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# HELPDESK UPDATE

## Issue 11 - Focus on Software IP Registration in China

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### HELPDESK NEWS

#### COMPLETED EVENTS round-up

The China IPR SME Helpdesk held a total of 12 events in July, August and September. These took place in Belgium, UK and Holland in Europe, and Beijing and Shanghai in China, along with two webinars that attracted attendees from 24 EU countries and China. Event topics ranged from general introductions about the IPR landscape in China, to IP protection in China for the clean technology sector and for the creative industries, to how to conduct an IP audit.



*Seminar on Protecting IPR in China for Clean Technologies*



*Workshop on How to Conduct an IP Audit*



*Protect your Ideas, Product & Brand: IP Seminar for Creative Industries*



#### Coming soon: New Helpdesk GUIDES

In October and November the Helpdesk will launch two new IP guides, one focusing on IP for the clean technology sector, and the other on how to use contracts in China to maximise IP protection. The guides will include practical information and useful tips for EU businesses in China. Download these guides free of charge from our website [here](#) in the coming weeks.

#### Listen to our WEBINARS

Following on from a successful first Helpdesk webinar series before the summer, two more webinars were held in September. China IPR SME Helpdesk expert Aaron Hurvitz provided practical tips and recommendations for EU SMEs conducting technology transfer to China (20 September) while Helpdesk expert David Chen specifically addressed technology transfer in the clean technology sector (29 September). Many thanks to the more than 100 active EU SME participants who joined us from China and 24 EU countries. The recordings of all webinars and presentation slides can be downloaded [here](#). Look out for our upcoming webinars on IP protection in October, November and December!



If you have an IPR issue, or any questions about IPR in China, please contact:

[question@china-iprhelpdesk.eu](mailto:question@china-iprhelpdesk.eu)

## UPCOMING EVENTS round-up

- EU-China Business and Technology Fair and EEN Launch: Chengdu, China, 19 October 2011
- WIPO Ninth Annual Forum on IP for SMEs: Munich, Germany, 19 and 20 October 2011
- Using Contracts to Protect Your Intellectual Property Rights: Guangzhou, China, 20 October 2011
- Presentation to the Delegation of the Belgian Crown Prince Filip, Beijing, China, 22 October 2011
- Presentation to Understanding China Study Tour, Beijing, China, 26 October 2011
- Presentation to SWITCH Asia Bamboo Study Tour, Chengdu, China, 30 October 2011
- Technology Transfer: Dos and Don'ts for SMEs, Chengdu, China, 31 October 2011
- IPR Protection for the Electronics Industry Seminar: Frankfurt, Germany, 8 November 2011
- China Investment Forum: Prague, Czech Republic, 9 November 2011
- Agoria IPR Working Group Seminar: Brussels, Belgium, 28 November 2011
- Patent Enforcement for the Pharmaceutical Industry: Munich, Germany, 8 December 2011
- UK-China SME Forum: Liverpool, UK, (date TBC)

(Click [here](#) to visit the 'Events' page on our website for more details).

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## SOFTWARE COPYRIGHT REGISTRATION IN CHINA

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*In Europe registering software as a copyright is a relatively uncommon practice, with only few EU member states providing copyright registration. Instead, evidence to prove authorship is usually sufficient to enforce IPR ownership. This is not, however, the case in China, where copyright registration is highly recommended. This article discusses the importance of registering software as a copyright in China, and describes the process of where and how to register these rights in China.*

### Why register software in China?

China has a software copyright registration system, which is not mandatory in order to enjoy legal protection of rights, but is very useful in proving ownership if you ever need to enforce your IP. This is because in most cases enforcement occurs at least 1-2 years after a software programme is finished, and consequently it can be difficult for the plaintiff to collect evidence of authorship at that time. Additionally, in practice such evidence is almost always challenged by the defendant, especially the date of establishment and ownership of the programme. In China, authorities including the Chinese People's Courts have shown a strong tendency to rely on formally registered documentary evidence. Therefore, software registration effectively and substantially reduces the burden of ensuring proof of ownership when enforcing IP.

In short, one copyright registration certificate can replace a large amount of weaker ownership evidence during litigation in China. Not registering your software may save you money today, however you risk incurring significantly greater costs in future.

### Where and how to register?

The Copyright Protection Centre of China is the official body responsible for software registration in China. The following is required for software registration:

1. Bibliographical details of the owner, including name and address.
2. Copy of proof of identification of owner, for example business registration certificate of a company.
3. Details of the software programme including:
  - Date of establishment.
  - Operating environment, including details of hardware requirements and operating system.
  - Programming language used.
  - IF the software is not developed by the owner: how the rights to the software are derived, for example by assignment or inheritance, and related documentary proof.
  - Substance of the software, which can be submitted in either the form of ordinary deposition or exceptional deposition, as described below.

## Ordinary deposition

First and last 30 pages of:

1. Source code.
2. Specification/operation manual or entire documents if these have less than 60 pages each.

## Exceptional deposition (any one of the below)

1. First and last 30 pages of source code with confidential portions concealed, but the total concealed portions not exceeding 50% of the submitted source code.
2. First 10 pages of source code, plus any consecutive 50 pages of any other portion of the source code.
3. First and last 30 pages of target code, plus any consecutive 50 pages of any other portion of the source code.

The above rules a) to c) are also applicable to the submitted specification/operation manual and it should be noted that each page of the source code must have at least 50 lines.

## How much does it cost?

The costs to register software as a copyright in China are in the region of 2,200 to 3,200 RMB (about 240 to 345 EUR), including official fees, depending on the number of documents involved. Exceptional deposition will cost an additional 320 RMB (about 35 EUR) for each item.

## Handy tips

It is always desirable to disclose the source code of your software as little as possible. The following should be considered in order to achieve this purpose:

- Exceptional deposition should be considered and used if possible.
- The first 10 pages, preferably the first 30 pages of the source code, should contain as little important information as possible.

Furthermore, to ensure efficient proof of ownership and infringement by a third party, it is desirable to insert some specific identification, for example name, trade mark, or even slogan of the owner into the source code. It is preferred for such specific identification to appear in the first 10 to 30 pages of the source code, and should be unique to each software programme, for example the name of the software, the relevant version, and the programmer(s) involved.

## Take Away Message

Copyright registration of your software offers an easy way to prove your IP ownership in case there are any problems of IP infringement. If you do not register your software through the Chinese copyright registration system, it may be very difficult to prove ownership when enforcing your IP.

## Subscribe to this newsletter

The Helpdesk Update is the quarterly newsletter distributed by the China IPR SME Helpdesk. As well as containing news about upcoming Helpdesk activities, each edition focuses on a specific IPR issue, giving subscribers key facts, recommended action steps, and case studies. To view all past newsletters, visit the China IPR SME Helpdesk website 'Newsletter' section [here](#).

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