



IP Protection at Trade Fairs

Lisa Lu, 26 September 2023



China IP SME Helpdesk

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GUIDE

1. Introduction
2. Before the trade fair: still to prepare, prepare to fail
 - 2.1 Prevention
 - 2.2 Enforcement
3. Enforcement at the trade fair: be pro-active, not reactive
4. How to file a complaint at a trade fair
5. Enforcement after the trade fair: act on the information you have gathered
6. Other trade fair risks
 - 6.1 Prevention
 - 6.2 Enforcement
7. Related links and additional information

IP Strategy for European SMEs at Trade Fairs in China

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GUIDE

1. Introduction
2. Why do we need to collect evidence?
3. Where to find a notary public?
4. How to prepare for a notarisation
5. Notarisation process
6. Next steps
7. Related links and additional information

How to Secure Effective Evidence at Trade Fairs

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INTELLECTUAL PROPERTY ADVICE FOR YOUR BUSINESS



Six EU-funded helpdesks offer free resources to your small or medium-sized business to help you manage your intellectual property.

<https://ec.europa.eu/ip-helpdesk>

Speaker's Bio



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Lisa Lu is the IP Business Advisor at China IP SME Helpdesk in Beijing, where she advises European SMEs on intellectual property rights matters. She holds a double master's degree in law from the China University of Political Science and Law and University of Hamburg. Before joining the China IP SME Helpdesk at the European Chamber, Lisa worked as a trademark attorney for the Ferrante Intellectual Property and Chang Tsi & Partners. She mainly focused on the fields of trademark prosecution, trademark enforcement, copyright protection and unfair competition. During her time working in both law firms, she dealt with a variety of clients including but not limited to automotive performance, media, entertainment, new energy, apparel, architecture design, data management, e-commerce, household products, HVAC, and fire & security. Her clients included a range of globally leading companies and small and medium-sized enterprises (SMEs). Lisa is fluent in Chinese and English.

