

Securing Your Brand in China: Trademark Protection Tips and Legal Updates

Lisa LU, 13 May 2025





China IP SME Helpdesk

ABOUT US

The Helpdesk in a nutshell

- Free initial advice to SMEs
- Geographic coverage: 4 jurisdictions of China
 - Mainland
 - Hong Kong
 - Macao
 - Taiwan

 100,000+ SMEs assisted to date



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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 (GIs)
 - Trade Secrets
- Using CUSTOMS to block counterfeits**
- Enforcing of rights**
 - Administrative actions
 - Civil Litigation
 - Criminal Prosecution
- RELATED LINKS and Additional information**

**IP Factsheet:
Mainland China**

**CHINA
IP SME HELPDESK**

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

GUIDE

- Intellectual Property Rights for SMEs: Why are they relevant to you?**
- How does China's IP legal framework compare to that of the EU and international standards?**
- Trade marks**
- Patent rights**
- Design rights**
- Copyright**
- Trade secrets**
- Geographical Indications (GIs)**
- Using Customs to Block Counterfeits**
- Enforcement of Intellectual Property Rights**
- China's IP Commercialisation Peculiarities**
- Related Links and Additional Information**

**Intellectual
Property Systems:
China / Europe
Comparison**

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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.

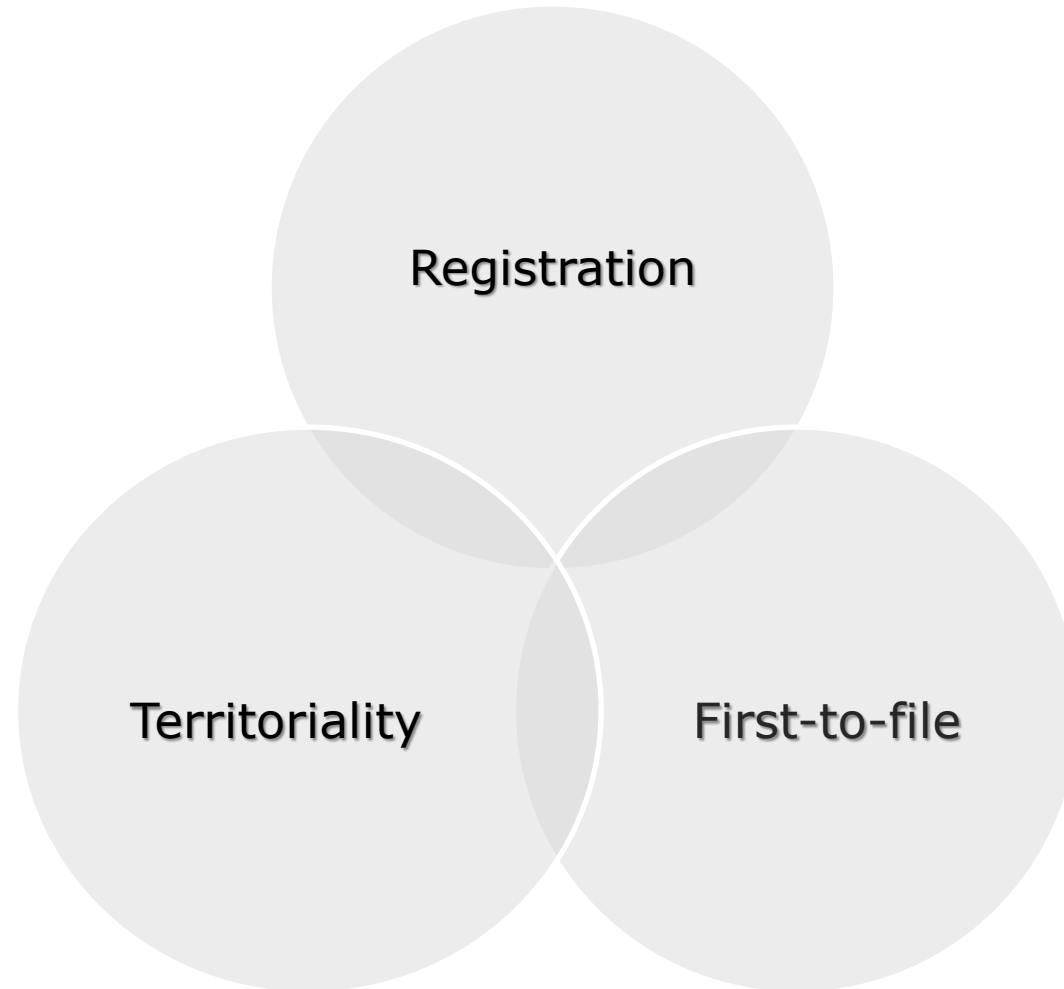


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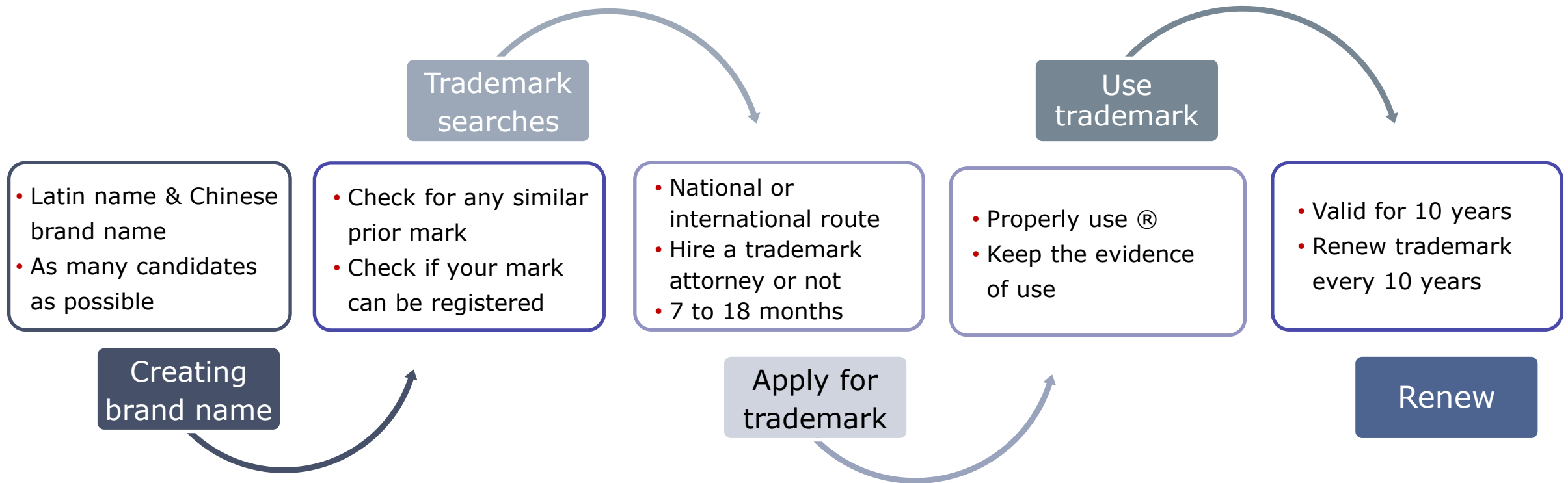
01 | Trademark basics in China

