

Design Copyright Protection in China

Lisa Lu 6 July 2023



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ABOUT US

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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Guide


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5. Related links



Guide to copyright registration in China

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Guide

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2. What is COPYRIGHT?
3. How is COPYRIGHT relevant to my business?
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COPYRIGHT PROTECTION IN CHINA: A Guide for European SMEs

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01 | Basics of Copyright Protection in China

Scope of copyright protection



- Creative works: designs, posters, brochures, photographs, drawings, videos, computer software, models, websites, articles.
- Industrial designs: industrial and graphic designs, applied art, architectural building.

Industrial design:
patent or copyright
protection?



- If your design patent has not been granted in China;
- The design patent is ceased;
- If your design has lost the novelty.
- Register both rights.

01 | Basics of Copyright Protection in China

Why to register
copyright?



- Automatic protection *178 countries of Berne Convention*
- Notice and take-down procedures of e-commerce platforms
- Formality examination, fast, cheap
- No need of a lawyer/agent
- Protection terms: 50 years
- Prima facie evidence
- Enforcement requirement

02

How to Register Copyright with Copyright Protection Centre of China (CPCC)



Time  *1 month*

Costs  *40 Euro for one works*

02

How to register copyright with the CPCC

- Required documents

1. Documents of identification
2. Sample of the works
3. Commitment of the work registration
4. Claims on the ownership of the works

1. Documents of identification

- ✓ *Company: business certificate and the Chinese translation is required.*
- ✓ *Individual: scanned copy of the individual passport, the Chinese translation.*
- ✓ *IP agency: Power of Attorney.*

02

How to register copyright with the CPCC

- Required information in Chinese

- **Who** created the work?
- **When and where** was the work created?
- **When and where** was the work first published?
- **Why** was the work created?
- **How** was the work created?
(creation process, i.e. a brief introduction on how the works were created?)
- **What** special features does the work have, that make it distinctive from others' works? *(originality and creativity)*

03

Copyright enforcement actions

- Different options

3.1

Roadmap of enforcement actions

Finding copyright infringement



Collection and preservation of evidence



Notice and take-down procedure

Notification letters

C&D letters

AMR raid

Litigation

03 | Copyright enforcement actions

3.2

Evidence collection

- Ownership: certificate; drafts, sketches and dated copies of your work; first use and publication evidence.
- Use evidence of the owner: sales, marketing, media report, etc.
- Infringement evidence: contracts, photographs of infringing products and proof of sale.

3.3

Evidence preservation

- Notarisation
- Blockchain

03 | Copyright enforcement actions



Advantage of blockchain notarisation

- Notarise the electronic evidence any time anywhere
- Without hiring a lawyer or a notary public
- Cheap



Platforms

- UniTrust (联合信任): www.tsa.cn
- Huicun (汇存)

03 | Copyright enforcement actions

3.4 Notice and take-down procedure

- Easy and fast
- Original photos and videos, without the certificate

3.5 Judicial actions

- Statutory damages: *RMB 500-5,000,000*
- Online copyright infringement: *Internet courts*

04 | Take-away messages



- ✓ Though copyright is automatically granted, you should register it in China before someone else does.
- ✓ If your industrial design can not be protected as a patent, you can consider copyright registration.



- ✓ Keep drafts, sketches and dated copies of your work as proof of copyright.
- ✓ For online copyright evidence, you can use blockchain to preserve the evidence on your own.



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

Questions?

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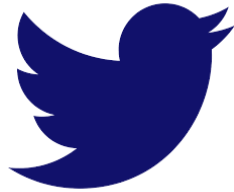


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