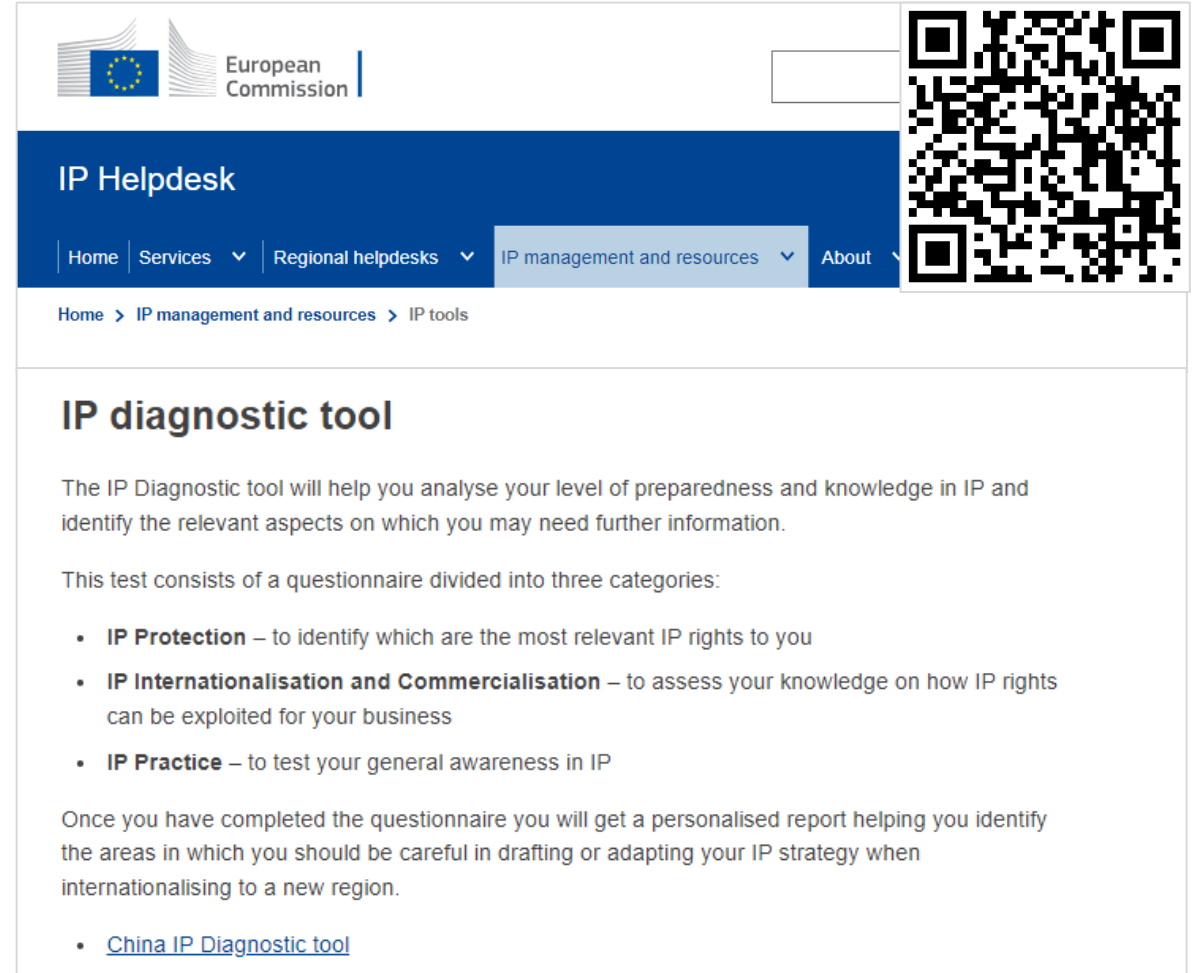


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1.1 IP audit

- IP types: trademark (logo, brand), patent (innovation, industrial design), copyright (Logo, packaging, banner, brochure), trade secrets (unpublic business information)
- IP principles in China: registration, first-to-file, territorial rights
- Carefully read the exhibitor contract



The screenshot shows the European Commission IP Helpdesk website. The header includes the European Commission logo and a search bar. The main navigation menu has options for Home, Services, Regional helpdesks, IP management and resources, and About. The current page is titled "IP diagnostic tool" and provides information about the tool's purpose and categories. A QR code is visible in the top right corner.

European Commission

IP Helpdesk

Home Services Regional helpdesks IP management and resources About

Home > IP management and resources > IP tools

IP diagnostic tool

The IP Diagnostic tool will help you analyse your level of preparedness and knowledge in IP and identify the relevant aspects on which you may need further information.

This test consists of a questionnaire divided into three categories:

- **IP Protection** – to identify which are the most relevant IP rights to you
- **IP Internationalisation and Commercialisation** – to assess your knowledge on how IP rights can be exploited for your business
- **IP Practice** – to test your general awareness in IP

Once you have completed the questionnaire you will get a personalised report helping you identify the areas in which you should be careful in drafting or adapting your IP strategy when internationalising to a new region.

- [China IP Diagnostic tool](#)

01

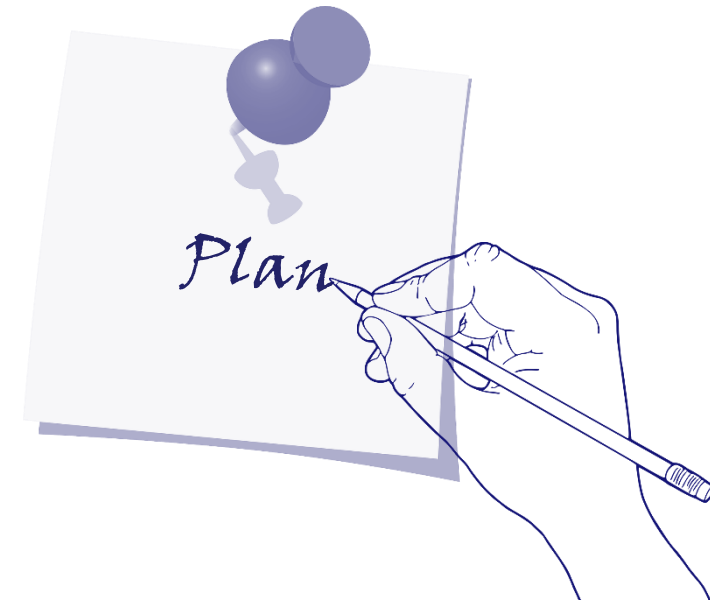
Basic Strategy Before Attending Trade Fairs

1.2 Documents preparation

- Certificate of IP right ownership
- Business license
- Power of Attorney

1.3 Knowing your competitors

- Research the exhibitors
- National Enterprise Credit Information
 - Publicity System <http://www.gsxt.gov.cn/>.
 - CNIPA trademark/patent database
<http://wcjs.sbj.cnipa.gov.cn>
<https://cpquery.cponline.cnipa.gov.cn/>



- ✓ The shareholders, business scopes, the forms of the enterprise
- ✓ The enterprise has been listed as abnormal operation enterprise
- ✓ The enterprise has been sued for breaching the contract

02

IP You Should Protect Before the Trade Fairs - Trademark

TM

Brand name, logo, trade name

®

Registration system

- National: CNIPA: trade fair priority rights
- International: Madrid system



Chinese trademarks

- Phonetical
- Literal
- Easy to remember

**CLEARANCE SEARCH
IS**

IMPORTANT

02

IP You Should Protect Before the Trade Fairs - Copyright



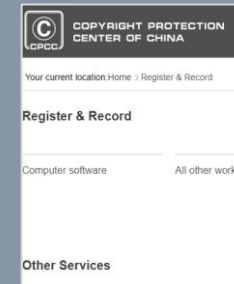
Logo,
packaging,
banner,
brochure



Automatic
right



Registration
is recommended:
fast and easy



02

IP You Should Protect Before the Trade Fairs - Patent

Invention patents vs Utility models vs Design patents

- **Invention patents**: new technical solutions or improvements to a product or process, functionality. 20 years of protection.
- **Utility models**: products with new shape or structural physical features, functionality. 10 years of protection.
- **Design patents**: the aesthetic aspects of the product, non-functionality. 15 years of protection

