

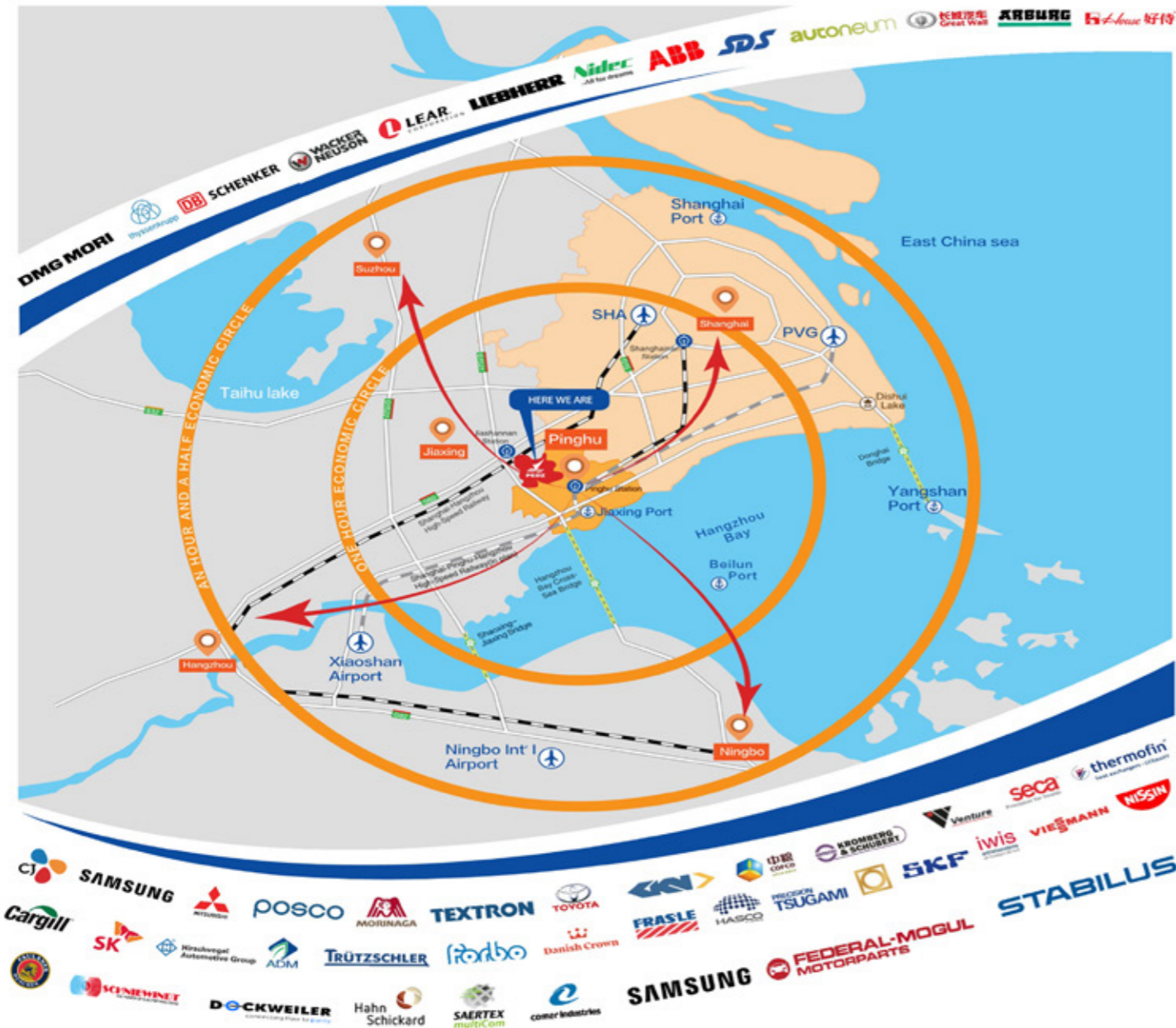
TICKER

BUSINESS JOURNAL
OF THE GERMAN CHAMBER OF COMMERCE
IN CHINA

WINTER
2023



THE FUTURE OF WORK



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- Digital Economy (Automotive Electronics, 5G Communication, Remote Sensing, and Industrial Automation)

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Ms. Olivia Helvadjian
Chief Editor & Communications Director

NAVIGATING THE FUTURE OF WORK

The concept of work is undergoing a profound metamorphosis driven by technological advancements, societal shifts, and a global reevaluation of traditional norms. In this issue, we embark on a journey into the ever-evolving landscape of work, exploring the transformative trends and groundbreaking innovations that are shaping the future of how we work. Our exploration touches on the trends, innovations, and regulatory frameworks that are molding the workplaces of tomorrow.

In a world where the pace of change is unrelenting, companies find themselves at the crossroads of innovation and adaptation. In our cover stories, we reflect on the broader changes in work dynamics and discuss the challenges faced by German managers in China. We explore the concept of business ambidexterity, digital device usage in private lives and the workplace, and the transformative shift in office design as a response to the changing nature of work.

In addition, we look into China's Arbitration Reform, risk management and business localization in China, and the latest trends in China's e-commerce landscape.

We hope you enjoy this issue of the Ticker and find the articles thought-provoking and useful. As always, please share, comment, discuss, offer suggestions, and contribute your valuable insights to our future editions of the German Chamber Ticker.

Olivia Helvadjian

TICKER

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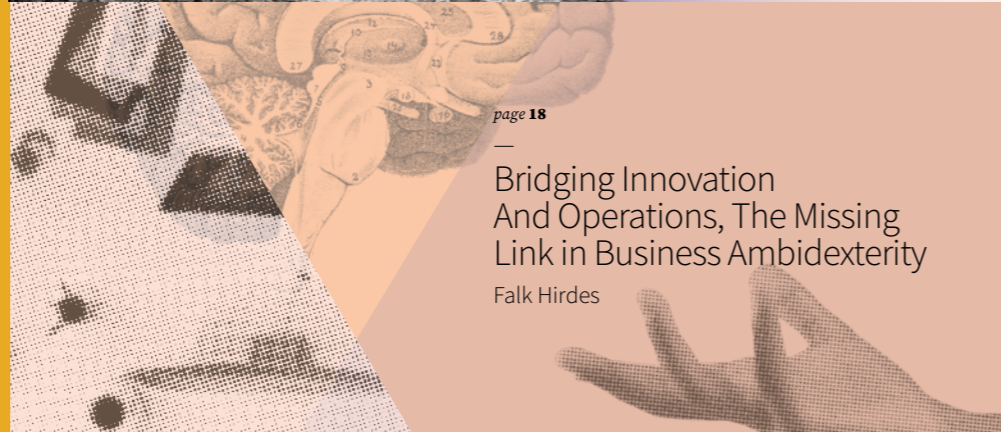
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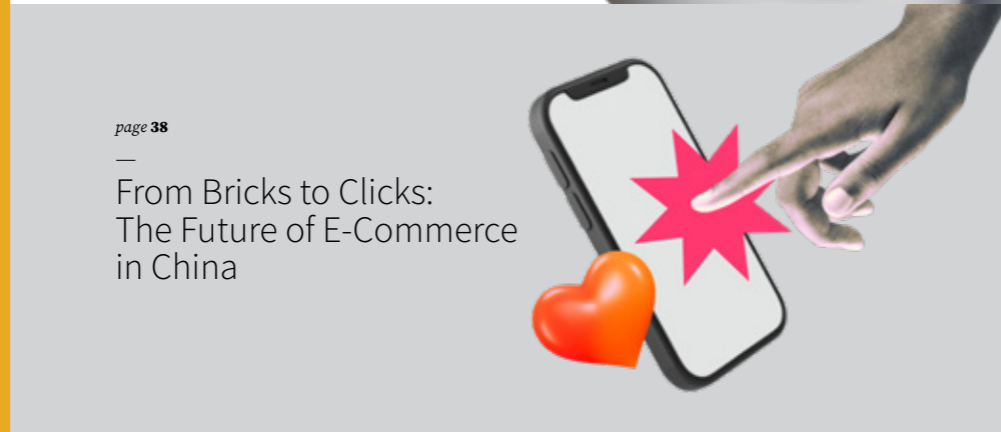
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OVERVIEW

What is Optics Valley?

Optics Valley is one of China's first-class high-tech industrial development zones,

- with two major industrial clusters,
- plentiful talents,
- abundant colleges & universities, scientific research institutes
- and high-tech enterprises.



TALENT

TALENT

42

Institutions of higher learning

56

Scientific research institutions

800,000+

On-campus college students

KEY INDUSTRIES

KEY INDUSTRIES

- Optoelectronics Information
- Integrated Circuit
- New Display
- Terminal
- Internet

Life Sciences

ENTERPRISES

ENTERPRISES

33.8

billion euros GDP

130,000

Enterprises

5300

High-tech enterprises

63

Listed companies

1200+

Foreign-funded enterprises

60+

European-funded enterprises



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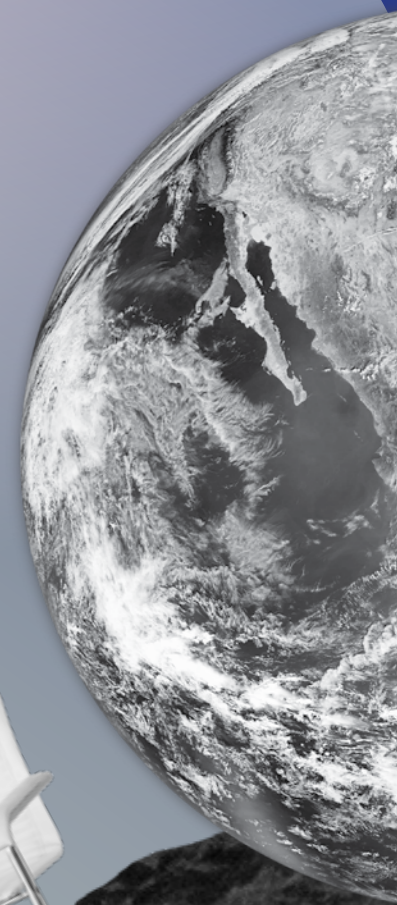
THE FUTURE IS IN MY POCKET, NOT ON MY DESK

A global survey finds new modes of digital device usage are thriving, just not in the workplace. This prompts us to reconsider what digital skills will look like in the future.

Every Star Trek fan remembers hearing the phrase, “Hello, computer.” Even though it is not yet Stardate 1312.4, what looked like a faraway future on TV has very much become a reality. Nowadays, almost every new digital device has some kind of voice interface. By the end of 2018, 85% of people in Germany had at least one voice-operated device. It is safe to assume that this number has only grown.

In spite of the technology’s broad diffusion, only 26% of Germans were actually using any of the featured voice functions five years ago. A recent survey conducted by Huawei puts this figure at 41%, referring to the use of voice interfaces in their private lives. But how have such interfaces found their way into workplaces, not just in Germany, but globally?

To address this, as well as the broader questions of how digitalization impacts the work environment and management culture, more than 21,000 people in seven countries (China, France, Germany, Greece, Italy, the UK, and the US) were surveyed.



COVER STORY

Even the most digitalized workplaces lag behind private use of advanced and virtual interfaces

Modern workplaces are full of computers that come in all shapes and sizes. Word processors, for example, replaced typists decades ago. Surprisingly, the way we use these computers very much still resembles this phased-out job profile. We still type into keyboards with hard buttons that do not adapt to changing surroundings or tasks.

In our pockets and purses though, we have devices that revolutionized interaction. Smartphones and other devices have us all touching, swiping, gesturing at, and talking to computers. Our results show that people in all seven surveyed countries rely on these advanced and virtual ways of Human-Computer Interaction (HCI) regularly in their private lives. New interfaces were particularly popular among Chinese respondents, who only use traditional keyboards during just over a quarter of their digital device interactions. In Germany, the same share hovers around 38%.

