



China IP SME Helpdesk

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Guides & Factsheets



CHINA IPR SME HELPDESK
WWW.CHINA-IPRHELPDESK.EU

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

- Copyright
- Patents
- Trade Marks
- Geographical Indications (GIs)
- 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

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

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.

DON'T FORGET YOUR EMPLOYEES

CONFIDENTIAL

- 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 IP 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.

Geographical Indications

in China



China

largest
trade partner

second-largest
trade partner



EU

- Matias Zubimendi 29 September 2021

Picture from global.chinadaily.com.cn

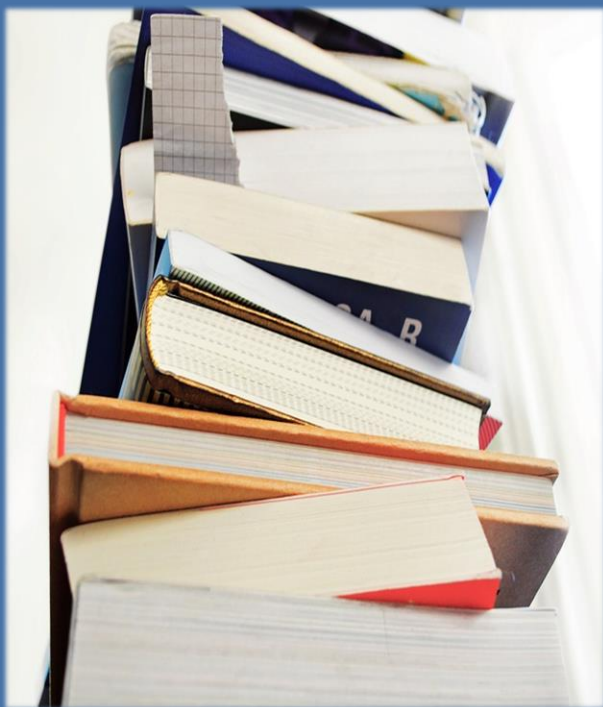
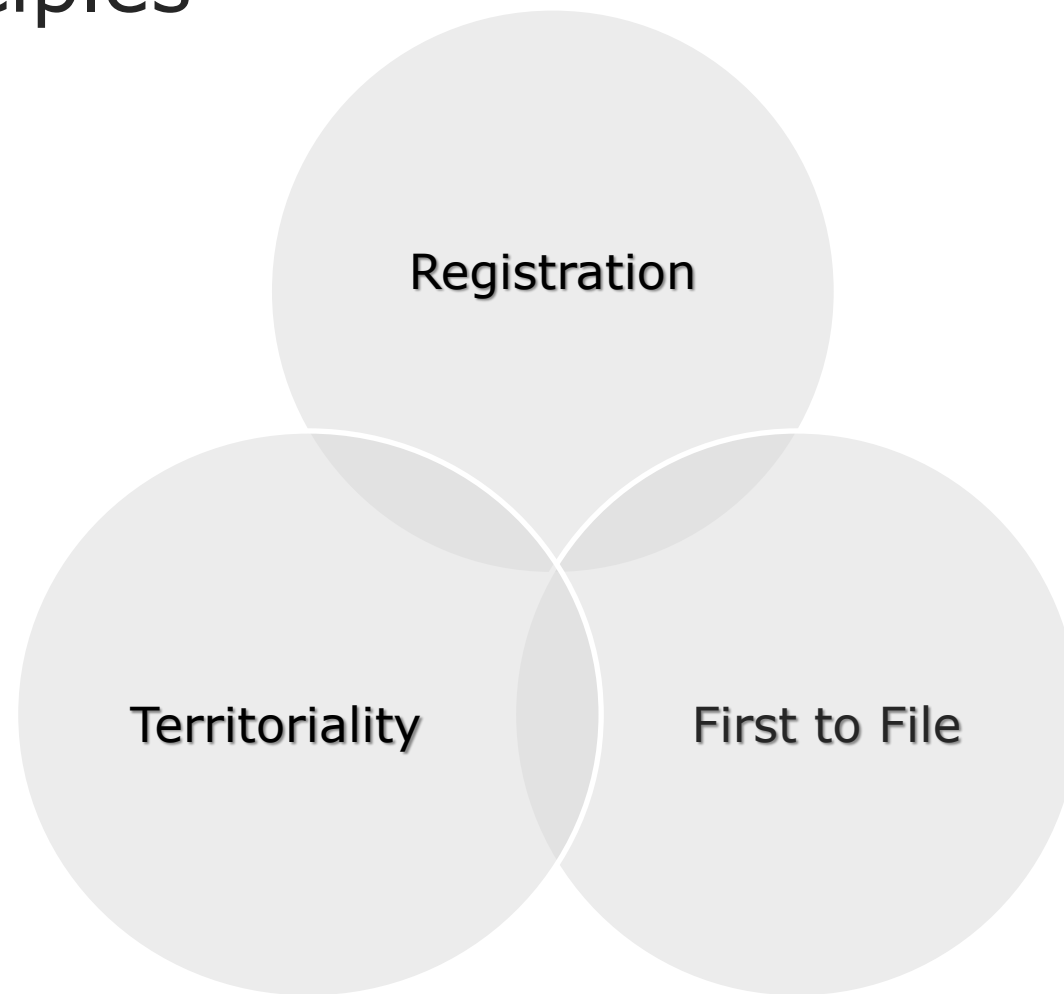


