

CHINA IP SME HELPDESK



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The Helpdesk in a nutshell

- Free initial advise to SMEs
- Geographic coverage:
 - **China**
 - **Hong Kong**
 - **Macao**
 - **Taiwan**
- We have assisted over 100.000 SMEs to date

Helpdesk free services

Enquiry Helpline



Training Workshops



Webinars



Website & Blog



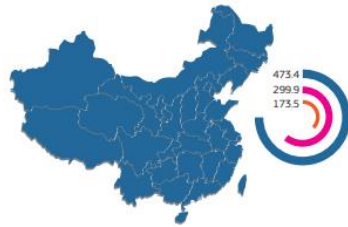
Guides & Factsheets



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

SIZE of Market:
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:



European Union

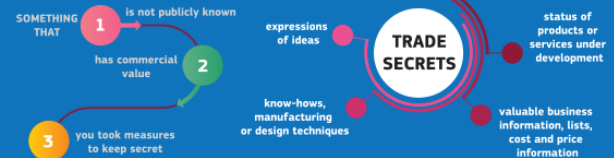
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Protecting Your Trade Secrets in China

Prevention is the key to protection.

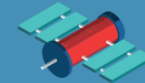


WHAT EXACTLY CAN BE A TRADE SECRET



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.

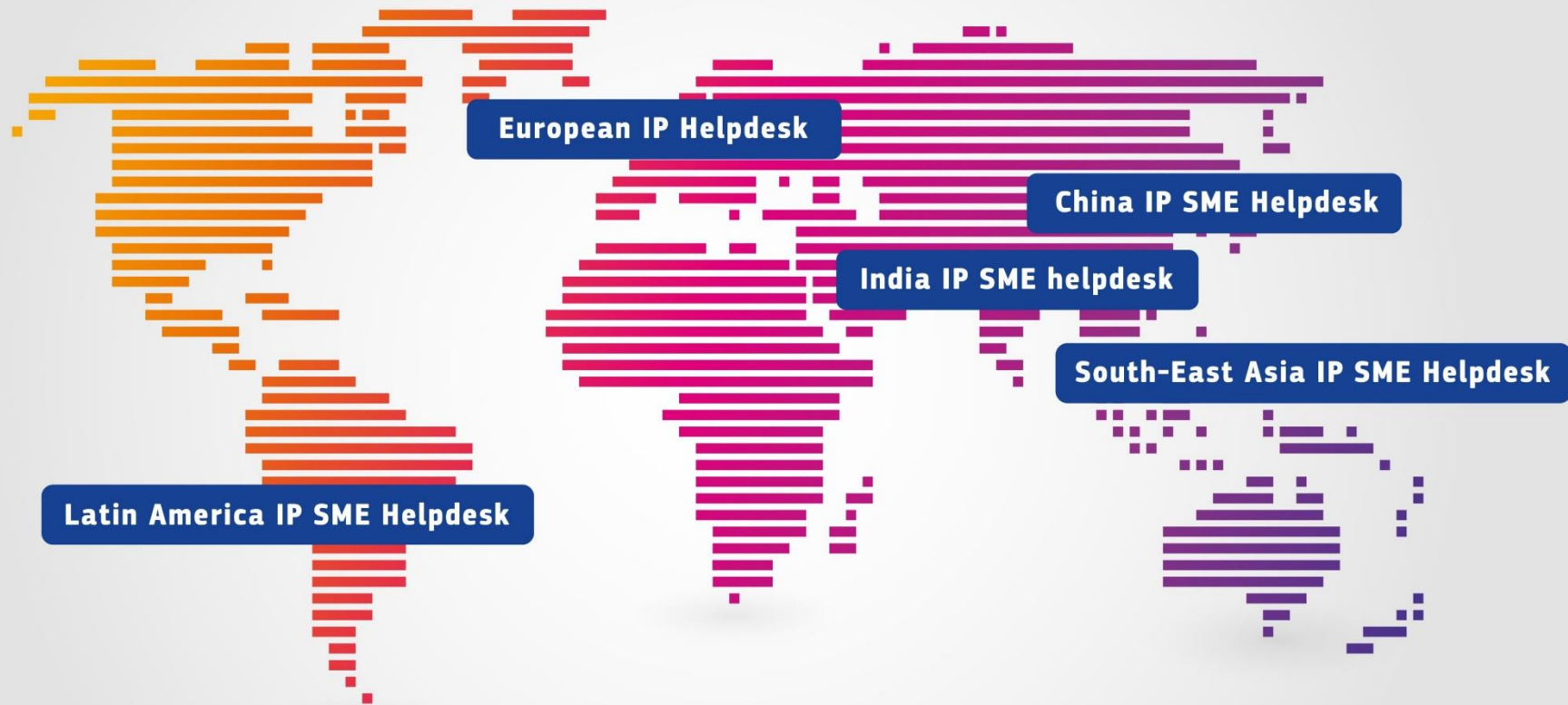
Establish an internal management system for trade secrets. Training and clear written guidelines are essential.

