

Roadmap

for Intellectual Property Protection in China

Copyright Protection in China

Suggested for use by copyright holders,
particularly new entrants to the Chinese marketplace

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It is strongly emphasised that the information provided in this publication by no means constitutes legal advice and should not substitute for counsel. The information is based on the opinion of independent experts and does not claim to be either complete or definitive; but is intended merely as a guide. The Chinese Copyright Law and other available legal and technical sources should be properly consulted when seeking protection for IP rights in China.

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Overview

Copyright is an automatic right

As in Europe and in many other countries, copyright arises in China as soon as an original work is created. There is no requirement on registration of a copyright when it is created for it to be enforceable. Likewise, registration of any copyright license and transfer agreement is not compulsory except where the license or transfer falls within the scope of certain regulated technologies.

In China, the Copyright Law protects copyrights by way of administrative actions, civil actions and criminal actions. Various administrative authorities are empowered to take enforcement actions either independently or through joint efforts.

What types of works are protected by copyright

Most types of creative works that would be protectable under the copyright law in Europe are protectable in China. However, there are some notable differences between China and Europe, just as there are some differences between European countries.

Copyright arises upon the date the work is created. A copyright work must be an original intellectual creation that subsists in tangible form. Copyright protects the way in which the thought, idea or feeling is expressed and not the thought, idea or feeling itself. Therefore, an idea that does not subsist in tangible form will not be protected by copyright. What types of acts involved in creating a work is protected by copyright? Those intellectual activities that directly result in literary, artistic or scientific works are acts of creating. Any supportive contribution, such as provision of services and material support, will not be considered as an act of creating.

LITERARY, MUSICAL, GRAPHICAL AND CINEMATOGRAPHIC WORKS

Most traditional types of creative works, such as novels, films, musical pieces, photographs, paintings, etc. are recognised as works enjoying copyright protection. Since China is a civil law country, works of this kind that are original and contain a degree of aesthetic merit are usually indisputably recognised as enjoying copyright protection. Apart from these works, there are many other kinds of works such as computer software, works of applied fine art, choreography, quyi*, etc., which are recognised as enjoying copyright protection.

FOLK LITERARY AND ART WORKS

Any protection of folk literary and art works will be provided by a separate regulation to the Copyright Law. China has not promulgated any regulation on protection of folk literary and art works. The draft of the regulation is still under discussion.

* Quyi refers to Chinese traditional art forms such as ballad singing, storytelling and comic dialogues, which have a long tradition in the region.

NEWS ITEMS AND PUBLIC DOCUMENTS

Written works such as texts of laws, regulations, court and administrative decisions, news, calendars and current tables and formulas are excluded from protection. In most cases, however, this applies only to purely factual works and works generated for public information by government agencies. Private works of translation and compilation, such as news features, would normally be considered copyrightable.

DATABASES AND COMPILATIONS

Databases and compilations such as dictionaries and textbooks are recognised as works of compilation in China and can enjoy copyright protection if the compilations embody intellectual creation by the compilers in the selection and/or arrangement of the content. The compiler owns the copyright of the compilation work, provided that the exercise of such copyright does not infringe upon the copyright of the pre-existing works included in the compilation.

COMPUTER SOFTWARE

Computer software is recognised as a copyrightable work under the Copyright Law and more specifically under the Regulation on the Protection of Computer Software. "Computer software" means "computer programs" (such as the source code program and its object code program) and "the documentation thereof" (written materials and diagrams to describe the contents, design, functions, and method of use of the program, such as program design explanations, flow charts, user manuals, etc.). Once again, protection on computer software does not extend to ideas, concepts, processing methods, algorithms or operation designs, although some of the above may be protected in China as patents.

Where a foreign individual or entity receives any computer software work from a Chinese citizen or entity by way of licensing or transfer, the licensing or transfer is subject to registration or approval with the Ministry of Commerce ("MOFCOM") and MOFCOM offices at the local level under China technology import and export regulations.

INDUSTRIAL DESIGNS AND APPLIED ART ON COMMERCIAL PRODUCTS

Drawings of engineering designs and product designs are categorised as "graphic works" under the Copyright Law and are copyrightable in China. Work of applied art is also protected by the Copyright Law as work of fine art, as long as the aesthetic features can be physically or conceptually separated from the utilitarian features. In some cases, China's Unfair Competition Law can also protect such industrial designs.

In practice, certain kinds of 3-D designed objects which have a strong eye appeal such as jewellery, toys and furniture can be protected under China's Copyright Law. Additionally, some models such as models of buildings may be protected under the Copyright Law as model works. Three-dimensional representation of a two-dimensional design or drawing of a work of fine art can be considered to be infringements of the right of reproduction. For instance, producing a 3D Mickey Mouse toy in accordance with a Mickey Mouse cartoon picture without license constitutes a copyright infringement. However, engineering industrial products exploiting utilitarian features embodied in the design does not constitute a copyright infringement of the right of reproduction, although it may constitute an infringement on another IP right.

Multi-protection on certain types of works

There is no provision in the Copyright Law that precludes multiple protection of certain types of copyrighted works under other IP regulations: e.g. designs can also be patented, distinctive designs and logos can be protected as a trademark when they are used as such, etc. Resorting to patent/trademark laws and regulations other than copyright law gives an IP right owner more enforcement alternatives when an infringement occurs.

Establishing your copyright

MORAL RIGHTS AND ECONOMIC RIGHTS

China Copyright Law grants authors of works both moral rights and economic rights. Moral rights indicate the right of attribution of authorship, the right of disclosure of the work to the public, the right to revise the work, and the right of keeping integrity of the work. Economic rights give authors the exclusive power to exploit the work's economic values by various ways. There are thirteen economic rights in the Copyright Law, including:

- reproduction,
- distribution (of original and copies of works),
- rental (of copies of cinematographic works and computer software),
- exhibition (of works of fine art and photographic works),
- live and mechanical performance,
- presentation (of works of fine art, photographic works and cinematographic works),
- broadcasting,
- communication of works through information network,
- cinematographic reproduction,
- adaptation,
- translation,
- compilation, and
- other rights (catch-all-right, see box).

Economic rights are also referred to as "exclusive rights", since others must get license from the author to exploit the work by various means covered by economic rights.

The protection period of the right of disclosure and all economic rights is generally 50 years and in the case of individual authors, the lifetime of the author(s) plus 50 years.