- *The new method of the AR glass, such as displaying virtual information in a view of a real environment*
→ **Invention patents**
- *The structure of the AR glass*
→ **Utility models**
- *The aesthetic details of the AR glass*
→ **Design patents**

02

IP You Should Protect Before the Trade Fairs - Patent Protection



Two routes

- **National:** directly with the CNIPA.
Exemption of absolute novelty: international trade fairs recognised by Chinese government (6 months)
Priority claims: 12 months for invention and utility model;
6 months for design patent
- **International:**
 - PCT: invention patent and utility model
 - Hague system: design



02

IP You Should Protect Before the Trade Fairs - Patent



Parallel filing of a UM and an invention patent

- Parallel filing on exactly the same day, with a declaration
 - abandon UM once the invention patent is officially granted

Advantages

- Compensating the lack of protection while the invention patent is still pending
- Extension protection term

02

IP You Should Protect Before the Trade Fairs - Trade secrets protection



How to protect trade secrets

- Identify and catalogue your trade secrets
- Use a combination of physical, technical and contractual barriers
- Document trade secret protection measures you take, in case of a dispute later on
- Implement a trade secret protection policy within your company, making sure your employees understand your expectations
- Consider non-disclosure agreements before entering negotiations with third parties

03 | IP Concerns When Attending Trade Fairs

3.1 IP claim desk IP audit

- Research the exhibition's IP complaint centre
- Visit the IP office
- Complaint with the trade fair - Not the best option

3.2 What

What materials and technology to display

3.3 Potential partners

What to pay attention to when talking to potential business partners

- **Red flags**
- **Trade secret protection**

3.4 Evidence collection on site

- Infringement evidence: photos, contracts, business card, etc.
! Notarisation purchase
! Website notarisation

04

After the trade fair – ongoing enforcement

- Different options

4.1

Roadmap of enforcement actions

Finding software infringement



Collection and preservation of evidence

**Notice and
take-down**

**Notification
letters**

**C&D
letters**

**Adm.
investigation
or raid**

ADR

Litigation

4.2

Evidence collection

- Ownership
- Use evidence of the owner
- Infringement evidence

4.3

Evidence preservation

- Notarisation
- Blockchain: Internet courts



Case Study 1

- Attending trade fairs with unregistered invention

The Background

Spanish SME, a producer of agriculture and farming equipment including tractors, planning to attend a trade fair in Beijing.



Innovation New model of a tractor (with millions in developing), new design, new function (lower fuel consumption), engine without invention patent in China.



Challenge: Loss of novelty for engine vs loss of business opportunity.



Chinese law: absolute novelty requirement for patent; 6 months of trade fair priority for patent.



Action taken

- IP audit: technologies, designs, brands, etc.
- Logo and trade name: trademark registration
- Product catalogue: copyright registration
- Design of the tractor: design patent
- Engine – trade secrets, not public.
 - Exhibited without the engine.
 - Internal legal training for the staff promoting the tractor and discussing the advantages of the new engine without leaking the details of the technology to maintain patentability.
 - Notarisation of exposure of the tractor



Outcome

- Showcase the tractor without the loss of novelty of the engine.
- Later obtaining an invention patent for the engine



Lesson learned

- It is not recommended to participate in a trade fair without prior protection of intellectual property rights.
- Using IP registration and trade secrets to protect technologies.
- The mere exposition of the advantages that a new technology will have does not mean the loss of the “novelty” in the matter of patents, as long as the technical solution details are not revealed.
- Participation in a trade fair must be planned in advance, to have all intellectual property assets ready and protected.



Case Study 2

- Infringement at the trade fair

The Background

French SME, a manufacturer and designer of bathroom equipment. Attending Canton fair in Guangzhou



IPR: Trademark registration of French and Mandarin Chinese names in China.



Challenge: Unauthorised trademark use and pirated products exhibited by a Chinese company at the trade fair.



SME reaction: Collecting business cards and taking photos



Action taken

- Onsite notarisation with notary public.
- Civil litigation against the infringement later



Outcome

- The infringement case is favourable to the SME



Lesson learned

- You must have registered your IP in China either domestically or via an international route to enforce your rights.
- Make sure that the evidence of IPR infringement you obtain is notarised by a Chinese notary public, otherwise the evidence could be invalid in your infringement case

06 | Take-away messages



- ✓ Obtain IP protection before attending trade fairs. For trademark and patent, no registration = no protection.
- ✓ When registering trademarks and patents, you can consider claiming trade fair priority.
- ✓ Research your competitors who will attend the trade fair.

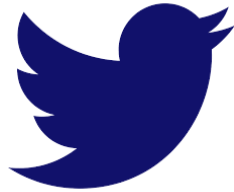


- ✓ Pay attention to the unregistered IPR and trade secrets during trade fairs.
- ✓ Collection and preservation of evidence of infringement are essential in China.
- ✓ Consider taking enforcement actions after the trade fair.



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

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