Interactions with digital devices in the workplace is a different story. Firms in China have been the quickest to adopt advanced and virtual interfaces. Workplaces with a low level of digitalization rely on traditional keyboards 44% of the time, while workplaces with a high level of digitalization have reduced this figure to 28%. Only US firms with the same high level of digitalization come close to this, using traditional keyboards 30% of the time. German workplaces seem to be the slowest to move away from traditional interfaces. In the least digitalized workplaces, this accounts for 73% of the time spent with digital devices during work hours. Even in the most digital work environments, keyboards make up more than half of digital device interactions (53%).

When asked about their expectations for the future, respondents said they expect their use of traditional interfaces to increase more at work than in their private lives. Interestingly, they also expect advanced and virtual interfaces to be used less in their workplace compared to in their private

lives. Respondents in Germany were particularly pessimistic when it comes to the future use of advanced and virtual interfaces in their workplaces when compared to the advancements they are seeing out of work. This indicates that while Germany may soon catch up with other countries in terms of private use of advanced interfaces, it will likely still lag behind in the workplace. Notably, even respondents in China expected traditional keyboard use to grow in their workplaces instead of novel interfaces.

If these expectations pan out, workplaces will fall even further behind the private use of these new technologies. According to Huawei's data, firms with low digitalization levels in Germany are expected to fall behind the most when it comes to advanced and virtual interfaces in the next five years. The focus on traditional interfaces in the workplace seems to be uniform across all levels of digitalization in the UK.

Respondents in highly digitalized firms generally expect fewer differences between future workplace and private use.

Digital skills are not the bottleneck to introduce new technology in the workplace

Private use is now driving adoption of advanced and virtual interfaces. It is therefore not surprising that the results show confidence in operating digital devices without hard buttons is currently independent of the level of digitalization at their workplace. It appears that private use of digital technologies plays a more significant role in individual digital poise than is commonly reflected in the public debate.

From a management perspective, this indicates that mass migration to new interfaces is likely feasible even for companies that currently have a relatively low level of digitalization. As emerging tools featuring Large Language Models (LLMs), augmented reality, and robotic process automation continue to reshape HCI, migration to new interfaces can level the playing field and redefine digital skills for many of these firms. Some may even be able to leverage this shift to leapfrog ahead of slower-changing competitors thanks to the flexibility and ease of use associated with these new interfaces.

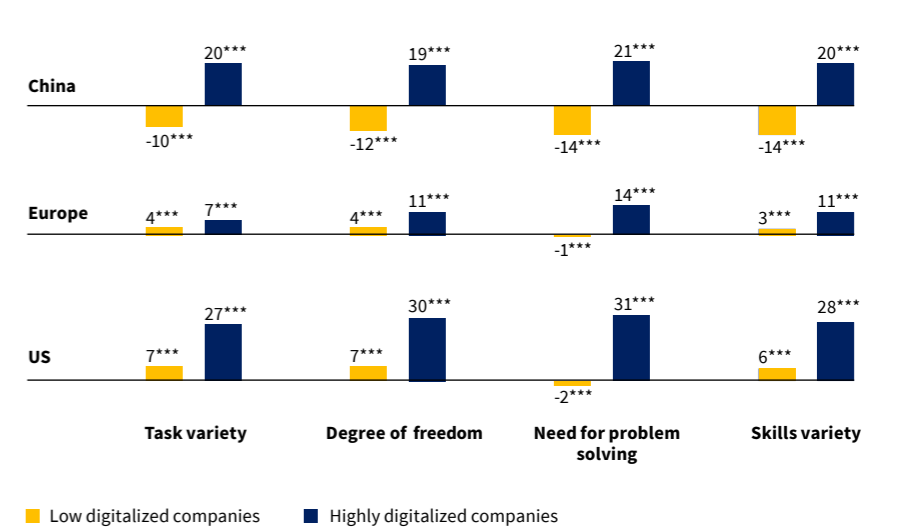
Results from the same dataset published in another report in 2022 by the authors indicate that new interfaces can also play an important role for engaging multiple generations in the digitalization of workplaces. There, we found that older respondents were often even more confident in their digital skills when using advanced and virtual interfaces. This may be thanks to the more approachable and easier to access nature of new interfaces, which require less training to use than systems with hard buttons. These same characteristics may also help foster inclusion of people with disabilities.

Pressing the right buttons is not quite enough. Digitalized workplaces require new skillsets

Just like a touchscreen can adapt to an infinite number of tasks, workers in digitalized workplaces have to be flexible. The impressions captured from workers in the Huawei survey paint a clear picture of the skills

Jobs in highly digitalized workplaces require more skills, independence, and problem solving

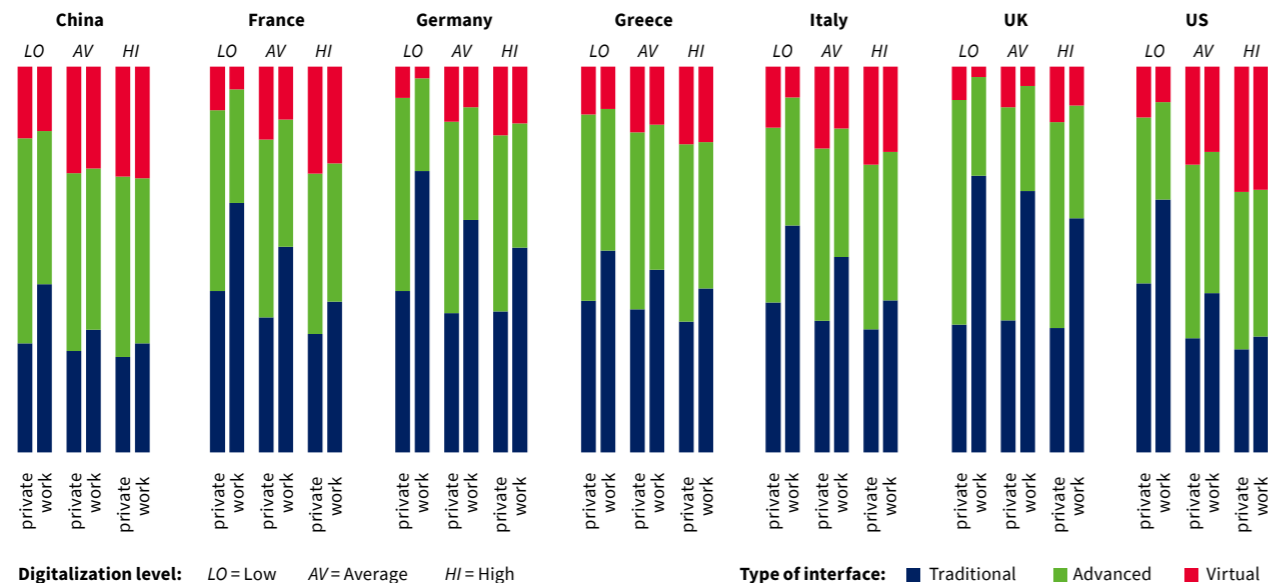
Change of perceived job characteristics in % (index 0 = average digitalization level)



Source: Survey (n=13,147). Notes: Digitalization of the company was measured on a nine item scale (Cronbach alpha >.9 for all countries) built from the Osterwalder and Pigneur (2010) business model canvas. The groups for low, average, and high digitalization were developed for each country individually based on a triadic split of the data using +/- one standard deviation from the mean as the cut-off. The scales for measuring the individual indicators were taken from Morgeson, F. P., & Humphrey, S. E. (2006). The Work Design Questionnaire (WDQ): developing and validating a comprehensive measure for assessing job design and the nature of work. Journal of applied psychology, 91(6), 1321. Wilcoxon pairwise tests (*p<.1; **p<.05; ***p<.01) were used to establish the statistical significance of differences between the different levels of digitalization in China, Europe, and the US. Notably, all other possible contrasts were also statistically significant (at least p=.05) except from high digitalization to low digitalization in Europe on task variety. Europe includes France, Germany, Greece, Italy, and the UK.

Employees use more advanced, virtual interfaces at home than at work, even in the most digitalized firms

Average share (%) of traditional (buttons), advanced (touch-centric), and virtual (voice & gesture) interfaces in work and private environments across levels of workplace digitalization



Sources: Survey (n=11,865; 118,650 observations for five interfaces across work and private use scenarios; working respondents with use of at least one interface; interfaces without any use were coded as 0% use share). Notes: Digitalization of the company was measured on a nine item scale (Cronbach alpha >.9 for all countries) built from the Osterwalder and Pigneur (2010) business model canvas. The groups for low, average, and high digitalization were developed for each country individually based on a triadic split of the data using +/- one standard deviation from the mean as the cut-off.

needed to navigate digitalized work environments. Workers face a larger variety of tasks during a typical day at work than workers in less digital environments. Jobs in highly digitalized workplaces also require a wider variety of skills to be used frequently than in less digital work environments.

Furthermore, the survey shows that a higher degree of freedom in individual decision-making goes hand-in-hand with a stronger need for problem-solving skills.

These general patterns hold true across China, Europe, and the US, but are most obvious in China. This is likely due to the fact that businesses at the low end of digitalization in China are generally still production facilities featuring straightforward job profiles with a high share of repetitive tasks. In more developed economies like Europe and the US, the differences

between jobs in firms with low and average digitalization are less substantial. The relatively greater uptick across all job profile indicators in the US compared to Europe is another indication of a general higher degree of digitalization in the US than in Europe.

It might be an opportune moment for firms to reconsider and adapt their digitalization path

In summary, the results paint an optimistic picture for business digitalization. Specifically, the survey highlights that firms with low levels of digitalization have the opportunity to leapfrog ahead of their competition if they successfully adopt new HCI. Low and no code software development will undoubtedly also force us to reconsider our concepts of digital skills, especially when it comes to advanced and virtual interfaces.



While Germany may soon catch up with other countries in terms of private use of advanced interfaces, it will likely still lag behind in the workplace.

The good news is that, for all firms, migration to digital work environments is only getting easier. The real challenge for most will be ensuring management and leadership are prepared to evolve in kind and identifying the true benefits of digital tools for each individual organization. The survey, however, suggests that in China, whose population is much keener to try out new technologies than Germany's, implementation of new interfaces may be quicker.

For German firms, this creates two considerations. First, the adoption rate of digital technologies in China is already very high, so any personnel transferred to China must be prepared for the environment that they will encounter. Second, German firms active in China have unique opportunities to scout for technologies that they can use around the world.

In the survey, workplaces in China came in on top in terms of the role that the internet plays in their business models. German firms seeking to enter the Chinese market will therefore need to understand these new apps, technical tools, and processes if they hope to perform well.

Two other reports based on the survey sample used in the article can add some nuance to our major findings. First and foremost, a report on women

in tech by Prof. Dr. Anna Schneider, published in February 2023, found that upskilling in these new technologies tends to occur more naturally for female respondents. This may result in greater promotions in technical and digital work environments than ever before.

The other report on Intergenerational Collaboration and Digitalization, written by the two authors and published in 2022 underscores the importance of intergenerational knowledge exchange for digital skills upgrade. It found that this method of skill upgrade is often underappreciated, especially when it comes to the upskilling of mature employees. In fact, more than half of all surveyed workers over the age of 55 stated that they learned digital skills from a colleague younger than themselves. Digitalized work environments uniquely foster such knowledge exchanges. On average, knowledge exchange is 20% higher in more digitalized work environments.