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2. Geographical indications
3. Types of protection methods
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5. GI protection in China
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8. Enforcing GIs
9. EU – China Agreement

01 | Main principles



02 | Geographical indications

- Basics



What is a GI



Picture from global.chinadaily.com.cn



How it is shown?



Why are they protected?

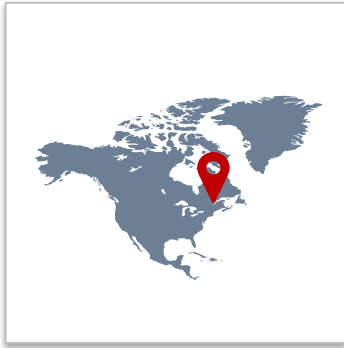
- Quality & origin of products
- Good reputation
- Preventing from generic products
- Preventing from local competitors

03

Types of protection methods

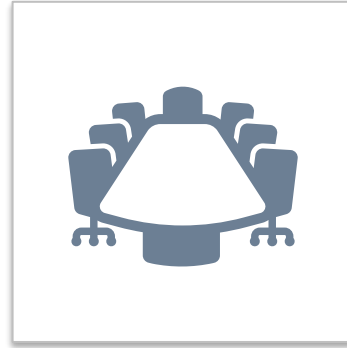
- Worldwide and China

GI PROTECTION

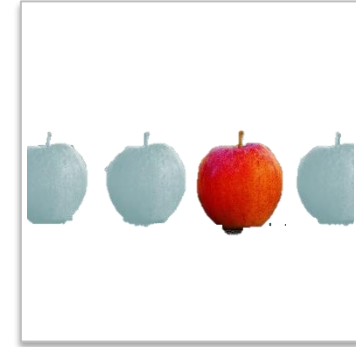


Marks

- Collective marks
- Certification marks



Business practices



Sui generis

03

Types of protection methods

- European Union

GI PROTECTION



Protected designation of origin (PDO)



Protected geographical indication (PGI)



Traditional speciality guaranteed (TSG)

04 | Requirements of GIs



Non-legal

- Identified quality – characteristics
- Quality – characteristics should be given by the origin
- Production is done in place of origin



Legal (China)

- Recognition in the country of origin
- Not prohibited by law (draft)
- Local recognition



05 | GI protection in China

- Types of protection



Who can apply?

- GI organisation that regulates the GI in that country of origin
- Embassies?



Types of protection

- Collective trade marks
- Certification mark
- Product Quality and Characteristics Marking



Product Quality and Characteristics Marking

Cover products that originate from a particular geographical region with the quality, reputation or other characteristics substantially attributable to the natural and human factors of the region, and denominated with the name of the region upon examination and approval.

05

GI protection in China

- Types of protection



Collective trade marks

A sign registered in the name of bodies, associations or other organisations, which can be used by the organisation's members to indicate their membership.



Certification marks

A sign controlled by organisations capable of supervising goods or services and used by entities or individual persons outside the organisation for their goods or services to certify the origin, material, mode of manufacture, quality or other characteristics of the goods or services.

