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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
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

Co-funded by:

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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 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.



New Patent Law - Overview of Changes for the SMEs

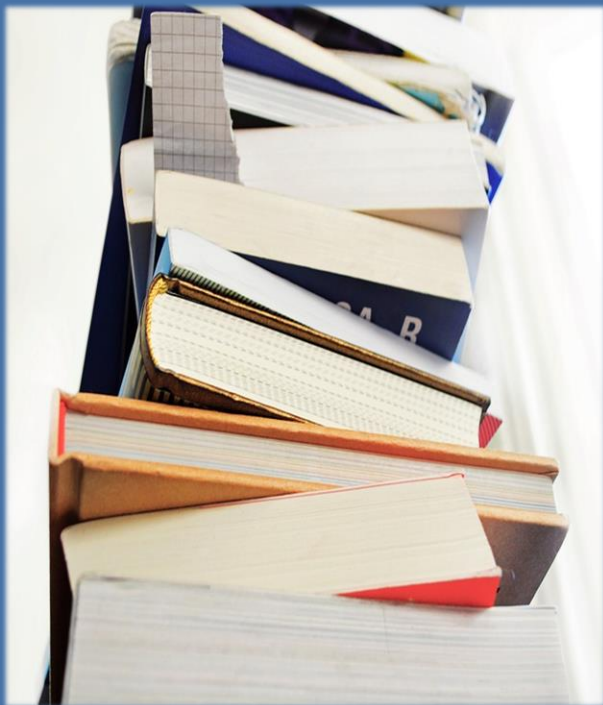


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2. Design Patents
3. Pharmaceutical patents
4. Enforcement
5. Commercialization
6. Administrative delays
7. Takeaway Messages

02

Design Patents

- Main changes



2.1

Partial design

- Definition
- Partial design 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

4.1

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

- Judges can request a proof of the damage

4.4

Administrative protection of IPRs

- Combined with judicial protection

05

Commercialisation

- Open license system



5.1

How to request it

- Written request
- Authorities
- Withdrawn

5.3

Benefits

- Tax
- Commercialisation

5.2

Conditions

- Fees
- Non-exclusivity
- Written request

5.4

Disputes

- Patent administration

06 | Administrative Delays

6.1

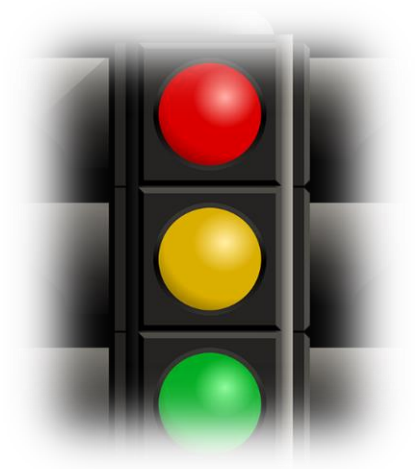
Patent term extension

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

6.2

Limits

- Delay caused by the applicant



07 | Takeaway Messages



- ✓ Extend the protection term of patents when it is possible
- ✓ Check regularly the commercial approval of drugs (for potential patent infringements)
- ✓ Enforce your patents when there is an infringement
- ✓ Register your designs as soon as possible
- ✓ Do partial designs when you modify old designs



- ✓ Contact the China IPR SME Helpdesk [**question@china-iprhelpdesk.eu**](mailto:question@china-iprhelpdesk.eu)

Questions?

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3 ^{working} *days*

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