Special Features of Moral Rights

Unlike economic rights, moral rights are closely related to the author's personality. So moral rights are not allowed to be waived, licensed or transferred by the author. As a consequence, a contract between a college student and a ghost writer to finish a thesis under the name of the student is null and void, since it actually transferred the right of attribution of authorship and other moral rights.

The "Catch-all Right"

The last economic right enumerated by the Copyright Law is often referred to as "the catch-all right", since it could cover all the other exploitation acts which have economic significance to the copyright owner. For instance, when a webcaster transmits a movie to the public on the real-time basis without the authorisation, the copyright owner cannot sue the webcaster for infringement of the right of communication through information network, since the right only covers interactive transmission. The court used the "catch-all right" to decide in favour of the copyright owner on the ground that China has an international obligation to fully apply the article 8 of the WIPO Copyright Treaty (WCT), which provides a general right of communication to the copyright owner. So the "catch-all right" must be broadly interpreted to cover communication to the public of the work by any technology.

Important exception to the right of exhibition

In spite of the right of exhibition enjoyed by the copyright owner, the owner of the original copy of the work of fine art has the right to exhibit the original copy. It means that as long as the author transferred the ownership of the original copy of a work of fine art, he or she cannot prevent the buyer from exhibiting the original copy to the public.

NEIGHBOURING RIGHTS

China Copyright Law protects not only works by traditional copyright (author's right), but also subject matters other than works by "neighbouring rights". Live performance of works, sound or video recordings, broadcasting signals and typographical design are not eligible for protection as "works" and are only subject matters of neighbouring rights.

The following individuals or entities enjoy neighbouring rights protection in accordance with the Copyright Law:

- **Publishers of books, newspapers and periodicals** are entitled to authorise or prohibit other parties to use any design format of the books and periodicals that are made by the publishers. The publisher can enjoy this right till 31 December of the 10th year after the publication of the book or periodical.

- **Producers of audio or video recordings** are entitled to authorise other parties to reproduce, distribute, lease, and disseminate via information network, any audio or video recordings that are made by themselves. The producers can enjoy this right till 31 December of the 50th year after the recordings are first made and finished. Producers should obtain permission from and pay remuneration to the owner and performer of the original copyright works to reproduce, distribute and disseminate the audio or video recordings.
- **Performers of a copyright work** are granted several kinds of rights, as follows:
 - Performers may also claim / enforce their moral rights, which means that their name should not be omitted unreasonably, and their performances should not be modified or used unfavourably;
 - Performers have the right to authorise the recording, broadcasting and communication to the public of their live performances, including via information network;
 - Performers have the right to allow others to reproduce, publish and distribute the recording of their performances.
- **Radio or TV stations** are entitled to prohibit any other party, without permission from the station, to relay broadcasting the radio or TV broadcasts, or to record the radio or TV broadcasts on audio-video carrier. A radio or television station can enjoy this right until 31 December of the 50th year after the radio or TV broadcasts are first broadcasted.

It is worth noting that the Chinese Copyright Law does not provide for the protection of broadcasting and public performance rights for performers and producers of sound/video recordings.

COPYRIGHT OWNERSHIP

To own the copyright of a work in China, you need to be the creator of the work, or the employer of the creator. You could also obtain the copyright through succession, donation, assignment or other contractual arrangement. If you sponsor or commission a work, you do not own the copyright in the commissioned work unless you have contracted with the creator that the copyright is assigned to you.

WORKS CREATED BY EMPLOYEES

Ownership of the copyright work in China will depend on the type of employment works, and on compulsory legal provision or agreement between the two parties.

For an engineering design, blue print of a product, map, computer software or any other work that is created using resources of the employer and for which the responsibility lies with the employer, the employee owns right of attribution of authorship and the employer owns all other copyrights. The employer may award the employee for his creation of the employment work. An employee can also specifically agree by contract that he or she only keeps the right of attribution of authorship, and all the other copyrights belong to the employer.

In all other circumstances, the employee, as the creator of an employment work, owns the copyright of the employment work. However, the employer will be in a preferential position to use the employment work within its business scope. Within two years from the creation of an employment work, the employee shall not allow any third party to use the employment work in the same way as the employer does without the employer's consent authorisation. If, upon the consent authorisation from the employer, the employee licenses any third party to use the employment work within two years of creation, and in the same way as the employer does, the both shall agree on a proportion to share the remuneration arising from the licensing.

COMMISSIONED WORKS

If a work is commissioned in China, the ownership of the copyright will belong to the author; unless a contract states that the copyright belongs to a commissioning party. It would be prudent to effect the assignment of copyright of the commissioned work after its creation.

COLLECTING SOCIETIES

As everywhere else, the purpose of collective societies is to collect from users and distribute among authors and holders of related rights royalties due in respect of the economic exploitation of their members' works, including phonograms and videograms.

Voluntary recordal

Music is administered through the **Music Copyright Society of China** (“MCSC”), a Chinese collective administration organisation. Most creators of music in China grant authorisation to MCSC to represent them and to administer their works, including collecting fees, granting licenses for use of the work and lodging complaints with the courts or local copyright administrations. MCSC has set up branches in many cities in China and has established business relations with many international copyright organisations and related international institutions.

In 2004, the State Council promulgated the Regulation on the Collective Administration of Copyright. This regulation allows a copyright collective administration society to represent right holders to exercise their copyright in concluding copyright license agreements, collecting royalties from users and transferring royalties to the right holders, and participating in copyright related litigation or arbitrations. Copyright collecting administration society is allowed to exercise the above activities in its own name upon obtaining authorisation from right holders. Pursuant to this regulation, NCAC formally approved the establishment of another copyright collective management society in 2005, the **China Audio-Video Copyright Association** (“CAVCA”), which is currently the only collecting management society of audio-visual program products. CAVCA only commenced performing its function earlier this year, as it did not obtain approval for registration from the Ministry of Civil Affairs until 28 May 2008.

NCAC also approved the application for preparation for the establishment of two other copyright collective administration societies, namely the **Literary Works Copyright Society** (“LWSC”) and the **Photographic Works Copyright Society** (“PWCS”), and they are now in their respective registration processes with the Ministry of Civil Affairs.

HIGHLY RECOMMENDED

China has a system of voluntary recordal (registration) of copyright works. Recordal is not necessary for obtaining copyright protection in China, nor does it definitively prove copyright ownership. However, it implies a prior ownership claim of a work with the relevant authority in China following Chinese procedures. As copyright owners may find it difficult to adduce evidence - particularly evidence of ownership of a foreign or unfamiliar work, a recordal can be used as prima facie evidence of ownership when an infringement occurs, hence facilitate enforcement actions (whether through the administrative or the judicial route).