– Principles you need to know



01 | Trademark basics in China

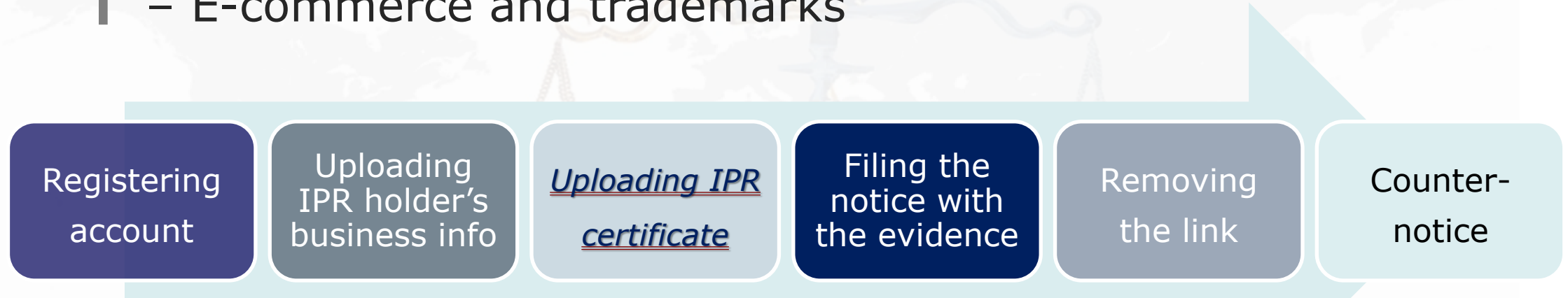
- Lifecycle of trademark in China



01

Trademark basics in China

– E-commerce and trademarks



Advantages:

- ✓ You can remove the infringing link
- ✓ No fees when submitting a notice
- ✓ Fast (*3-7 working days*)
- ✓ No need for a lawyer/agent

01

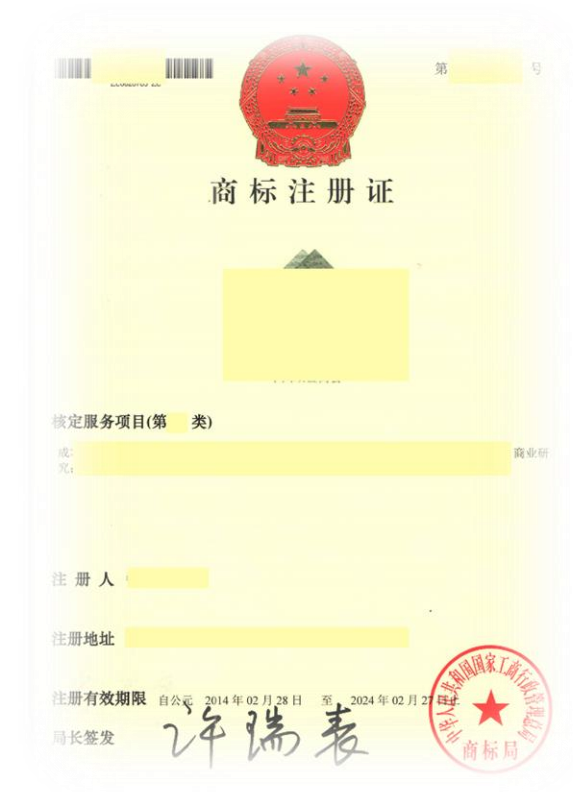
Trademark basics in China – E-commerce and trademarks

IPR Trademark certificates

- Registration certificate
- [Chinese certificate of registration certificate](#) for International trademark: apply with the CNIPA, official fees of RMB 50 (*approx. € 6*).
- Transfer/ renewal certificate

IPR Regularly monitor the platforms

- Trademark name, Chinese name, logo name, product name, product name + home country, infringer's name
- infringing marks + infringer's company name
- Image search
- AI search



01

Trademark basics in China

- Draft amendments to the Trademark Law (2023)



Art.
14&21

Forbidding repeated trademark applications.

Art.
59&72

Trademark infringement related to e-commerce activities.

Art.
39

Examination of opposition: removal of the review procedure; opposition period shortened to two months.

Art.
67

Fine for bad-faith trademark registrations.

Art.
83

Civil compensation provided by bad-faith trademark registrant.

02 | How to register a trademark in China

- Trademark searches



Why to search

- Know before you register
- Re-brand before investment



What to search

- Check whether a similar/ identical trademark already exists.
- Whether the trademark includes high-risk elements: national flag, name of the country, adverse impact, misleading, descriptive...

Note:

it is more and more common to be refused based on the “*absolute grounds*”.

02

How to register a trademark in China

- National and International routes



National route

- CNIPA, protection only in China
- Trade fair priority rights (6 months)
- starting from 400 €
(official fees 40 € + attorney fees)
- 7-12 months
- trademark attorney is required



International route

- Madrid system, choose multiple countries
- 700€+ (official fees)
- More than 18 months
- No need for trademark attorney, unless office action



Classes and subclasses

- 45 Classes
- Subclass principle

02

How to register a trademark in China - Trademark in Chinese



How to design

- Phonetical
- Literal
- Easy to remember



New trend in the examination

- CNIPA translates the trademarks in foreign language into Chinese, based on literal translation, and cites the similar Chinese trademark
- Solution: dual searches of original language and the literal Chinese translations; dual registrations.





