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HELPDESK UPDATE

Issue 2 - Focus on IPR Protection at Trade Fairs

IPR Protection at Trade Fairs

Steps to take to protect your IP before, during and after trade fairs in China

Case study

How to secure the removal of infringing goods from a trade fair in China

Helpdesk News

European Trade Commissioner visits the Helpdesk's Beijing office

IPR Protection at Trade Fairs

Thousands of European SMEs participate in trade fairs and exhibitions in China each year. Trade fairs offer the opportunity for European companies to showcase their products and identify new clients. Many companies, however, witness their IP being infringed at events in China. It can be a challenging issue to resolve but there are processes that can be put in place to:

- minimise the risk of your IP being infringed
- maximise the chance of a successful outcome if you do experience IP infringement.

Our specialised IPR experts give the following advice to companies who plan to visit a trade fair or exhibition in China.

Steps to take before the trade fair: *Fail to prepare, prepare to fail*

- ◆ Identify your key registrable IP and non-registrable IP assets and secure your rights in China at the earliest possible opportunity.
- ◆ Determine your strategy well in advance of the trade fair. If you do encounter infringement, will you take enforcement action at the trade fair or take the opportunity to gather evidence and build a case?
- ◆ If you plan to take action at the trade fair, ensure all the necessary documents are complete and in order.

At the trade fair: *Be proactive*

- ◆ Visit the trade fair during the set-up phase and visit known or suspected infringers. Document all examples of infringement you witness.
- ◆ Know where the relevant IP authorities are located and make contact with them before the fair. Discussing any infringement with local authorities before they arise will put you in a stronger position if you need to work with them later.
- ◆ If you do discover infringement and want to take enforcement action, make use the system that is in place at the event (and mandated by Chinese law).

After the trade fair: *Act!*

- ◆ Follow up on the evidence gathered or the actions taken at the trade fair.
- ◆ If you did take action at the trade fair, follow up with the authorities and conduct further investigations to check if the infringer has halted the infringing activities.
- ◆ Take additional / further enforcement action if necessary.

To download our comprehensive 'How to Protect Your IPR at Trade Fairs in China' handbook, visit:
www.china-iprhelphdesk.eu

Case Study

An Austrian SME attended a textile industry trade fair in China. On the opening day of the trade fair they took a tour of the exhibition and noticed that there were at least two Chinese companies displaying products very similar to their own. After closer examination, the Austrian company discovered that some of their own products' patents were being infringed.

Action taken

The SME visited the official IPR office at the fair and completed a complaint form providing full details of the suspected infringement. Personnel present at the IPR office included an official from the local IP office, an on-site legal consultant and a representative of the trade fair organiser. Additional documents which they were required to provide included:

- proof of their patent ownership (patent certificate and receipt of payment of annuities) in China
- a power of attorney issued by the SME in favour of the person filing the complaint
- notarised and legalised copies of the company incorporation documents

Note: that without the above documents it would not have been possible to successfully file a complaint at the trade fair for alleged patent infringement.

Outcome

Following thorough examination of the documents, the IP Officials were satisfied that the SME had proven their ownership of the patents in question and that their IP had been infringed.

The IP Official approached the alleged infringers to inform them that a complaint had been filed against them and as per common trade fair practice, the infringers were given 24 hours to respond to the claim. In this case the response was insufficient and, on the advice of the IP Office, the trade fair organiser removed the infringing products from the exhibition booth.

Note: At this trade fair, the organiser stipulated in all exhibitors' contracts that if any counterfeit goods were found, they had the right to remove them from display.

Infringement flashpoints & lessons - In order to achieve a successful outcome, you must:

- Register your IP rights in China. You must prove ownership to file a successful complaint.
- Be aware of the IPR mechanisms at the fair. Find out if there is an IPR office at the fair and what documents you will need.
- Prepare the necessary documents in advance. Remember that proper notarisation and legalisation can take several weeks.

If you have an IPR issue, or any questions about IPR in China, please contact: enquiries@china-iprhelpdesk.eu

Helpdesk News



European Trade Commissioner Mandelson visits the China IPR SME Helpdesk

Whilst visiting China for a Joint Ministerial Committee meeting and bilateral talks with Chinese Government officials, the European Commissioner for Trade took the time to visit the China IPR SME Helpdesk offices in Beijing. The visit provided the Helpdesk management the opportunity to present the Commissioner with an introduction to the Helpdesk and to outline the goals achieved during the first six months of the project. Praising the China IPR SME Helpdesk project, the Commissioner noted:

- IP infringement does not only affect the luxury goods market but also has a great impact on health, safety and environmental issues.
- In recent years there has been a shift in focus in China towards tackling IPR issues, but enforcement of IPR laws is still a major problem.
- The protection and enforcement of SMEs' IP is a key issue and the EC IPR initiatives in China will continue to gain the support of the Commissioner and his colleagues at the Commission.

For information on all Helpdesk features and events, visit www.china-iprhelpdesk.eu