The copyright owner shall be aware of the independent authority of the PRC courts in adjudicating the ownership of a copyright work. Hence, the People’s Court has discretion to decide on the legality and validity of the registration certificate, and ownership of the copyright work during a court action.

Use the Chinese system to solve your problems

Providing evidence in a format or using a system that is familiar to the government officials concerned will facilitate their work, and provide you with quicker results. When a copyright complaint is filed, the most common source of delay in the procedure is caused by the difficulty for the authorities and courts to determine the rightful copyright owner, particularly for foreign or unfamiliar works. Pirates infringing works for generating important profits may use any form of stalling as a tool to serve their purposes, e.g. move production facilities to new and undiscovered sites. This applies to administrative actions in particular as administrative authorities do not have the power to issue a preliminary injunction. Help your local administration official by eliminating uncertainty and minimising delays. Record your copyright!

Note. Some third party bodies such as industry representative organisations are authorised to authenticate copyright.

VOLUNTARY REGISTRATION OF COMPUTER SOFTWARE

Although copyright recordal is voluntary, **the NCAC strongly encourages the copyright owner to register its rights over computer software** (regulated by the Measures on Registration of Computer Software regulates) with the Software Registration Centre (which is part of the Copyright Protection Centre). Any individual, entity or organisation (copyright owner or heirs, licensee or assignee) may apply for registration of ownership of computer software or the license/transfer arrangement of the copyright over computer software. The procedure for filing includes submitting identification materials, including source codes. However, rights holders can take reasonable measures necessary to protect the source code. Right holders can apply for sealing up of the source code program, documentation or samples. No party is then allowed to open the sealed material except the right holder and judicial departments. Right holders can also request for exceptional submission and preservation of certain pages of the source code program and/or object code program in accordance with the requirements set out in the Recordal Measure of Copyright of Computer Software, e.g., blacken out the confidential part of the source code program.

VERIFICATION OF AUDIO-VISUAL AND COMPUTER SOFTWARE PRODUCERS

Any party in China involved in the production, publication or reproduction of foreign works must register their license for the right to do so with the local copyright bureau, which will check that the applicant has genuine authorisation from the relevant foreign association(s) of rights owners. Any party licensed to produce software must, under certain situations, register their licensing contracts before they are permitted to publish or reproduce software. In addition, any manufacturer of optical disc material (LDs, VCDs, DVDs and CD ROMs) must apply for a unique identifier of their products, known as the Source Identification ('SID') Code. Normally, one would go to the local copyright bureau and ask for assistance from an official to obtain a unique ID.

DOCUMENTARY EVIDENCE NEEDED TO PROVE COPYRIGHT OWNERSHIP

A recordal certificate is considered as evidence to prove copyright ownership. The sufficiency of evidence to prove ownership depends on the nature of a copyright work. For example, the manuscript shall be provided to prove the ownership of a written work if the work has not been published; if it has been published, then original books or periodicals that first published the written work shall be provided as the evidence of ownership, e.g. negatives of photographic works.

Generally speaking, to prove your ownership of copyright in China, you must provide an original copy of the work or a true copy (notarised when adduced for court actions, but not necessarily so for administrative procedures). As a general rule, an original work should show the name of the author and the date of creation, or the date of first publication. If you are not the original creator of a work, you should provide clear evidence to prove you obtain the copyright either through commission or employment, license, transfer or succession.

Please bear in mind that the Copyright Law clearly provides that, in the absence of evidence on the contrary, the citizen, legal entity or organisation whose name is shown on a work, shall be deemed as the author of the work.

What is an infringement of copyright?

Moral rights are infringed if the author is not properly identified, or if the work is disclosed to the public against the author's will, or if the work is distorted to the detriment of the author's reputation.

Infringement of economic rights means unauthorised exploitation of a work by means covered by any economic right provided in the Copyright Law. For instance, reading a pirated novel is not a copyright infringement, since there is no "right of reading" in the Copyright Law to cover the act of unauthorised reading. In contrast, playing background music in a department store without paying remuneration to the copyright owner constitutes a copyright infringement covered by the right of performance. To exploit a derivative work, the user needs authorisation from the copyright owner of both the original work and derivative work. For instance, if a publisher hopes to publish a Chinese translation of an English novel, it has to seek license from both the English writer and the Chinese translator.

Note: Important exemptions exist to the use of copyrighted material about which copyright owners should be aware of (see Fair Use).

REPRODUCTION AND DISTRIBUTION

Any acts involving reproducing substantial part of a work or distributing copies of a work to the public need authorisation from the copyright owner. Hence, it is a copyright infringement to publish a work without license or sell pirated copies of it. It is worth noting that unauthorised use of computer software in the business is an infringement of software's copyright since such a use involves copying the software in the user's computer.

BROADCASTING AND PERFORMING

If a radio or television station uses an unpublished work created by another, they should obtain permission from, and pay remuneration to, the copyright owner. If the work is published, the user does not need permission from the copyright owner, they may simply pay for it. However, radio and television stations have been refusing to pay remuneration to copyright owners of musical works since the standard of payment has not yet been set by the State Council.

In order to perform a literal, dramatic or musical work on the stage ("live performance"), or to communicate the performance in a profit-making public place ("mechanical performance"), the performer or the operator of the public place must seek license from the copyright owner. The collecting society MCSC (Music Copyright Society of China) has sued many organisers of vocal concerts, department stores and super markets for unauthorised live performance or mechanical performance of musical works it manages.

CINEMATOGRAPHIC PRESENTATION

It is an infringing act to present to the public a cinematographic work or a work created by a process analogous to cinematography without license. Since most music videos which are used in karaoke bars constitute "work created by a process analogous to cinematography", karaoke bars not only need to pay to copyright owners of music works, but also to producers of music videos.

MAKING AVAILABLE THROUGH THE INTERNET AND OTHER INFORMATION NETWORKS

Making works available through the Internet and other information networks, such as Intranet in college campus and interactive cable system, is covered by the right of communication through information network. Therefore, unauthorised uploading of works onto BBS, on-line forum, blog, or video-sharing website is a copyright infringement. Before July 2006, it is a permissible act for a website to reproduce a work which has already been published in newspaper, journal or a website, as long as the author does not declare that no such reproduction is allowed, and the website pays remuneration to the author. However, after the new Regulation on Protection of the Right of Communication through Information Network took effective on July 2006, websites must seek prior consent from the author save for fair use exception.

