



How to Record IPR with Customs in China

1. Introduction - Why record your intellectual property with Customs?

Unlike European customs authorities which only focus on imported goods, the Chinese customs also examines goods leaving China and has the authority to protect intellectual property rights (IPR) by seizing infringing goods. Per the annual report published by the General Administration of Customs in China (GACC) in 2014, Chinese customs detained 23,019 consignments of suspected infringing products¹ preventing them from being sold in external markets.

Although Chinese customs may take action on its own (ex-officio) to seize infringing goods, given the scale of shipments passing through Chinese ports (more than 27 million shipments passed through Chinese ports in 2015²) EU SMEs need to take a proactive approach to protecting their intellectual property rights (IPR). It is highly recommended to record your intellectual property (IP) in advance as

Chinese customs is more likely to act to protect recorded IP.

Trade marks, patents and copyright can all be recorded and used as evidence of infringement, however over 96%³ of goods seized in 2014 were detained on grounds of trade mark infringement. This is because in practice trade mark infringement is far easier for GACC officials to recognise visually than patents or copyright.

This guide will provide an in-depth look at how to record your IPR with GACC (IP recordal) and we encourage you to record all possible rights.

¹Customs IPR Protection Annual Report: <http://www.customs.gov.cn/publish/portal0/tab2559/module5491/info739906.htm>

²<http://www.customs.gov.cn/publish/portal0/tab49666/info784212.htm>

³Customs IPR Protection Annual Report: <http://www.customs.gov.cn/publish/portal0/tab2559/module5491/info739906.htm>



1. Introduction
2. Essential information for IP recordal
3. Step-by-step guide to trade mark recordal
4. What happens next?

Useful Links

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

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2. Essential information for IP recordal

1.1 Who can do the recordal?

- Only IPR holders can apply for recordal of IPR with GACC, which refers to the trade mark registrant, patentee, copyright holders and copyright-related right holders.
- Licensed IPR users shall not apply for IP recordal in their own names, but they may apply through the commission of the IPR holders as their agent.
- Right holders outside Mainland China must entrust a natural person, legal entity or organisation (e.g. an office set up inside China of the overseas right holder) within the territory of China to apply for the recordal with GACC.

1.2 What can be recorded?

- Trade marks (excluding service trade marks) registered directly with the China Trade Mark Office (CTMO), internationally registered trade marks (excluding service trade marks) filed with the World Intellectual Property Organisation (WIPO) and extended to China Patents (including invention, utility model and design patents) granted by the State Intellectual Property Office (SIPO)
- Copyrights including their related rights held by the citizens or organisations of member countries of the Berne Convention for the Protection of Literary and Artistic Works.

Note: Independent applications need to be filed for separate IP rights. In the case of trade marks, for example, holders must submit a separate application for customs recordal for each trade mark in each class. For information about how to obtain IP registration for trade mark, patent and copyright see the relevant guides published by the Helpdesk (Please refer to Part 5 – Useful Links).

1.3 Where to do the recordal?

- GACC is the administrative authority receiving and approving applications of IP recordal. From 1 March 2014, GACC started to use their “new online system” which allows a full “paper-free” application via the internet, greatly facilitating the application procedure.
- Link to the “new online system for IP recordal

application”: <http://202.127.48.148/auth/logon.do>

Note: Only Chinese version is available so far for the online application system, the guide will provide more in-depth introduction and translation of the key information in the Part 3 – Step-by-step guidance.

1.4 What materials needed for a recordal?

Generally three categories of material are needed – a) identity information of the right holder or the agent, b) certificate information of the IP right, c) power attorney letter (if an agent is used). More details see below:

a) Identity information

- ID card (Chinese individual) or passport (foreign individual);
- Business license for Chinese corporation or organisation;
- Incorporation certificate authorised by foreign business registry organ for foreign corporation, organisation;
- Chinese translation of foreign documents.
- Note: It is recommended to prepare scanned version of the above documents and save in PDF in advance which need to be uploaded to the online system later on, file size 5 M maximum.

b) IP certificates

Trade Mark

- 1) Trade Mark Certificate (Chinses registration) or Trade Mark Certification (WIPO registration)
- 2) Trade Mark Transfer Certification (商标转让证明)
- 3) Trade Mark Modification Certification (商标变更证明)
- 4) Trade Mark Renewal Certification (商标续展证明)
- 5) Trade Mark logo image (商标标识图案)

Note: Prepare scanned version of the above documents and save in PDF to then upload at a later time. Items 1, 2 and 3 should be in one file, item 4 in another separate file and item 5 can only be uploaded as a `logo not the whole mark; File size 1 M.

