

# **How to Protect Your Intellectual Property at Trade Fairs In China: Common Issues, Strategies and Enforcement**

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# Today's Speaker

**Name:** Naomi Saunders

**Firm:** Skills Development Scotland

**Location:** Edinburgh, UK

- Former China IPR SME Helpdesk Project Manager
- Based in Beijing for over 10 years
- Background in marketing for training industry
- Currently working with Scottish Government to develop and implement skills planning model for economic development



# Agenda

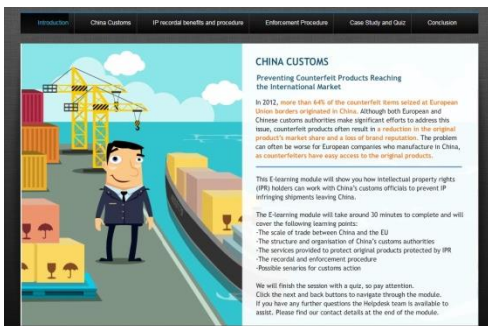
- Introduction to the China IPR SME Helpdesk
- Overview of IPR protection in China
- Why do trade fairs pose a risk?
- Preparation before the fair
- During the trade fair
- Follow-up actions

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- **First-line advice** on China countries IPR matters
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- Delivered by **China IPR specialists**
- Available for **EU SMEs and SME intermediaries**



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# Information & Materials

- Library of publications:
  - **IP specific guides**, incl. patents & trade marks
  - **Industry specific guides**, incl. textiles, machinery,
  - **Business guides**, incl. technology transfer
  - **Hong Kong and Macao Factsheets**
- Quarterly Helpdesk newsletters
- Article placement
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- E-learning modules
- Case study catalogue
- FAQs
- Helpdesk newsletters
- Event information
- Latest blog posts
- Helpdesk videos

[www.china-iprhelphdesk.eu](http://www.china-iprhelphdesk.eu)





# **How to Protect Your Intellectual Property at Trade Fairs In China: Common Issues, Strategies and Enforcement**

# Basics of IPR Protection in China

## First to file

- The first to register a right owns it
- Must own a right to enforce it
- Bad faith very difficult to prove
- Invalidity claims and litigation lengthy and expensive

## Geographical

- Registrations in Greece will not offer any protection
- Trade mark and patent applications can be extended to China but do not guarantee right

## Novelty

- Patents, including design, must be novel and not exhibited to the market
- Beware reverse engineering
- Government approved fairs have a six month grace period for trade marks

# IPR Risks at a Trade Fair

Companies underestimate risk to intangible assets

Potential for loss of rights to technology, design, brand

Exposure to trade mark squatters

Confusion in the market caused by counterfeits

# IPR Opportunities at a Trade Fair

Discover  
infringements and  
inform future  
strategy

Enforce rights via  
IPR complaint  
centre

Collect effective  
evidence for  
enforcement  
outside trade fair

Confusion in the  
market caused by  
counterfeits

# Preparation

- Look again at your trade fair strategy and consider what risks apply to your IPR
- Now is the time to register your rights – see Helpdesk website for resources
- For registered rights prepare documentary evidence: certificates, power of attorney for staff, information on known infringers
- Have key documents translated and notarised where necessary
- Train staff on maintaining confidential information
- Research who will attend and pay attention to the trade fair contract



# Document Checklist



**CHINA IPR  
SME HELPDESK**

**IP Strategy for European  
SMEs at Trade Fairs in  
China**

For free, confidential, business-focused IPR advice within three working days E-mail: [question@china-iprhelpdesk.eu](mailto:question@china-iprhelpdesk.eu)



**1. Introduction**

This guide provides a comprehensive guide to Intellectual Property (IP) strategy and protection before, during and after a trade fair or exhibition in China.

From a prevention point of view, although attending a trade fair or exhibition in China can reap substantial benefits, SMEs should be aware of associated IP risks and should understand that protecting IP at a trade fair requires preparation – often months in advance of the event.