The Internet

As a contracting state, China complies with the Berne Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) under the World Trade Organisation (WTO). In 2001, China revised its Copyright Law that, due to the challenges presented by new information and communication technologies, has incorporated a new right for authors to protect their works on-line. This right, being called "Rights of Communication through Information Network", is further defined and elaborated in the Regulations on Protection of Rights of Communication through Information Network that was implemented in July 2006.

According to the Regulations, an organisation or individual, when providing any copyright work of another person to the public via information networks, shall obtain the copyright owner's permission and pay the relevant remunerations. The Regulations further allow the copyright owner to apply technological protection measures. Such measures are efficient techniques, devices and components aimed at preventing and restricting browsing or enjoyment of any copyright works or audio-visual products without permission of the relevant copyright owner or from providing the copyright works and products to the general public through information networks without the permission of the copyright owner.

It is not always a clear-cut case whether certain acts conducted via the Internet is an infringement of copyright, particularly when it touches upon the liability of an Internet service provider ('ISP'). To strengthen copyright protection involving the Internet, the State Council and the Supreme People's Court have issued various regulations and judicial interpretations on Internet-related copyright disputes and issues. For example, a copyright owner may request the ISP, in writing, to remove alleged infringing work, performance or audio-visual product ("Work and Product"), remove the relevant web site from the ISP's network and disable the links/access to the work and Product if he has grounds to believe that this work or product infringes on its right of dissemination or any relevant electronic information has been deleted or altered (take down notice).

Where the ISP removes the alleged infringing Work and Product or disables the links/access to the alleged infringing Work and Product, the ISP will not be liable for monetary compensation to the copyright owner. However, if the ISP is fully aware or should have known that the alleged infringing Work and Product the ISP has linked/accessed to constitute an infringement, the ISP would remain subject to the liability of joint infringement.

TRANSLATION AND OTHER ADAPTATION

The copyright holder of a work has rights over translation of the work, and can therefore prevent unauthorised translations.

There is an exception for Chinese works, namely that translations into a minority language of China for non-commercial purposes do not need the authorisation of the copyright owner. This exception does not apply to foreign works. The authorised translator of a work may separately enjoy rights to the translation of the work, although all rights (except moral rights) can be contracted to revert to the owner of the original work in the translation contract.

In addition, preparing derivative work and making cinematographic adaptation are also restricted acts. For instance, it is a copyright infringement to create comic strips or to produce a film based on a novel without the license from the novel's author.

PARALLEL IMPORTATION

Parallel importation is not specifically mentioned or addressed in the Copyright Law and can therefore generally be considered as a legal activity, although some limitations on parallel importation can be set through the existence of legal contracts.

Fair Use and Statutory license

In China, there are exemptions on reasonable use of small parts of a copyrighted work, or use of some types of work without remuneration or permission.

This is termed "fair use". For example, quoting extracts from a book or newspaper, a musical film or clip, when used for study or news reporting, is fair use and not an infringement of the copyright in that work. The exemptions for the use of copyrighted material without permission or remuneration in the Copyright Law generally comply with the Berne Convention and the TRIPS Agreement. Free use of works without infringing moral rights in China can be found in the Copyright Law and are quite extensive.

Copyright owners should be aware that free use extends to copying copyrighted works at libraries for preservation and universities for classroom teaching (as long as no profit is made and there is "no damage to the copyright holder"). The act of copying and selling copies of whole foreign textbooks is certainly not fair use, but copyright infringement. In 2004, the Beijing High Court imposed aggregate damages of almost RMB 6.5 million to a well-known English teaching school in Beijing for the illegal copying and selling of proprietary English test papers (TOEFL, GRE and GMAT) owned by the Education Test Services (ETS) and the Graduate Management Admission Council (GMAC).

The Copyright Law also provides statutory licenses for certain uses of works. The beneficiaries of statutory licenses do not need to ask for permission from the copyright owner, but they must pay statutory royalties to the copyright owner. For example, when a work has already been published in newspaper or a periodical, another newspaper and periodical can reprint the work as long as the author has not declared with the first publication that no such reprint is allowed. For another example, if the author of a musical work or of its text has authorised the making and distribution of sound recordings of the work, after the sound recording of music is lawfully produced under authority of the copyright owner, any other record companies may use the statutory license to make their own sound recordings of the music, but they must pay a royalty to the copyright owner.

ENFORCEMENT OF COPYRIGHTS IN CHINA

Rights holders have the following options for enforcement once they discover that their rights are being infringed:

- **Judicial protection**

the People's Courts for hearing civil cases and for judicial review (appeal) of administrative decisions on copyright cases (see section on Judicial Enforcement).

- **Administrative protection**

It should be noted that China is unique in providing not only judicial protection, but also administrative protection of copyright. The National Copyright Administration (NCAC), under the State Council is the authority in charge of copyright administration. In addition, other administrations can also crack down on piracy by alternative approaches (see below).

- **Border protection**

Customs General Administration and the Customs at local ports. See Customs Enforcement Roadmap.

- **Criminal sanctions**

the People's Courts, the People's Procuratorates and the Public Security Bureaus for criminal investigation and prosecution in serious copyright infringement cases, Criteria determining the seriousness of a copyright infringement case are set out by the PRC Criminal Law and the corresponding SPC judicial interpretations (see section on Copyright Protection as a Crime).

Important considerations

To enjoy copyright, a work must be original. To claim copyright in any country, it is strongly recommended to keep the original copy of a work (even if it is only a first draft) and to have it signed and dated in front of a notary. This is important to show that the work is an original product, and to prove when it was created, and by whom. Voluntary recordal of copyright is highly recommended in China as commented earlier.

JUDICIAL ENFORCEMENT

By going through the Court, one may obtain preliminary injunctions and request the Court to preserve any evidence of infringement and the property of the defendant. The plaintiff also may obtain damages. This presents a major advantage for the copyright owner to put an end to the infringing activity quickly.

If an infringement act reaches the threshold of constituting a crime of copyright infringement (see section on Copyright Protection as a Crime), the public security bureau is the investigative bureau for collecting evidence of the suspected crime; and the procuratorate is responsible for filing public prosecution with the Court if the procuratorate finds that there is sufficient evidence to prosecute the infringer.