Prof. Dr. Anna Schneider Since 2017, Anna Schneider is a professor of Business Psychology at Hochschule Trier, University of Applied Sciences. Her research interests and teaching revolve around the

impact of digitalization on consumer behavior, and in particular how people communicate and interact with emerging technology. Anna is a member of various research associations and sits on the scientific board of the Wissenschaftliches Institut für Infrastruktur und Kommunikationsdienste (WIK) – a renowned communications and internet policy think tank. Recently, she also joined the scientific advisory board of the SINUS Institute. Drawing on more than 20 years of hands-on experience in market research, she regularly advises public and private organizations on surveys as well as qualitative research projects.

Dr. René Arnold is Vice President Corporate Communications at Huawei Technologies. Previously, he worked at high-profile think tanks in Germany (the German Economic Institute and WIK) and Brussels (Bruegel), where his research focused on the digital economy, internet policy and impact assessments of regulatory frameworks. Over the past ten years, René has (co-) authored more than 100 conference papers, journal articles and white papers. He is a frequent speaker at both academic and industry events contributing, among other fora, to the ITU economic and industry round table, the Digital Summit of the German government, and the research committee of the Munich Circle.



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German Managers Need New Success Manuals for China

By Gabor Holch, Founder & General Manager, Campanile Management Consulting



Future China prospects confuse German managers for many reasons. One is the presence of opposing narratives about China's future. Is it in decline as soft power falters, foreigners leave, and foreign investment dries up? Or is it winning a technological race and bound to dominate global markets? Simplistic predictions imply equally unrefined recommendations. If China is crumbling, foreign firms should leave for newly developing markets. If it is winning, they should invest while assets are affordable. Either way, there is little time to think: The size of China's market can make or break entire German industries.

Those with local experience see a more nuanced picture. Foreign firms cannot necessarily rebuild their previous status in China, or elsewhere, because the landscape of work has changed in recent years. Both Germany and China face different internal and external realities than even ten years ago, and consequently do business differently. Changing geopolitics and new technologies alter the way firms understand markets, develop products and services, and interact with customers. But compared to politics, strategy and technology, less attention goes to who will lead firms into China's future — in other words, how companies must select suitable leaders and managers.

Few decision-makers fully appreciate China's unique integration into global commerce. The early 2000s turned its billion-plus people into an emerging workforce, the policy of scientific development into research and development cohorts, and information

technology into global consumers. China's reform and opening coincided with a surge of globalization that quintupled the value of international mergers and acquisitions. Conferences I attended in Beijing or Shanghai back then itemized China's need for investment and know-how, Europe's for volume and affordable workers. Solar panels were a favorite example: China could not make them without Europe — Europe could not afford them without China.

That was also the heyday of globally uniform management. Tools like ERP systems and Six Sigma enabled the transfer of technologies, processes and people. Siemens power stations and fast-train technology suited China's needs as neatly as Volkswagen Santana taxis. German managers came, saw and installed. Opportunity and mobility turned China-based expat assignments into desirable promotions. Government-assigned Special Economic Zones (SEZ) allowed German expats to import compliance and management systems while sometimes practically oblivious of local language, politics and culture. In a socialist nation, those islands of capitalism let expats feel at home.

Most German expats were part of this large cohort of mid-to high-level managers focused on problem-solving. But recent years destroyed this steady model in various ways. China became a harder place to get results as its economy slowed and trade wars erupted with its major trading partners. It was one of the safest places at the height of the COVID-19 pandemic, but lost many expats in early 2020 when the virus looked like a local problem, and then in 2022, as "Zero-

COVID" turned safety into confinement. Toughening regulations combined with fewer foreigners made China less attractive for newcomers.

Meanwhile, media frenzy about an "expat exodus" diverted attention from two crucial groups of foreign managers and leaders dealing with China: those who stayed and those who relocated to nearby virtual hubs. While many expats left, tens of thousands of foreigners had longer-term plans in the country and remained. Many of them spoke functional Mandarin and had local networks, families and assets. As international talent became scarcer, switching from expat to local contracts, previously a downgrade in income and benefits, now became a chance to upgrade.

Simultaneously, the pandemic forced the world online and made it easier to engage China remotely. Many of those who had a choice ran their China business from nearby digital nomad hubs like Singapore and Thailand. With time, they got settled and were reluctant to return. Employers often accepted the arrangement as China still looked uncertain in terms of flights, taxation, and expat services like education. Remotely managing Chinese projects was now easier, anyway, thanks to two decades of systematic management localization. A new class of Chinese managers who knew foreign languages, cultures and methods became the secret of survival for most German firms in the PRC.

Post-pandemic reality disappointed foreign leaders who tried to follow their

previous China playbooks. Chinese and foreign firms are now more heavily cross-invested than ever before: The convenience of SEZ bubbles is fading. Interdependence also busts the myth of win-lose games between China and the West: nobody wins if the other loses. COVID-time isolation and recent restrictions made systematic technology transfer into China bothersome. It also seems that in isolation, China leapt ahead of the West in key technologies. That often results in a sort of identity crisis for foreign managers: If not the old model, then what?

Clients often ask me about the profile of successful expat managers and leaders in the new era. Compared to classic mainstream managers of past decades, the future will surely demand more technological and political agility from expats. But an even more important requirement is to combine working in China and with China as an alternative means to the same end. No future expat will likely see the full picture of a German firm's success in China. Settled foreigners, short-term expats, remote and localized managers must co-create winning formulas:

- **Chinese managers** ensure local succession, and comprehend China's language, culture and networks the way expats often cannot. But beyond a vanishing cost incentive, other weaknesses of localization emerge. Chinese managers lag behind foreigners in terms of multi-language skills, as well as willingness and ability to travel. Moreover, localization did not solve culture gaps, only brought them in-house. Managers at heavily localized German firms tell me how, "China branches drift away from headquarters."
- **Settled foreigners** understand local culture and networking, and often speak several languages, including Mandarin. They typically stayed in China during the pandemic years, proudly adopted Chinese habits, and often became critical of German ways of doing business. That can cause friction with new expats and headquarters. They often describe the resistance they meet when they present China as an example to their German colleagues.

- **Short-term expats** with fresh perspectives of home-grown technologies, products and corporate values help preserve the multinational identity and international connectivity of China branches. But due to localization and the PRC's waning popularity among expats, this group will likely become smaller than before. Families are especially reluctant to move to China, which forces recruiters to choose between younger applicants or late-career managers with grown kids.

- **Remote managers** in nearby countries started as a temporary measure, but gained a level of permanence, especially for expat families. Currently, this group mostly consists of former China residents who retain their networks and can engage it through the PRC's insular digital ecosystem. But China changes fast, these advantages will fade, and coming generations of regional expats in places like Bangkok or Singapore will likely lack the same familiarity.

As alarming as they sound, these trends allow plenty of opportunity for German firms to prepare their managers for the coming era of business with China.

Prepare Leaders and Managers for the Future of Work

At many German firms, the most experienced generation of foreign managers in China resent the technological acceleration triggered by the pandemic. Virtual means connecting organizational levels that had previously escalated intercultural communication to their superiors. Senior bosses struggle because global trends towards agility, speed and flexibility do not favor the cautious perfectionism that defined German brands for decades. Simply put, they need younger managers who may not have the same experience, yet almost instinctively grab the value of both global and Chinese tech applications wherever they are.

Help Managers and Leaders See China in Context

Seasoned expats tend to be gloomy about business in China: Its tougher regulations, growing isolation, mounting risks, and the waning competitiveness of their German firms. While their perspective is essential for realistic leadership, local

colleagues, new expats and remote team members can add important fresh perspectives. One is the advantage of global networks inherent in multinational firms, which allows them to reverse decades-old technology transfer strategies and export China's emerging trends. If Europe is really falling behind, German firms in the center of China's technological revolution are in the best position to upgrade home-grown solutions with what they have learned.

Respect China's New Leadership Requirements

It is understandably hard to accept the devaluation of hard-earned insights about business in China. For talented international managers, the PRC is not the career-boosting cultural adventure it once was. Today's local candidates are less thrilled by promotions to formerly expat positions. Technology and geopolitics irreversibly rewrote job descriptions for managers working in or with China. Technical expertise, leadership potential, local experience, language, communication skills and cultural agility are always advantages, yet the ideal mix of those ingredients differs in each of the above-mentioned manager categories. But with the right skills in the right places, foreign managers can navigate their firms to success along new megatrends in China that might scare them right now.

Gabor Holch is an intercultural leadership consultant, coach, author and speaker who has served 100+ clients in 30+ countries. An expat since age 4, China-based since 2002 and working globally, Gabor is a Certified Management Consultant (CMC) in Mandarin and licensed in major assessment tools including DISC, the Predictive Index, NeuroColor and MBTI. He is the Founder and General Manager of Campanile Management Consulting and his latest book, "Dragon Suit: The Golden Age of Expatriate Executives in China", was published in the summer of 2023.



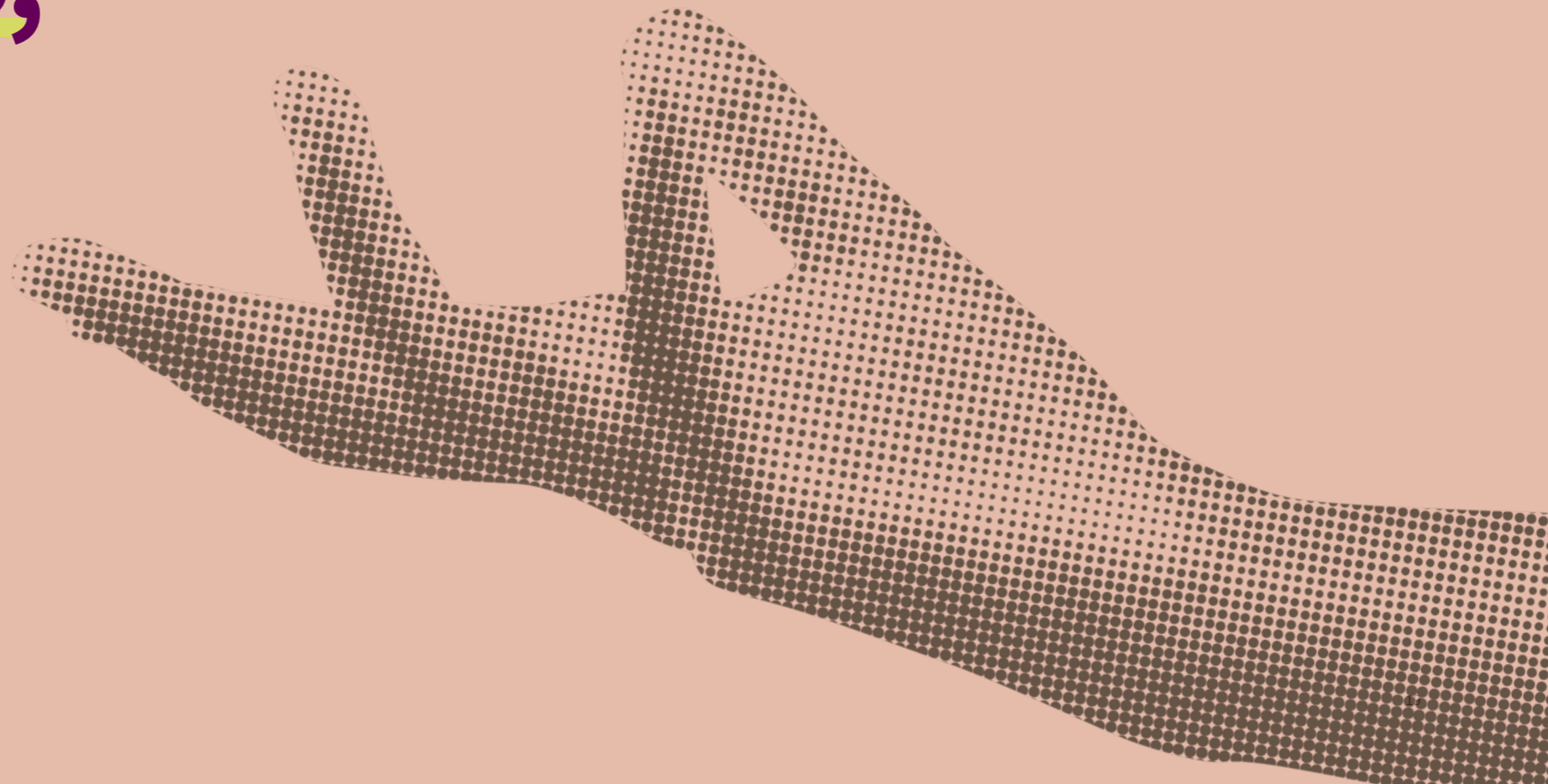
Falk Hirdes
General Manager
CPC China

BRIDGING INNOVATION AND OPERATIONS,

*The Missing Link in
Business Ambidexterity*

In the current business context for foreign automotive OEMs (Original Equipment Manufacturers) in China, focusing on innovation and renewal still needs to be balanced with regaining stability. This is an approach widely known as Business Ambidexterity, which describes two different ways of managing organizations and leading people. But rather than running separate innovation labs or incubators as suggested by scholars previously, more recently, integrating the two aspects of exploitation and exploration in multiple aspects of the business has been found to be the way forward.