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

INTELLECTUAL PROPERTY ADVICE FOR YOUR BUSINESS



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

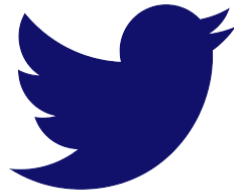


CHINA
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China IP SME Helpdesk



IP protection in China for European innovative SMEs

Catherine Heng Yee HUYNH

6 April 2021

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Catherine Heng Yee HUYNH Law Firm (Paris, France)

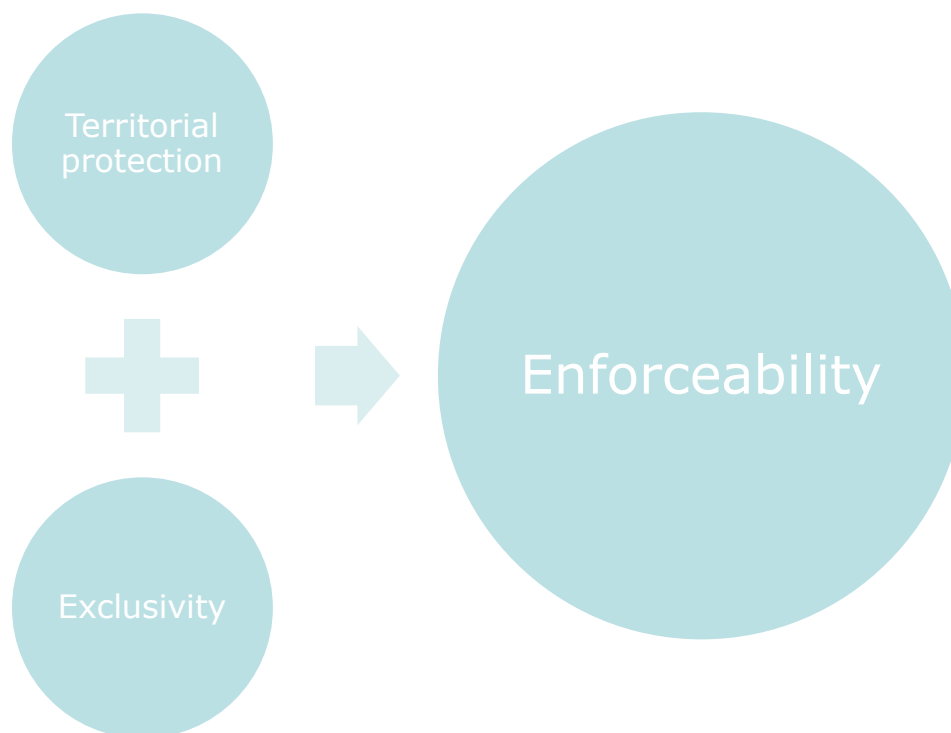
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Catherine Heng Yee is a **bi-cultural (French born Hongkongese) IP & Data protection** lawyer. She founded her own boutique law firm so as to make the SMEs benefit from her experience in big firms. She **worked in France, mainland China and Australia**. She was previously an in-house counsel for a French multinational company based in Shanghai (successfully leading an anti-counterfeiting program). Her areas of practice include **copyright, trademarks, designs and data privacy matters / advice & litigation**. She also has an expertise in designing worldwide strategies of protection of creations, especially on the geographical axis France, European Union, mainland China, Hong Kong and Asia. She is **co-directing a Master's Degree in Intellectual Property Law and Digital Law** at the Institut Supérieur du Droit (Paris). Catherine **speaks French, English, Mandarin and Cantonese**.

