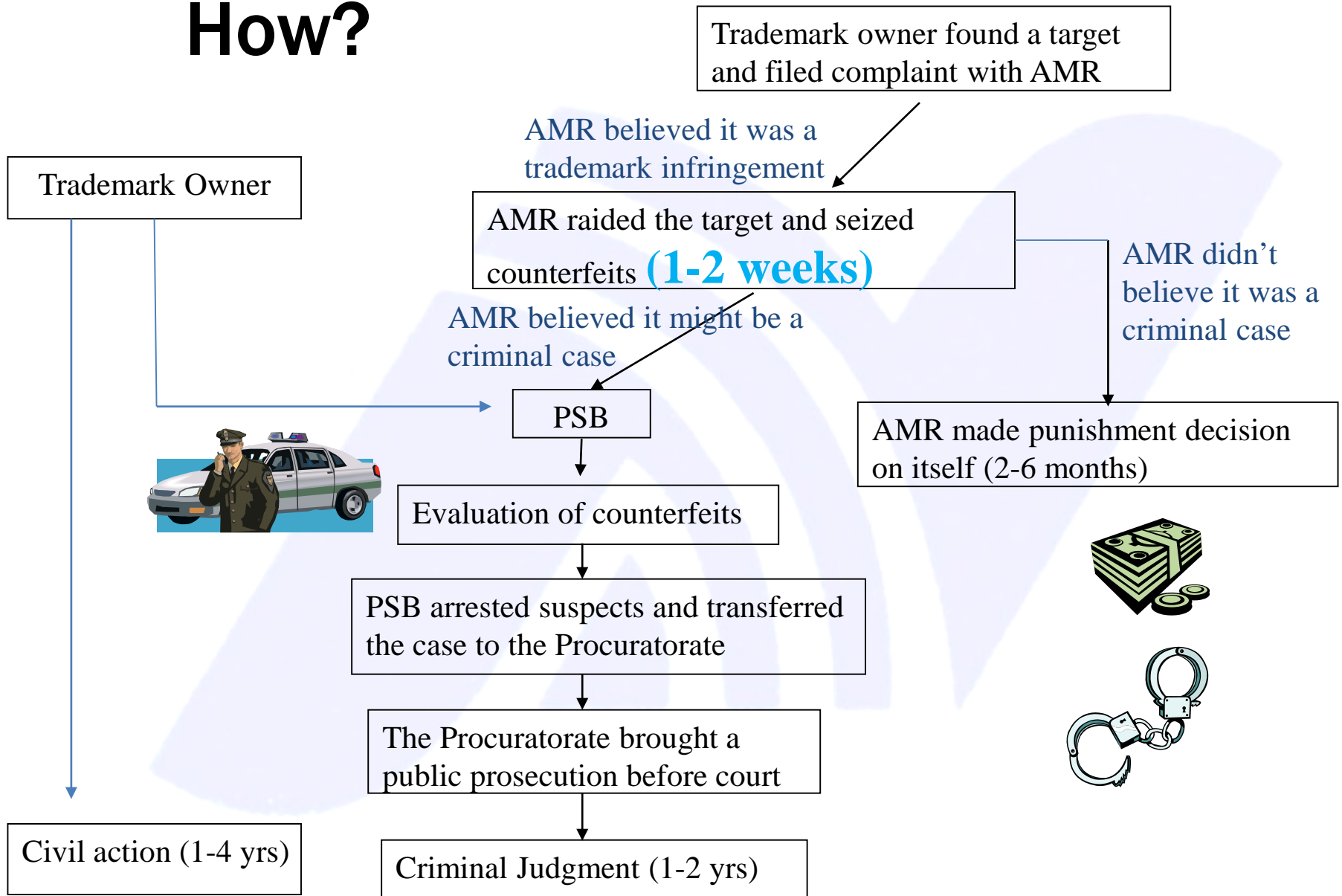
- CIVIL
  - ALL trademark infringement cases
- ADMINISTRATIVE
  - Straightforward cases
  - Not only trademark infringement
- CRIMINAL
  - Same mark on same goods
  - Threshold: turnover > US\$7.5k or revenue > US\$4.5k



