

FREE

Are you a startup and interested in bringing your innovation to China?



Online Webinar



28 July 2022

Thu, 10:00 AM - 11:15 AM CEST



Learn from European Legal Experts on How IP Laws Work in China!



IP PROTECTION FOR EUROPEAN STARTUPS DOING BUSINESS IN CHINA

SIGNUP HERE!



CHINA
IP SME HELPDESK



European
Commission



Techcode 太库
创业者国度 Startups Nation

An Overview on Beijing's Innovation Ecosystem



Emon Wang
Beijing Z-Park
Ambassador Berlin
2022.07

Beijing: China's Innovation Center

Beijing



Culture Center

Great Wall, Temple of Heaven
Forbidden City, Hutongs, Theaters, Indie-Bars...



Political Center

Central Committee, State Council,
National People's Congress, Politburo...



Education Center

90+ Universities, 6.000+ Libraries
1m Undergraduates, 400k Postgraduates



Innovation Center

22.000+ Tech Startups & SMEs,
90+ Unicorns, 50+ Fortune 500 HQs



Z-Park: China's Silicon Valley



Zhongguancun Science Park, also known as **Z-Park**, was established in 1988 as one of the **first science parks and first national innovation centers in China**. Z-Park focuses on electronic information, bio-medtech, cleantech, environmental protection, new materials, advanced manufacturing, aerospace as well as rail engineering sectors. As a hub of China's scientific and technological innovation, it is often being considered as **“the Silicon Valley of China”**.

Z-Park in Numbers

Total Area:	488 km ²
Affiliated Parks:	16
High-Tech Companies:	20.000+
Fortune 500 Companies:	200+
University & Institutes:	90+
R&D Centers:	600+
Investment Funds:	1.800+