From an enforcement point of view, European SMEs often report seeing counterfeit versions of their products displayed at exhibitions and want to act to prevent this infringement from taking place. However, if you discover that your product is being infringed – despite the fact that enforcement action is often available at trade fairs – using the opportunity to collect evidence for later action can be more effective than ‘catching’ the distributor at the fair. This is because the exhibitors present may not be the source producers.

Whether you decide to take enforcement action during or after a trade fair, thorough preparation before attending a trade fair should be integrated into a broader IPR enforcement and protection strategy.

**2** Before the trade fair: fail to prepare, prepare to fail

**3** Enforcement at the trade fair: be pro-active, not reactive

**4** How to file a complaint at a trade fair

**5** Enforcement after the trade fair: act on the information you have gathered

**6** Other trade fair risks

**7** Related links and additional information

**8** Checklist

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Enforcement : Checklist for documents needed for IP complaint at trade fairs		
	Document needed	
<input type="checkbox"/>	Identity certification of the complaint	
	<input type="checkbox"/>	Business license for company complaint
	<input type="checkbox"/>	ID card/passport for individual complaint
<input type="checkbox"/>	Power of Attorney	
<input type="checkbox"/>	IP ownership certification	
	Trade mark	
	<input type="checkbox"/>	Trade Mark Certificate
	<input type="checkbox"/>	Trade Mark Certification by CTMO
	<input type="checkbox"/>	Trade mark renewal document
	Copyright	
	<input type="checkbox"/>	Copyright registration
	<input type="checkbox"/>	Other document to certify copyright ownership
	Patent	
	<input type="checkbox"/>	Patent Certificate (a set of document including patent image, description, claim etc)
	<input type="checkbox"/>	Patent publication text
	<input type="checkbox"/>	Patent evaluation report
	<input type="checkbox"/>	Latest invoice for patent annuity fee
<input type="checkbox"/>	Infringement evidence	
	<input type="checkbox"/>	Basic information on the alleged infringer (name, booth number)
	<input type="checkbox"/>	Information on the alleged infringing products (promotional material, picture, sample etc.)
<input type="checkbox"/>	Complaint letter	
	<input type="checkbox"/>	Complaint form
	<input type="checkbox"/>	Other explanations
Disclaimer: In line with the Protection Measures of IPR during Exhibitions, the above 'check-list' only covers routine documents usually required by IP complaint centres. In the event of a particular scenario, for instance, you own a trade mark via license agreement, there will be additional requirements for documents. Please consult the Helpdesk or your local experts for details.		

# During the Trade Fair

Act quickly – The time frame for action is limited. If there is a known infringer visit their booth as early as possible

Visit the Complaint Centre/IP Office

Collect and notarise evidence. Collect business cards, brochures, samples and take photos

Evidence may not be accepted in China if not notarised so bring a notary for taking photos and purchase

