

WEBINAR

Introduction to IP Protection in China

16:00 - 17:30 10th September

CHINA IPR
SME HELPDESK



Waiting for the organisers, the webinar will begin shortly...

Agenda

16:00	Opening remarks	by Mr. Ugur Kilicarslan
16:05	Introduction of the Embassy of the Republic of Turkey, Office of the Commercial Consulate	by Mr. Ugur Kilicarslan
16:10	Introduction of the China IPR SME Helpdesk	by Ms. Jennifer Cao
16:15	Presentation on "Introduction to IP Protection in China"	by Mr. Matias Zubimendi
16:55	Q&A Session	by Mr. Matias Zubimendi
17:10	Summary of the presentation in Turkish by the Commercial Consulate of Turkey	by Mr. Hakan Kizartici, Mr. Ugur Kilicarslan and Mr. Sezgin Taskin



China IPR SME Helpdesk

– an initiative of the

European Commission

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IP Factsheet: Mainland China



1. THE FACTS: Business in Mainland China for EU Companies
Key **INDUSTRY SECTORS**

2. IPR in Mainland China for SMEs: BACKGROUND
Intellectual Property Rights for SMEs: Why is this **RELEVANT** to you?
How does Mainland China's IP legal framework compare to **INTERNATIONAL STANDARDS**?

3. IP Rights in Mainland China THE BASICS
A. Copyright
B. Patents
C. Trade Marks
D. Geographical Indications (GIs)
E. Trade Secrets

4. Using CUSTOMS to block counterfeits

5. Enforcing your IP
Administrative actions
Civil Litigation
Criminal Prosecution

6. RELATED LINKS and Additional Information

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1. THE FACTS: Business in Mainland China for EU Companies
(Source: DG Trade)



SIZE of Market :

- EU exports to Mainland China: EUR 173.5 billion
- EU imports from Mainland China: EUR 299.9 billion
- Total trade in goods: EUR 473.4 billion

> Mainland China is the EU's second largest trading partner, after the USA.
 > The EU is China's largest trading partner.

Key INDUSTRY SECTORS:

- > EU exports to Mainland China are dominated by machinery and equipment, motor vehicles, aircraft, and chemicals.
- > Mainland China's key export items to the EU include machinery and equipment, footwear and clothing, furniture and lamps, and toys.

Protecting Your Trade Secrets in China

Prevention is the key to protection.



WHAT EXACTLY CAN BE A TRADE SECRET

1 Is not publicly known

2 has commercial value

3 you took measures to keep secret

TRADE SECRETS

- expressions of ideas
- status of products or services under development
- know-how, manufacturing or design techniques
- valuable business information, lists, cost and price information

KEEP IT SECRET, KEEP IT SAFE

It is important to remember that once trade secrets become publicly known, they can no longer be protected as trade secrets.



CONFIDENTIAL

DON'T FORGET YOUR EMPLOYEES

- Limit access and copying rights to the personnel who actually need it.
- Require all employees to sign an employment agreement with strict confidentiality provisions.
- Be sure to hold exit-interviews and have them return documents, materials, computers, and files.
- Establish an internal management system for trade secrets. Training and clear written guidelines are essential.

DEALING WITH THIRD PARTIES

Business dealings or negotiations with third parties, potential partners, suppliers, contractors, licensees, or customers

monitor your partners, suppliers or licensees to make sure they are complying with your trade secrets protection policy

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Speaker's Bio



<i>Name</i>	Matias Zubimendi
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Mr. Matias Zubimendi is the IP Business Advisor at China IPR SME Helpdesk, where he advises European SMEs on intellectual property rights matters. Mr. Zubimendi holds a Master's degree in Chinese Civil and Commercial Law from Peking University as well as a Master's degree in Intellectual Property Law from Austral University in cooperation with the World Intellectual Property Organisation. Mr. Zubimendi has a strong background in both business development and intellectual property rights protection, having previously worked as a China Business and Legal Consultant at Terragene, where he focused on business development and as a Director of Legal Affairs at Conquer Europe. Previously, he has also worked as a Patent and Trademark Attorney at Phoebus Abogados and Mazzeo & Canet, where he represented SMEs as well as Fortune 500 companies.

Mr. Zubimendi has given lectures at various conferences including the Ibero-American Conference on Chinese Studies and published several articles including *The legal protection of intangibles in the video games industry*. As a Professor Assistant, he has also given lectures on Commercial Law and Procedural law, while focusing on Copyright and AI in his research. Mr. Zubimendi is a native Spanish speaker fluent in English.

An Introduction to IP Protection in China

- Matias Zubimendi

10 September 2020

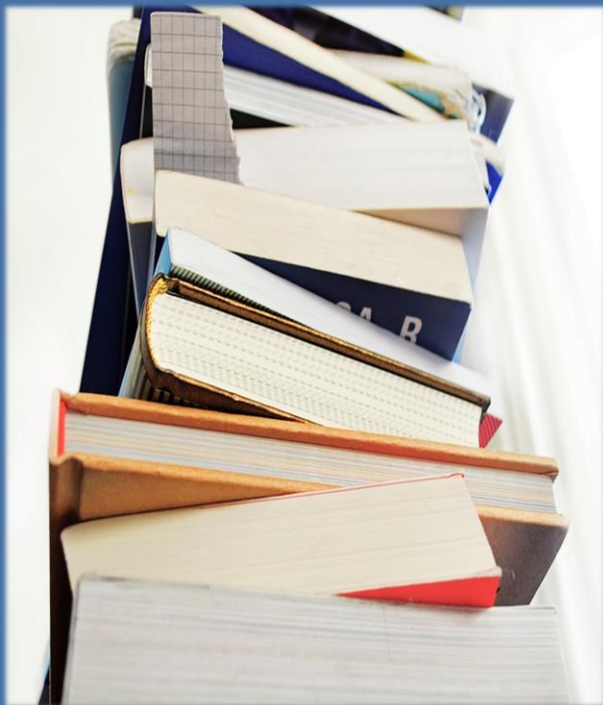


Table of Contents

- 01 Introduction to IPR
- 02 Trade marks
- 03 Copyright
- 04 Invention patents
- 05 Design patents
- 06 Trade secrets
- 07 Enforcement
- 08 Takeaway messages