35 Years of Hard Work

Past: Mega Market for 3C Products



ZHONGGUANCUN SCIENCE PARK

1988 - 2022

Today: Hub for Tech & Innovation



Top Talents & University Spin-Offs

~ 90 New Tech Startups / Day

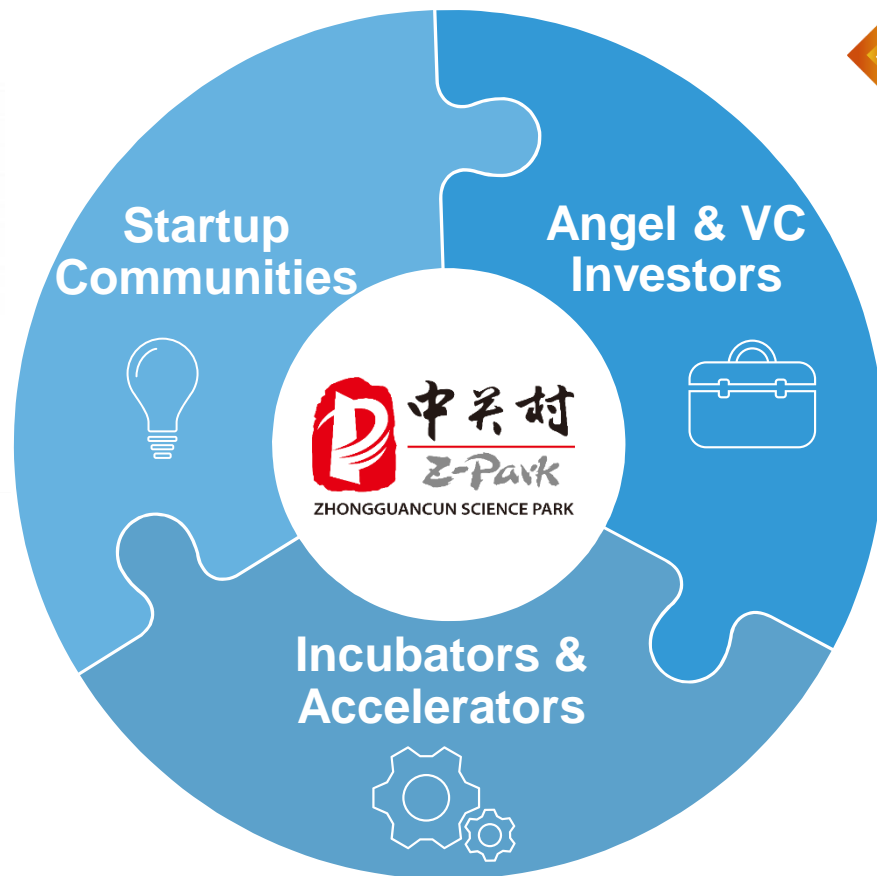
Scale-up to Global Tech Giants



Rapid Technology Progression



Tech Ecosystem Players



Microsoft Accelerator
微软加速器



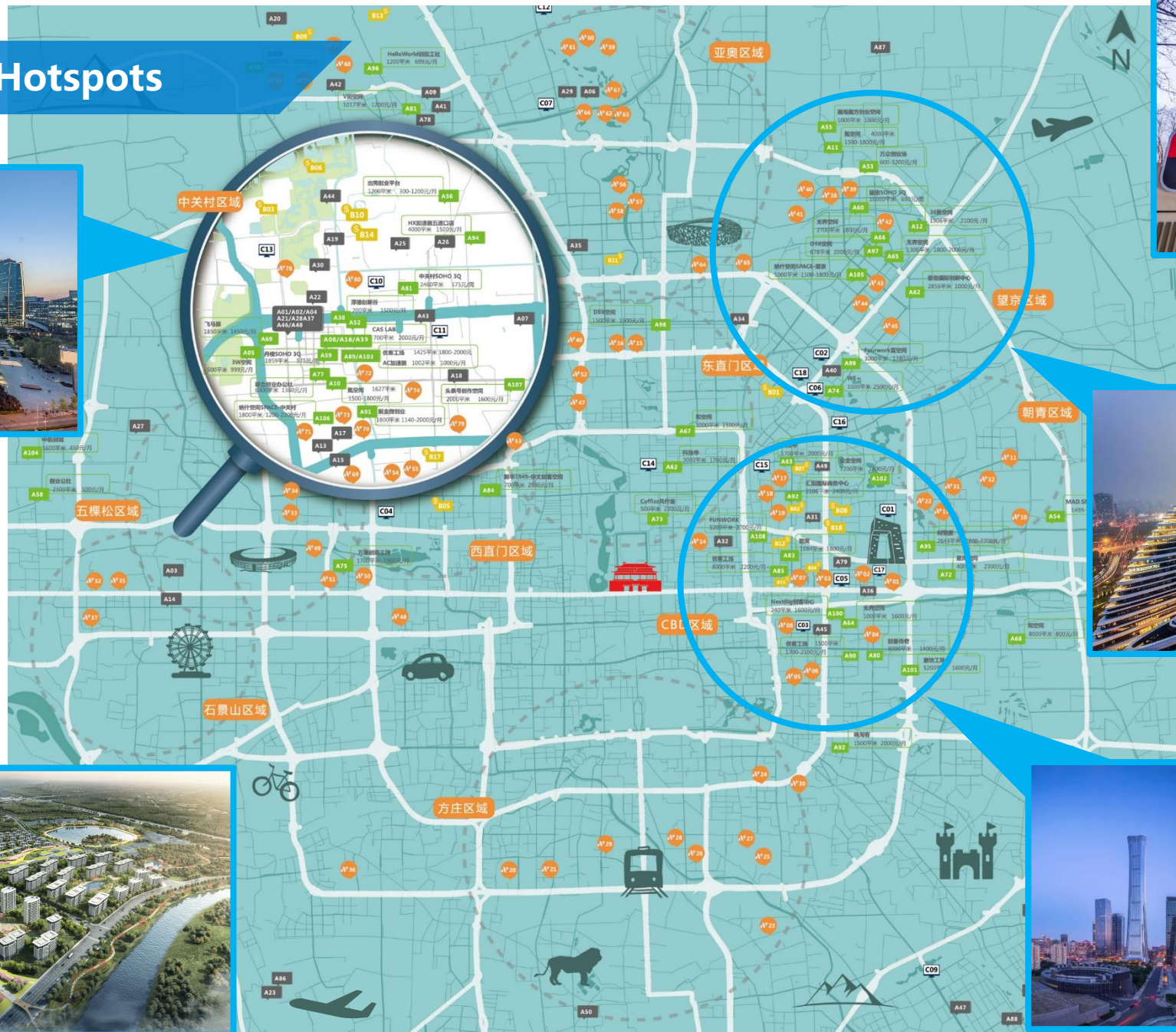
创新工场
SINOVAION VENTURES



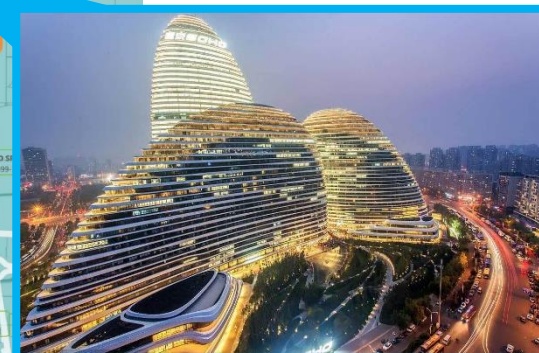
Startup & SME Hotspots



Z-Park Startup Hub



China-Germany Park



Wangjing SOHO



China-Japan Park



Central Business District

Beijing China-Germany Park



Electric Vehicle



Industry 4.0



B2B Services



Smart Equipment



SIEMENS



BOSCH



WERMA

EUCHNER

More than safety.



