

Overview of the Revised Patent

Law

- Matias Zubimendi 24 June 2021





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IP Factsheet: Mainland China



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.

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

- Copyright
- Patents
- Trade Marks
- Geographical Indications (GIs)
- Trade Secrets

4. Using CUSTOMS to block counterfeits

5. Enforcing your IP

- Administrative actions
- Civil Litigation
- Criminal Prosecution

6. RELATED LINKS and Additional Information

Co-funded by:
European Union

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Protecting Your Trade Secrets in China

Prevention is the key to protection.



WHAT EXACTLY CAN BE A TRADE SECRET

SOMETHING THAT

- 1 is not publicly known
- 2 has commercial value
- 3 you took measures to keep secret

expressions of ideas

know-hows, manufacturing or design techniques

status of products or services under development

valuable business information, lists, cost and price information

TRADE SECRETS

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



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Mr. Matias Zubimendi is the IP Business Advisor at China IP 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.

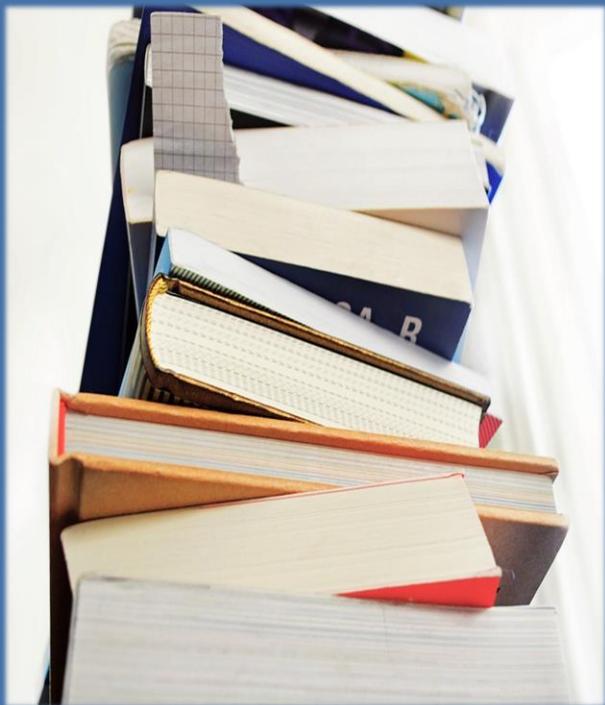


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2. Design Patents
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5. Commercialization
6. Administrative delays

01

Introduction to patents

- Basics



1.1

Types of patents

- Invention patent
- Utility Models
- Design patent

1.2

Registration

- CNIPA
- PCT

1.3

2020 Amendment to the Patent Law

02

Design patents

- Main changes



2.1

Partial designs

- Definition
- Partial designs are now allowed
- Graphic User Interface

2.2

Protection term extended

- From 10 to 15 years
- Hague Agreement Concerning the International Registration of Industrial Designs (future)

03

Pharmaceutical patents

- Main changes



3.1

Patent term extension

- Term
- Requirements

3.2

Pharmaceutical patent linkage system

04

Enforcement

- 4 big changes



4.1

Punitive damages

- Increased to 5 times of the original damages

4.2

Statutory damages

- Up to 5 million

4.3

Evidence disclosure related to calculation of damages

- Reversal of the burden of proof

4.4

Administrative protection of IPRs

- Combined with judicial protection

05

Commercialisation

- Open license system



5.1

How to request it

- Written request
- Authorities
- Withdrawal

5.3

Benefits

- Tax
- Commercialisation

5.2

Conditions

- Fees
- Non-exclusivity
- Written request

5.4

Disputes

- Patent administration

06 | Administrative delays



6.1

Patent term extension

- 4 years from the patent application
- 3 years after the request of patent substantive examination

6.2

Limits

- Delay caused by the applicant

Questions?

HELPLINE

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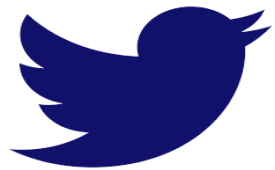
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We appreciate if you could share your comments with us.

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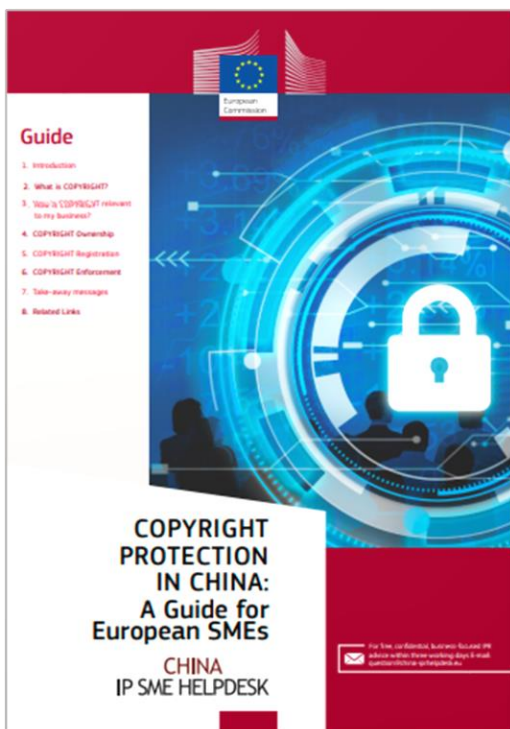
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Copyright is a form of intellectual property that protects a creator’s exclusive right to control who reproduces or alters the product of their original creative effort. Copyright protects the producers of any original work, and is relevant to almost all businesses, not just those in the creative industry. Adequate copyright protection can form an important part of an IPR protection strategy. Your business may regularly create articles, photographs, drawings, designs, models, websites, computer software, etc., which all enjoy copyright protection. Copyright is an automatic right that arises the moment you create an original work. Once an original work is created, in most cases, the creator will automatically enjoy copyright protection in all 178 member countries of the Berne Convention for the Protection of Literary and Artistic Works including all European Union countries and China. Though your original work is automatically protected by copyright the moment it is created, it is advisable to apply for voluntary registration to provide proof of your ownership of the copyright, which can save you time and money in case of a dispute later. Registration is particularly important for copyrights that are particularly important to the livelihood of your business (i.e., website, software, catalogue, customer database, etc.).

Please feel free to download our guide “Copyright protection in China ” [here](#)

A guide about patent law will be available soon.