But there are other concepts which take it a step further. Instead of mitigating the divide between innovating and running the business, they introduce a third element into the mix.



Business Ambidexterity in a Nutshell

Business ambidexterity (both-handedness) refers to an organization's ability to simultaneously run their business using existing assets and competencies (exploit), while also innovating and pursuing new opportunities (explore). Key contributors to the definition of the dichotomy and the definition of the related approaches were Robert Duncan, James G. March and Michael L. Tushman & Charles A. O'Reilly III. It also shows up in slightly different form and using different terminology in Jon P. Kotter's writings on Change Management.

Evolution From a Structural to a Context or Situation Dependent Approach

1976 – Robert Duncan introduced the term “ambidexterity” to describe organizations that are aligned and efficient in their management of today's business demands, while also adaptive enough to changes in the environment to be successful in the future.

1991 – James G. March expanded on this by describing the need for organizations to balance exploiting existing competencies and exploring new opportunities. This built on Duncan's ideas around alignment and adaptability.

1995 – In “Leading Change,” John P. Kotter introduced an 8-step change process focused on driving organizational transformation through strong leadership, vision, and empowering action. Key steps include establishing a sense of urgency, forming a guiding coalition, and institutionalizing changes. Kotter advocated for structurally separating out an innovation team to drive the process.

1996 – Tushman and O'Reilly further developed their concept, arguing that successful organizations separate their exploitative and exploratory units to avoid conflict while still enabling

Opening leadership is characterized by behaviors such as encouraging experimentation, challenging assumptions, broadening perspectives and exploring new possibilities – whereas leaders applying closing behaviour would be providing structure, making decisions, providing certainty and driving efficiency.

alignment. They highlighted the role of senior leadership in enabling this ambidexterity.

2014 – In “Accelerate,” Kotter introduced the “dual operating system,” which complements the traditional hierarchy with a more agile network structure. This enables organizations to balance alignment with the capacity to adapt quickly. Kotter moved away from fully, structurally separating exploration/innovation, recognizing the need for greater integration between systems. The dual operating system echoes ideas of contextual ambidexterity.

2016/2021 – In an update, Tushman and O'Reilly emphasized that ambidexterity has become even more critical in today's environment of rapid disruption. They advocate for contextual, leadership-driven ambidexterity rather than structural separation. The key is managing trade-offs and contradictions between exploiting and exploring.

Originally, both Kotter and Tushman/O'Reilly promoted some structural separation of innovation. But their latest thinking shows similarity in advocating for more integrated, complementary systems to enable both alignment and adaptability within organizations.

OEMs Encounter Challenges with Structural Ambidexterity

Over the last 15 years, OEMs like VW, Mercedes Benz and BMW all started incubators or innovation labs with less than satisfactory or sustainable impact.

Volkswagen Group's Moonraker project focused on understanding the market and the customers as well as collaborating with San Francisco mobility startups on innovations including connected, autonomous, shared vehicles powered by digital business models. However, the project struggled to achieve successes or meaningful innovations to feed back into Volkswagen's product design and was shut down.

Volkswagen Group China launched incubator White Swan in Beijing in 2017 to tap networks, AI, and China's startup tech talent for joint venture innovations. However, clashing cultures and priorities hindered syntheses of agile external partners like earlier efforts with San Francisco's Moonraker. Unable to achieve meaningful traction, technology-focused White Swan quietly folded after 2 years. Despite ambitions to accelerate advancements including autonomous driving and connectivity via Chinese innovation alliances, it was shut down in 2019.

BMW's BMW Startup Garage was shut down in 2016 after 3 years. It was aimed at mobility and transportation startups.

Mercedes-Benz's Startup Autobahn program was closed in 2019 after 5 years. It focused on autonomous driving, connectivity, electric vehicles, and mobility services.

These are but a few examples of many more experiencing similar fates – unwillingly supporting the changes Kotter and Tushman and O'Reilly made in their writings at almost the same moment in time.

From Separation to Integration Through an Additional Network or Specific Leadership Behavior

To overcome the disconnect between running the business and innovating the business, there are two approaches which both fall under what was named contextual ambidexterity: Kotter's dual operating system and Tushman and O'Reilly's leadership-driven approach.

Kotter introduced the idea of adding a virtual network-based innovation structure in addition to the existing hierarchical operating structure. Specifically, this involves complementing the traditional hierarchy focused on alignment and efficiency with an additional agile network focused on exploration. The “agile innovation network” or “network of volunteers” would consist of voluntary participants from across departments and levels who come together in flexible, cross-functional teams to explore new opportunities. Rather than a permanent separate structure, people could participate in the network for specific initiatives and projects requiring innovation, while still maintaining their regular roles. Kotter believed this dual system model could balance the advantages of alignment and efficiency with the ability to adapt quickly and experiment through empowered networks focused on new initiatives outside day-to-day operations. In this way, establishing

complementary network and hierarchy systems could enable organizations to achieve the benefits of both exploitation and exploration.

Tushman and O'Reilly advised to enable contextual ambidexterity by requiring leaders to shift focus from structure to culture, strategy, incentives and empowerment. They would still guide alignment, yet do so more flexibly to allow innovation and change to emerge holistically. They argue that ambidextrous leaders must employ both opening and closing behaviors, toggling between them as needed. Opening leadership is characterized by behaviors such as encouraging experimentation, challenging assumptions, broadening perspectives and exploring new possibilities – whereas leaders applying closing behavior would be providing structure, making decisions, providing certainty and driving efficiency. In that way, leaders contextually enable both exploration and exploitation across their units and organizations.

One of the main ways they propose leaders can contextually enable both exploration and exploitation is through reward systems. Leaders need to incorporate both performance/efficiency metrics and innovation goals into incentive structures from the business unit level up to the overall corporate level. This ensures units and individuals

are motivated to balance optimizing today's business with exploring new innovations for the future. If rewards and KPIs focus solely on short-term efficiency gains, it hinders an organization's ability to also prioritize exploration and experimentation.

Becoming Aware of Team Members' Talents and Preferences is Key

Even after the introduction of the above mitigation measures, two key implementation challenges remain:

COVER STORY

a) Leaders struggling to shift mindsets from pure efficiency toward exploration.

b) Team members not feeling comfortable, motivated or able to toggle between innovation and operations.

Whereas Tushman and O'Reilly believed that leadership would be able to fix it and Kotter banked on an army of volunteers to take care of innovation — the reality proved to be different. A company history and culture that for decades revealed in continuous improvement, efficiency and quality is unlikely to create curious, passionate risk takers. It also needs two very different personality types for innovating and for running the business. Actually, so different, that a third type is needed to close the gap. A type that takes an innovation and enables its application through standardization.

These personality types and the cultures that they thrive in, are the basis of the concept of "Pioneers, Settlers and Town Planners" by Simon Wardley (2014), who himself was influenced by the more martial "Commandoes, Infantry and Police" by Robert Cringelely (1992).

Adding Settlers to Pioneers and Town Planners to Bridge the Gap Between Excel and Explore

Wardley's understanding is that innovations transition through stages from uncertain beginnings to scalable products and to standardized platforms, and that each stage requires different mindsets, skills and leadership approaches – creative, entrepreneurial, methodical and architectural. In addition, organizations need the ability to operate in different modes across the cycle of innovation adoption. The teams needed the named Pioneers, Settlers and Town Planners:

Pioneers: The innovators who explore and experiment with new ideas in high uncertainty. They focus on validating the value of a new innovation.

Settlers: Those who take the innovation pioneered and work to turn

Pioneer Commando	take ideas from	Settler Infantry	take concepts from	Town Planner Police
Deals with... Rare Poorly Understood Differential & Novel High Future Value Constantly Changing Undefined Market		Deals with... Growing Increasing Education Feature Differentiation High Profitability Maturing Products		Deals with... Common Well-defined Essential Cost of Doing Business High Volume Standardized & Stable Mature Market
Happy with... Failure Gambling & Gut Feel Experimentation Uncertainty Exploration	CULTURE			Happy with... Operational Efficiency Metric-driven Analytics Scientific Modelling Building What is Needed
Methods... Agile Uses Common Components Speed Above All Else		Methods... Lean Mines/Nurtures Ecosystems Makes Success Happen		Methods... Six Sigma Builds Ecosystems Empires of Scales

it into something scalable and usable. They reduce uncertainty and build governance. The Settlers are about finding productivity from innovation and the reduction of uncertainty.

Town Planners: They standardize the now settled innovation, plan for wider integration into the corporation, and manage complex dependencies. So, whereas Ambidexterity focuses on just two modes, innovation vs. running and refinement of existing systems, processes and products, Wardley's settlers represent the transition point – taking raw innovation and productizing it before the town planners standardization scale it and ensure gains in quality and efficiency through continuous improvement. This highlights the crucial middle ground between pioneering and integrating into corporate systems. By creating an additional team that is focused on settling – not just on pioneering or planning – the challenges faced by implementation of structural ambidexterity can be mitigated.

Create Awareness in Your Leaders
Returning to the situation of the foreign automotive OEMs in China, their challenges are not the same as they were 10 years ago. The innovation speed of the local competition, the increased frequency of change and the need for other, new skills to react to or to shape those changes are very different.

Being able to transition ideas into action at increasing speed has become a key success factor.

Thus, creating awareness within leaders and managers of the different personality types needed and the fit of their team members to those types enables them to apply specific leadership styles to utilize all three approaches.

In the end, leaders and managers might find that team members, who have been resisting the push for innovation and agility, have done so because they are actually brilliant settlers or amazing town planners. Greater awareness of the three modes coupled with a better understanding of the team members' inclinations is a key enabling factor for the coming transition to more innovation-driven, faster changing organizations.