An aggrieved party may also initiate a private prosecution with the Court against the infringement for criminal liability if certain criteria are satisfied for instance:

- (i) the procuratorate does not institute public prosecution, and the aggrieved party has evidence to demonstrate the crime and the circumstance of the crime is not serious, e.g. the crime may be prosecuted with penalty of a fixed term of imprisonment of no more than 3 years, alone or together with a penal sum; or
- (ii) the aggrieved party has evidence to prove that the accused party has infringed its copyright and should have been prosecuted for criminal responsibility according to the law, but the public security bureau or the procuratorate has made a decision in writing not to prosecute the accused party.

For cases falling under (i), if the Court finds the evidence is not sufficient and the case should have been accepted and investigated by the public security bureau, or the accused party is likely to be sentenced to an imprisonment over 3 years (which implies the crime is serious), the Court will send the case back to the public security bureau for investigation.

Although there is no explicit rule or stipulation on suspending the civil case pending a criminal case, in practice, the judges presiding over the civil case may delay the civil trial until the criminal judgment is made. The criminal action will not provide any damages to the aggrieved party, and the plaintiff can and has to pursue damages under a civil claim.

DOCUMENTATION REQUIRED

In order to initiate legal proceedings with the People's Courts, a plaintiff should prepare:

- A written complaint;
- A certificate of the legal status and addresses/phone numbers of the plaintiff and the defendant;
- Evidence of copyright ownership and the asserted copyright infringement; and
- A power of attorney if a lawyer is retained by the plaintiff. (A foreign plaintiff is required to file all documents originating outside of China in notarised and legalised copies).

The complaint shall introduce the basic information of the plaintiff as the copyright owner or authorised user to a copyright work, the legal status of the defendant and the addresses where the Court could serve the complaint to the defendant, any copyrights owned by the plaintiff, the asserted infringement act, the cause of action, and the request by the plaintiff.

Usually the plaintiff should adduce **two types** of evidence with the Court. One is the evidence to prove the plaintiff's legal right over the copyright work in suit, the other is the evidence of the alleged infringement act conducted by the defendant. If possible, the plaintiff may adduce evidence of damages caused by the infringement act.

If, as plaintiff, you decide to retain a lawyer to represent your case before the Court, make sure your lawyer is licensed to practice PRC laws and represent you before the Court. Be careful with the scope of authorisation on the power of attorney. If your lawyer is not authorised to sign on the complaint, request for intermediation, appeal petition or other important litigation documentation, the Court may reject the above documents submitted by the lawyer!

COMPETENT COURTS

China has a four level court system – basic, intermediate, high and supreme. The basic courts are trial courts, while the others are both courts of trial and appeal. Every court consists of several chambers, including civil, administrative and criminal chambers. **IP rights cases usually fall under the jurisdiction of the civil chambers.** Administrative disputes and criminal cases involving IP rights come under the jurisdiction of the administrative and criminal chambers respectively.

Most IP rights related disputes involving foreign parties are started at Intermediate Courts that also hear appeals from Basic Courts. High Courts handle important cases as courts of first instance and appeals from lower level Courts. The Supreme People's Court (SPC) handles major cases having significant influence throughout China and other cases deemed necessary at its own discretion. Appeals to the SPC are rare and most IP right related disputes end with the appeal at the High Courts. Courts at a lower level may request Courts at a higher level to hear a case of first instance if the lower Court considers that the case should be heard by the Court at a higher level. Courts at a higher level have authority to decide to hear a case of first instance that is under jurisdiction of the Court at a lower level. Thus, a high profile IP dispute involving matters of provincial concern could conceivably be referred to a court at a higher level for trial.

INTERIM RELIEF – INJUNCTION AND PROPERTY/ EVIDENCE PRESERVATION

According to the Copyright Law, the plaintiff can request the Courts to stop infringing acts immediately, preventing huge losses before and during the lawsuit. This is called a "preliminary or pre-trial injunction". In practice, an injunction is not always easy to obtain and can be costly as the plaintiff has to put up a monetary bond which is calculated at an amount somewhere between past gross revenue and profits which would have been earned by the defendant during the injunction period.

Evidence and property preservation pending trial of a lawsuit offers some assistance to plaintiffs to ensure that infringers do not destroy evidence that will later be needed to prove infringement in court. Payment of a monetary bond is a pre-requisite in obtaining the property preservation order that is generally much lower than the amount required for a preliminary injunction.

Although the Copyright Law provides that interim relief should be considered and decided upon by the Court within 48 hours, the plaintiff should expect a longer timeframe in obtaining and the enforcement of any order.

TRIAL PROCEDURES, OUTCOME AND TIME SCALES

In brief, a plaintiff will go to court to file the complaint and/or the application for interim relief. A court fee is payable that is computed by reference to the amount of damages claimed in the complaint. In any event, the lawsuit must be filed within 15 days of the issuance of the interim relief. If the Court accepts the case, the first instance proceedings will be initiated and the Court will serve the complaint on the defendant. The Court will designate a trial panel to hear the case. Before the court hearing, the trial panel will give the relevant parties a certain period of time to submit evidence. After the court hearing, the trial panel will award and announce judgment in public. In the case of a domestic litigation, the proceedings for the first instance usually have to be completed within 6 months but this timeframe does not apply to foreign related litigation.

If the Court decides not to accept the case or if the Court decides to dismiss the complaint, the plaintiff is entitled to file an appeal against the order made by the Court in relation to the above if the plaintiff is not satisfied with the order.

COMPENSATION AND DAMAGES

Theoretically, there is no limit on damages; you can recoup whatever losses you suffered. In practice, damages are quite low but have been increasing over the past five years (very few judgments of more than EUR 500,000 - 1 million have been made, and those that are fairly large usually go to appeal). Generally, the level of damages is computed based on the actual loss of the right holder; or if the actual loss is difficult to calculate and demonstrate, the illegal income earned by the infringer. Damages include reasonable expenses incurred by the right holder for the purpose of halting the infringing act. If neither the actual loss nor the illegal income can be determined, the People's Court has the authority to award statutory damages of not more than RMB 500,000. Given the lack of discovery process in Chinese civil procedure, most right holders will find it difficult to obtain sufficient information or material (such as outputs, sales or costs of the infringing products) to compute a claim for damages based on its loss or profit gained by the infringer. Hence, the statutory damages option is often chosen by right holders.

Important considerations

If the actual loss to the owner or the illegal income of the defendant cannot be confirmed, the defendant will be ordered to pay compensation up to a maximum of RMB 500,000 depending on the seriousness of the infringement. In China, compensation includes the cost to the owner of stopping the infringement, the fees paid to Chinese attorneys (although the level recoverable is limited) and fees paid for investigation of the case.