Case Study 1

- Trademark application and trade fair participation

The Background

An Italian start-up designs swimsuits made from eco-friendly materials. They decided to attend one of the largest trade fairs in China to explore business opportunities and learn about the market. During the fair, the SME met with the Helpdesk and asked about trademark registration in China.



Action taken

- Since the SME only needed trademark protection in China they should consider registering the trademark in China via **the national route**.
- To create **a Chinese brand name** for their products.
- To have full control over **the ownership of the IP**, the SME should not let the distributor or other partners to register under partners' name.
- To conduct **a clearance search** beforehand.



Case Study 1

- Trademark application and trade fair participation



Outcome

9 months later, the SME was informed that all their trademarks, including the Latin trademarks and trademarks in Chinese were registered in China.



Lesson learnt

- Ideally, you should have trademark rights in place before coming to China. If you are already at a trade fair showcasing your products, register your trademark as soon as possible.
- You should conduct prior trademark searches before filing your trademark application.
- It is a good strategy to register your trademark in Chinese because it can help more consumers in China to remember your brand name.
- Your trademark should be registered under your name. Don't allow your Chinese partner to register it under their name.
- Trademark registration in China is not always easy, it is thus advised to seek the assistance of IP experts.

03

Bad faith registration and strategies

- Possible actions

What are bad faith registrations?



According to Art. 4, 7, 15, 44 of the Trademark Law

- Identical/ similar mark copying from prior brand
- Hoarding many trademarks (foreign language)
- Without intent to use, but targeting trademark squatters
- Agents or distributors register without consent



03

Bad faith registration and strategies

- Possible actions with the CNIPA

	Opposition	Non-use cancellation	Invalidation
Legal basis	Stop the TM from being registered	The TM has not been used for 3 years	The TM infringes others' rights and should be invalidated
Prior trademark rights in China	Yes	No	Better yes
Status of bad faith TM	Published but not registered (<u>3 months period</u>)	Registered for over 3 years	TM registered within 5 years; over 5 years & well-known trademarks
Bad faith evidence	Better yes	No	Better yes, it counts a lot
Timeframe	10-12 months	9-12 months	12-18 months
Official fees	€ 65	€ 65	€ 100
If you lose, what happens the next	Invalidation	Review with the CNIPA (another 10-12 months)	Appeal to the court
Hire a trademark attorney	Yes (€500-€2,000)	Yes (€400-€1,000)	Yes (€500-€2,000)

03

Bad faith registration and strategies

- Possible actions

TM

Trademark assignment

- To record with the CNIPA, could be tricky.
- Potentially expensive.
- Make sure to do a background search of the assignor.
- Have an IP expert to handle.



Letter of consent (Co-existence agreement)

- Different practice in China.
- The CNIPA has not accepted the LoC since 2021.
- The courts are more flexible..



Rebranding in China

- Trademark search is important.
- Register as soon as possible.
- Change the label, packaging, marketing in China.





Case Study 2

- Assignment of a malicious trademark

The Background

An EU SME tried to use a trademark assignment to recover its rights from a trademark squatter who owned over 90 trademarks, more than half of which were copied from foreign brands. The EU SME filed a request for assignment after signing an assignment agreement with the trademark squatter.



Action taken

- (1) The CNIPA requested the evidence of use from both the assignor and the assignee.
- (2) The SME provided proof of use in a Chinese online shop. The trademark squatter has no evidence of use.
- (3) The CNIPA refused the assignment based on insufficient proof of use, and the bad faith of the assignor.



Case Study 2

- Assignment of a malicious trademark



Lesson learnt

- Trademark assignment may no longer be an ideal action to overcome the malicious trademark.
- Before trademark assignment, the SME should run a background search to see if the seller has bad faith.
- To combat the malicious trademark, consider opposition, non-use cancellation, invalidation, etc.
- Well preserve the evidence of use of SME's brand in China.
- Register the trademark in China as soon as possible.

