

Made in China, But Who Owns the IP?

Hidden Intellectual Property Risks for EU Brands Using Chinese Manufacturers

Ms April WEI, 4 March 2026





China IP SME Helpdesk

ABOUT US

The Helpdesk in a nutshell

- Free initial business-focused advice to SMEs
- Raising awareness and preparing SMEs for IPR issues when internationalising their business
- Enabling SMEs to make informed IPR decisions

 100,000+ SMEs assisted to date

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FACTSHEET

- THE FACTS: Business in Mainland China for EU Companies**
 - Size of Market
 - Key INDUSTRY SECTORS
- IPR in Mainland China for SMEs: BACKGROUND**
 - Intellectual Property Rights for SMEs: Why is this RELEVANT to you?
 - How does Mainland China's IP legal framework compare to INTERNATIONAL STANDARDS?
- IP Rights in Mainland China: THE BASICS**
 - Copyright
 - Patents
 - Trade Marks
 - Geographical Indications (GI)
 - Trade Secrets
- Using CUSTOMS to block counterfeiters**
- Enforcing of rights**
 - Administrative actions
 - Civil Litigation
 - Criminal Prosecution
- RELATED LINKS and Additional information**

**IP Factsheet:
Mainland China**

**CHINA
IP SME HELPDESK**

For free, confidential, business-focused IP advice within three working days E-mail: questions@china-ipshelpdesk.eu

Guide

1. Introduction: OEM in China
2. Frequent IP issues in OEM
3. Including IP in your OEM contract
4. Case study
5. Take-away Messages
6. Related links and External References

**Guide to IPR
Protection in
China for the
OEM Industry**

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INTELLECTUAL PROPERTY ADVICE FOR YOUR BUSINESS



Six EU-funded helpdesks offer free resources to your small or medium-sized business to help you manage your intellectual property.

<https://ec.europa.eu/ip-helpdesk>





BVMW China

BVMW China Vorstellung

BVMW德国中心

六朝全球

BVMW Introduction

1975 found

300+ representative offices in Germany

85 oversea service centers

900,000+ SME members

35 cooperative association partners

2000+ large-scale conferences and events

The German Federal Association for Small and Medium-sized Enterprises
Bundesverband Mittelständische Wirtschaft

The Federal Association of Small and Medium-sized Enterprises (BVMW) is Germany's largest cross-industry business association, established with the support of the German government. It represents more than 900,000 small and medium-sized enterprises, including over 300 "Hidden Champions".

Widely recognized as "the Voice of Small and Medium-Sized Enterprises," BVMW has also established the German Economic Senate, whose members are independent entrepreneurs and institutional supporters. These include multinational corporations, state-owned enterprises, municipal and federal authorities, as well as universities, higher-education institutions, and research organizations.

Founded in 1975, BVMW has evolved over more than five decades into the largest self-organized SME business network in Germany—and one of the most influential in Europe. It is the German enterprise association with the largest membership base and a high degree of internationalization, maintaining active cooperation with more than 35 industry associations worldwide.

BVMW Platforms

Economic Cooperation

Market Entry & Investment
Facilitation



Education & Talent Development

Dual Education & Talent
Pipeline Development



Technology & Innovation Exchange

R&D Collaboration &
Innovation Ecosystem



Cultural Exchange

Trust Building & Cross-
Cultural Connectivity



Industrial Cooperation

Value Chain Optimization
& Industrial Upgrading



BVMW German Center @Shenyang



Gateway Workspace

Soft Landing & Daily Operations

- Shared Offices & Infrastructure
- Entry-Level Cost Reduction
- On-the-Ground Support

Economic & Market Intelligence

Research, Insights & Strategy

- Industrial & Policy Analysis
- Market Entry Scenarios
- Execution-Oriented Research