# What to Expect?

- **ADMINISTRATIVE**
  - Seizure of counterfeits
  - Order to stop infringement
  - Fine
- **CRIMINAL**
  - Seizure of counterfeits
  - Imprisonment
  - Fine
- **CIVIL**
  - Injunction
  - Compensation

# How?





**3**

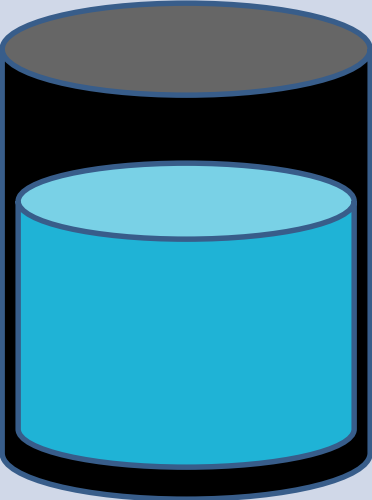
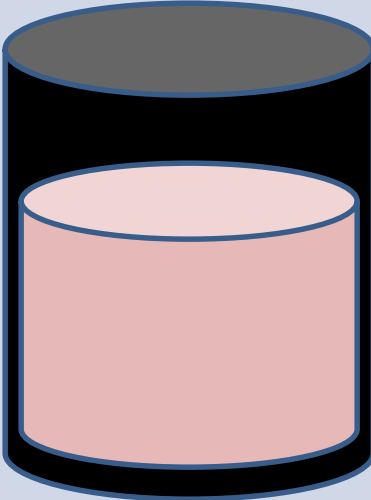
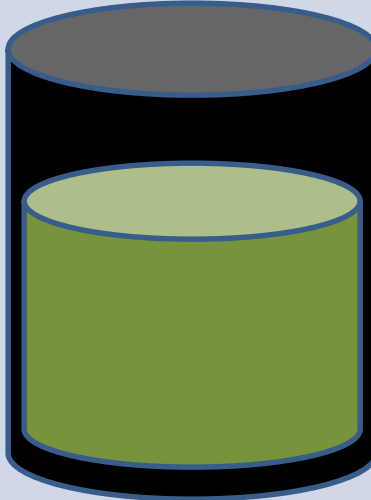
Know Beyond the Law:  
Things Not Written in the Law

# How Different Authorities Work with You

- Civil--you prepare materials; they cook.
- Administrative--you make starters; they make entrees.
- Criminal--you do everything; they eat.