ARJES

Recycling Innovation



AGILE ROBOTS

Fortune 500 Multinational Corporations

SMEs & Hidden Champions

B2B Start-ups

Daxing International Airport

IT System:  T-Systems

World largest airport
Passenger capacity 100m p.a.
Construction Begin: 2014/12
Commercial Opening: 2019/09



Daxing County Market 1990s

Fengtai Railway Station

Architecture: **gmp**

Largest rail station in Asia
32x Railways + 2 Subways
Construction Begin: 2018/08
Commercial Opening: 2022/Q2

Fengtai Rail Station in 1896



Local Digital Tech Media



WECHAT PUBLIC ACCOUNTS



超人测评



Subscription Folder



Subscription Folder Landing Page IOS



Subscription Folder Landing Page Android



- 首页
- 快讯
- 资讯
- 最新
- 创投
- 汽车
- 企服
- 创新
- 直播
- 视频
- 专题
- 活动

搜索

寻求报道

我要入驻

- 最新
- 推荐
- 创投
- Markets
- 汽车
- 科技
- 企服
- 生活
- 创新
- 房产
- 职场
- 企业号
- 其他



Meta失速，模式创新的红利到头了？
转型还是下坡，Meta的一场豪赌
周天产业分析 37分钟前



现实照进虚拟？Kaws在《堡垒之夜》中打造首场艺术画展
艺术家接触世界的新方式。
品牌几何 52分钟前



从冬奥看氢能未来
此次冬奥会是首次大规模应用蓝氢和绿氢，有着重要的象征意义
财经十一人 53分钟前



Meta元宇宙女性安全问题频发，元宇宙中相关问题该如何解决？
现实世界中可能存在的危害不应带入到虚拟世界中，女性的权益仍需保护
元宇宙之心 1小时前

推荐企业 换一换

- 领星ERP 跨境电商精细化运营管理专家
- 驭势科技 以AI驾驶重塑人类生活方式
- 洞见科技 让数据价值安全释放。
- 每刻科技 群智云财务领导者
- 船长BI 专注于亚马逊精细化运营管理和全维数据分析，以数据驱动增长

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让更多好企业被看见
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热点事件
聚焦大家关心的事

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打开全新的商业世界

特色栏目
深度解析，专业预判

China Tech News Portal

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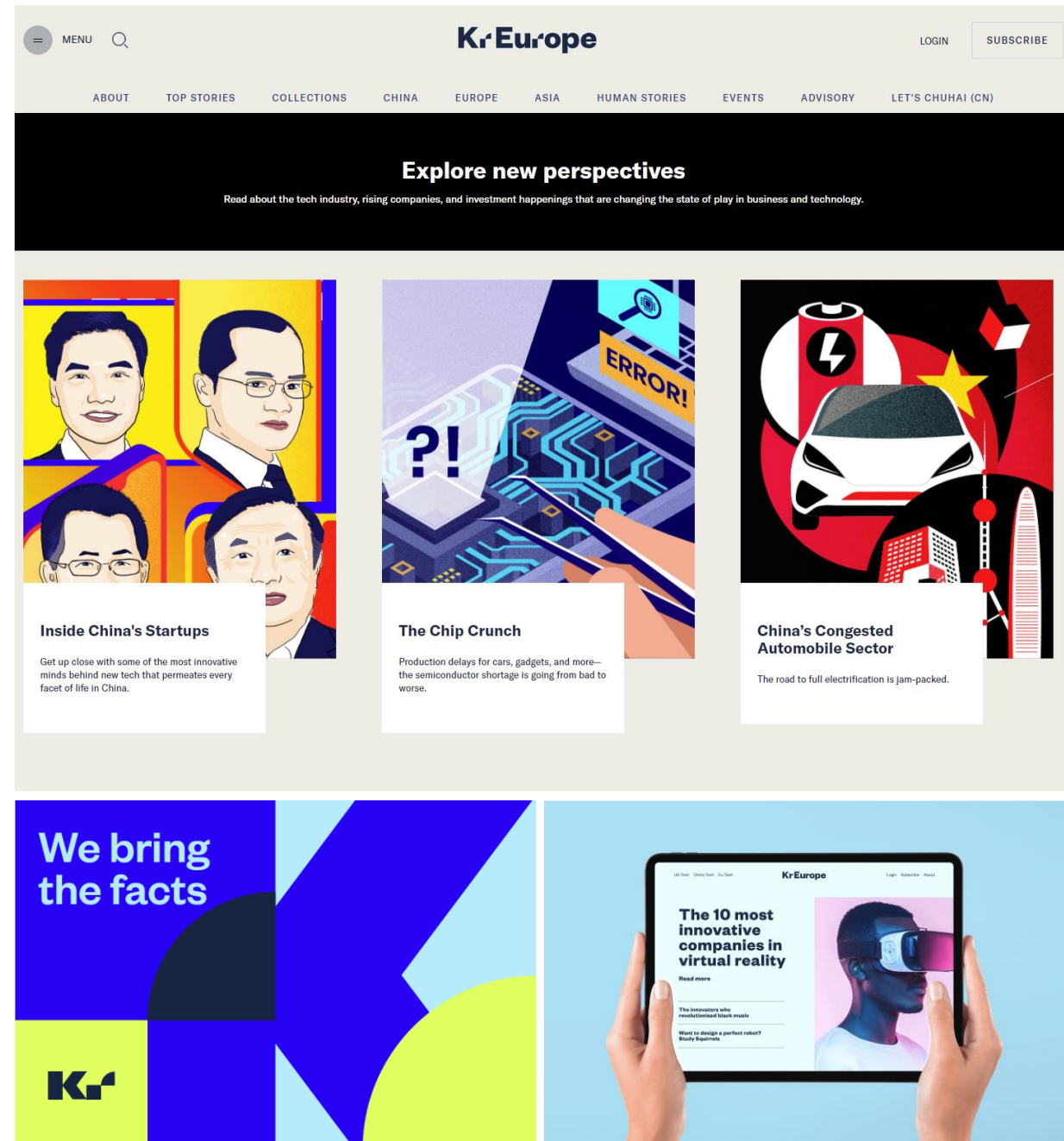
China