USE OF FOREIGN JUDGMENTS

Although judges may learn from the foreign cases, they do not refer to foreign judgments in practice nor do they follow the example provided by the foreign judgment. You can present, and they will consider, but they have no obligation to accept.

APPEAL PROCESS

Within 15 days of receiving a judgment from the Court, either party may file an appeal with the Court at a higher instance and institute proceedings for a second and final-instance hearing. A foreign appellant has 30 days to file an appeal, and a foreign defendant has 30 days to respond to the appeal. In terms of procedure, the appellant needs to go to the court of appeal directly, submit a written appeal and prepay the associated legal costs (which are based on a percentage (1-2.5%) of the infringement amount up to RMB 1 million, after which the percentage drops to 0.5%). The written appeal should include the names and addresses of both parties, the first trial court details, the serial number of the case, a brief account of the first-instance case and details for the appeal and request.

COPYRIGHT INFRINGEMENT AS A CRIME

The PRC Criminal Law stipulates that the following acts constitute a crime if the volume of copies or profits generated surpass the threshold stipulated in the judicial interpretations of the SPC and/or causes severe impact on society.

- (1) copy and distribute any written, musical, film, TV and video works, computer software and other copyright work without permission from the copyright owners;
- (2) publish books that the others enjoy an exclusive right to publish;
- (3) duplicate and distribute audiovisual works without permission from the producers;
- (4) produce and sell artistic works bearing fake signatures of the others; and
- (5) knowingly sell the infringing duplications of the works described in the above (1) to (4).

	Business Volume (RMB)	Gain (RMB)	Copies
Serious (relatively large)	> 50,000	> 30,000	> 500
Especially serious (large quantity/huge)	> 250,000	> 150,000	> 2,500

Or other circumstances of a serious nature.

These criteria apply to individuals and shall be three times higher for crimes committed by a 'work unit'.

WHAT ARE THE PENALTIES FOR THE CRIME OF COPYRIGHT INFRINGEMENT?

The penalties for the crime of copyright infringement are divided into two stages depending on the seriousness of the infringement: a fixed term of imprisonment of no more than 3 years, alone or together with a penal sum, and in the case of serious crimes, custody or a fixed term of imprisonment of three to seven years, together with a penal sum. There are specific guidelines to determine what constitutes "serious circumstance" or "particularly serious circumstance" by reference to stipulated levels of illegal proceeds.

If the infringer is a legal entity or organisation instead of an individual, the responsible person of the entity or organisation that is in charge of the infringing act will be sentenced to a fixed-term imprisonment while the entity or organisation will be punished with penalty.

HOW CAN A COPYRIGHT HOLDER PURSUE AN INFRINGER'S CRIMINAL LIABILITY?

The copyright holder can go to the People's Court or the Public Security Bureau (police) to lodge a criminal complaint and must present evidence. Any complaints received by the NCAC or any local copyright administration, which is found to constitute a crime, will be forwarded to the Public Security Bureau for investigation and then the People's Procuratorate for public prosecution.

ADMINISTRATIVE ENFORCEMENT PROTECTION

Important points regarding the administrative enforcement route

Over the past few years, using NCAC procedures has proved to be relatively quick and cost-effective. However, similar to the other administrative authorities, the NCAC and the local copyright administrations are not empowered to issue damages. Only the People's Court has the power to award damages to the plaintiff. So if a plaintiff is looking for damages, the administrative enforcement route is not the one to choose - it is only appropriate if you are seeking to stop the infringing act quickly.

Judicial proceedings are time consuming and can be costly.

Preliminary injunctions are not always available and may in practice be difficult to enforce. Therefore, enforcement through the administrative authorities may be the more effective option for some industries, such as music and film, though this is not always the case.

It is not necessary to pursue an administrative complaint through the NCAC. According to the Implementing Regulations of the Copyright Law, local copyright administrations (city-level) are authorised to handle almost all normal cases, as opposed to the national-level office that investigates and oversees infringing acts of national influence. The Copyright Law has empowered the local copyright administrations to stop infringement of copyright and confiscate illegal income, and confiscate and destroy pirated reproductions and the implements of such reproduction. In addition, local copyright administrations can fine illegal users a sum of money in accordance with their wrongdoing.

Recent procedural strengthening has improved correct and consistent application of the administrative procedure law. Increased pressure on Administrative agencies may cause administrations to be more hesitant about accepting difficult cases or unclear complaints, in particular with regard to foreign cases, which are often more confusing. It is important therefore to file complaints as thorough and complete as possible.

Some people also use the administrative procedure to help in the effort to find evidence for use in a later civil or criminal case. Some local copyright administrations have a reputation as good investigators, and have detailed local knowledge, including knowledge about piracy operations in their region. Coupled with strategically timed local anti-counterfeiting campaigns, they “are in the know” about and understand what is going on in their city and province, and can help your company take immediate and effective actions. Sometimes, companies hire their own investigators to work with local copyright administrations. This is an effective form of collaboration and highly recommended, as long as you get hold of good investigators and coordinate closely with the local administrations.

ACTIONS TO INVESTIGATE AND STOP AN INFRINGEMENT

If the local copyright administration accepts the complaint, they will send a letter to the defendant (with a copy of your complaint), and require him to go to the local administration within a fixed period to answer the charges. In practice, many respondents, particularly those wilfully infringing a copyright, do not reply to the letter or may try to find loopholes or mistakes in the administrative procedure to delay the action. For example, for foreign copyright holders, a requirement exists to translate details of the complaint into Chinese. Respondents may find mistakes in the translation and require a re-submission of the complaint. Pirates, particularly the most sophisticated ones, may look for the smallest mistakes upon which to base a protest to the administrative department and delay the procedure.

After submission of the complaint, the local administration will investigate the details of the complaint with the parties concerned, and make a judgment based on the evidence and both parties’ statements. As mentioned above, the local copyright administration does not have preliminary injunction powers and may not take any action to stop the infringing activity until a final judgment is made. Once a judgment is made, however,

the local administration can order the infringing party to stop production and can close their factory and/or facilities.

One issue to consider is that for wilful piracy, the infringing factory may already have disappeared by the time the local administration makes the closure order. Some particularly sophisticated and institutional pirates will even exploit every possible form of stalling to save time, knowing that no damages can be awarded and that a great deal of money is being made in the intervening time.