# Concerns about LOCAL PROTECTIONISM

CIVIL	ADMINISTRATIVE	CRIMINAL
		



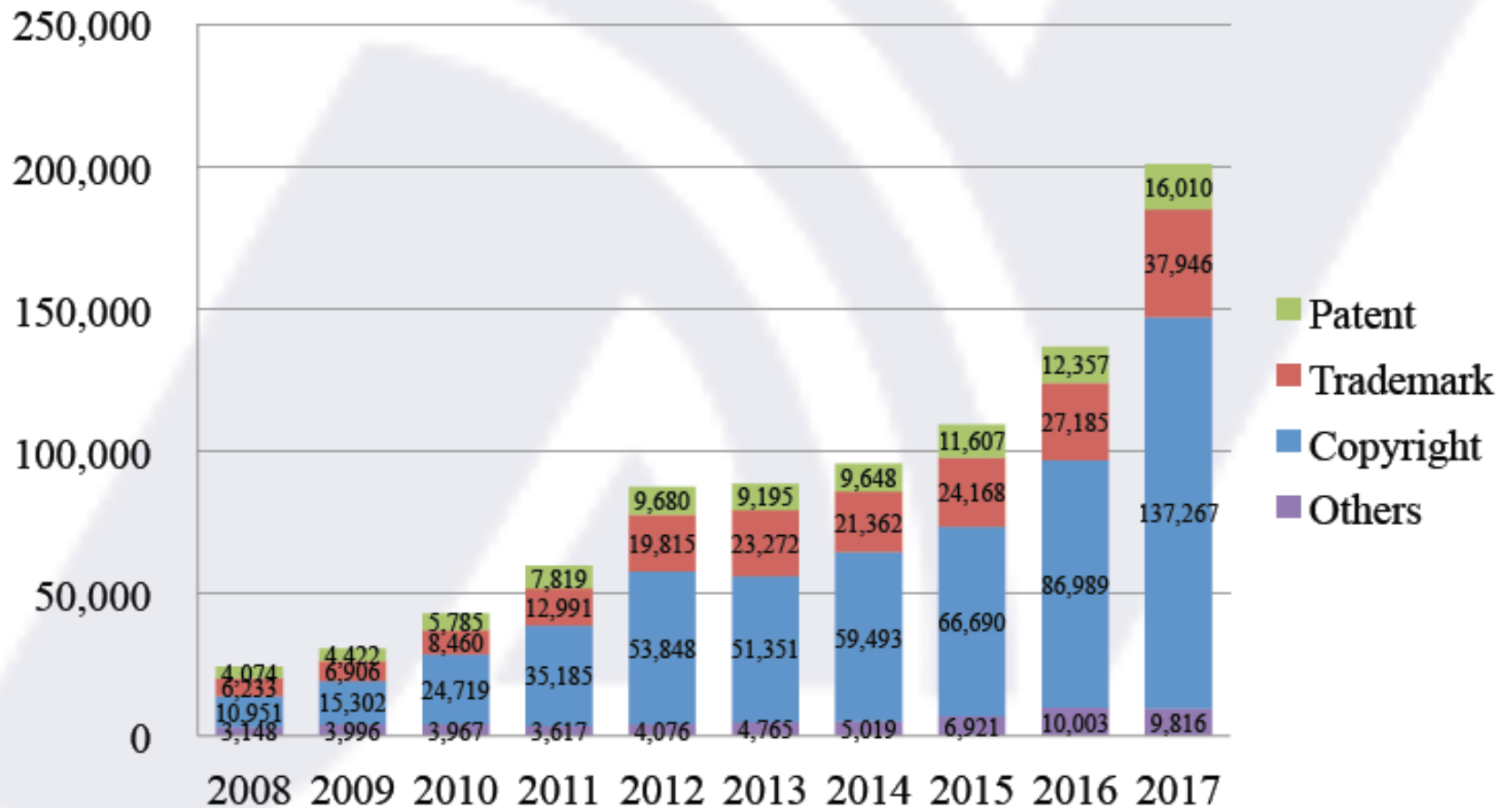
**4**

Know Your Goals?