Tech

Business

- Launched in 2021, KrEurope is the English flagship of 36Kr Global serving European audience with latest trending stories, market insights, exclusive interviews and online events covering the dynamic startup eco-system and digital new economy of China.
- A seasoned trilingual team operates from Berlin, Germany as the European HQ of 36Kr Global.

www.Kr-Europe.co



China Virtual Events



Path2China: Technology, Business & Culture

📍 Berlin, Germany
👤 1,893 members · Public group
👤 Organized by TechCode and 1 other

www.meetup.com/path2china

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China Talk With CEOs: Open Source – East Meets West



Han Xiao, Founder / CEO
Jina AI

Niels Lindenthal, Founder / CEO
OpenProject

Oct 28th 10:00 – 12:00 CEST

China-Talk With Startup CEOs

Chinese Culture 101: Cross-Cultural Communication – China vs. Germany



Dr. Stephan Ruppert, Founder
LinkingCultures

Dec 22nd 10:00 – 11:30 CET

Chinese Culture 101

China Digital Insight: The Secret of RED (Xiaohongshu.com)



Linda Zeng
RED Partner

Sep 23rd 10:00 – 11:30 CEST

China Digital Insight



Hello

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CHINA IP SME HELPDESK



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Project Manager

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The Helpdesk in a nutshell

- Free initial advice to SMEs
- Geographic coverage:

- **China**
- **Hong Kong**
- **Macao**
- **Taiwan**



 100,000+ SMEs assisted to date

Helpdesk free services

Enquiry Helpline



Training Workshops



Webinars



Website & Blog



Guides & Factsheets





FACTSHEET

- THE FACTS: Business in Mainland China for EU Companies**
 - Size of Market
 - Key INDUSTRY SECTORS
- 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?
- IP Rights in Mainland China: THE BASICS**
 - Copyright
 - Patents
 - Trade Marks
 - Geographical indications (GI)
 - Trade Secrets
- Using CUSTOMS to block counterfeiters**
- Enforcing of rights**
 - Administrative actions
 - Civil Litigation
 - Criminal Prosecution
- RELATED LINKS and Additional Information**




IP Factsheet: Mainland China

CHINA IPR SME HELPDESK




For free, confidential, business-focused IP advice within three working days E-mail: question@china-iphelpdesk.eu




Guide

- Technology Transfer to China
- Thinking of Transferring Technology?
- What Can Companies Do to Protect Themselves?
- SME Case Studies
- Technology Transfer Checklist
- Take-Away Messages
- Related Links



Technology Transfer to China: Guidance for Businesses

CHINA IPR SME HELPDESK



For free, confidential, business-focused IPR advice within three working days E-mail: question@china-iphelpdesk.eu

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>

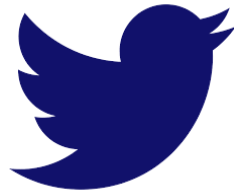


CHINA
IP SME HELPDSEK

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China IP SME Helpdesk

Questions?

HELPLINE

free, fast & confidential

3 ^{working} *days*

question@china-iprhelpdesk.eu



PARTNERING FOR SUCCESS: HOW TO FIND, SELECT AND SECURE BUSINESS PARTNERS IN CHINA

Elio De Tullio

External Expert EU China IPR SME Helpdesk

Protect your company's intellectual property in China

Online, 28 July 2022

Elio De Tullio



edt@detulliopartners.com

Elio De Tullio is an Italian lawyer admitted at the bar of Bari and trade mark attorney. After 10 years of experience in IP matters, he founded in 2005 the law firm De Tullio & Partners, with offices in Rome and Bari and a liaison office in New York. Managing Partner of De Tullio & Partners, he acts as trade mark attorney in the strategic assessment of IP protection and in prosecution and opposition processes at domestic and international level. He is also a litigation lawyer before the Italian Courts specialized in Intellectual Property. He specializes on trademark, design and patent issues, from a strategy, business intelligence, competition, filing and prosecution perspective. Since the start of his activity, he supported Italian and EU SMEs to protect and prosecute their IP rights in China. Since 2014 he acted as speaker at several webinars and training events on the protection of IPR in China on behalf of the China IPR SME Helpdesk. He has also written articles on Italian and European law on intellectual property rights which have been translated into Chinese.