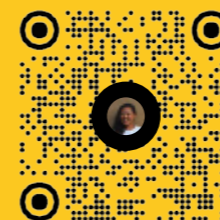
Falk Hirdes is the General Manager of CPC China, the Beijing and Shanghai based entity of a German Management Consulting firm, focused on Change Management and Organizational Development. Over the past 20 years in the automotive industry, he has consulted companies across the complete customer and vehicle lifecycles, moving to China in 2016. With a curiosity for new ideas and concepts and a passion for hands-on experience, Falk Hirdes' focus lies on training and coaching current and future leaders, enabling transformation and change initiatives, and facilitating turnaround or recovery for highly critical projects. He can be contacted at falk.hirdes@cpc-global.com

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Lyla Sulaiman is a certified LEGO® SERIOUS PLAY® facilitator with a background in business, human-centered design and brand development. Her consultancy studio, matter design, is based in Shanghai and Singapore and has served various clients — German Chamber Of Commerce China, Lululemon, Friedrich Ebert Stiftung, FujiXerox, Cookpad and many others. Contact: 86 136 6194 1294 / lyla@matter-sh.com / wechat ID: namialusaly
Facilitation is only available in English. Simultaneous interpretation (English/Chinese) is available upon request.

The Future of Work: Evolving Workspaces in a Fast-Changing World

By Daniel Heusser, Chief Architect and President
VIRTUARCH



The landscape of work and how people approach their professional lives has undergone a remarkable transformation in the past few years. As the nature of work evolves, so too does the design of office spaces. The traditional, static office model is making way for innovative, flexible environments that adapt to the changing needs of employees. This shift has been accelerated in recent years, with the pandemic acting as a catalyst for a more profound reevaluation of the workplace. This article explores the trends and innovations in office design, focusing on the move towards flexible, attractive, and dynamic workspaces.

The Evolution of Workplace Design

Over the last two decades, there has been a noticeable trend toward more flexible office spaces. The traditional cubicle-laden offices are being replaced by open layouts that promote collaboration and communication. This shift has been further accelerated by the global shift to remote work prompted by the COVID-19 pandemic. As a result, companies are reimagining the purpose of physical office spaces and investing in creating environments that are not only conducive to productivity, but also serve as a hub for collaboration and innovation.

The Rise of Flexible Work Arrangements

One of the significant contributors to the changing face of office spaces is the rise of flexible work arrangements. The ability to work from anywhere, whether

it is a home office or a “work-vacation” destination, has reshaped the concept of the traditional office. Employees now seek environments that offer flexibility and accommodate various work styles. This shift has led to a reconsideration of office size and layout.

In both Europe and the United States, offices have become less bustling as remote work becomes more prevalent. Consequently, companies are reevaluating the need for large office spaces, leading to a reduction in size and the adoption of shared spaces. The challenge for organizations is to make the physical office a compelling and attractive space that employees want to return to.

To enhance the appeal of the workplace, Clariant, a prominent global specialty chemical company, has realized its One Clariant Campus in Shanghai. They have blended advanced R&D spaces with regional headquarters functions and embraced the idea of creating a workplace for the future for all their employees in Shanghai and for their experts, sales executives and key clients, joining the Shanghai teams for shorter or longer periods. This increased flexibility is mirrored by highly diversified workspaces, offering everything from a generous desk in open space offices to quiet break-out rooms for concentrated work. The concept office also incorporates a work café. A complete floor within the office facility has been designed as a lounge, providing employees with

a comfortable setting to gather, enjoy coffee, to meet and discuss ideas, and foster a relaxed atmosphere. This adaptation underscores the increasing significance of collaborative environments, which not only promote productivity, but also facilitate team interaction and creativity.

Another noteworthy illustration in this context is the work environment at Chiesi, a leading global pharmaceutical company ranked among the top 50. Their workspace design is centered around cultivating an environment where employees seamlessly align with the company’s culture. The key aspects of emphasis include openness, connectivity, and flexibility. By integrating a dynamic ambiance and drawing inspiration from organic life themes, the design injects vitality and dynamism into the workspace. The inclusion of sofa areas and versatile training and meeting rooms underscores dedication to adaptability and the well-being of employees.

The Drive for Attractive Work Environments

Creating an attractive and “commute-worthy” office space has become a priority for companies looking to retain a physical presence. The goal is to make the office a destination that enhances the overall work experience.

The IMEIK R&D Centre in Beijing, a pioneering biomedical soft tissue materials company, embraces a distinctive and cutting-edge concept.

With more employees spending less time in the office than ever before, the identity of the office as the place to meet and to “feel at home” in the company of peers is essential to creating a bond. This involves a progressive shift in the main color scheme, transitioning from red in the basement to corporate blue on the sixth and final floor. Additionally, the design incorporates a pattern of flower blossoms projected over lighting perforated ceilings and adorned walls, featuring modern half-tone images and vibrant office floors. This approach goes beyond aesthetics, aiming to create workspaces where employees find joy in their work.

Securing Top Talents with Inspirational Workspaces

In China, the motivation for creating attractive work environments is driven not primarily by the rise of home office arrangements, but by intense competition for talent. Companies are realizing that a well-designed workplace can be a powerful tool for attracting and retaining top-tier professionals. This is not just about aesthetics, but also about designing spaces that foster social interaction and professional networking.

A notable instance in this context is the German Centre in Shanghai. As outlined by Christian Sommer, CEO and Chairman of the German Center in Shanghai, this space is envisioned not only as a contemporary workplace, but also as a hub for gatherings. The

German Centre offers top-notch venues for seminars, training sessions, and events, promoting a communal atmosphere among occupants. This platform concept actively nurtures collaboration, mutual support and the establishment of business connections.

Current Global Trends in Office Space Redesign

In both Europe and Asia, offices have become less bustling as remote work becomes more popular. While companies are diversifying their office environments, some move even further to create more co-working space designs. The Innovation Centre in Rapperswil, Switzerland, exemplifies this trend by prioritizing co-working spaces that facilitate a holistic

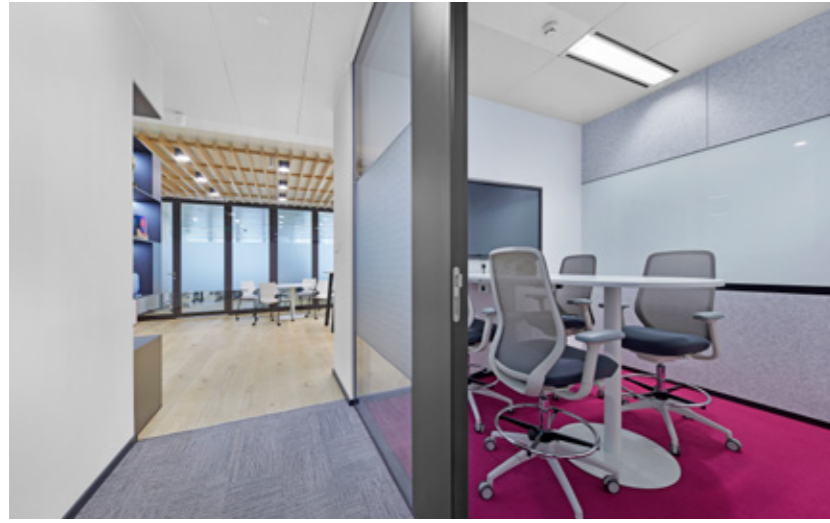
approach to work. The ground floor features a cafeteria with an outdoor terrace, a primary co-working area connected to a garden, and a versatile meeting space designed for large events. The design actively encourages a balance between collaborative spaces and areas dedicated to focused individual work. One of the challenges is to design spaces that can integrate collaborative teams, while still providing enough privacy and confidentiality for functions and tasks, which contain essential know-how.

Some workspaces are even going beyond an integration at a certain location. Concepts such as “Workation” are starting, not only addressing digital nomads, but also teamwork



Clariant's Work Café at One Clariant Campus, Shanghai

COVER STORY



Chiesi's flexible workspace of open collaborative zones and breakout rooms

for intense workshops. One example of a Workation concept is situated on the scenic vacation island of Bali. This innovative concept blends work and leisure by providing functional workstations, meeting rooms, a robust digital infrastructure with videoconferencing rooms, and, naturally-invigorating living and relaxation areas within a tropical vacation setting.

Conclusion: Shaping the Future of Workspaces

The future of workspaces is dynamic and ever-evolving, with a focus on creating environments that inspire collaboration, innovation and employee well-being. The shift towards flexible work arrangements has prompted a reevaluation of traditional office spaces, leading to innovative designs that cater to the changing needs of the workforce.

As companies navigate the evolving landscape of work, the challenge is not only to meet the practical needs of companies and employees, but also to create spaces that enhance the overall work experience. The fusion of aesthetics, functionality, and flexibility in office design reflects a commitment to shaping the future of workspaces that are not only productive, but also inspiring and enjoyable for employees.



Linking the workplaces of scientists and office staff creates a feeling of togetherness at IMEIK



A versatile meeting room for events at the Innovation Centre in Rapperswil, Switzerland

Daniel Heusser studied architecture at the ETH Zurich and Southeast University in Nanjing. In 1994, he came to China to set up a Joint Venture for a Swiss architecture firm. Daniel founded VIRTUARCH in 2003 and has been in charge of the architecture and project management company since 2003. VIRTUARCH has offices in Shanghai, Bangkok, and Zurich and encompasses a team of 80. Daniel and his team have worked on over 150 Industrial and R&D projects and on countless office projects in China, Europe and Southeast Asia, including the Clariant OCC Campus in Shanghai, The Innovation Centre in Rapperswil, Switzerland, and the Workation project in Bali.



Workation: The work resort in Bali

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NAVIGATING THE DIGITAL AGE: LEGAL CONSIDERATIONS FOR EMPLOYERS



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Emerging new technologies offer new opportunities for growth, innovation and enhanced efficiency to employers, but utilizing new technologies can also bring additional legal complexities and challenges for companies. Below, we explore topics of remote work, data privacy and protection of trade secrets in the digital age from an employer's perspective.

1

Remote Work

After 3 years of the pandemic, many companies have adopted the remote working mode for employees, i.e., employees may work outside of company premises, either from home, from other places, or even from other countries. Remote work can bring various benefits, such as reducing costs for office space, reducing the turnover rate, saving of employees' commuting time, etc. But it also brings challenges to companies. China does not have a specific legislation on remote work. Basically, the existing People's Republic of China employment laws and regulations on typical employment-related issues, such as working hours, rest and vacations, occupational safety and health, as well as social security shall be followed in the scenario of remote work.

In China, except for specific circumstances (such as during the pandemic), doing remote work needs a mutual agreement between the employer and the employee in writing. This also applies to the employees working from other countries. Legally speaking, remote work is related to the employee's work location. Under P.R.C. law, the employer and the employee shall agree in the employment contract on the work location of the employee, i.e., either at company premises, or from home, or other places, or even other countries.



- According to PRC law, employers are obliged to provide a safe working environment and necessary labor conditions and tools for the employees doing remote work. However, in practice, it is unlikely that employers will be able to control the working environment/space of telecommuting employees. Due to this, to mitigate potential liabilities, employers may ask employees to give undertakings regarding the safety conditions of their work environment at home.
- Managing the performance of employees working remotely is difficult. Employers should clearly communicate with employees and document work requirements and performance expectations. Further, in order to maintain employees' productivity and accountability, depending on the nature of the work, employers may take certain management measures such as

asking employees to make regular reports on work progress, setting deadlines when allocating work tasks, etc. Notwithstanding the above, not every work position is suitable for employees to work remotely. If the productivity of an employee doing remote work cannot be guaranteed, the employer may have to consider changing the work mode of the employee.