# Why Choose Administrative

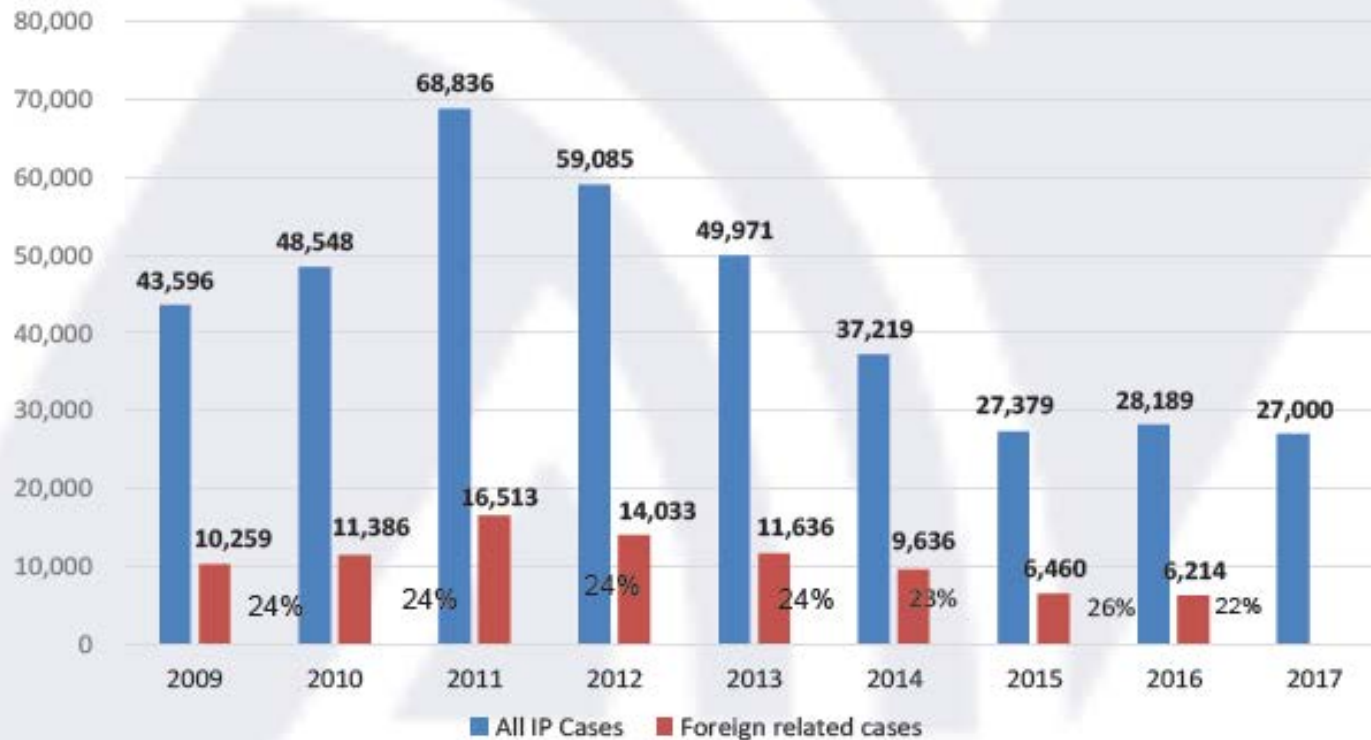
- **Quicker**
- **Cheaper**
- **Impact on business**
- **Evidence discovery & preservation**
- **Help to get a successful settlement**
- **Not only for trademark infringement**