IPR in China

IPR in China

- ✓ **Only registered IPRs are protected** (unregistered trademarks, since 1 May 2014, can be protected if the reputation of the mark in China can be proven or if it can be proven that the challenged trademark has been filed in bad faith).
- ✓ **China adopts a "first-to-file" system for IPRs**
- ✓ **Local agent and EU agent**
 - In order to file an IPR application in China, any foreigner or foreign company must entrust, first of all, an EU agent. This agent will contact a **local agent**, since a Chinese application cannot be presented directly by a foreigner or a foreign company.
- ✓ Although it is not expressly required by Chinese law it is useful to provide the office with a **Chinese transliteration of the mark**.
- ✓ **Trademark protection lasts for 10 years from the grant and can be renewed indefinitely for periods of 10 years**
- ✓ **Patent protection lasts for 20 years from the date of filing, design and utility models protection lasts for 10 years (with the payment of annual fees). Designs in China with the filing date on or after June 1, 2021 are in force for 15 years from the filing date.**

These rules are not in force in Hong Kong, Macao and Taiwan

IPR in China: Registration Authorities

- ✓ *The 2018 reform created a single Authority for the management of patents, trademarks and GIs.*
- ✓ *The former competent authority for patents only (i.e. State Intellectual Property Office - SIPO) has been transformed into the new Authority **China National Intellectual Property Administration (CNIPA)**.*
- ✓ *In addition to **patents, utility models and designs**, CNIPA now also manages **trademarks** (previously managed by the State Administration of Industry and Commerce - SAIC) and **Geographical Indications** (previously managed by the General Administration for Quality Supervision, Inspection and Quarantine - AQSIQ).*
- ✓ *Therefore, the procedures for registration and protection of all the aforementioned rights are managed directly by the CNIPA.*
- ✓ ***Copyright** can be registered at the Copyright Protection Centre of China (CPCC) authorized by the National Copyright Administration of China (NCAC).*

IPR in China: International agreements and international priority

- ✓ China is **member of the Madrid System** managed by WIPO and, therefore, a national mark can be extended in China through an international application.
- ✓ Moreover, China is **member of the Patent Cooperation Treaty** and patents (for invention and for utility model) can be extended in China through the PCT procedure.
- ✓ China is also a **signatory party of the Paris Convention** for the Protection of Industrial Property of 1883.
- ✓ Therefore, **the owner of an application for registration of an IP right (filed in one of the Member States of the Paris Convention) may use a priority period of six months (for designs and trademarks) or a year (for patents and utility models) from the filing of the application in the country of origin to extend the protection of the first filing in China through a national filing in that country.**
- ✓ The object of protection is **in line with international standards.**



***Important considerations before
engaging with business partners in China***

Practical first steps

- Check **import-export catalogues**
- Keep information **confidential**, if not registered
- Start protection from the **country of origin**
- Use **priority rights** for titled IP rights (patents, trademarks, designs)
- Analyze carefully the **regional challenges**
- Protecting your IP - **By Region or Country?**
- **When Should I Apply** to Register my IP?
- **What IP** can I Register?
- Assess the Legal, Tax, and **Regulatory Landscape in Each Country**
- **Secure your trade secrets** in the country of origin (be sure to have assessed and protected them through **physical, technical, legal measures**)

Practical first steps

- Some changes to the Regulation on the Administration of the Import and Export of Technologies (TIER) and adoption of the new Foreign Investment Law (FIL) have removed many restrictions on foreign investments to offer foreign companies “**national treatment**” in most sectors -> the **same treatment as applied to domestic Chinese companies**, as required by the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).
- National treatment means that foreign investors will be treated **no less favorably** than Chinese investors at the “entrance stage”, so long as the invested industry is not on the negative list.
- The protection during the entrance stage guarantees to foreign companies that they will be **treated equally** with Chinese companies when applying for business licence or any permission needed to operate in China.

Practical first steps

- If you are considering to invest and conduct R&D in China, your first look will be at the **Negative List for Foreign Investment** issued jointly by the PRC National Development and Reform Commission (NDRC) and the Ministry of Commerce (MOFCOM) -> the list prohibits and restricts foreign investments in certain sectors and determines the conditions that foreigners should comply with to be able to operate.
- This list is periodically updated.
- The analysis of the Negative List for Foreign Investments should be done in the early stages of your business internationalization plans because the restrictions can even influence the type of legal entity that will be necessary for exporting the technology or making investments -> depending on the restrictions, you might be required to set up a joint-venture (JV) or you might be able to set up a wholly foreign owned enterprise (WFOE).
- There is also a second negative list, the **Negative List for Foreign Investment for China's Free Trade Zones**.