Copyright

- 1) Copyright registration certificate and photos of the

works certified by copyright registry authority (for foreign registration, Chinese translation is needed)

2) Other documents certifying copyright

Note: make scan and save in PDF in advance which need to be uploaded to the online system later on, file size 1 M maximum.

Invention Patent

- 1) Invention Patent Certificate (发明专利证书)
- 2) Patent Registration Record Copy (must provide if application date is over one year until the customs recordal date or registration has changes) (专利登记簿副本)

Note: make scan and save in PDF in advance which then needs to be uploaded onto the online system later on; file size 5 M maximum.

Note: make scan and save in PDF in advance which then needs to be uploaded onto the online system later on; file size 1 M maximum.

Utility Model Patent

- 1) Utility Model Patent Certificate (实用新型专利证书)
- 2) Patent Registration Record Copy (must provide if application date is over one year until the customs recordal date or registration has changes) (专利登记簿副本)
- 3) Patent Search Report (must provide if patent application date/prior date is later than October 1 2009 excluded) (专利检索报告)
- 4) Patent Right Evaluation Report (must provide if patent application date/prior date is later than October 1 2009 included) (专利权评价报告)

Note: make scan and save in PDF in advance which

then needs to be uploaded onto the online system later on; file size 1 M maximum.

Design Patent

- 1) Design Patent Certificate (外观专利证书)
- 2) Patent Registration Record Copy (must provide if application date is over one year until the customs recordal date or registration has changes) (专利登记簿副本)
- 3) Patent Right Evaluation Report (must provide if patent application date/prior date is later than October 1 2009 included) (专利权评价报告)
- 4) Copy of the Patent Gazette of the design patent and the attached image (外观专利公告附图复印件)

1.5 How much does a recordal cost?

Since 1 November 2015, GACC has ceased charging the registration fee of 800 RMB⁴ (approximately EUR 110), consequently registration is free of charge as of the publication of this guide.

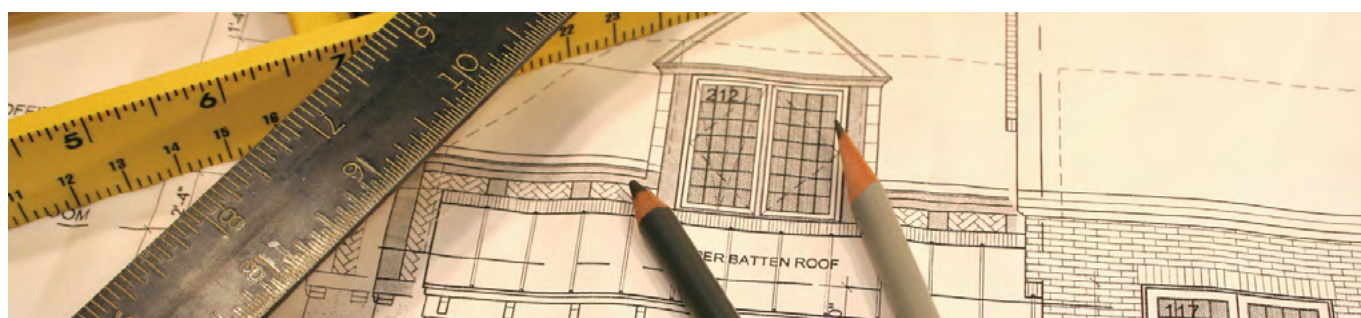
1.6 How long does it take to get the recordal?

Within 30 days of receipt of the online application, the GACC will make a decision on whether to approve the recordal.

1.7 How long is a recordal valid?

If the GACC approves the submission, the recordal lasts 10 years or the duration of the IP (whichever is shorter) and can be renewed after 10 years if the IP is still valid. During this time we recommend you to maintain contact with key ports (see section 4. What happens next?).

⁴The GACC announcement of the cease of the application fee: <http://202.127.48.148/noticeManage/noticeManageAction!viewNoticeManage.do?noticeId=8ae3e6bc50b7c2ed0150b7e018760004>



3. Step-by-step guide to trade mark recordal

A trade mark recordal can be completed online but the service is not available in English. Follow the screen shots below to complete the recordal. It is recommended to use Internet Explorer 8.0 to use the online recordal system.

