

WEBINAR

- 2 SESSIONS

# IP Protection in Med Tech

15:00 - 16:00 11-Nov & 25-Nov

CHINA IPR  
SME HELPDESK



*Waiting for the organisers, the webinar will begin shortly...*

The logo for the Finnish Business Council Beijing (FBC) is located in the top left corner. It features the letters 'FBC' in a stylized blue font, with the Chinese characters '芬蘭商會' and 'BEIJING' in smaller text below it. The logo is set against a white, rounded rectangular background.

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Business in China – insights

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"Always nice to listen our members, and build up the strong bridge between Finland and China"



**Tommy Tang**  
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Sales and Marketing  
Director, Hooika  
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"Passionate about good things"



**Petka Pelja**  
Board member, FBCB  
Beijing Director, Detection  
Technology Oy  
"Willing to support FBCB's mission to help Finnish companies to succeed in China"



**Jenny Xiong**  
Board member, FBCB  
Global Business Advisory,  
PwC  
"Build trust in society and solve important problems"



**Ulla Nurminen**  
Board member, FBCB  
Released from SoD for acting as  
Executive Director  
CEO, Beijing Bluecloud Business  
"Challenges make life interesting  
overcoming them makes it meaningful"



# China IPR SME Helpdesk

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# Helpdesk free services

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## Guides & Factsheets



**CHINA IPR SME HELPDESK**  
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## IP Factsheet: Mainland China



**1. THE FACTS: Business in Mainland China for EU Companies**  
(Source: DG Trade)



**SIZE of Market:**

- EU exports to Mainland China: EUR 173.5 billion
- EU imports from Mainland China: EUR 299.9 billion
- Total trade in goods: EUR 473.4 billion

> Mainland China is the EU's second largest trading partner, after the USA.  
 > The EU is China's largest trading partner.

**Key INDUSTRY SECTORS:**

- > EU exports to Mainland China are dominated by machinery and equipment, motor vehicles, aircraft, and chemicals.
- > Mainland China's key export items to the EU include machinery and equipment, footwear and clothing, furniture and lamps, and toys.

**1. THE FACTS: Business in Mainland China for EU Companies**  
Key INDUSTRY SECTORS

**2. 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?

**3. IP Rights in Mainland China THE BASICS**  
A. Copyright  
B. Patents  
C. Trade Marks  
D. Geographical Indications (GIs)  
E. Trade Secrets

**4. Using CUSTOMS to block counterfeits**

**5. Enforcing your IP**  
Administrative actions  
Civil Litigation  
Criminal Prosecution

**6. RELATED LINKS and Additional Information**

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# Protecting Your Trade Secrets in China

Prevention is the key to protection.



## WHAT EXACTLY CAN BE A TRADE SECRET

SOMETHING THAT

- 1 is not publicly known
- 2 has commercial value
- 3 you took measures to keep secret

expressions of ideas

know-hows, manufacturing or design techniques

status of products or services under development

valuable business information, lists, cost and price information

**TRADE SECRETS**

## KEEP IT SECRET, KEEP IT SAFE

It is important to remember that once trade secrets become publicly known, they can no longer be protected as trade secrets.

**CONFIDENTIAL**

### DON'T FORGET YOUR EMPLOYEES

- Limit access and copying rights to the personnel who actually need it.
- Require all employees to sign an employment agreement with strict confidentiality provisions.
- Be sure to hold exit-interviews and have them return documents, materials, computers, and files.
- Establish an internal management system for trade secrets. Training and clear written guidelines are essential.

## DEALING WITH THIRD PARTIES

Business dealings or negotiations with third parties, potential partners, suppliers, contractors, licensees, or customers

**monitor** your partners, suppliers or licensees to make sure they are complying with your trade secrets protection policy