Choose the right business partner and structure

- **New China Foreign Investment Law** that came into effect on 1st January 2020
- Choose your **local partner** carefully
- **Accurate investigations**
- Control and manage **disclosure**
- Carry out an accurate **Due Diligence**
- Assessing and Choosing your **Business Model**
- Follow the right path: **NDA, LoI, MoU, negotiations in written**
- Structure models: **JV, WFOE (Wholly Foreign Owned Enterprise)**
- **Contract models:** manufacturing/licensing/distribution/franchising agreement

Choose the right business partner and structure

- When establishing business operations in China, **finding local business partners and customers can be a major task** -> the ideal partner will be complementary, but not well-positioned to directly compete with your business. In order to make an informed decision, you need to take a closer look at your business as well as the potential Chinese partner by following these three-steps:

1. Analyse your strengths

2. Analyse your competitors and the Chinese market in which you wish to operate

- ✓ Do you know who your competitors in China are? What are their strengths? What is their strategy?
- ✓ Are you aware of your Chinese partners' specific objectives?
- ✓ Are they in a special situation which influences your cooperation? For example, State Owned Enterprises (SOEs) may be obliged to abide by local and State industry policy which requires them to gain more know-how transfer and R&D investment rather than maximising short-term profits

3. Design your own procedures when dealing with China (example: enter into NNN)

- ✓ A practical approach is needed, but it is also very important to draw the line when trading off IP protection for operational efficiency. Define your limits and vigorously defend your position.

How to obtain information about a Chinese company

- The **National Enterprise Credit Information Publicity System** provides public access to official registration data for all legal entities in China -> the registration data also contains names of key individuals.

The information available in this database will help you to detect any red flags -> for example:

- *if the company is an officially registered company in China;*
- *who can legally represent the company and sign contracts on behalf of the company;*
- *what the business scope of the company is;*
- *where the company is located.*

So, it will be possible to conduct a first line due diligence.

How to obtain information about a Chinese company

- The information resulting from the online search does not give you comprehensive information and cannot answer whether or not you should go into business with that company -> by comparing the results of the search with the information you already have from the Chinese company you might have certain indications that you can use as a first hints about whether or not it will be convenient for you to interact with that company.
- In order to compare the information, you can ask your potential Chinese partner to send you their business license.



Importance of contracts

Importance of contracts

- Tailoring contracts to suit your intellectual property rights (IPR) is an important way to ensure that your company's specific intellectual property (IP) assets are adequately protected.
- Contracts involving the protection of IP can be divided into four main categories:
 - ***Technology development, transfer, consultancy and service contracts.***
 - ***Trade mark and copyright licence contracts.***
 - ***Manufacturing, distribution and sales contracts.***
 - ***Employment contracts.***
- It is also essential to include provisions to protect confidential information and trade secrets in contracts with third parties.
- **In China, 'trade secret' is defined as "any non-public technical or business information with commercial value that is guarded by confidentiality measures".**
- 'Confidential information' refers to "any non-public information pertaining to a company's business"
-> no protection is afforded to 'confidential information' under Chinese law, unless it falls within the scope of trade secrets, or is otherwise specified in a contract.

Importance of contracts / Key provisions

- The content and focus in each type of contract vary according to the specific IPR to be protected.
- Key provisions in a license agreement or employment contract:
 - *Definition of licensed rights*
 - *Monitoring licensee's activities: prevent unauthorized use of the licensed rights*
 - *Challenges of validity: ensure the validity of your agreement*
 - *Protection of new IPRs generated: address ownership issues*
 - *Prevent your IPR from being transferred to third parties without your permission*
 - *Guarantee your technology is fit for transfer*
 - *IPR produced by employees: avoid future disputes*
 - *Protect your confidential information*
 - *Dispute resolution*
 - *Specify what happens when the agreement terminate*

Importance of contracts / Specific clauses

- **Declaration and warranties**
- **Localization:** complies with the laws of the country in which you are operating
- **Terms to ensure proper use of IP,** monitoring process, and quality control
- **Terms to ensure IP is registered and owned by rights holder** and not by a third party (or their employees)
- **Terms to get out safely and ensure that the IP is not used beyond the contract term** -> this happens frequently with Original Equipment Manufacturer (OEM)
- **Terms to ensure continuation of business after ending of agreement**

Specific clauses for your contracts:

- Auditing of partner constant review** (you or your authorised representative) of process to ensure no unauthorised use is being made
- Recordal of license agreements** (even if only a small part of the OEM/distribution/franchise agreement), as some countries require it for the IP terms to be enforceable
- Watch for infringements of third parties** and have a framework in agreement for the licensee's cooperation and assistance
- Ensure that the contract allows for local enforcement** to stop the source of the IP violation, rather than first reverting to EU laws or arbitration.

Importance of contracts / Provisions to avoid 1/2

A contract may be void in whole or in part if it contains any provisions in contravention of Chinese law or administrative regulation.