01 Introduction to IPR

Intellectual Property Rights



Main intellectual property rights

- Invention Patents & Utility models
- Design patents
- Trade marks
- Copyright
- Trade secrets



Main principles

- Registration
- Territoriality

02 Trade Marks



A distinctive sign, including

- Words (or Slogan)
- Logos
- Numbers
- Colour combination
- 3D symbols
- Sounds



Which identifies source product /service

- Not: 'the Hairdresser' for a Hairdressing Salon

02 Trade Marks



- The basics

- Office to register
 - CNIPA
 - Madrid system
- Requirements
 - Legal
 - Non-functional
 - Distinctive
 - Available
- Classes and sub-classes
- Trade mark translations
 - Phonetical
 - Literal
 - Both
- Copyright Vs Trade mark protection
 - Comprehensive protection

02 Trade Marks

– Typical steps



A. Before the registration per se

- Conduct a Trade mark search
- Define how the Trade mark will be registered (logo, words, combination of both)
- Define classes and sub-classes
- Prepare the documents (application form, power of attorney, identity documents like passport or company certification)



B. Registration process

- Formal examination
- Substantial examination
- Publication
- Oppositions?
- Grant

C. Madrid system differences

D. Is it necessary to hire a local agent for completing the registration?

F. Time and costs

02 Trade marks

– Documents

- Instruction letter
- Power of attorney
- Prints of the trade mark
- Priority document
- Special certificates
- Additional documents (i.e. notarized subject qualification certificate, administrative regulations on the use of the certificate trademark, etc.)



03 Copyright



- Basic Protection

- You can protect your product through copyright if it is not just an idea, but an expression of your idea.
- Protects creative works including books, music, plays, computer programs, graphic designs, 3D cad files, etc.
- Protection also for:
Images of each product (including single images of packaging), brochures and catalogues, website content, labels, and various marketing materials, etc.

03 Copyright

– Registration



Copyright may exist without registration, BUT

? How to prove it?

Register in China!



Software

- Notarise copyright in home country for proof
- Notaries and legalise the above document in China when needed for enforcement

04 Invention Patents



- The basics

- **Invention patents**

- CNIPA
- PCT

- **Requirements**

- Novelty
- Non-obviousness
- Industrial application

- **Products & processes**

- **Difference with Utility Model patents**

04 Invention Patents

– Protection

- **Three types of patents available:**
 - Invention patent (takes 3/5 years – lasts 20 years)
 - Utility model (takes 1 year, lasts 10 years)
 - Design patents (takes 1, lasts 10 years)
- **Use an experienced patent attorney or agent to register**
- **Translation is very important to have the correct scope of protection**
- *China requires absolute novelty - the invention or design **cannot** have been made public anywhere or the patent can be found to be invalid*



04 Invention Patents

– Typical Steps

- Awareness of IP landscape
- Find an IP agent
- Check compliance of patentability requirements – Patent or utility model?
- File application
- Application +12 months to file PCT application (multi-country)
- Publication
- Substantive examination
- Grant



05 Design Patents



- The basics

▪ Design patent registration

- Office to register
- Requirements
 - Novelty
 - Non-functional

▪ Application documents

- Application form / request
- Drawing – Photos
- Brief explanation
- Others



Useful information

differences with other jurisdictions

- Maximum term of protection
- Unregistered design patent protection
- Limits on number of designs protected in one multiple design application
- Novelty requirement

05 Design Patent Protection

– Typical Steps

- **Typical steps**

- Collect the necessary documents
- Application
- Formal examination only
- Office action?
- Decision to grant
- Publication

- **Is it necessary to hire a local agent for managing the registration?**

- **Time and costs**



06 Trade Secrets



- The basics

- **No registration**
- **Requirements**
 - Secret
 - Value
 - Protective measures
- **NDA's & NNN agreements**
- **Trade fairs & common mistakes**

 **Tips:** Blockchain technology

07 Enforcement

- **Judicial**
 - Civil
 - Criminal
- **Administrative**
- **Alternative dispute methods**
 - Arbitration
 - Mediation
- **License as a method of dispute resolution**
 - Carrot strategy
 - Stick strategy



08 Takeaway Messages



- ✓ Register your IP in advance
- ✓ Do not disclose your trade secrets
- ✓ Get familiar with the IP rules in China



- ✓ Translate your trade marks into Chinese
- ✓ Register your IP at the customs office
- ✓ Use trade mark and copyright protection to stop online infringements
- ✓ Protect your IP before attending a trade fair



- ✓ Contact the China IPR SME Helpdesk ***question@china-iprhelpdesk.eu***

Contact us

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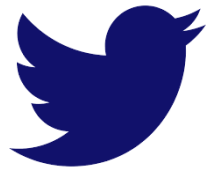
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Questions & Answers



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