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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.

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

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.

DON'T FORGET YOUR EMPLOYEES

CONFIDENTIAL

- 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 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.



IP Protection in China's Digital Economy

By Matias Zubimendi, 18 November 2020

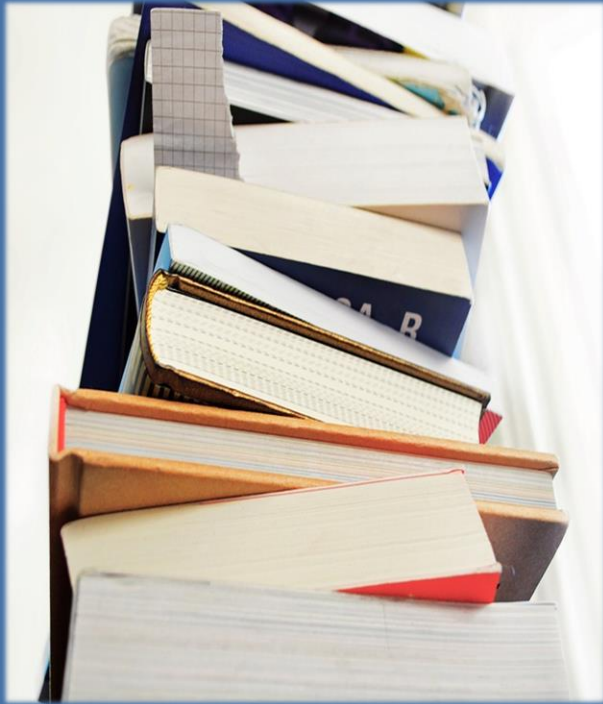


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01

Introduction to IPR Intellectual Property Rights

1.1

Main intellectual property rights

- Innovation Patents & Utility models
- Design patents
- Trade marks
- Copyright
- Trade secrets
- Domain names

1.2

Main principles

- Registration
- Territoriality



02

Digital economy

Basics and challenges



2.1

What is digital economy?

- Economy based on electronic goods & services
- Produced by electronic businesses
- Traded through electronic commerce platforms

2.2

Challenges

- E-Commerce
- Artificial Intelligence
- Blockchain
- Internet Courts

03

What IPRs are Relevant in E-commerce

- For SMEs

3.1

Trade mark

- Company
- Products

3.2

Copyright

- Brands
- Pictures - Photos
- Texts - Descriptions

3.3

Industrial designs

- Products

3.4

Trade secrets



04 | E-Commerce Law (2019)



4.1

Joint Liability (art. 45)

- Seller
- E-Commerce platform

4.3

Penalties

- Fines up to RMB 2 million

4.2

The “necessary measures” for IPRs protection

- IPRs own protection rules (art. 41)
- Notice & take down as a dispute resolution method (art 42)
- Times to response (art. 44)

05

Enforcement

- IP Dispute resolution methods

5.1

Surveillance

- Regular control
- Evidence collection

5.3

Tips for enforcement

- Register your trade marks in advance
- Register your logos as copyright
- Use blockchain for saving evidence
- Use technology for trade mark protection

5.2

Enforce

- Dispute resolution methods (notice and take down)
- Regular courts
- Internet courts

06 | Artificial Intelligence

6.1

Introduction

Types of creations done by AI

- AI as an instrument
- Human and AI cooperation
- AI as the creator

6.3

Precedents in China

Shenzhen Tencent v. Shanghai Yingxun

6.2

Who Is the Owner of the Creation

Different possibilities

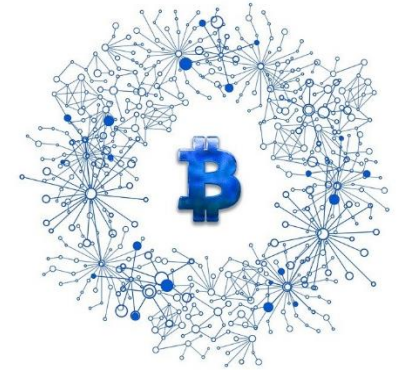
- AI algorithm creator
- AI user
- AI
- Nobody – public domain

6.4

Contracts

Method for avoiding uncertainty

07 | Blockchain



7.1

Introduction

- How blockchain works?
- Advantages from the legal perspective

7.2

Usages of blockchain for IPR protection

- Collect evidence of infringement
- Trade secret protection
- Trade mark usage proof
- Copyright creation proof

7.3

Legal status in Chinese courts

- Internet Courts

08 | Internet Courts



8.1

Introduction

Main characteristics:

- Online
- Fast
- Jurisdictions limited

8.2

Jurisdiction

- E-commerce cases
- Online copyright infringement
- Online service contracts
- Domain names disputes

09 | Takeaway Messages



- ✓ Register your IPRs in advance
- ✓ Monitor e-commerce platforms constantly to spot infringements
- ✓ Get evidence before starting any action
- ✓ Choose the fastest jurisdiction



- ✓ Get familiar with the usage of blockchain
- ✓ Have clear contracts of IP ownership when using AI to offer services
- ✓ Consider Internet Courts as main jurisdiction

Questions?

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free, fast & confidential

3 working
days

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