Examples of IP provisions that can be objected in China:

- Provisions to avoid in technology contracts include those that:
 - *Prohibit a licensee from making improvements to the licensed technology and using the improvements.*
 - *Restrain a licensee from obtaining from other parties technology similar to, or competing with, the licensed technology.*
 - *Under PRC law, a licensor cannot make any 'unreasonable' restraints on a licensee's procurement channels.*
 - *Prevent a licensee from making full use of the licensed technology in a reasonable manner as required by the market*
 - *Require a licensee to accept additional conditions that are unnecessary for the use or working of the licensed technology.*
 - *Prohibit a licensee from challenging the validity of the IPR of the licensed technology or from attaching additional conditions to such a challenge.*

Importance of contracts / Provisions to avoid 2/2

- Waive the provision of warranty, which states that the licensed technology is complete, free from error, effective and capable of achieving the prescribed goals.
- *Include unfair terms for the exchange of improvements made to the licensed technology.*
- **Provisions to avoid in employment contracts include those that:**
 - *State that the employer owns the patent rights and/or copyright of any non-employment-related work or creation made by employees on their personal time and using their own personal resources.*
 - *Exclude any remuneration to an employee for his or her patented creation.*
 - *Impose unreasonable non-compete and non-solicitation obligations upon employees; for example, making non-compete obligations last for more than two years.*
 - *Waive monthly compensation to employees fulfilling their non-compete obligations.*
- **Provisions to avoid in a general contractual context include those that:**
 - *Exempt a party from liability for causing the other party bodily harm or property losses*
 - *Require Chinese IPR to be governed or protected by the laws of other jurisdictions*

Non-Disclosure Agreements (NDAs)

- Advisable to **sign an NDA with any third party to whom you plan to reveal confidential information**
- Sometimes an NDA on its own is insufficient to protect your IPR, especially for companies in the manufacturing industry or sourcing their products from China -> because **not every single product will be covered by patents or other forms of registered IPR** -> in this case a '**non-disclosure/non-use/non-circumvention agreement**' (an '**NNN**' agreement) may be used.
 1. The non-disclosure provisions will cover the unauthorised disclosure of confidential information.
 2. The non-use provisions will state that the Chinese manufacturer cannot produce your product or any similar products for anyone other than you.
 3. The non-circumvention provisions will prevent the Chinese manufacturer from by-passing the protection or circumvention means or technologies of the product



IP protection and enforcement during trade fairs

How to Secure Effective Evidence at Trade Fairs

- For companies considering moving into international markets, **trade fairs** are a key channel to introduce your product to the new market, expand your visibility and customer base and seek partners for manufacturing, distribution and retail.
- But Trade fairs pose **risks for exhibitors by exposing new products, technology, designs and brands to those who would copy the efforts of others for their own financial gain.**

NB: to successfully halt counterfeiting in China it is essential to have registered Intellectual Property Rights (IPR) in China in advance.

How to Secure Effective Evidence at Trade Fairs

- The primary requirement to stop someone else using your IPR in China is to ensure it has been **registered** and that you legally own the right.
- The second step is to enforce your legal right through either the administrative route or civil action.
- You will need to prove your IPR have been infringed by producing a significant volume of evidence -> in China's People's Court the **burden of proof lies with the plaintiff** (claimant) and documentary evidence is far stronger than witness testimony.



Trademarks

IPR in China - Trademarks

Principal changes set by the Trademark Law Reform of 2013, entered into force on 1 May 2014:

- ✓ **Specific time-limits for many procedures that currently require no less than two or three years:**
 - no more than nine months for trademark application, review of refusal; invalidation of a registered mark (in case of law infringements); cancellation and review on cancellation;
 - no more than twelve months for opposition proceedings, review on oppositions and invalidation of a registered mark (in case of conflict with earlier marks);

Registrable trademarks:

- ✓ Registrations of **sound marks** are permitted from 1 May 2014.
- ✓ **Multi-class application is available. The Nice Classification applies but China also divides the goods and services into sub-classes.**
- ✓ **Trademark applications can be filed electronically**
- ✓ **Prior use** (if the mark has acquired a certain level of reputation it is protected as unregistered trademark)

Trade mark registrations last 10 years from the date the right is granted and are renewable indefinitely

IPR in China - Trademarks

- *A trademark can be registered through the '**national**' or '**international**' system and can only be effectively protected in China once it has been registered both are valid for ten years and can be prolonged for a subsequent 10-years protection period.*
- *Because the registration of a trade mark in roman characters does not automatically protect the trade mark against the use or registration of the same or similar trade mark written in Chinese, it is highly **advisable to register a Chinese version of a foreign trade mark**.*
- *If there is no existing Chinese character name for a foreign brand, it is very likely that one will be adopted by local consumers either by way of translation or by transliteration, and not necessarily with the right connotations or image that the foreign company would wish to convey.*
- *Not registering the Chinese character name of your product leaves one vulnerable to bad faith registrations of trade marks in China -> as China is a first to file country, the person or company that registers your trade mark first in China, will ultimately get the protection.*