- Employers are obliged to comply with laws and regulations on working time even if the employees work remotely. Under P.R.C. law, except if employers obtain an approval from the authority on adopting special working time systems, the standard employee working time is 8 hours per day and 40 hours per week with at least one day rest. The working hours of the employees beyond this standard are treated as overtime work, which may trigger the employers' overtime payment obligation. To avoid potential overtime payment claims from telecommuting employees, employers are advised to keep accurate tracking and recording of their employees' working hours by requiring them to clock in via attendance software, and/or regularly report their work hours to employers (or equivalent). Besides, an overtime application and approval procedure should also be implemented to record valid overtime working hours.
- Employers are obliged to provide social insurance for the employees working remotely. However, employees working remotely may encounter problems in enjoying social insurance benefits. For the employees working remotely at the same location (city or town) as that of the employer, in case of work-related injuries, to enjoy insurance benefits, the employer and the employee should prove that the injury was caused during work hours due to work related reasons. Further, for the employees working remotely in China, but not at the registered location of the employer, as required by P.R.C. law, the employees must participate in the social insurance at the

registered location of the employer. As a result, under the current Chinese social insurance system, employees working remotely may have difficulties to enjoy, at their work locations, the social insurance and local social welfare benefits such as enrolling in public schools for children or purchasing cars/residential premises. As for the employees working remotely in other countries, the situations will be more complex. The employers might not even be able to provide social insurance for the employees in the countries where they work.

- In addition to these issues mentioned above, the arrangement for cross-border remote work will also encounter other problems. For instance, the laws of the foreign country may apply to such employment relationships. In such cases, the employer may have to take the legal requirements of the foreign country into consideration. Additionally, cross-border taxation implications such as whether the employer faces a permanent establishment risk in the foreign country and individual income tax issues of the employee should be considered to avoid tax violations. Failure to navigate these issues may expose both the employer and the employee to potential liabilities. Hence, companies may wish to seek prior legal and tax advice to ensure compliance with applicable laws and regulations before implementing it.

2

Employee Data and Privacy Protection

In the digital age, various software, apps, systems, online platforms and tools are available to companies to manage and oversee daily operations and internal management. Use of these technologies brings benefits of increased efficiency and transparency. However, it also leads to constant collection, accumulation, sharing and broader processing of employees' personal information by employers.

Employee Data

With the enactment of the P.R.C. Personal Information Protection Law in

2021, China has set stringent standards for data protection. According to the law, for processing employees' personal information, in addition to notifying employees of the purpose and method of processing, type of personal information processed, retention period, and other items required by law, companies must obtain consent from employees on processing their personal information, except if such processing is necessary for conclusion or performance of employment contracts, or carrying out human resource management based on companies' HR policies. If companies transmit the employees' personal information abroad, the companies must obtain specific consents from the employees. Further, companies are obliged to take necessary measures to preserve information security and prevent employees' personal information from being accessed unauthorizedly or leaked.

Given the statutory requirements, companies shall update their data policies as well as their HR policies, such as the Employment Handbook (i) to notify the employees of processing employee data; (ii) to ensure that companies have the legal right to process employees' personal information without additional consent of employees; (iii) to obtain specific consent from the employees if the employee data needs to be transmitted abroad; and (iv) to take measures aimed at protecting employees' personal information security.

Employee Privacy

In the digital age, various technological tools/methods to supervise and manage employees, such as monitoring work software, video surveillance, facial recognition for attendance, data monitoring and retrieval of employee emails and chat logs, as well as location tracking of field staff, are available. With the promulgation of the P.R.C. Civil Code, strengthened protection is put on personal privacy. When utilizing these tools to supervise employees' daily work, employers should pay due attention in order not to intrude on the privacy right of employees. Below are some guidelines for

In the digital age, various software, apps, systems, online platforms and tools are available to companies to manage and oversee daily operations and internal management. Use of these technologies brings benefits of increased efficiency and transparency.

FEATURES

employers to ensure the legitimacy and compliance in using these tools to monitor employees' work activities:

- Limit the monitoring to company equipment and facilities (laptop, email account, etc.) only. No personal property (such as private email account) should be monitored.
- Clearly inform employees that the company equipment and facilities are monitored in advance.
- Limit the scope of persons who have access to employees' data collected.
- If video surveillance/location tracking is used, clearly inform employees about the necessity/purpose of using these measures (such as for public safety, preservation of assets, attendance management, etc.) and ensure that such measures do not unreasonably intrude on the personal privacy of employees.
- Only use data collected for human resource management based on company's employment policies and do not disclose the data to irrelevant parties.

3

Protection of Trade Secrets

In the digital era, while various electronic systems, tools and platforms provide employees with more diverse and convenient methods to work more efficiently and flexibly, the risk of leakage of trade secrets is also increased. Employers are advised to take more proactive steps to protect their trade secrets while utilizing new technologies. From a legal perspective, employers are suggested to:

- Establish comprehensive policies and procedures for trade secrets protection, including defining the scope of trade secrets clearly, assessing the need-to-know scope of trade secrets for employees, ensuring different access authority for different types of trade secrets, stipulating consequences for violation of confidentiality, etc.
- Sign non-disclosure agreements with employees who have access to confidential information.
- Sign non-compete agreements with key employees who have access to core information.

- Provide regular confidentiality training sessions to employees;
- Ensure a clear and complete handover of trade secrets by employees who leave the company.
- Proactively take legal remedial measures, such as applying for injunctive relief, reporting to competent governmental authorities, filing lawsuits for damage claims, etc. if trade secrets are infringed/disclosed.

Future Trends and Conclusion

As technology evolves, we believe more and more new technology products will emerge to enhance the operational and management efficiency of enterprises and may change the ways they are managed and the way their employees work. While enjoying the convenience and benefits brought about by new technologies, enterprises should also pay attention to legal complexities and problems in utilizing these technologies and adopt pragmatic measures and mechanisms to deal with them.

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IP PROTECTION AND LOCALIZATION IN CHINA



Multinational Companies (MNCs) operating in China are finding that their China-based competitors are innovating rapidly, adopting a fast-to-fail approach for product development — Innovate and launch it on the market. If it succeeds, run with it; if it fails, rip it out and try again. Gone are the days of multi-year development cycles for new products for China, and MNCs are finding it hard to keep up. Many MNCs are trying to become more local to maintain market share and capture new opportunities. MNCs are therefore considering bringing more Intellectual Property (IP) into China or developing more IP locally, so they too can innovate more rapidly — but risk management efforts are struggling to keep pace.

It is important to note that if risks are properly managed, there are significant opportunities for well-planned localization efforts. Benefits vary widely across industries and locales, but can include:

- Access to preferential policies related to housing, talent, financing and land
- Corporate income tax relief
- Decreased barriers to public procurement
- Avoidance of restrictions on imports
- Cost savings on manufacturing for the China market

The key is to include commensurate planning for IP risk mitigation as a component of any localization strategy. The first step is understanding typical challenges to IP protection, followed by creating a bespoke IP risk management program.

Challenges to Protecting IP

Historically, employee theft, counterfeiting and infringement have been common challenges for businesses operating in China. This is why MNCs previously chose to keep critical IPs outside China. While many MNCs had departments called “R&D,” they did very little research and mostly focused on development, localizing foreign IP for the China market. As a result, operational security (including physical and data security) was often quite lax. As MNCs look at bringing IP into China (and developing more in country), they need to adapt their operations to protect their assets and know-how. In order to capture new market opportunities, MNCs need to take new approaches to identifying risks, improving IP security and creating a safe space to host and leverage IP.

Typical Gaps That MNCs Need To Address Are:

“Whack-a-mole” mentality: Businesses tend to take a piecemeal or superficial approach to management, reacting to problems as they occur instead of anticipating and preventing them before they can take place. Businesses often fail to proactively identify their IP, let alone implement controls and train employees to protect it. Protective efforts are frequently not considered until after a serious breach has occurred.

Cost controls: IP protection cannot be separated from a company’s overall investment in internal controls. Businesses often face a dilemma: Cost management versus investing in securing IP. Processes associated with

scrapping and recycling are often low priorities for investment in control improvements. While waste and scrap disposal bring non-operating income to a company, even well-intentioned recycling efforts can present a security risk, as failing to properly destroy sensitive, confidential, or valuable IP scrap material can encourage counterfeiting and IP loss. Control Risks worked with a client that found “scrapped” new development products on the market after being transferred to a recycler. The disposal of the scrapped goods was handled without onsite destruction, so the scrapped pre-release goods could have been repackaged for sale or reverse engineered.

Inadequate processes: Production processes are often not created or reviewed from an IP risk perspective. Rather, they focus on manufacturing goods efficiently in an environment that continually evolves to reduce waste and inefficiency. The concept of “waste” in the context of lean manufacturing does not account for losses due to malfeasance. In addition, manufacturers generally have inadequate compliance policies, training or reporting methods to encourage employees to report suspected misconduct. Insufficient checks and balances also cause IP losses. A lack of cross-functional controls leads to supervisory weakness.

Mitigating Risks

To achieve operational success in China, businesses should develop an IP protection program that:

- 1) Identifies IP (both current and future);
- 2) Conducts a gap analysis of protective



measures, looking at what should be in place versus what is currently in place; and 3) Assesses current vulnerabilities using an “investigative mindset.” From a compliance perspective, it is critical to shift from a reactive management style to one that encourages employees to speak up on matters related to IP protection.

Identification and Assessment using an Investigative Mindset

MNCs should conduct an onsite risk assessment of procedures related to surveillance, storage, production, packaging, waste and scrap management. This will identify vulnerabilities regarding IP, check whether these are in line with corporate SOPs (Standard Operating Procedures) and ensure that there is robust information technology to mitigate unauthorized access to critical IP.

- Treat the priority risks identified and take measures to prevent them in a timely manner. Create an IP protection plan, including policies and procedures, which inform who, what, why and how a protection mechanism for critical physical assets and IP is to be implemented.
- Use value-stream mapping with a risk focus to shift analysis of traditional manufacturing efficiency towards the goal of IP protection. Mapping the production value-stream from a risk perspective can help identify security gaps. Many manufacturers focus on improving security regarding high-value materials (which often contain IP)

and finished goods, while other processes — such as repair, scrap, recycling and general waste — can be overlooked. Fraudsters can circumvent these processes to divert IP through the waste stream, often colluding with scrap companies.

In lean manufacturing, a “Gemba walk” refers to an informal visit to the production line in which managers make first-hand observations of the manufacturing environment in terms of quality, safety and general tidiness. By using an investigative mindset, Gemba walks can be an invaluable tool in pinpointing control gaps. Below are a few tips for investigators on Gemba walks:

- Are the empty cartons in the recycling bin really empty? Could the cardboard recycling stream be used to divert products and materials containing IP to colluding recyclers?
- Is digital IP safe in your systems? Are there any login credentials visible on system access points? Do they suggest password sharing? Is the username something generic, such as “Admin” or “DayShiftPackout1”?
- Do employees use camera-enabled mobile phones? Can employees take/transmit photos from design areas?
- Are managers allowed to skip security protocols when entering/exiting the production area? Could they remove prototypes from “black box” development areas?