Use information to decide enforcement strategy



# Enforcement: Now or Later?

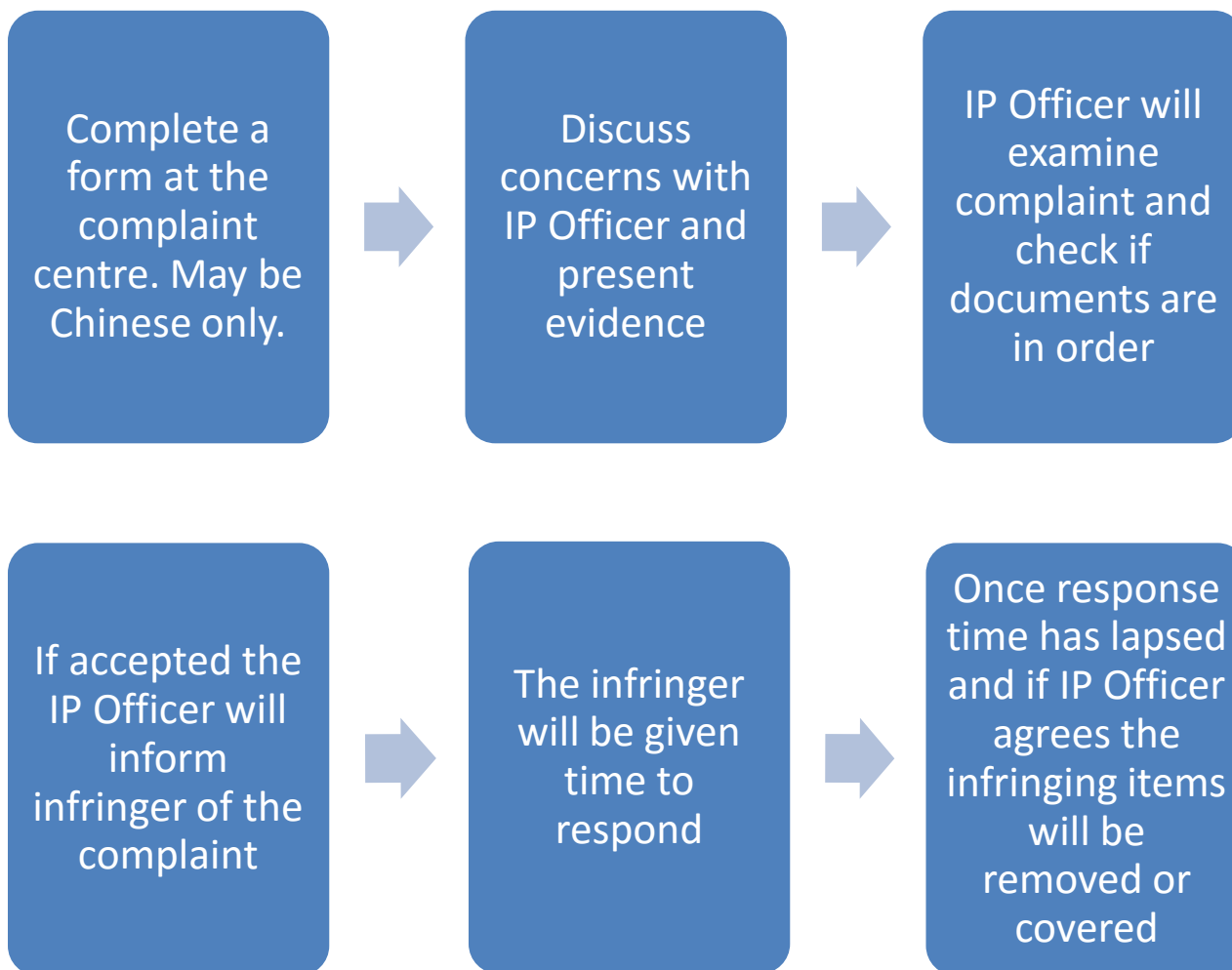
## Enforce via the Complaint Centre

- If successful may result in removal of goods from infringers booth
- No opportunity to seek damages or affect manufacturing
- Only possible if goods are offered for sale at the fair
- Must have all related certificates and documents in order
- Time frame is short for effective action

## Collect evidence for future enforcement

- If the company at the trade fair is only be a distributor, you can use evidence to pursue network
- You may be able to seek more permanent enforcement later
- Ensure any evidence collected is stored safely
- Consult with a China experienced lawyer or the China IPR SME Helpdesk

# Complaint Centre Process



# After the Trade Fair: Actions to Consider

Send Cease and Desist letters to known infringers

Keep records of information and evidence gathered

Consider business strategy in light of information collected at the fair

Consider administrative action or civil litigation

Manage your expectations. Small victories may be the best to expect

# Take-away messages



The **China IPR SME Helpdesk** provides **free, confidential, business-focused advice** to European Small and Medium Enterprises (SMEs) relating to **IPR** in China

❖ *Helpdesk Enquiry Service / Training & Events:* [question@china-iprhelpdesk.eu](mailto:question@china-iprhelpdesk.eu)

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groups

# Feedback Questions Discussion