Step 1 – open an account

Open the website: <http://202.127.48.148/auth/logon.do>



Figure 1

Click “注册” in the right bottom corner and go to the log-in page.

Figure 2

Chinese	English translation	Remarks
In figure 2		
权利人名称 / 姓名	Right holder's name/name	Must be identical with the one printed in the IP certificate, e.g. trade mark certificate, copyright registration certificate or other ownership document.
权利人类型	Type of right holder	
- 自然人	- Natural person	
- 法人组织	- Corporate organisation	
- 其他组织	- Other organisation	
权利人注册国籍 (地区)	Right holder's nationality (district)	Select from dropdown list.
身份证号 (护照号)	ID Number (Passport Number)	It is closed if you select 'corporate organisation' or 'other organisation' in 'Type of right holder'; it is changed to 'Passport Number' if you select a place other than China in 'Nationality'.
密码	Password	8 ~ 25 characters, must include number and letter
再次输入密码	Password again	
密码保护问题	Password security question	
密码保护答案	Answer	
密码保护答案确认	Answer again	
提交	Submit	After you submit, the system will automatically check if the name is identical with the one in the existing recordal. If not, you will be guided to the next step, otherwise you need to re-do the filing.
退出	Quit	Quit without saving.
In figure 3		
下一步	Next step	Remember your name and password that is displayed on this page and click 'next step' to continue
退出	Quit	Remember your name and password shown in this page and then press quit ensuring that the basic information is saved. You can come back to continue anytime within 30 day of the setup of the account.



检测成功

请妥善保管用户名及密码。选择“下一步”继续完成注册；选择退出，可以在30天内使用此用户名及密码登录后继续注册。超过30天未继续注册的，系统将删除已提交信息

用户名称/姓名	欧盟中小企业知识产权
密码	ipripr123
密码保护问题	您的出生地是？
密码保护答案	1

下一步 退出

Figure 3

Step 2 – Complete the information for right holders

② 权利人证明文件

注意：上传的文本应为原件的彩色扫描件或经注“与原件核对无误”的复印件彩色扫描（限PDF格式，单一文件不得超出5M），扫描内容应当清晰、完整，正面向上，按照页码顺序排列；如不满足上述条件，海关总署有权驳回申请

* 证明文件类型：	<input checked="" type="radio"/> 企业注册文件 <input type="radio"/> 个人身份证件
* 证明文件编号：	<input type="text"/>
* 证明文件签发机关：	<input type="text"/>
* 证明文件发证日期：	<input type="text"/>

证明文件名称	状态	操作
* 证明文件：	未上传	上传 查看 删除
翻译文件：	未上传	上传 查看 删除

保存

提交

① 权利人信息

* 用户名称/姓名：	欧盟中小企业知识产权		
身份证号：	<input type="text"/>		
* 权利人类型：	<input type="radio"/> 自然人 <input type="radio"/> 法人组织 <input checked="" type="radio"/> 其他组织		
权利人英文名称	<input type="text"/>		
* 国别：	中国 ▼		
* 是否委托代理人：	<input type="radio"/> 是 <input checked="" type="radio"/> 否		
* 注册地/住所地：	--请选择-- ▼		
* 注册地址/住址：	<input type="text"/>		
* 联系人姓名：	<input type="text"/>		
* 联系人所在部门：	<input type="text"/>		
* 联系人通讯地址：	<input type="text"/>		
* 联系人邮编：	<input type="text"/>		
* 联系人手机：	<input type="text"/>		
* 联系人电话：	国别号：+86	区号： <input type="text"/>	电话号： <input type="text"/> 分机号： <input type="text"/>
* 联系人传真：	<input type="text"/>		
* 联系人邮箱：	<input type="text"/>		验证邮箱
* 邮箱验证码：	<input type="text"/>		
联系人备用邮箱：	<input type="text"/>		
网址：	<input type="text"/>		
注册信息备注：	<input type="text"/>		