Internal Controls and Compliance

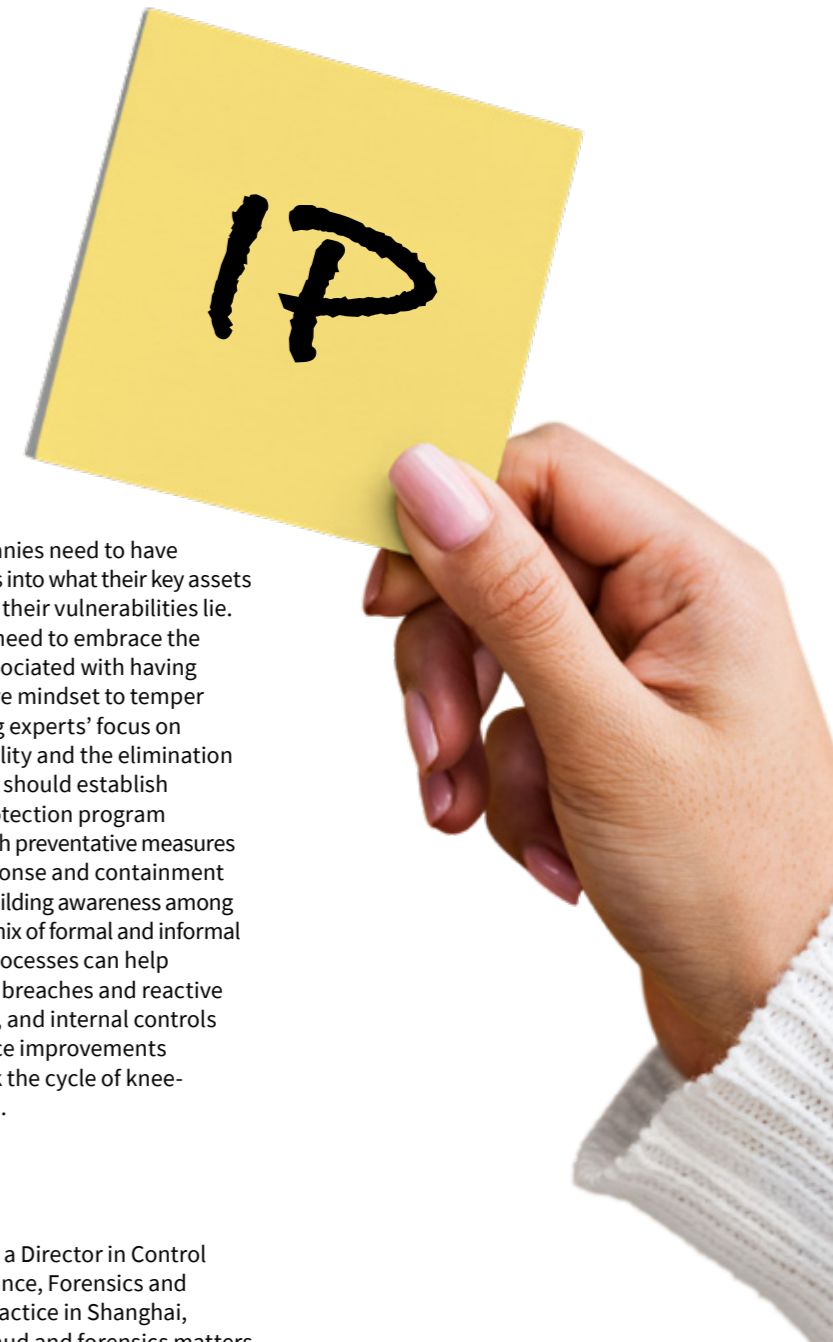
A number of internal steps can be taken to improve IP security.

- Establish a dedicated internal control and compliance function. Define the objectives and values of IP protection, formulate an organizational structure based on the future direction of the company, and clarify roles and responsibilities. Ensure that the team is independent.
- Enhance checks and balances in production to strengthen cross-functional supervision for IP protection and ensure that IP protection is part of the compliance program and included in the employee handbook.
- Conduct root-cause analysis, distil post-incident learnings and carry out improvements to prevent IP breaches from recurring.
- Develop an employee training program to educate all staff on the importance of IP protection and foster a culture of IP protection within the company. Educate employees to understand that the true cost of losses related to IP is not just financial; it has an impact on the company’s brand, reputation and operations.
- Assess the business’s overall “speak-up” culture and design appropriate programs to identify weaknesses and address concerns.

Developing resilience in IP protection in China is more challenging than ever

before. Companies need to have deeper insights into what their key assets are and where their vulnerabilities lie. Stakeholders need to embrace the skepticism associated with having an investigative mindset to temper manufacturing experts’ focus on efficiency, quality and the elimination of waste. They should establish a robust IP protection program that covers both preventative measures as well as response and containment capabilities, building awareness among employees. A mix of formal and informal assessment processes can help prevent costly breaches and reactive investigations, and internal controls and compliance improvements can help break the cycle of knee-jerk responses.

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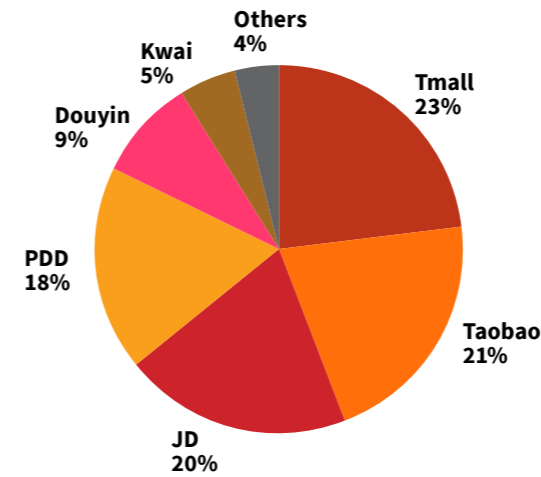
FROM BRICKS TO CLICKS: THE FUTURE OF E-COMMERCE IN CHINA

How German Brands Can Win in China's E-Commerce Market

The Chinese e-commerce market is the largest in the world, with a value of USD 2.3 trillion in 2022. It is expected to grow at a compound annual growth rate (CAGR) of 11.3% from 2022 to 2027. As of 2022, the Chinese e-commerce market has become dominated by Tmall (天猫), JD (京东), Taobao (淘宝), and Pinduoduo (拼多多). Douyin (抖音), Kwai (快手), and WeChat (微信) are also growing at a fast pace.



Overview of major Chinese e-commerce platforms in 2022 with projected market share (%)



Source: GENUINE Analysis

Key Implications:

- **Alibaba Group's Influence:** Both Tmall and Taobao are under Alibaba's umbrella, which means Alibaba holds a combined market share of 44%
- **Social Commerce:** Kwai (Kuaishou) and Douyin (Chinese TikTok) have transitioned from video-sharing platforms to e-commerce platforms
- **Diversity of E-Commerce Options:** The presence of multiple platforms with sizeable market shares highlights the diverse e-commerce ecosystem in China

This growth is largely being driven by a number of factors, including:

- The rise of the middle-class in China
- The increasing penetration of smartphones and mobile internet
- The growing popularity of online shopping platforms
- The government's support for e-commerce development

Social commerce is a fast-developing trend in China, with consumers increasingly turning to social media platforms to discover and purchase products.

Cross-Border E-Commerce (CBEC) is also growing rapidly in China. In 2022, the volume had doubled in size compared to 2018, reaching USD 306.3 billion. Chinese consumers are showing an escalating trend of purchasing from overseas retailers, influenced significantly by the prevalence and convenience of cross-border e-commerce in China.



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Cross-Border E-Commerce and standard import each have different advantages depending on product characteristics and overall strategic background

	Cross-Border E-Commerce	Standard Import
Initial Invest	● ○ ○ Low	● ● ○ Medium
Complexity	● ○ ○ Low	● ● ○ Medium
Flexibility	● ● ● High	● ● ○ Medium
Legal Entity	Overseas	Chinese
Bank Account	Overseas	Chinese
Packaging	Original	Chinese
Brand Registration	Overseas	Chinese
Testing Standards	Overseas	Chinese
Taxation	CBEC-Tax	Customs, VAT
Price Limit	5000 CNY	None
Logistics	Cross-Border Warehouse	Flexible
Custom Clearance	After Sale	Before Import

Key Implications:

- **To enter China, a CBEC model is often quicker** because brands do not need any local Chinese infrastructure
- CBEC offers increased **flexibility**, especially because **new products can be tested on a larger scale** before going through the registration process
- **Direct access to transaction and consumer data** enables brands to internalize learnings and make informed strategic decisions on the 2C market

Source: GENUINE Analysis

Chinese consumer behavior is constantly changing, and this is due in part to the increasing role of social media in their lives. Chinese consumers are more likely to shop online than consumers in other countries, and they are also more likely to rely on social media for product recommendations. It is important to understand the preferences and mindsets of Chinese consumers: their shopping habits, needs, and social media use. By understanding these factors, marketing campaigns can be created to resonate with Chinese consumers, which will help grow the business. Some key factors that distinguish Chinese consumers from consumers in other countries:

- Chinese consumers are influenced by a number of cultural values, such as collectivism, harmony, and saving face. These values can affect their shopping habits and preferences. For example, Chinese consumers are more likely to value brand reputation and social status than consumers in some other countries.
- Chinese consumers are some of the most digitally literate consumers in the world. They are comfortable using a variety of digital channels to shop and consume content.

They are also more likely to be early adopters of new technologies.

China's e-commerce landscape has undergone a remarkable transformation in recent years, with B2B and B2C platforms playing a significant role. These platforms have revolutionized the way businesses operate and consumers shop, fostering unprecedented growth and opportunities in the world's largest e-commerce market.

In the B2B sector, platforms like Alibaba (阿里巴巴), 1688.com, and JD Industrials (京东工业) have emerged as major players, connecting businesses within China and across the globe. These platforms provide a comprehensive range of services, including product sourcing, trade facilitation, and logistics support. With extensive supplier networks, advanced search capabilities, and streamlined transaction processes, China's B2B platforms have empowered businesses to expand their reach, source quality products, and establish valuable partnerships.

The B2C sector in China is equally dynamic, driven by prominent platforms such as Alibaba's Tmall and JD.com. These platforms offer

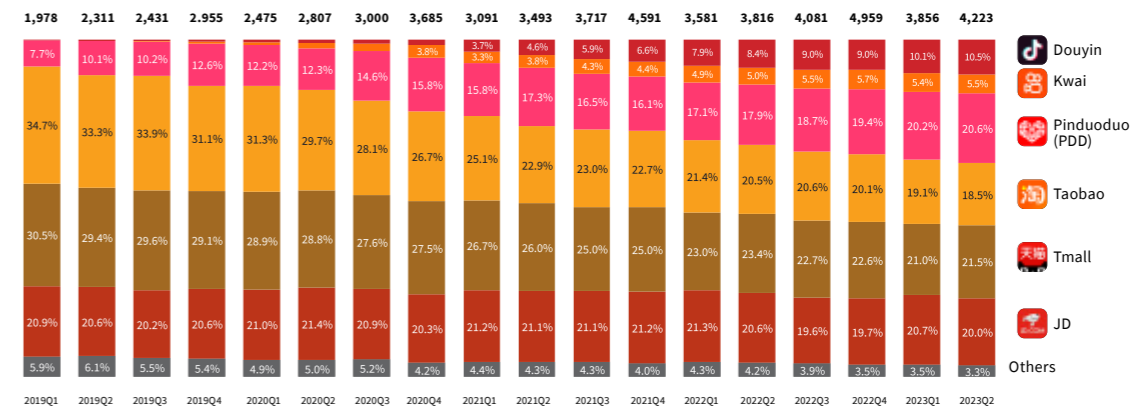
a diverse range of products spanning various categories, from fashion and electronics to home goods and fresh produce. By leveraging cutting-edge technologies, such as artificial intelligence and big data analytics, B2C platforms have personalized the online shopping experience, providing tailored recommendations, flash sales, and seamless payment options. Moreover, robust logistics networks and efficient last-mile delivery services have accelerated the speed and convenience of online shopping for Chinese consumers.

The market size of cross-border e-commerce in China topped about USD 1.2 trillion in 2022, and is expected to grow at a CAGR growth rate of 15.4% from 2022 to 2027. One of the main reasons for the popularity of cross-border e-commerce in China is the demand for high-quality and unique products not readily available in the domestic market. Chinese consumers are increasingly seeking out international brands and products due to factors like perceived higher quality, authenticity, and prestige.