# Number of Civil Cases

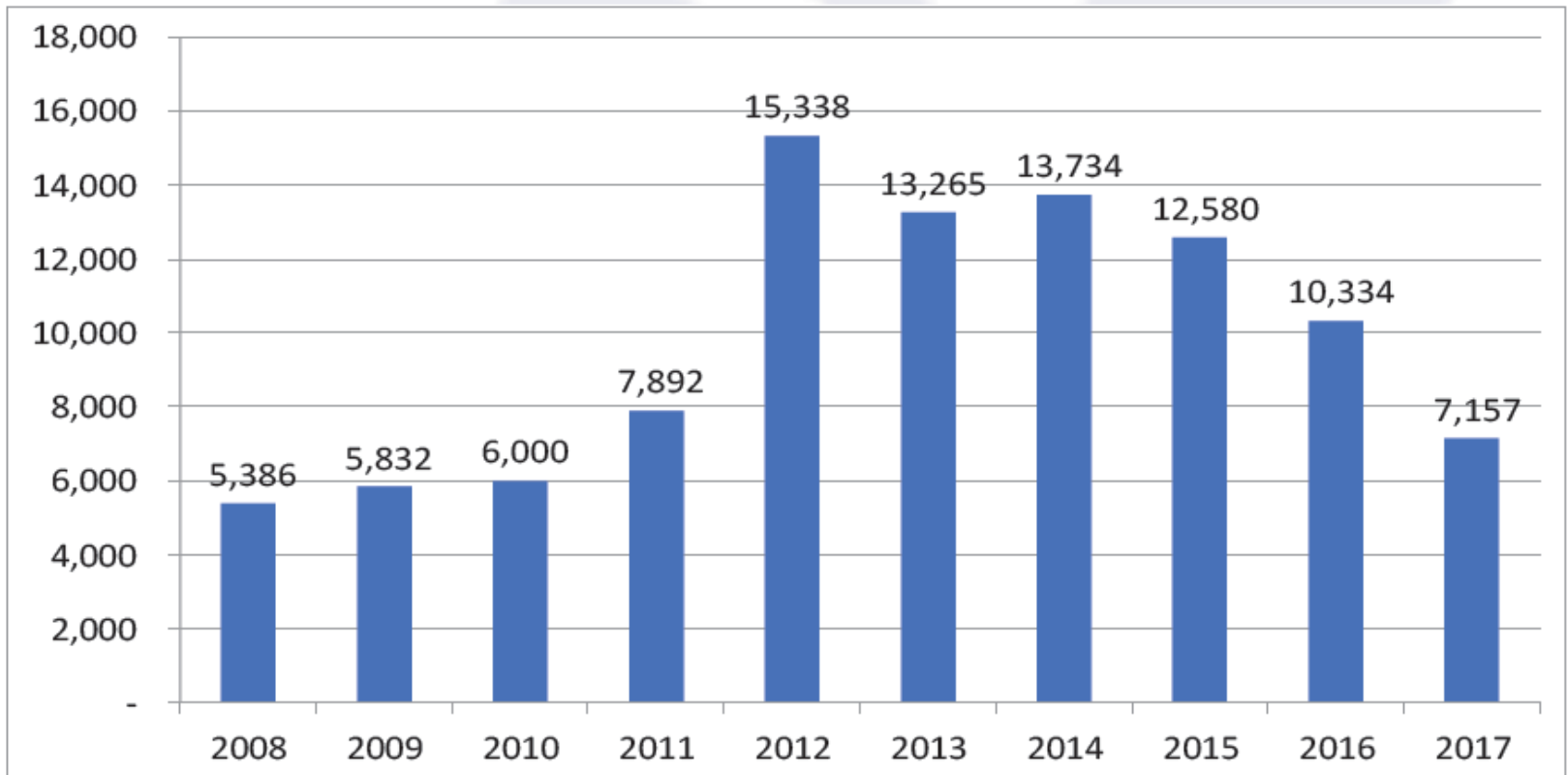




# Number of Criminals sentenced



# Number of Administrative Cases



# Administrative Cases are Decreasing!

- Seller's defense for legitimate source after 2013
- Usually limited to straightforward cases
- Higher uncertainty
- No compensation (compared with increased compensation you can get from Court)

## **Qiang Gu Case** (Beijing IP Court)

First Instance: RMB**10 Million** (**US\$1.5 Million**)

The highest damages awarded by Beijing IP Court in TM infringement case so far.

## **New Balance Case** (Guangdong High Court)

First Instance: RMB **98 Million** (**US\$14.5 Million**)

Second Instance: RMB **5 Million** (**US\$0.75 Million**)