06

Application

- Overview of the steps



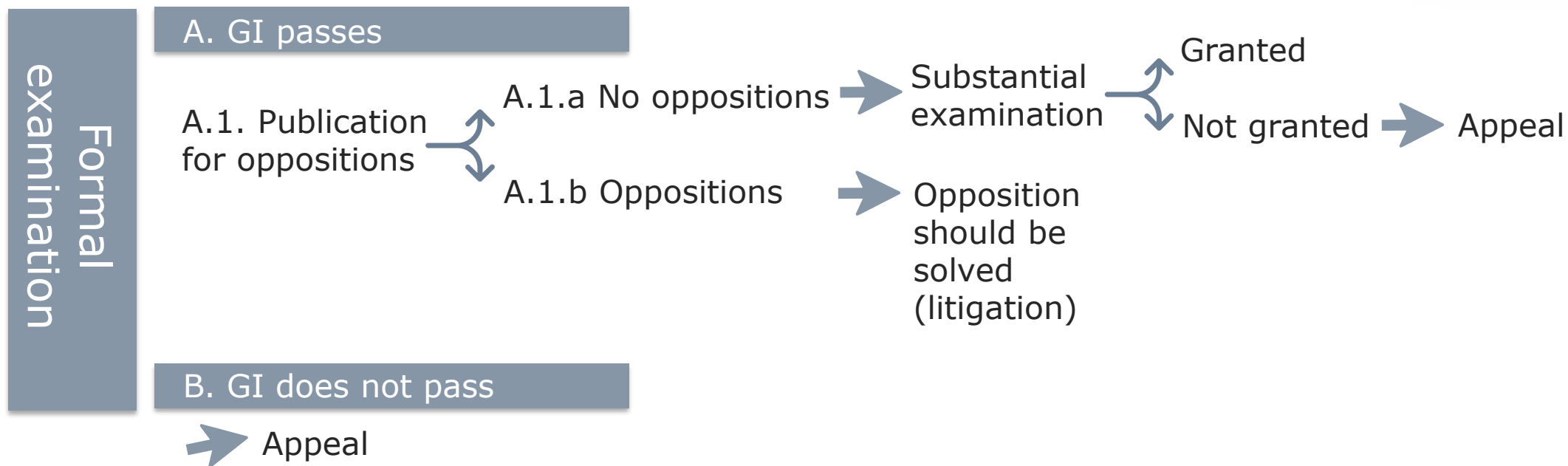
What information will be requested?

- Product name.
- Scope of production area.
- Product description.
- Quality requirements, including quality characteristics such as production and processing technology and sensory, physical and chemical indicators.
- Description of the relevance between product quality characteristics and natural and human factors of the place of origin.
- Information on the local intellectual property management department as the management agency for the use of GIs.
- Information on testing institutions.

06

Application

- Overview of the steps (draft)



07

Prohibitions

- Non registrable GIs

REASONS

- The product or product name **violates the law, social ethics or interferes with the public interest**
- The product name is only the **generic name of the product**;
- The product name is a **registered trademark or an unregistered well-known trademark** of others, which misleads the public;
- The product name is **the same as the product name of the protected geographical indication**, causing the public to misunderstand the geographical origin of the product;
- The name of the product is **the same as the name of a plant variety or animal breeding**, causing the public to misunderstand the geographic origin of the product;
- The product **violates the requirements of safety, hygiene, or environmental protection** and may cause harm to the environment, ecology, and resources;
- The protection of foreign geographical indication products has been **revoked in the country or region to which it belongs**.

08

Enforcing GIs

- GI protection in practice



Infringement

- GI clearly visible
- Style – “Style champagne”
- Reference – “Chinese champagne”
- GI in foreign language



Evidence collection

- Online
- Offline



Steps

- Monitoring
- Evidence collection
- Enforcement



Jurisdictions

- Administrative
- Litigation / arbitration
- Customs

09

EU – China Agreement on Geographical Indications

- Basics



GIs protected

- Automatic protection
100 EU – 100 China
- Future protection (need registration process)
175 EU – 175 China



GIs vs trade marks

Prohibition of the registration of a trade mark which consists of a geographical indication or its translation or transcription



Scope of protection

- Indicates or suggests that the goods in question originate in a geographical area.
- Use of a geographical indication identifying an identical or similar product.
- Wholly or partially homonymous geographical indications
- Expressions such as "kind", "type", "style", "imitation"

09

EU – China Agreement on Geographical Indications

- Danger



US – China agreement

- No protection to already registered trade marks
- No protection to generic terms



Second round of EU trade marks

- Registration process
- Can be invalidated by the laws



Which agreement will prevail?

Questions?

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free, fast & confidential

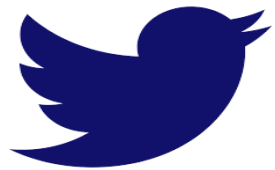
3 days^{working}

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