Ready-to-Market Showcase

Product & Technology Display

- Market Testing
- Partner & Client Identification
- Pre-Investment Validation

Market Operations & Training

Localization & Compliance

- Tax, HR & Compliance
- Policy Updates
- Operational Risk Control

Agenda-Driven Forums

Policy Dialogue & Industry Focus

- Sustainability
- Cost & Efficiency
- Supply Chain Resilience

Network & Cultural Integration

Community & Long-Term Trust

- Business Network
- Cultural Exchange
- Family & Expat Integration

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Speaker's Bio



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Ms April Wei is an IP Business Advisor at the China IP SME Helpdesk, where she supports European small and medium-sized enterprises (SMEs) on intellectual property (IP) strategy, protection, and enforcement in China. She holds a Master of Law in Intellectual Property and Competition Law from Munich Intellectual Property Law Center. Prior to joining the European Chamber, April worked as an Associate at a boutique IP firm in Sweden, handling trademark and industrial design prosecution, while also assisting with patent-related litigation and filings. She has also served as Legal Counsel at a French environmental multinational corporation, advising on APAC-wide legal and compliance matters, and worked as a Judge Assistant at one Internet Court in China. April's expertise spans IP issues in digital transformation, online infringement on e-commerce platforms, and international dispute resolutions including arbitration. Her past experience includes advising global corporations, research institutions, and SMEs across diverse sectors. She is fluent in both English and Chinese.



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01

Introduction

- What Does "Made in China" Really Mean to You?

The Common Perception	The Strategic Reality
Just an Origin Label	Legal Jurisdiction: Your products are subject to Chinese law the moment they are built.
Relevant only for Export/Customs	Supply Chain Exposure: Your molds, designs, and semi-finished goods are physically in China.
A cost-saving production step	IP Creation Zone: Where your prototypes can become someone else's patent.
Assumption: "No local sales = No risk."	Reality: "Manufacturing in China without IP registration is like building a house on land you don't own."

02

Made = Manufacture

- Scenario A: When "Made" Means Manufacture



EU brands outsourcing production to China; 100% of goods exported to EU/Global markets; Zero sales intention in China

- The Dangerous Myth: *"Since we don't sell in China, we don't need a Chinese trademark."*
- The Hidden Risks



Factory Squatting: The manufacturer registers your brand name first.



Mold Copying: Unauthorized "third-shift" production sold to other markets.



Supply Chain Blackmail: Being held hostage at customs or forced to pay "licensing fees" to your own supplier.



Case Study 1

- No Sales in China, But IP Gets Stolen

Action taken



The Background

- EU outdoor gear SME with established global sales.
- 100% production in Zhejiang, China
→ all goods exported to EU.
- No Chinese trademark registered; relied only on English Purchase Orders.
- After 5 years, the factory's affiliate registered the brand's trademark in China.

- (1) Factory recorded their trademark with China Customs
→ blocked the brand's exports.
- (2) Brand filed a Trademark Invalidation lawsuit claiming bad faith registration.
- (3) Sought alternative suppliers
→ required creating new molds from scratch.



Outcome

- > **Legal**: Won the lawsuit after 18 months; squatter's mark was canceled.
- > **Business**: Supply chain halted for 6 months; missed the critical Christmas peak season.
- > **Impact**: Suffered significant loss of sales and was forced to pay a settlement fee just to retrieve the original molds.



Lesson learnt

-  **Defensive Registration is Mandatory**
 - Register trademarks in China even if you don't sell locally to prevent squatting.
-  **Contracts ≠ Registration**
 - English contracts cannot override China's "**First-to-File**" system.
-  **Customs Control is Critical**
 - If you don't record your IP, someone else can use their rights to stop your goods at the border.

02

Made = Manufacture

- How to Secure Your Manufacturing Base



Register Early: File trademarks in core classes before mass production begins.



Contract Clauses: Explicitly state that molds, tooling, and drawings belong to the Brand Owner.



Customs Recordal: Proactively record your trademark with Chinese Customs to block counterfeit exports.