Chinese	English translation	Remarks
Figure 4 Form 1 Information on right holder		
用户名称 / 姓名	Right holder's name/name	Fixed after Step 1
身份证号：	ID number	Fixed after Step 1
权利人类型	Right holder's type	Fixed after Step 1
权利人英文名称	Right holder's English name	It's a required item if non-China is selected in 'Nationality' in Step 1.
国别	Nationality	Fixed after Step 1
是否委托代理人	Agent or not	Fixed 'Yes' if agent is selected in Step 1. Optional if right holder is selected in Step 1.
是 否	Yes No	Click Yes, two more forms about agent information will appear at the end
注册地 / 住所地：	Place of registration/ Residence	
联系人姓名：	Contact person	
联系人所在部门：	Department of contact person	
联系人通讯地址：	Postal address of contact person	
联系人邮编：	Postal code of contact person	
联系人手机：	Mobile number of contact person	
联系人电话：	Telephone number of contact person	
联系人传真：	Fax number of contact person	
联系人邮箱：	Mailbox of contact person	
验证邮箱	Verify mailbox	
邮箱验证码：	Verification code for mailbox	
联系人备用邮箱：	Backup mailbox of contact person	
网址：	Website	
注册信息备注：	Registration remarks	

Form 2 Identity certificates of right holder		
证明文件类型:	Type of certificates	
企业注册文件 个人身份证明	Registration for corporation ID for natural individuals	Fixed depends on the information provided in Step 1.
证明文件编号:	Code in certificates	
证明文件签发机关:	Issuing organ of certificates	
证明文件发证日期:	Issuing date of certificates	
证明文件: 上传 查看 删除	Certificates Upload View Delete	For domestic individual, ID card is referred; for foreign individual, passport or other ID doc is referred. For domestic corporation, business license is referred; for foreign corporation, incorporation document issued by national (district) business registry organ.
未上传 / 已上传	Not uploaded/uploaded	
翻译文件:	Translation version	Foreign documents should have Chinese translation version, only translating the key info e.g. name, nationality, registration number, registration place, residence, issuing organ and date.



If you are an agent, you also need to fill in form 3 and 4 regarding basic information and identity certificates, very similar to the above. Furthermore, form 5 is about the Power of Attorney (POA) authorising you to do the recordal by the right holder and uploading the signed POA thereafter.

Once you complete all the required information and click submit, a 'Review page' will show up for you to double check and click button “确认提交” (confirm submission) to submit or “返回” (return) to go back to change.

Once your submit, this initial application (on right holder's information) will be listed in the system for GACC to examine and no further application (on the IP rights) can

be added until GACC send a confirmation of approval to the email address you provided. During this waiting period, you can also check the status and even withdraw your initial application if it's not been checked yet.

In case your initial application is not approved, GACC will inform you by email and give reasons; log in to the system and you can use the function “重新生成” to generate a new application after you correct the mistakes in previous applications.

With your initial application successfully established, you should keep the information on contact person and/or agent up to date for the sack of smooth communication with GACC for your verification on potential detention.

Step 3 – Fill in IP information

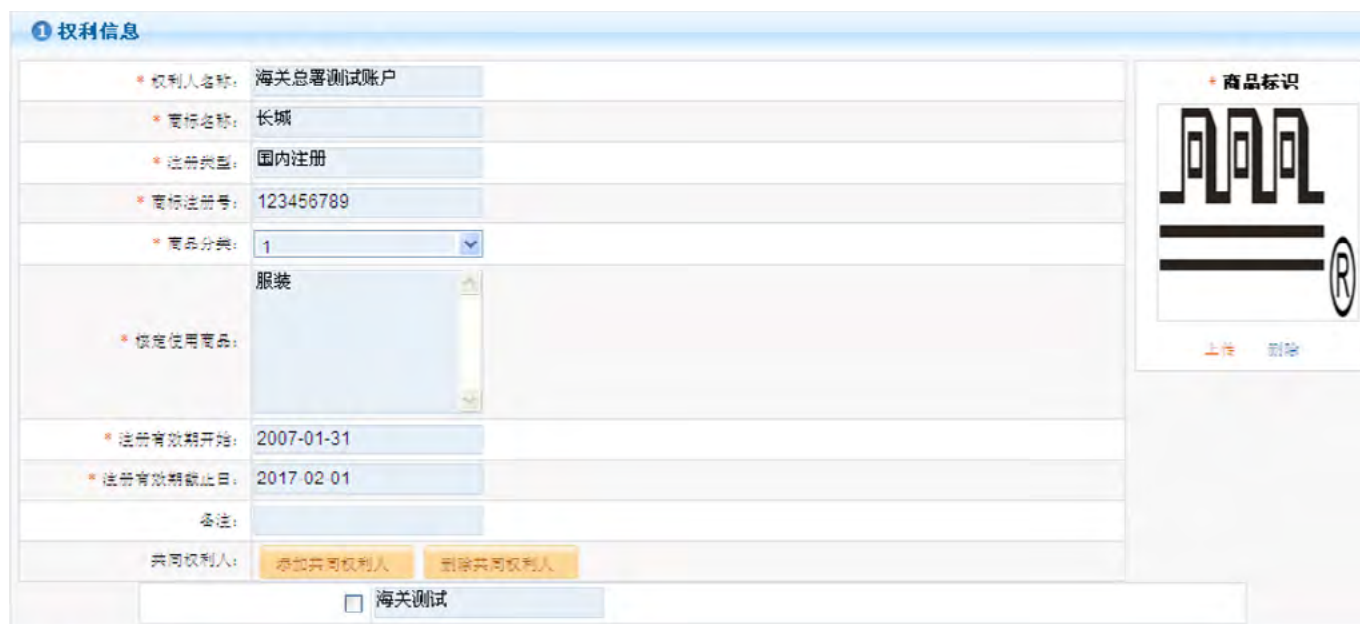
Log in to the system and click “备案申请” (recordal application), you will see that the table below lists the types of IP that can be recorded, select one for each application.



