

BRAND & DESIGN

PROTECTION

IN CHINA



- Matias Zubimendi 08 December, 2020



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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.

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

TRADE SECRETS

- 1. SOMETHING THAT 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

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.

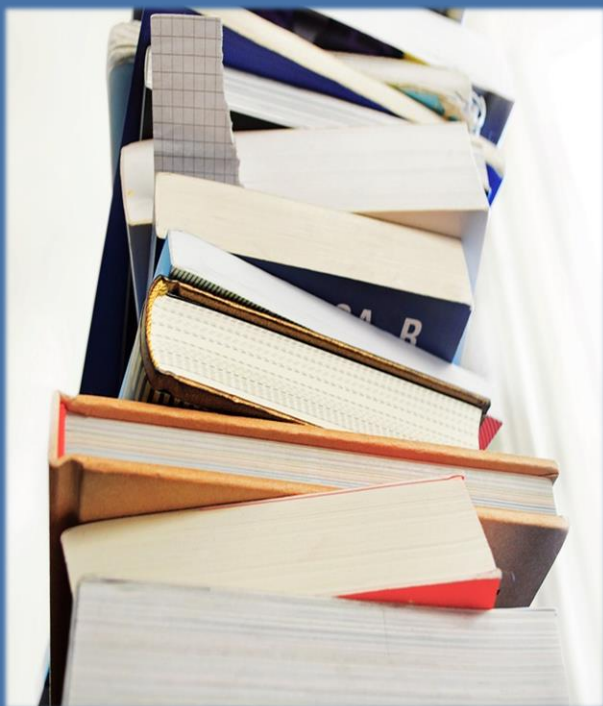


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02

Trade Mark Protection

- Basics



2.1

Registration methods

- CNIPA
- Madrid system

2.2

Requirements

- Legal
- Non-functional
- Distinctive
- Available

2.3

Classes and sub-classes

2.4

Trade mark translations

- Phonetical
- Literal
- Both

2.5

Copyright vs trade mark protection

- Comprehensive protection

02 | Trade Mark Protection

- Typical steps



A. Before the registration:

- Conduct a trade mark search
- Define how the trade mark will be registered (logo, words, combination of both)
- Define classes and sub-classes
- Prepare the documents (application form, power of attorney, identity documents like passport or company certification)

B. Registration process

- Formal examination
- Substantial examination
- Publication
- Oppositions?
- Grant



C. Madrid system differences

D. Is it necessary to hire a local agent for completing the registration?

F. Time and cost

03

Design Patent Protection

- Basics



3.1

Design patent registration

- Office to register
- Requirements
 - Novelty
 - Non-functional

3.2

Application documents

- Application form / request
- Drawings – Photos
- Brief explanation
- Others

3.3

Differences with the EU

- Maximum term of protection
- Unregistered design patent protection
- Limits on number of designs protected in one multiple design application
- Novelty requirement

03 | Design Patent Protection

- Typical steps



A. Typical steps

- Collect the necessary documents
- Application
- Formal examination only
- Office action?
- Decision to grant
- Publication

B. Is it necessary to hire a local agent for managing the registration?

C. Time and costs

04 | Trade Secrets

4.1

Requirements

- Secret
- Value
- Protective measures

4.2

Protecting novelty

- Trade fairs - exhibitions
- Negotiations with partners / clients
- Internet and e-commerce

4.3

IP management

- Handbook of employees
- Protocols
- Licenses



05

Enforcement and Commercialisation Methods



Judicial

- Civil
- Criminal



Administrative



Alternative dispute methods

- Arbitration
- Mediation



License as a method of dispute resolution

- Carrot strategy
- Stick strategy

06 | Takeaway Message



- ✓ Register your IP ASAP – first to file rule
- ✓ Protect your trade secrets



- ✓ Find a good IP attorney
- ✓ Anticipate the registration
– document collection / requirement analysis



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

Questions?

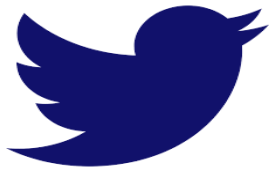
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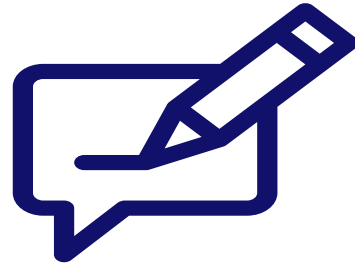
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