04

Enforcement against Trademark Infringement

- Enforcement options

Roadmap of enforcement actions

Identifying infringement
(counterfeiting, unauthorised sales, etc.)

Collection and preservation of evidence

Notice and take-down

Notification letters or C&D Letters

Petition to the CNIPA (TM, patent)

Raid, detention by authorities

ADR

Litigation

- Registration certificate in Chinese is required.
- Use notarisation and blockchain to preserve the evidence.
- E-commerce platforms: notice and take-down procedures.
- Administrative actions are relatively fast and cost-effective.
- Consider Internet Courts for online IP disputes.
- PoA and business license: Apostille instead of legalisation from 07 Nov. 2023.

04

Enforcement against Trademark Infringement - Leverage the Customs

The Customs identifies and stops infringing goods from entering or leaving China



Step 1: To record the trademark registration with the China Customs.

Customs recordal is limited to trademarks registered for goods and not for services.



Step 2: To add the authorised exporters / manufacturers to the Customs' whitelist.



Step 3: To train the Customs to be familiar with the IP.



Step 4: when the Customs detains the infringing goods, they will inform the recorded agent/ the right holder at the Customs.



Guarantee needs to be paid. The reply should be submitted within very short time. The Customs will release or detain the goods.



Case Study 3

- Combatting counterfeiting in international markets

The Background

An EU SME in F&B industry found counterfeit products in Middle East. The counterfeits similar brand name, the products are the same kind, potentially misleading the consumers.

The counterfeits have been produced in China.

The SME wants to stop the Chinese manufacturers from infringing.



Action taken

The SME contacted Helpdesk.

- For [international TM](#), the registration certificate in Chinese is necessary. The CNIPA will issue one upon request.
- To contact IP lawyers in China to [collect evidence](#) before taking any enforcement actions. After the evidence collection, the SME can decide which legal remedies to choose.
- To record their TM rights with the [China Customs](#).

Outcome

- Within 1 month, the SME received the TM certificate in Chinese with the support of an IP lawyer.
- The IP lawyer also recorded the trademark with the China Customs.
- Monitor the production of counterfeits and decide the evidence collection later.

Lesson learnt

- It is advised to apply for a [registration certificate in Chinese](#) at the CNIPA upon registration, for an international TM.
- Recordal of the trademark with the [China Customs](#) is not a pre-requisite, but it could be an efficient solution to identify and stop the counterfeits from China reaching your other target markets.
- [Evidence collection](#) is time and energy consuming, but it is the most important step in enforcing your IP rights when your IP is infringed. Consult with IP experts in China.

05 | Take-away messages



- ✓ For trademark right in China, no registration means no protection in China.
- ✓ It is important to do trademark search before the registration.
- ✓ Design a brand name in Chinese is a good branding strategy.



- ✓ If you encounter a bad faith trademark registration, you still have many options to obtain trademark rights in China.
- ✓ Collect and preserve the evidence before taking any enforcement actions.
- ✓ Consult the IP lawyers and experts in China.



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

1-on-1 consultations



Meet Lisa Lu – your IP Business Advisor

Book the time slot via the QR code

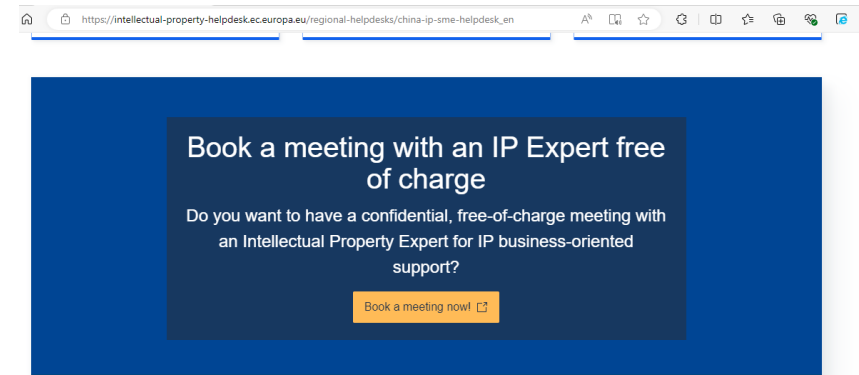


via Helpdesk website

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