权利类型	权利类别	说明
商标专用权	<input checked="" type="radio"/> 国内注册	经国家工商行政管理总局商标局核准注册的商标
	<input type="radio"/> WIPO注册	在世界知识产权组织注册并延伸到我国的注册商标
专利权	<input type="radio"/> 发明	
	<input type="radio"/> 外观设计	
	<input type="radio"/> 实用新型	
著作权	<input type="radio"/> 著作权	

确认 取消

Then you need to fill in the information about the IP right and upload the images of the corresponding IP certificates. Below is an example of trade mark recordal; key words are translated in the next table.



① 权利信息

* 权利人名称: 海关总署测试账户

* 商标名称: 长城

* 注册类型: 国内注册

* 商标注册号: 123456789

* 商标分类: 1

* 核定使用商品: 服装

* 注册有效期开始: 2007-01-31

* 注册有效期截止: 2017-02-01

备注:

共同权利人: [添加共同权利人](#) [删除共同权利人](#)

☐ 海关测试

商品标识

上传 删除

② 上传证明文件

注意: 上传的文本应为原件的扫描件(限PDF格式, 单一文件不得超过1M), 扫描件内容应当清晰、完整, 按照页码顺序排列; 如不满足上述条件, 海关总署知识产权备案申请

证明文件名称	状态	操作
* 商标注册证	已上传	上传 删除 删除
* 注册续展证明	未上传	上传 删除 删除
注册变更证明	未上传	上传 删除 删除
注册转让证明	未上传	上传 删除 删除

证明文件名称	状态	操作
• 商标注册证	已上传	上传 删除 删除
• 注册续展证明	未上传	上传 删除 删除
注册变更证明	未上传	上传 删除 删除
注册转让证明	未上传	上传 删除 删除
其它	未上传	上传 删除 删除

⑤ 要求重点监控的商品

注意：以下商品信息用于海关在进出口监管中识别侵权行为，信息的完整、准确有助于提高海关对知识产权的保护力度，最多只可添加30种商品，上传图片大小不得超过400KB。

添加商品 全选 取消全选 删除商品

⑥ 合法使用人信息

注意：以下有关合法使用人的信息将用于海关识别合法货物，避免因海关疏忽和知识产权保护措施将合法进出口，完整、准确地提供以下信息是知识产权权利人的法定义务。

手工添加 导入模板下载 本地导入 自其它申请导入 导出 全选 取消全选 删除合法使用人

合法使用人名称	合法使用人类型	许可使用商品	许可使用期限
海关测试	制造商	服装	未选

保存 提交 取消

Form 1	
权利信息	Information on IP
权利人名称	Right holder's name
商标名称	Trade mark name
注册类型	Type of registration
国内注册	Chinese registration
WIPO 注册	WIPO registration
商标注册号	Trade mark registration number
商品分类	Classification of goods
核定使用商品	Verified usage of goods
注册有效期开始	Registration validity from
注册有效截止日	Registration validity end
备注	Remarks
共同权利人	Joint holder(s)

