

Intellectual Property Systems: China / Europe Comparison

China and European Union Member States are members of the World Intellectual Property Organisation (WIPO) and party to international agreements on protection of Intellectual Property Rights (IPR), namely the Paris Convention, Berne Convention and TRIPS (Trade-Related aspects of Intellectual Property Rights). Therefore the scope of protection of IPR (in relation to the types of rights, duration of protection, territory and basic protection requirements) is in principal the same in China and Europe. However, there are some differences which are useful to understand in order to efficiently manage your intellectual property in China. The table below gives a broad comparison between the Chinese and European IP systems¹, and highlights some of the main differences and similarities. For further information please contact our [IP Advisor](#) or refer to our [guides](#).

China	Europe
<p>Only registered IPR is protected If you have not formally registered your IP assets including: patents, utility models, design patents and trade marks in China you cannot enforce them.</p>	<p>Your IPR can be enforced even without registration Under certain conditions, proof of earlier use in European country markets should be sufficient to enforce unregistered IP assets.</p>
<p>Your IPR is only protected from the date of registration Your IPR is unprotected during the period between filing and registration. You can only start enforcement procedures once formal registration has been published.</p>	<p>Conditional protection is granted from the date of filing You can start enforcement proceedings of your IPR as soon as you have filed your application. However, if the IP application is rejected, your enforcement efforts are not recognised.</p>
<p>IPR is territorial This means that IPR registered in China is only protected in the territory of China and therefore is not protected in Europe.</p>	<p>IPR is territorial This means that IPR registered in a European country is only protected in that country and therefore is not protected in China.</p>
<p>Patents and trade marks can be extended internationally China is party to the Patent Cooperation Treaty and the Madrid System administered by WIPO. This can simplify the international extension procedure for patents and trade marks as formalities are done at your local IP office.</p>	<p>Patents and trade marks can be extended internationally European Union countries are party to the Patent Cooperation Treaty and the Madrid System administered by WIPO. This can simplify the international extension procedure for patents and trade marks as formalities are done at your local IP office.</p>
<p>Registration Patents, utility models and design patents are registered by the State Intellectual Property Office (SIPO). Trade marks are registered by the China Trademark Office (CTMO). Copyrights are registered by the National Copyright Administration of China (NCAC)</p>	<p>Registration Patents, utility models, designs and trade marks can be registered in every EU Member State separately within the Intellectual Property Office, a list of offices is available here: http://www.innovaccess.eu/ Some EU Member States provide for registration of copyrights, please check for availability of registration here: http://www.innovaccess.eu/</p>

¹ It is important to note that legislations and procedures as described in the table may differ among European Union Member States. The table above highlights some of the main differences between China (mainland China excluding Macau, Taiwan and Hong Kong) and Europe, however, it is important that you consult with your local IP attorney to get full and up to date information on IP laws in your country.

<p>Geographical indications are registered with the General Administration of Quality Supervision, Inspection and Quarantine (AQSIQ)</p>	<p>Trade marks and designs can be protected EU-wide within the Office for Harmonization in the Internal Market (OHIM).</p> <p>Patents can be protected in several EU Member States via single procedure at the European Patent Office (EPO).</p> <p>Geographical Indications are registered at the EU-level with the European Commission.</p>
UTILITY MODELS	
<p>Utility models are widely used forms of IPR for inventions in China</p> <p>While the scope of protection of utility models is similar to patents, utility models are granted faster and require no substantial examination.</p>	<p>Utility models, are less common in Europe</p> <p>Check with your national IP office here for similar protection as not all European Union countries offer this form of protection.</p>
TRADE MARKS	
<p>Only visual trade marks are recognised</p> <p>Only trade marks which are made up of words, graphics, a combination of both or 3D marks are recognised in China. China does not recognise new types of trade marks such as sound or scent trade marks.</p>	<p>Visual, sound and scent trade marks are recognised</p> <p>European Union Member States recognise not only visually perceived marks but also other types of marks such as sound and scent trade marks.</p>
<p>Although it is not required by Chinese laws it is useful to translate trade marks (composed of words) into Chinese in order to be better protected. <i>Click here for more information on how to choose a Chinese name.</i></p>	<p>European trade marks do not need translating into other European languages</p> <p>Trade marks composed of words in any European language do not necessarily need to be translated into different European languages.</p> <p>Please make sure that the mark which you intend to use does not have an adverse meaning in the local language.</p>
<p>Trade mark registration can take up to 2 years</p> <p>Even though trade mark registration in China is speeding up, you should note that you have no protection until the trade mark has been registered.</p>	<p>Trade mark registration can take from 3 months to 3 years</p> <p>Depending on the country of registration, your trade mark registration can take between 3 months and 3 years. However, your trade mark will have conditional protection from the filing date as long as your trade mark is eventually officially granted.</p>
<p>China uses the International Classification of Goods and Services</p> <p>China uses the International Classification of Goods and Services which is divided into 45 classes. Additionally, each of the 45 classes is divided into subclasses.</p>	<p>European Union countries use the International Classification of Goods and Services</p> <p>European Union countries use the International Classification of Goods and Services divided into 45 classes with no further division into subclasses.</p>
<p>If you wish to register a trade mark in a number of different classes, a separate trade mark application for each class should be filed</p> <p>For example, if you produce and sell ceramic tableware you will need to file two identical trade marks, one for ceramic tableware (class 21) and one for selling of goods (class 35).</p>	<p>If you wish to register a trade mark in a number of different classes you can use one application to cover several classes</p> <p>For example, if you produce and sell ceramic tableware you will have to register one trade mark covering class 21 and 35 (ceramic tableware, selling of goods).</p>

