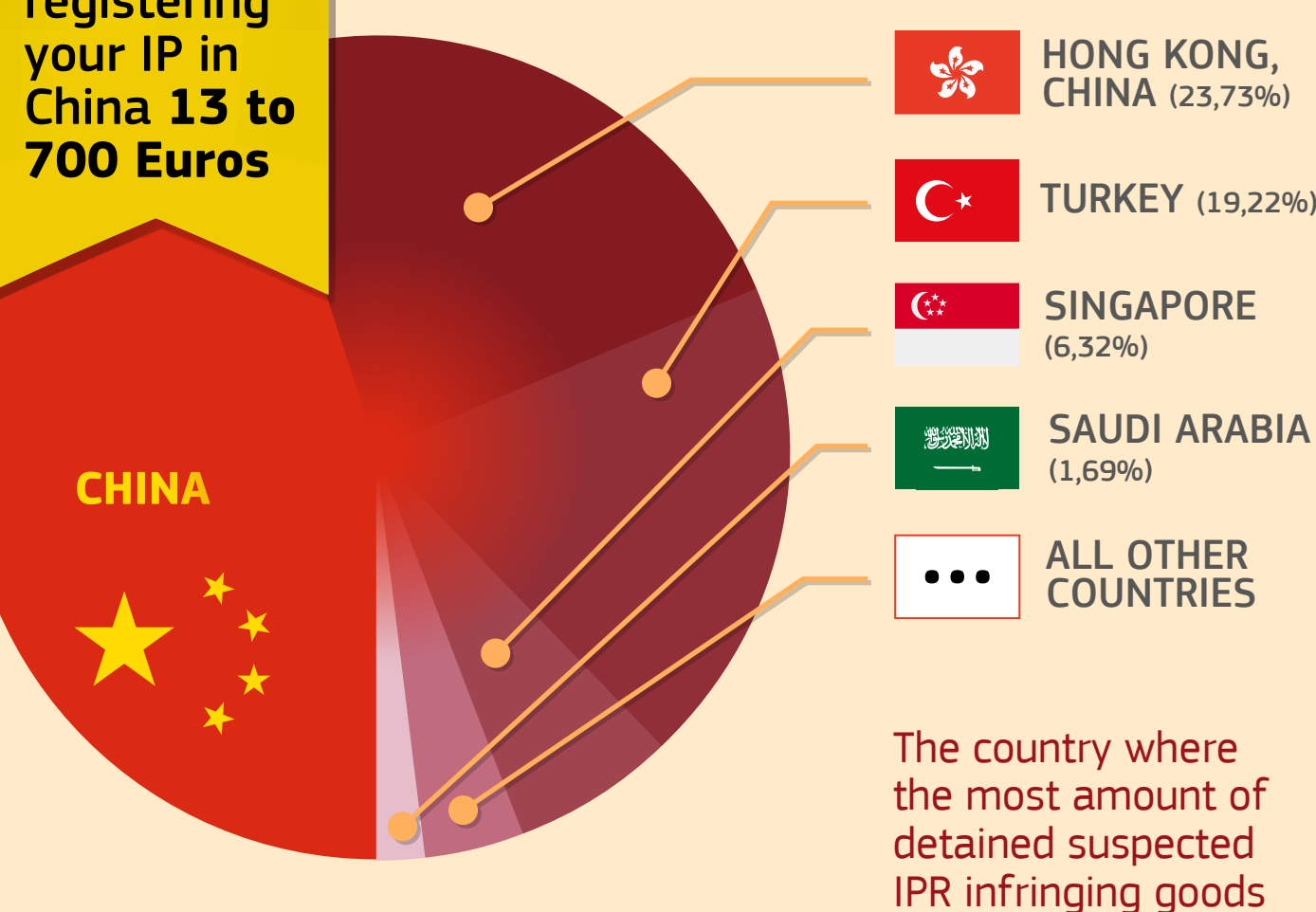


INTELLECTUAL PROPERTY LANDSCAPE IN CHINA

What are Intellectual Property rights?

Intellectual Property Rights are legally enforceable rights over the use of inventions or other creative works. They confer a right to exclude others from their use. This includes patents and utility models, design patents, trade secrets, trade marks, geographical indications and copyrights.



¹ 2020 Report : https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/observatory/documents/reports/2021_EU_enforcement_intellectual_property_rights/2021_EU_enforcement_intellectual_property_rights%20_FullR_en.pdf

The country where the most amount of detained suspected IPR infringing goods comes from still remains China¹

THE CHINESE MARKET

SIZE of Market



MAINLAND CHINA IS THE EU'S SECOND LARGEST TRADING PARTNER, AFTER THE USA

Mainland China is the EU's largest trading partner.

5.7 million

trade mark registrations per year. Amongst those 7553 were submitted via the international Madrid System filing route in 2020.

194 000

foreign trade mark registrations per year in China (2021).

79 000

batches of seized infringing goods (2021)



Fines for trade mark infringement are capped at either up to five times the illegal revenue or a fixed amount will be imposed by the AMR of up to RMB 250,000 (approximately EUR 34,300). Infringements where the value of goods surpasses RMB 50,000 (approx. EUR 6600) could face criminal liability.

Top tips on how to prevent intellectual property theft

Register your intellectual property rights in China. Unless you have registered your rights you have very few options to defend your rights in China.

Be vigilant. Patrol trade fairs and surf the various b2b and b2c websites (such as Alibaba, JD.com and Pinduoduo e-commerce platforms) on the lookout for infringing articles.

When you identify infringements, enforce your rights. If you build a reputation for being litigious then companies will be less likely to infringe your rights in future.

Build your case carefully. Ensure that you are taking action against the right company in the right form - consult with a local lawyer about what you want to achieve, i.e. gain compensation, stop infringing exports, or build a litigious reputation.

WHAT CAN YOU DO IF YOUR INTELLECTUAL PROPERTY HAS BEEN INFRINGED?

If you have been a victim of intellectual property theft, you can take the following four types of action

ADMINISTRATIVE ACTIONS

CUSTOMS

CIVIL LITIGATION

CRIMINAL SANCTIONS



IP WATCH OUTS

IP laws are territorial, meaning that IP is enforceable in China only upon valid domestic registration.

China applies a **'first-to-file system'** for IP registrations meaning that the party that first registers a creation will hold those rights, rather than the party that first uses it.

Chinese enforcement bodies generally require **extensive evidence of creation, use and ownership of your IP**, such as certificates, receipts, photos, designs, and contracts, to deal with cases most effectively.

Chinese IP laws are unsophisticated

China acceded to the World Trade Organisation in 2001 and overhauled its IP laws to bring them into line with WTO requirements.

The IP rights in China are of poor quality

Knowledge of intellectual property protection has grown since China's accession to the World Trade Organization in 2001, enabling it to develop and strengthen its intellectual property rights.

MYTH BUSTER!

IP Laws and poor enforcement favour domestic interests

There is no bias in the laws or the judicial system. Covering 21 economies, 48 countries and regions, China has signed AEO(Authorized Economic Operator) Agreements in the world to facilitate Customs clearance for companies.

Foreign parties cannot access the enforcement system

The cost of IP litigation is already low by international standards but by enforcing your IP rights through administrative actions, you can save even more costs.

HELPLINE

free, fast & confidential

3 days working

question@china-iprhelpdesk.eu

CHINA IP SME HELPDESK

<https://intellectual-property-helpdesk.ec.europa.eu/>