Form 2	
上传证明文件	Upload certificates
商标注册证	Trade mark registration certificate
注册续展证明	Certificate for renewal
注册变更证明	Certificate for modification
注册转让证明	Certificate for transfer
其他	Other
Form 3 – 要求重点监控的商品	Key products for particular monitoring
添加商品	Add goods
Form 4 – 合法使用人信息	Legal user's information
合法使用人名称	Legal user's name
合法使用人类型	Legal user's type
制造商	Manufacturer
出口商	Distributor
共同权利人	Joint holder
许可使用商品	Licensed goods
许可使用期限	Licensed period
保存	Save
提交	Submit
取消	Cancel

Once you submit the application it will then be listed in the system for GACC's approval. Usually it takes about 30 days to get the result and the status can be checked within the system. If it is approved, you will get a recordal code, and if the recordal fails, you will be informed of the reasons and have the possibility to correct and generate a new application, which is similar to the procedure in the initial application. In case you change your mind in applying for the recordal or need to make changes to it, - before GACC starts their work on examining the application - you can still withdraw your application.

In addition to the application, the system also allows the renewal of the recordal where the IP is still valid and revoke the recordal if the concerned IP right has been transferred, or if it has affected customs clearance. In summary, the 'paper free' online recordal system fulfills the aim of facilitating the application for customs IP recordal - both for the right holder and government authorities.

4. What happens next?

Once your IP has been recorded with GACC, the enforcement of your rights can happen through two channels: if you know an infringing shipment is going to pass through a Chinese port you can notify Customs officials to seize the goods; without your notification Customs officials may recognise your IP and seize a suspicious shipment. In either case the following procedure will occur:

4.1. You will receive a notification of suspected infringing goods and will be asked to pay a bond (the bond is no less than the value of the goods but no more than RMB 100,000 (approximately EUR 13,500).

4.2. Customs will conduct an investigation and;

- a. if no infringement is found the goods will be released to the owner and the bond shall be returned;
- b. if an infringement is found the goods will be disposed of and you will be asked to pay a storage and disposal fee (the remainder of the bond will be returned);
- c. if Customs cannot determine whether an infringement has occurred or not, the right holder will have the opportunity to file a lawsuit to allow the court to decide whether the goods should be released to the owner. The bond will be used to pay the storage fee or disposal fee and the remainder will be returned.

For more detailed information on Customs procedures in China please see our guide "Customs Protection of IPR in China" and further advice on working effectively with GACC please contact us (question@china-iprhelpdesk.eu).

Useful Links:

Online recordal system of the GACC:

<http://202.127.48.151/applyrecord/>

One-Stop Service for IPR Customs Protection:

<http://english.customs.gov.cn/zscqbh/index.html>

Customs IPR Protection Annual Report:

<http://www.customs.gov.cn/publish/portal0/tab2559/module5491/info739906.htm>

China IPR SME Helpdesk Guides:

Guide to Using Customs to Protect your IPR in China

<http://www.china-iprhelpdesk.eu/docs/publications/Customs.pdf>

Trade mark guide:

http://www.china-iprhelpdesk.eu/docs/publications/China_IPR_Guide-Guide_to_Trade_Mark_Protection_in_China_EN-2013.pdf

Patent guide:

http://www.china-iprhelpdesk.eu/docs/publications/China_IPR_Guide-Guide_to_Patent_Protection_in_China_EN-2013.pdf

Copyright guide:

http://www.china-iprhelpdesk.eu/docs/publications/EN_Copyright_guide_Aug_2010.pdf



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Helpdesk Enquiry Service: Submit further questions to the Helpdesk via phone, email (question@china-iprhelpdesk.eu) or in person and receive free and confidential first-line advice within three working days from a China IP expert.

Training: The Helpdesk arranges training on China IPR protection and enforcement across Europe and China, tailored to the needs of SMEs.

Materials: Helpdesk business-focused guides and training materials on China IPR issues are all downloadable from the online portal.

Online Services: Our multi-lingual online portal (www.china-iprhelpdesk.eu) provides easy access to Helpdesk guides, case studies, E-learning modules, event information and webinars.

Visit www.ipr-hub.eu to access more China IPR SME Helpdesk services online.

For more information please contact the Helpdesk:

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Fax: +86 (10) 8527 5708
www.china-iprhelpdesk.eu

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