HOW TO FILE A COMPLAINT

It is relatively simple to make a complaint with the local copyright administration. First, go to or call the local administration (most usually at the city-level) where the act of infringement has taken place. The local administrative official will help you register a complaint and take follow-up action, provided that you submit adequate evidence to support your complaint.

Adequate evidence could include:

- A (foreign) copyright ownership certificate;
- A Chinese recordal certificate;
- An original, or drafts or designs signed and dated;
- A copy of the infringing works;
- A purchase receipt for the infringing items, which you might obtain when buying the infringing product as proof (some company investigators have the receipt notarised by bringing a notary incognito to the purchase site, etc.).

You then need to go to the local administration, fill out a complaint form and attach your evidence.

Note: National legislation does not mention whether a government bureau can or cannot charge for services; local regulations cover this and so fees can vary from place to place, but they are generally relatively inexpensive for foreign companies – from several hundred to several thousand Chinese Renminbi.

TIME SCALE AND COSTS

In order to regulate the acts of the administrative enforcement by the competent administration of copyrights, the NCAC issued the Measure for the Implementation of Administrative Penalties for Copyrights Infringement in 2003. According to this Measure:

- Whereas a copyright administration receives complete set of the complaint document from the petitioner, the copyright administration shall, within 15 days from the receipt of the complaint document, make a decision on accepting the petition or not and notify the petitioner of the decision. In case of non-acceptance, it shall let the petitioner know, in a written decision, the reason for not accepting the complaint.
- The Measure further provides that, prior to issuing a punishment decision, the copyright administrations shall deliver a prior announcement to the concerned party about the facts, grounds and legal basis upon which the copyright administration is going to make a punishment decision. Meanwhile, the copyright administration shall inform the concerned party of its right of statement, right of appeal and defence. The time limit for the concerned party to state, appeal or respond to the announcement is 7 days upon receipt of the announcement or 30 days from the publication date of the announcement if the document could not be served on the concerned party.
- There are no further provisions in the Measure on the time limits such as regulating the copyright administrations to send the copy of the complaint to the respondent, or for the respondent to respond to the complaint, or for the copyright administrations to commence investigation and enforcement action or to make an administrative decision.

In practice, there is also no guidance on the time limit in each phase of the enforcement procedure taken by the copyright administrations. Unfortunately, local copyright administrations do not always follow the NCAC guidelines and can in some cases be stringent on formalities. However, the procedure may take longer than expected particularly if the defendant challenges the enforcement and is uncooperative.

Costs related to administrative procedures include investigation and attorney fees.

EVIDENCE

To make a complaint you need to collect two kinds of evidence. One is evidence that you are the rightful copyright holder; the other is evidence that your rights are being infringed (see section on How to Make a Complaint). In addition, the rights holder must clarify details of the infringing content to assist the judgment of the local officials. All evidence originating from outside of China is required to be notarised and legalised and this process can in some countries take time to complete.

PARTICIPATION OF THE COPYRIGHT OWNER

In addition to supplying the necessary evidence to the copyright bureaux, right holders can also help the investigation by hiring their own private investigators to assist the local administration. Additionally, petitioners can provide a good deal of useful information, such as leads for investigators on factories, shipments, etc., and valuable training for local officials, particularly on detection techniques for sophisticated products. By working together in a close collaborative manner with local investigators and administration officials, the complaint procedure can proceed quickly.

APPEAL

An administrative appeal (from the city to the provincial level) is available when the local administration has rejected your complaint. Note that the appeal takes place under the Administrative Review Law that looks into the procedure used by the local administration at a lower level, not into the technical merits of the case. An administrative appeal by the defendant against the administrative order of infringement is also available.

To file an appeal, go to the provincial copyright administration for a consultation, and submit a written application with evidence. In some cases, you will be allowed to participate in the review of the procedure. A final decision should be forthcoming within approximately one month. Appeals are more likely to receive a sound attention in larger and more sophisticated localities than in more remote areas. Remember that the NCAC nationwide has only 300-400 employees, and so is particularly understaffed compared to other IP agencies.

If the petitioner or the defendant is dissatisfied with the decision made by the copyright administrations, it could also file an administrative case with the People's Courts for judicial review. The other party will be added to the court proceedings as a third party.

PENALTIES AND RELIEF

If the infringement is proven, the department can order the illegal party to stop infringing, confiscate all illegal income and destroy piratical reproductions, ask the illegal user to pay a fine "in accordance with his wrongdoing", and confiscate the material, implements and equipment used in the production of counterfeit goods.

Alternative administrative enforcement routes

It is worth noting that besides NCAC, other administrative departments also play an important role in enforcing your copyright:

- The General Administration of Customs (GAC) has the authority to seize imported goods which infringe copyright. Copyright owners may directly apply to Customs for seizing goods suspected of infringing a copyright. If a copyright owner has already recorded his or her copyright with the Customs, the Customs will voluntarily send a notice to the copyright owner when they suspect goods of infringing the recorded copyright. For more information on customs enforcement, please refer to the Roadmap for Intellectual Property Protection: Customs Enforcement in China.
- The General Administration of Press and Publication (GAPP) is responsible for stopping unlawful publications from being circulated in the market. Since most pirated books, phonograms and movies are not approved by the GAPP to be published, GAPP could confiscate and destruct those unlawful publications.
- All movies must get the permission from the State Administration of Radio Film and Television (SARFT) before they can be publicly showed or sold for home viewing. In addition, video sharing websites must obtain a "permit for transmission of audiovisual program via Internet" from SARFT, and they have a duty to make sure all the videos on their

However, rights holders should note that sometimes the factory against which the complaint is made also produces legitimate goods. If a complaint is accepted by the local administration, the entire factory may not be closed but only that part that makes fake products. This is particularly true if the factory is a large or important local employer.

Given that preliminary injunctions are not available, counterfeiters have adequate opportunity to remove the machinery used to produce fakes before a confiscation, return it once the complaint procedure is closed, or move it to another location.

LIABILITIES TO THE PETITIONER

In addition to the above-mentioned liability of providing evidence and assisting in the investigation, the petitioner may pay a small fee, if the local administration has such a regulation. There are no other real risks or liabilities.

websites are lawful. Therefore, copyright owners of cinematographic works can complain to SARFT when they find infringing videos on a video website, especially when the website does not have the permit mentioned above. SARFT could impose fines on the website, and telecommunication administration could close it.