03

Made = Test & Prototype

- Scenario B: When "Made" Means Test & Prototype



Leveraging China's speed for R&D, 3D printing, prototyping, and small-batch trials

- The Dangerous Myth: *"It's just a prototype; we haven't launched yet, so no need for patents."*
- The Hidden Risks



Design Theft: CAD files leaked before market launch.



First-to-File Trap: Supplier files a design patent before you do.



Ambiguous Ownership: Unclear rights over joint improvements.





Case Study 2 - The "Stolen" Innovation

The Background

- Italian smart home startup sent CAD files to Shenzhen prototyping studio
- Only email confidentiality agreed — no signed NNN agreement
- No patent filed before sharing the design



Action taken

- (1) Tried to complain to the e-commerce platforms
→ rejected (no Chinese patent cert).
- (2) Attempted a trade secret lawsuit
→ weak evidence without formal contract
- (3) Forced to negotiate
→ bought back their own patent from studio



Outcome

- > *Product launch delayed by 3 months:*
 - missed market window.
- > *Cheap copies flooded Asia:*
 - undermined pricing strategy.
- > *Financial loss:*
 - buyback + legal fees + delay costs.



Lesson learnt

- 📄 *File Before Sharing*
 - Submit patent applications BEFORE sending any CAD or specs to China.
- 📄 *Use Chinese-Language NNN Agreements*
 - English NDAs are often unenforceable; must be localized with heavy penalties.
- 📄 *Segment Production*
 - Don't give one supplier the full design — split steps to protect core secrets.

03

Made = Test & Prototype

- Securing Your Innovation Pipeline



Priority Filing: File in your home country first, then claim priority in China within 6/12 months — or file directly in China immediately.



Localized Contracts: Sign Chinese-language NNN agreements.
English NDAs are often unenforceable in Chinese courts.



Control the Flow: Limit access to core technical secrets; keep critical assembly in-house or in a trusted jurisdiction.



04

Legal Landscape & Strategy - The Dangerous Misconception Debunked



Risk comes from manufacturing and access, not just sales



Infringing goods can be sold globally via cross-border e-commerce (Amazon, Temu, Alibaba) without ever entering the Chinese domestic retail market



Conclusion: If your supply chain is in China, your IP battlefield is in China.

04

Legal Landscape & Strategy - Navigating the New Landscape



Amended Trademark Law (Proposed)

- Crackdown on Bad-Faith Registrations (squatters).
- Increased punitive damages for infringement.
- Takeaway: The environment is improving, but you still need a registered right to benefit.



E-Commerce Platform Policies

- Platforms (Alibaba, Amazon, Temu) now strictly require Chinese IP Certificates for takedown requests.
- Takeaway: Without a Chinese trademark or patent, you have no leverage to remove fake listings

04

Legal Landscape & Strategy

- Your End-to-End IP Safeguard Strategy

1. Prevention

- Register Key IP (Trademark/Design).
- Sign Strong Contracts (Chinese NNN + IP Ownership clauses).

2. Monitoring

- Watch trademark gazettes for similar filings.
- Scan e-commerce platforms for unauthorized listings.

3. Response

- Platform Complaints: Fast takedowns (requires cert).
- Administrative Enforcement: Local raid by Market Supervision Bureau.
- Customs Recordal: Seize infringing goods at the border.

05 | Take-away messages



- ✓ Redefine Risk: "Made in China" (whether manufacturing or prototyping) is a high-risk zone.
- ✓ Registration First: Registration = Ownership. Do not rely solely on contracts



- ✓ Speed Matters: File patents before sharing any design files.
- ✓ Localize: Use Chinese contracts and adapt to local laws.
- ✓ Cost-Benefit: Prevention cost << Remediation cost.



- ✓ Contact the China IP SME Helpdesk ***question@china-iprhelpdesk.eu***

1-on-1 consultations



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