# Why Choose Criminal?

## Pros:

1. Powerful
2. Thorough
3. Sensational

## Cons:

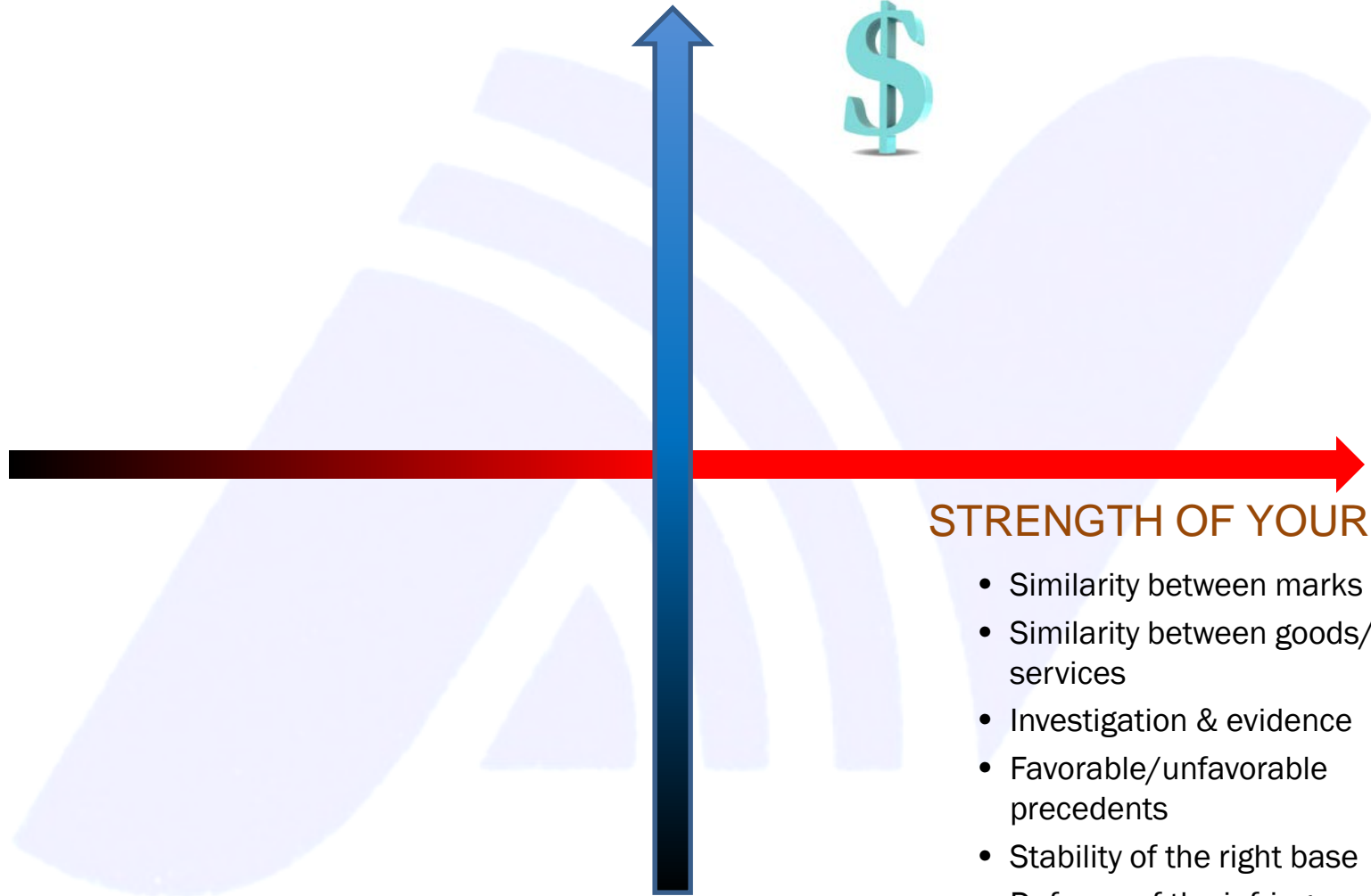
1. Limited to straightforward cases
2. No compensation
3. High uncertainties
4. High costs



**5**

Know Your Strategy: Planning

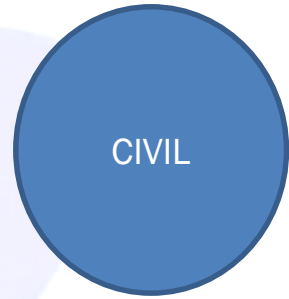
BUDGET



## STRENGTH OF YOUR CASE

- Similarity between marks
- Similarity between goods/ services
- Investigation & evidence
- Favorable/unfavorable precedents
- Stability of the right base
- Defence of the infringer
- Strength of the infringer

BUDGET



and/or

Power

Compensation



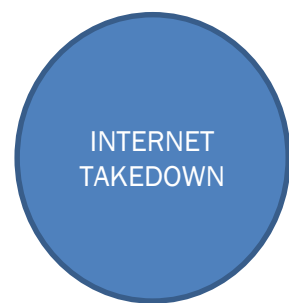
STRENGTH OF YOUR CASE



and/or



and/or



Based on TM

Other illegalities



# Thank You!

## Any Questions?

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