To facilitate cross-border e-commerce, the Chinese government has implemented several policies and initiatives. One notable example is

Tmall and Taobao are still the market leaders, while Douyin, Kwai, WeChat, and Pinduoduo are gaining market shares with an unprecedented speed

Revolution of China online e-commerce platforms: 2019-2023 Q2
GMV (billion EUR), market share (%)



457.5%
market share
growth of social
commerce
platforms
from 2019
to 2023 Q2

Source: GENUINE analysis, SmartPath Insights (2023)

the establishment of CBEC Zones in cities like Shanghai, Guangzhou, and Hangzhou. These free-trade zones offer favorable regulations and tax incentives to attract foreign businesses and promote cross-border trade.

As the e-commerce sector continues to expand, the Chinese government has implemented regulations and policies aimed at ensuring fair competition, protecting consumer rights, and promoting the healthy development of the industry.

The regulatory approach in China's e-commerce industry is based on the principles of market supervision, fair competition, and consumer rights. The laws and regulations governing e-commerce in China include the E-Commerce Law, Anti-Unfair Competition Law, and Consumer Protection Law, among others.

The Chinese e-commerce market presents substantial opportunities for German companies in both the B2B and B2C sectors. However, entering this market in China also poses significant challenges. For German companies seeking to enter and expand in China's rapidly growing e-commerce market, it is imperative to develop smart strategies tailored specifically to the local landscape:

1

Market Research and Consumer Insights

Conduct extensive market research and gain deep insights into Chinese consumer behavior. This includes understanding consumer preferences, purchasing habits, and expectations. Leveraging market research tools and collaborating with local partners such as market research agencies can provide valuable insights to shape effective marketing strategies. Conducting surveys and focus groups and analyzing online reviews can provide valuable insights into the needs and wants of Chinese consumers.

2

Localize E-Commerce Strategies

Resonate with Chinese customers and localize e-commerce strategies. This involves adapting the website or online store to the Chinese language, incorporating local payment gateways (such as Alipay and WeChat Pay), and ensuring a user-friendly and intuitive interface.

3

Leverage Local E-Commerce Platforms

Use established Chinese e-commerce platforms to significantly enhance



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visibility and reach. Platforms such as Alibaba's Tmall and JD.com are popular choices. Collaborating with these platforms enables German companies to tap into their vast customer base, benefit from their logistics infrastructure, and leverage their marketing tools and promotional opportunities.

4

Implement Cross-Border E-Commerce Strategies

Cross-border e-commerce provides a streamlined way for German companies to enter the Chinese market. Partnering with reliable cross-border e-commerce platforms or logistics providers can facilitate this process. When implementing cross-border e-commerce strategies, it is important to consider customs and taxation regulations, as well as shipping and delivery times.

5

Build Brand Awareness and Trust

Utilize various marketing channels to promote the brand, including Search Engine Optimization (SEO), social media marketing, influencer collaborations, and content marketing. Engaging with Chinese consumers through localized content, customer reviews, and testimonials can help establish credibility and foster trust.

6

Implement Effective Digital Marketing Strategies

Digital marketing plays an important role in reaching Chinese consumers. Utilize targeted online advertising, including display ads, search engine marketing, and social media

advertising. Leverage popular Chinese social media platforms like WeChat (微信), Weibo (微博) and Douyin (抖音) to engage with the brand's target audience, create compelling content, and run promotional campaigns.

China's e-commerce sector will continue its robust growth trajectory, offering alluring opportunities for German brands. By harnessing the strategies outlined above, tailored specifically to China's distinct commercial landscape, German companies can overcome inherent challenges and fulfill the market's immense potential. As Chinese consumers' spending power rises amid digitization, foreign brands that skillfully adapt to local conditions will be best positioned to thrive in this new e-commerce frontier.

The E-Commerce in China report

was published on November 10, 2023, by AHK Greater China, in cooperation with GENUINE. The report covers insights into China's e-commerce development, special features, social commerce, cross-border e-commerce, and more. The report is based on GENUINE's profound e-commerce expertise in the Chinese market, and valuable testimonials from representative member companies of the German Chamber of Commerce in China.

The full version of the report is available on our website:



In cooperation with



Dr. Hermann Knott
Partner
KUNZ Law

CHINA'S ARBITRATION REFORM

Leading Chinese Arbitration Institutions Adopt New Rules

I. Introduction: Important Features of Arbitration in China

Disputes are an inevitable part of doing business with customers and suppliers. Differences may also arise internally in business enterprises, such as disputes between shareholders or between management and shareholders. Arbitration is one popular form of resolving disputes in China and elsewhere. As opposed to litigation in courts, arbitration is a private and confidential method of resolving differences characterized by the parties' right to autonomously organize the procedures of resolving their dispute. The parties choose the members of the tribunal and the institution, the rules of which will govern the procedures.

Arbitration is efficient in terms of the duration of the proceedings — an arbitral award is final and may not be appealed. Reasons to set aside an award or to challenge enforcement are very

limited. Arbitration is also cost-efficient. Together with the costs of an appeal, in most cases, court proceedings are not cheaper than arbitration. In addition, arbitral awards are easier to enforce than court judgments. There is a special and widely recognized international treaty (the so-called New York Convention) facilitating the enforcement of arbitral awards.

Arbitration proceedings are either governed by the rules of an arbitration institution or conducted in proceedings without the involvement of such an organization. The dispute must be arbitrable, and the parties need to conclude an arbitration agreement in writing. In this agreement, the Parties choose the institution which will administer the dispute. Except for the pilot free trade zones, arbitration proceedings not administered by an arbitration institution are currently not permitted in China.

When discussing dispute resolution — whether by litigation in state courts or arbitration — mediation is important. Harmony is a core value in Chinese culture.

The rules of the arbitration institution chosen by the parties are very important for the conduct of arbitral proceedings in China. The leading institutions are the China International Economic and Trade Arbitration Commission (CIETAC), the Shanghai International Arbitration Center (SHIAC), the Shenzhen Court of International Arbitration (SCIA), and the Beijing Arbitration Commission/Beijing International Arbitration Center (BAC/BIAC). When these institutions change their rules, it is significant for the administration of future arbitration proceedings conducted by these organizations. In this article, we provide an overview of the changes that will become effective for the arbitration rules of both CIETAC and SHIAC as of January 1, 2024, from the perspective of a businessperson.

Parties in China are free to choose other institutions established locally or in foreign countries, such as the Hong Kong International Arbitration Centre (HKIAC) or the Singapore International Arbitration Centre (SIAC) as the institution the rules of which shall govern their arbitration proceedings. Correspondingly, the parties can choose a seat of the arbitration, which is located inside or outside of China, for example, in Hong Kong, Singapore, or the Republic of Korea. Hong Kong has a legal system that is based on common law with the continuing influence of the English legal system. Hong Kong is also part of the Arrangement Concerning Mutual Assistance in Court-Ordered Interim

Measures in Aid of Arbitral Proceedings by the Courts of China. Singapore is also a jurisdiction based on common law and has become a major dispute resolution center in Asia. It is important to note that in China, as in Germany, both judges and arbitrators take a more active role in the proceedings, considering their role to include inquisitorial tasks. In accordance with the civil law tradition of Chinese law, the parties must submit the evidence together with the submissions. The memorial style for submissions is prevailing and provided for in the arbitration rules of the major institutions.

When discussing dispute resolution — whether by litigation in state courts or arbitration — mediation is important. Harmony is a core value in Chinese culture. As opposed to many common-law jurisdictions, in China, in principle, conducting mediation during arbitral proceedings is not seen as affecting the independence or impartiality of the members of the arbitral tribunal. This can contribute to a fast and efficient resolution of the dispute.

II. The Revised CIETAC and SHIAC Rules

The new rules for CIETAC were released on September 5, 2023, and the ones for SHIAC on November 7, 2023. The revised SHIAC rules are modeled after the China (Shanghai) Pilot Free Trade Zone Arbitration Rules, which were first released by SHIAC in 2014. The following analysis covers both sets of rules, as the principles of the changes are similar. It is not intended to be complete, but the objective is to present a selection of those

changes that are important from a businessperson's point of view. Changes include:

- 1) Both sets of rules emphasize the electronic filing of submissions and other documents, as well as the conduct of virtual proceedings.
- 2) The validity of the arbitration agreement shall be assured as much as possible: It shall be deemed to exist where its existence is asserted by one party and not denied by the other during the exchange of the request for arbitration and the statement of defense.
- 3) The arbitral tribunal shall decide about its competence to hear the case once it is formed. Even if objections to the arbitration agreement or the tribunal's competence to hear the case are pending, the arbitration shall proceed.
- 4) Where it is agreed in the arbitration agreement that negotiations or mediation shall be conducted before arbitration, failure to do so shall not prevent the institution from accepting the case.
- 5) The claimant may initiate a single arbitration concerning disputes arising out of or in connection with multiple contracts, provided such contracts not only involve the same parties and legal relationships of the same nature, but also involves related subject matters. The rules also provide the possibility to add contracts during the course of the arbitration proceedings.
- 6) Consolidation of arbitrations is possible not only when the legal relationships between the same parties are of the same nature, but also when they involve related subject matters.
- 7) The rules make sure that the process of nominating the arbitrators is not delayed by providing short deadlines and the option of the institution's involvement to ensure the timely formation of the arbitral tribunal. Arbitrators may also be appointed from outside the institutions' panel of arbitrators.
- 8) The arbitral tribunal decides in which form the oral hearing will be conducted, whether in person, a virtual conference, or another appropriate means.
- 9) The way evidence may be presented or requested by the parties or the arbitral tribunal is essential for succeeding in an arbitration proceeding. As a default document, the Revised CIETAC Rules correspond with CIETAC's own Guidelines on Evidence. Generally speaking, and compared to the internationally accepted Rules on the Taking of Evidence in International Arbitration developed by the International Bar Association, the CIETAC Guidelines provide for a stronger position of the arbitral tribunal in conducting the proceeding and being entitled to issue related orders rather than emphasizing the party autonomy in this area. SHIAC has not published separate guidelines on evidence.

The revision of the rules of these two major Chinese arbitration institutions has resulted in modern and innovative methods applied in international arbitration being also available in China.

10) The Revised CIETAC Rules address the disclosure requirements in connection with third-party funding — such as the financial interest of the funder, among others — which the tribunal shall be entitled to also share with the other party. The Rules also provide that the tribunal may take the existence of third-party funding into account in its cost decision. The Revised Rules do not specify in which way that may happen. The revised SHIAC rules provide for the disclosure of such agreements.

11) Both sets of rules provide for the parties to seek interim relief and the appointment of an emergency arbitrator.

12) The Revised CIETAC Rules introduce the concept of early dismissal of claims or counterclaims on the ground that they are manifestly without legal merit or are manifestly outside the jurisdiction of the arbitral tribunal. The SHIAC rules do not provide for this way of disposing of a dispute in an early stage.

13) While ordinary proceedings shall be completed by rendering the award within six months (four months under the SHIAC rules), in the context of summary proceedings, the period is shortened to three months. These streamlined proceedings had already been introduced in the version of the CIETAC Rules dating from 2015. They are available where the amount in dispute does not exceed CNY 5 million.

In this context, the arbitral tribunal may examine the case without a hearing.

III. Conclusions and Recommendations

The revision of the rules of these two major Chinese arbitration institutions has resulted in modern and innovative methods applied in international arbitration being also available in China. In particular, the role of the arbitral tribunal has been strengthened at the expense of the institutions' administrative body. An amendment to the Law of Arbitration from 1994 had been presented for public comments in 2021. Currently, it is not clear when it will be passed. The commentaries of the Supreme People's Court have, however, given helpful guidance on issues having arisen in the meantime.

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