GEOGRAPHICAL INDICATIONS	
<p>European geographical indications/designations of origin are not protected in China</p> <p>However, it is possible to protect geographical indications/designations of origin as Chinese collective or certification trade marks, and protection can be granted over all types of goods and services.</p>	<p>European geographical indications/designations of origin are protected in the whole European Union</p> <p>The protection is limited to agricultural products and foodstuffs, namely: wines, cheeses, hams, sausages, seafood, olives, beers, breads, fruits, raw meats and vegetables. For more information please visit: www.innovaccess.eu</p>
DESIGNS	
<p>Designs need to be registered as design patents to be protected</p> <p>To qualify for protection, a design cannot be previously published and must be sufficiently distinguishable from other designs. Only after formal registration can you enforce your rights to a design.</p>	<p>Designs can be protected either as an unregistered Community design or as a registered design</p> <p>The European system gives you an option to have your design protected for three years from the date it was first made available to the public within the European Union without necessity of registration.</p> <p>If you however wish to have your design protected for more than 3 years you should register at the EU level or in your country.</p> <p>Usually designs that change often, such as in fashion, can still be protected even if unregistered, whereas the longer life designs should be registered.</p>
<p>Registered designs are protected for 10 years</p> <p>A design patent gives you the exclusive right to use or allow others to use your design in China for 10 years.</p>	<p>Registered designs are protected for 25 years</p> <p>A registered design gives you the exclusive right to use or allow others to use it for 25 years in the whole territory of the European Union or in particular the State where it was registered.</p>
COPYRIGHT	
<p>Copyright is protected from the date of creation</p> <p>You do not have to register a copyright to enjoy protection; however, registering your copyright is an option in China and is recommended.</p>	<p>Copyright is protected from the date of creation</p> <p>Only a few EU Member States provide copyright registration. You should keep a record of authorship and a date of establishment of a work of art in order to enforce your copyrights.</p>
CUSTOMS	
<p>Register your IP with customs</p> <p>In order for customs to monitor your products, you must register your IPR with Chinese Customs. Registration is subject to a fee and lasts for 10 years or until the IPR expires.</p>	<p>No formal registration with customs required</p> <p>In Europe, customs are obliged to monitor infringing goods without formal registration. You may request special monitoring of potential infringements of your IPR, free of charge for a period of one year.</p>
ENFORCEMENT	
<p>It is the responsibility of the IPR holder to collect evidence to be presented in court</p> <p>Courts will not order the suspected infringer to provide evidence of the infringement. It is the duty of the IPR holder to collect evidence of infringement, for which it is recommended to use an investigation company or a law firm.</p>	<p>The infringer can be ordered to provide relevant information and evidence to court</p> <p>In Europe the courts can help the IPR holder collect evidence by ordering the suspect infringer to provide relevant information and evidence.</p>

<p>All evidence must be submitted to court upon filing legal action Evidence submitted later during the proceedings may not be recognised by the court. All documents must be submitted in Chinese and have notary confirmations.</p>	<p>Evidence can be presented during the whole court proceedings All documents should be submitted in the official language of the court, and have notary confirmations if requested.</p>
<p>You can enforce your trade secrets in court and with administrative authorities Trade secrets are protected not only under civil and criminal laws but also under administrative law. Click here for more information on trade secrets.</p>	<p>You can only enforce your trade secrets in court Trade secrets are protected under civil and criminal laws. Trade secrets are not protected under administrative laws.</p>