IP protection in China for European innovative SMEs

- Overview of different Intellectual Property Rights (IPR)
- Why it is crucial to register your IPR
- How to enforce IPR in China
- Recent improvements brought by the new Patent Law
- The most important implications of the Cybersecurity law for European companies
- Best practices on how to secure technology transfer
- Cooperation on Research & Development in China

1. Why Intellectual Property Rights (IPR)?



2. What are the IPR?

Trademark

Copyright

Patent (invention, utility model, design)

~~*Trade secret*~~

2. Overview of different Intellectual Property Rights (IPR) : **trademark**

iPhone

MUJI
無印良品

2. Overview of different Intellectual Property Rights (IPR) : **trademark**

- *What? Latin + Chinese characters*
- *When? Before expanding your business overseas*
- *How? (Conducting a prior search >>) Filing a trademark application (Chinese trademark // international trademark) >> Registration = trademark rights*

2. Overview of different Intellectual Property Rights (IPR) : **trademark**



2. Overview of different Intellectual Property Rights (IPR)

- *What?*

Trademark

Copyright

Patent (invention, utility model, design)

~~*Trade secret*~~

2 bis. Chinese new patent law effective 1 June 2021

- Invention patent protection term can be extended beyond 20 years if Patent Term Adjustment or Patent Term Extension is applicable.
 - Patent Term Adjustment : where the invention patent is granted 4 years after the filing, and granted 3 years after the date of requesting the examination, the patentee may request a compensation period for the unreasonable delay in the granting process of the invention patent (but the patent term shall not be extended for unreasonable delay caused by the applicant).

2 bis. Chinese new patent law effective 1 June 2021

- Invention patent protection term can be extended beyond 20 years if Patent Term Adjustment or Patent Term Extension is applicable.
 - Patent Term Extension: in order to compensate for the time taken for the review and approval of a **drug**, the CNIPA may, at the request of the patentee, grant compensation for a period of time for new drug invention patents that have been authorized for marketing in China. The compensation period shall **not exceed 5 years**, and the total effective patent term after the date where the new drug is authorized for market shall **not exceed 14 years**.

Drug: new chemical drugs, new biological preparations, new TCM, method of preparing a drug, medical use patents.

2 bis. Chinese new patent law effective 1 June 2021

- Design patent protection term will be increased from 10 to 15 years.
- Principle of good faith as regards patent application and use (not harm the public interest or others' legitimate interest)
- Punitive damages in case of patent infringement are applicable, if
 - the infringement is intentional; and
 - there is a serious circumstance