Patents

IPR in China – Patents

- ✓ **China is part of the Patent Cooperation Treaty:**
 - A patent can be extended internationally
- ✓ **China has signed the Paris Convention for Protection of the Industrial Property**
 - The owner of a patent application has a priority right (of one year from the date of filing in the Country of origin) for extending the protection of his patent in China. It is sufficient to declare, by the time of the application in the Country of origin, the will to extend the protection to other Countries members of the Convention.
- ✓ **Patents, utility models and designs are registered by the new Authority CNIPA.**

IPR in China – Patents

- Every company owning **patents** and doing business with China, wishing to create long-term value and either finding an investor for their patent or licensing their patent in the future, is strongly advised to **use the Chinese patent system**.
- It is absolutely crucial to apply for patent protection in China for each and every innovation, even if the launch of the respective product on the Chinese market is not yet on the horizon.
- To obtain patent protection in China, the inventor or the owner of the invention has to file a Chinese patent application -> one important requirement for an invention to be granted a patent is that it must be '**new**'.
- Patent applications are processed in **Chinese**. If the patent documents are drafted in a foreign language, a precise Chinese translation of the documents is of the utmost importance.

IPR in China – Patents

- ✓ **The rights deriving from a patent become effective from the date of publication on the Official Gazette.**
- ✓ **Types of patent:**
 - **Invention Patents**: *a new technical solution proposed for a product, a process or the improvement thereof, capable of being applied in practice. To be patentable an invention must be 'novel' and must not have been previously patented or disclosed to the public overseas or in China (except for within 12 months in a country which is a member of the Paris Convention). Valid for 20 years.*
 - **Utility Model Patents**: *a new technical solution proposed for the shape and structure of a product, or the combination thereof, which is fit for practical use. UMs are granted more quickly but the term of protection is shorter. Valid for 10 years.*
 - **Design Patents**: *a new design of the shape, pattern, or the combination thereof, or the combination of the color with shape and pattern, which is new, with individual character (so, an aesthetic appeal) and is fit for industrial application. Valid for 15 years (before 1 June 2021, valid for 10 years).*

Design Patents in the Textile and Apparel Industry

The pattern of apparels can be protected through **design patents in China**.

An application for a design patent must include any of the following external features of a product:

- the shape of a product;
- the pattern of a product;
- the shape and pattern of a product;
- the shape and color of a product;
- the shape, pattern and color of a product.





Copyright

Copyright Legislation



China is a member state of the Berne Convention for the Protection of Literary and Artistic Works:

1. Copyright is a right that arises automatically at the time of creation of the work
2. Any work published in China by a Chinese citizen or a foreign subject, automatically enjoys protection
3. If the work has been published in a foreign country, it enjoys automatic protection if it is also published in China or if the author is a national of a country that is party to international agreements in this field (i.e. the Berne Convention).

Copyright can be registered voluntarily at the Copyright Protection Centre of China:

- Even if the protection is automatic, voluntary registration provides clear proof of ownership of the right that is useful in the event of a future dispute;
- In addition, registration is strongly recommended if the copyright concerns rights of particular importance to the company (think of websites, catalogs, customer databases, software...) or when licensing the protected work is planned.

Copyright Legislation



Duration of protection:

1. The duration of the protection for the patrimonial rights and the moral right to publication is equal to the author's life plus 50 years after his death;
2. The period of protection for all other moral rights (right of paternity, right to disclosure, modification and integrity of the work) is unlimited.

Registration procedure:

1. Filing of the application (the form is available online) at the Copyright Protection Centre of China (CPCC).
2. The application can be made directly or through an agent (in this case the application must be accompanied by the agent's documents and the legal power of attorney issued by the holder of the right);
3. The applicant must send to the CPCC a series of documents: the completed application form, his/her own identification documents, any document proving the ownership of the right and a brief description of the work, containing an explanation of the creative process and the requirements that allow the work to be registered;
4. CPCC checks the documents and determines the registration fees that vary depending on the type of work;
5. Consequently, the applicant will receive a certificate of registration;
6. The registration process takes about 30 working days.



Conclusions

Key Recommendations

- ✓ Select your strategy according to a preliminary assessment based on investigations and searches
- ✓ Start protecting your IPR **before** entering the market
- ✓ Prepare a plan to develop your IPR protection in medium-long term
- ✓ Carry out your **preliminary searches** at worldwide level
- ✓ Take care of your **first filing**, even the national one
- ✓ **Collect all the documents** related to your IPRs and create a database with all relevant materials
- ✓ **Monitor** markets and competitors' behaviors
- ✓ Activate, through your IP attorney, a **worldwide surveillance system**
- ✓ Monitor **IP gazettes and legal actions**
- ✓ Verify compliance of contracts **providing local legislation as applicable law**



Thank you!

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