- Any unit that wishes to make available over the Internet "cultural products" such as audio/visual recordings, computer games, comic strips, performance and artistic works, should apply for permit from the Ministry of Culture (MoCu), and shall not provide any unlawful content. In particular, importation of "cultural products" is subject to the Ministry of Culture's review and approval. Given the fact that most pirated on-line foreign computer games and comic strips are not approved by MoCu, and most of them are provided by those websites that fail to obtain the permit from the Ministry of Culture, the copyright owner could make a complaint to MoCu.
- The State Administration for Industry and Commerce (SAIC) has the responsibility to maintain the market order by issuing business licenses. Without a proper license, nobody is allowed to sell books, phonograms, computer software and movies. So local industry and commerce bureaus can stop an individual or unit without a proper license from trading copyrighted materials.

Major copyright legislation/interpretations (non extensive)

- Copyright Law, second amendment promulgated on 26 February 2010 and implemented on 1 April 2010.
- Interpretation by the Supreme People's Court (SPC) and the Supreme People's Procuratorate concerning Several Issues on the Specific Application of Law for Handling Criminal Infringement Cases upon Intellectual Property Rights, effective as of 5 April 2007.
- SPC's Interpretations concerning Several Issues in Application of the Law in the Trial of Cases Involving Copyright Disputes over Computer network (II), last amended on 20 November 2006 and effective as of 8 December 2006.
- Regulations on Protection of Rights of Dissemination on Information Network, promulgated on 10 May 2006 and implemented on 1 July 2006.
- Measures for the Administrative Protection of Internet Copyright, promulgated on 29 April 2005 and implemented on 30 May 2005.
- Regulation on the Collective Administration of Copyright, promulgated on 28 December 2004 and implemented on 1 March 2005.
- Regulation on the Protection of Computer Software, promulgated on 20 December 2001 and implemented 1 January 2002.
- The Implementing Measures for Administrative Punishment for Copyright Cases promulgated on 24 July 2003 and effective as of 1 September 2003.
- Regulation on the Implementation of the Copyright Law (Order of the State Council [2002] No.359), implemented as of 15 September 2002.
- SPC's Interpretation Concerning the Application of Laws in the Trial of Civil Disputes over Copyright (Fashi [2002] No.31), implemented as of 15 October 2002.
- Measures on Registration of Copyright over Computer Software, implemented as of 20 February 2002.
- Copyright Law, first amendment promulgated on 27 October 2001 and implemented on 1 December 2001.
- Measure for Registration of Copyright Pledge Contract, 23 September 1996
- Civil Law (implemented on 1 January 1987) and the SPC's Opinion on Several Issues concerning the Implementation of the General Principles of the Civil Law, effective as of 26 January 1988.
- Copyright Law, adopted on 7 September 1990 and implemented on 1 June 1991.
- Criminal Law (Amendment VI) implemented on 29 June 2006 (Section 7 "Crimes of infringement on intellectual property rights" in Chapter 3 "Crime to destroy the economic order")/Criminal Procedure Law (amendment) effective as from 1 January 2007 (Article 170)/the Stipulation concerning Several Issues in implementing the Criminal Procedure Law promulgated by SPC, the Supreme Procuratorate, the Public Security Bureau, the National Security Department, the Ministry of Justice, the Commission of Legal Affairs under the NPC Standing Committee, effective as of 19 January 1998.

China contact information

STATE INTELLECTUAL PROPERTY OFFICE (SIPO)

www.sipo.gov.cn (Chinese & English)

STATE ADMINISTRATION FOR INDUSTRY AND COMMERCE (SAIC)

www.saic.gov.cn (Chinese & English)

China Trademark Office (CTMO)

www.ctmo.gov.cn or <http://sbj.saic.gov.cn/> (Chinese & English)

NATIONAL COPYRIGHT ADMINISTRATION OF CHINA (NCAC)

www.ncac.gov.cn (Chinese only)

GENERAL ADMINISTRATION OF CUSTOMS OF CHINA (GACC)

www.customs.gov.cn (Chinese & English)

Shanghai Customs

www.shcus.gov.cn (Chinese & English)

Guangzhou Customs

<http://guangzhou.customs.gov.cn> (Chinese & English)

Tianjin Customs

<http://tianjin.customs.gov.cn> (Chinese only)

GENERAL ADMINISTRATION OF QUALITY SUPERVISION INSPECTION AND QUARANTINE (AQSIQ)

www.aqsiq.gov.cn (Chinese & English)

MINISTRY OF PUBLIC SECURITY (MPS)

www.mps.gov.cn (Chinese only)

SUPREME PEOPLE'S COURT (SPC)

www.court.gov.cn (Chinese)

China IP Judicial Protection, IPR tribunal

www.chinaiprlaw.cn (Chinese & English)

SUPREME PEOPLE'S PROCURATORATE (SPP)

www.spp.gov.cn (Chinese only)

MINISTRY OF COMMERCE (MOFCOM)

<http://www.mofcom.gov.cn> (Chinese & English)

IP Protection in China

www.ipr.gov.cn (Chinese & English)

Service Centres for IPR Protection, Reporting and Complaints

<http://jbts.ipr.gov.cn/tousu/eHome.html> (English)

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IPR2 is a partnership project between the EU and the PRC on the protection of intellectual property rights in China. This is done by providing technical support to, and building the capacity of the Chinese legislative, judicial and administrative authorities in administering and enforcing intellectual property rights; improving access to information for users and officials; as well as reinforcing support to right holders. IPR2 targets the reliability, efficiency and accessibility of the IP protection system, aiming at establishing a sustainable environment for effective IPR enforcement in China.



IPR2 co-operates closely with the European Union's China IPR SME Helpdesk. The China IPR SME Helpdesk is a European Union initiative, which supports European small and medium-sized enterprises (SMEs) with free information, training and first-line advice about protecting and enforcing their intellectual property rights in China. The Helpdesk offers practical information, training and workshops in Europe and China in order to assist European SMEs to make the right business decisions with regard to their China IPR matters.

If you are a European SME or SME representative body, for further information contact the European Union's China IPR SME Helpdesk:

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The European Patent Office (EPO) is the European implementing organisation for IPR2, and draws on expertise from its Member States in specific fields and the Office for Harmonisation in the Internal Market (OHIM) on trademark and design.

www.epo.org
www.oami.europa.eu



中华人民共和国商务部

MINISTRY OF COMMERCE OF THE PEOPLE'S REPUBLIC OF CHINA

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