3. How are IPR useful?

Preventive measures

- Customs: register your IPR

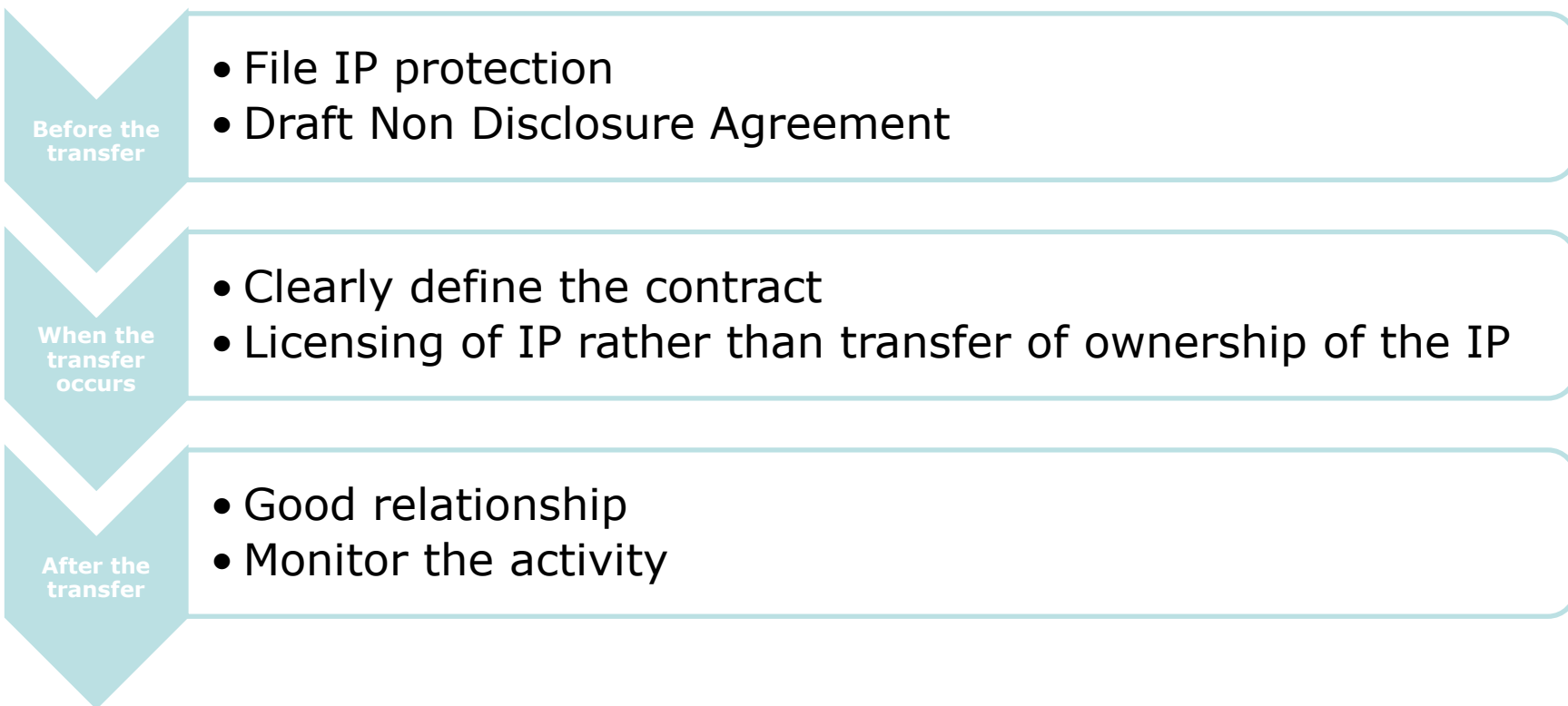
Administrative action

- Power to raid, seize and destroy infringing goods
- Power to impose fines

Judicial actions

- Civil action: damages, destruction
- Criminal action: imprisonment up to 7 years and/or penalties (no damages)

4. How to secure technology transfer?



5. Cybersecurity law

- Aims: data protection, data localization, cyberspace sovereignty
- Means: wide investigative powers of Chinese authorities into companies' IT systems
- Concerns companies (including Chinese affiliate of foreign companies) which set up their cloud infrastructure (incl. servers, virtualized networks, software and information systems) in China:
 - operators of critical information infrastructure
 - network operators

Questions?

HELPLINE

free, fast & confidential

3 ^{working} *days*

question@china-iprhelpdesk.eu