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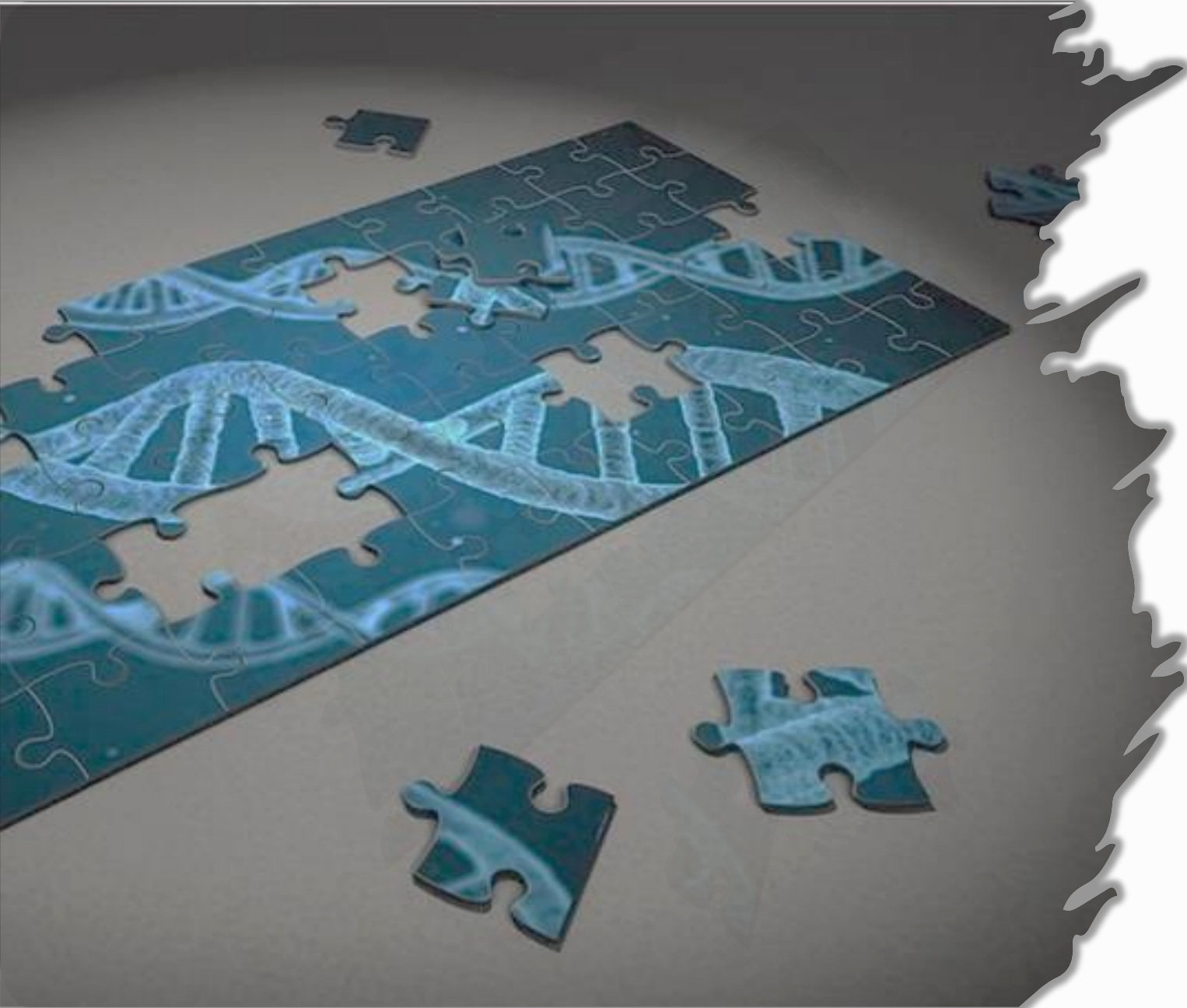
# Speaker's Bio



<i>Name</i>	<b>Matias Zubimendi</b>
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<i>Email</i>	<a href="mailto:matias.zubimendi@china-iprhelpdesk.eu"><u>matias.zubimendi@china-iprhelpdesk.eu</u></a>

Mr. Matias Zubimendi is the IP Business Advisor at China IPR SME Helpdesk, where he advises European SMEs on intellectual property rights matters. Mr. Zubimendi holds a Master's degree in Chinese Civil and Commercial Law from Peking University as well as a Master's degree in Intellectual Property Law from Austral University in cooperation with the World Intellectual Property Organisation. Mr. Zubimendi has a strong background in both business development and intellectual property rights protection, having previously worked as a China Business and Legal Consultant at Terragene, where he focused on business development and as a Director of Legal Affairs at Conquer Europe. Previously, he has also worked as a Patent and Trademark Attorney at Phoebus Abogados and Mazzeo & Canet, where he represented SMEs as well as Fortune 500 companies.

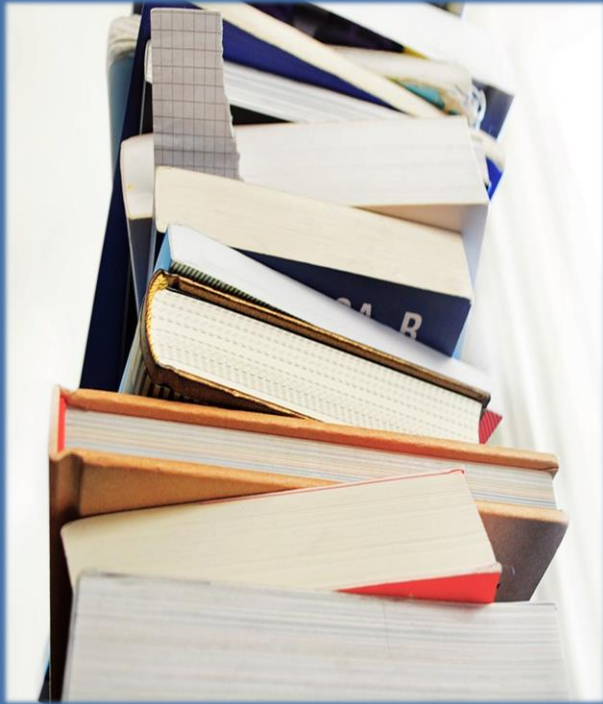
Mr. Zubimendi has given lectures at various conferences including the Ibero-American Conference on Chinese Studies and published several articles including *The legal protection of intangibles in the video games industry*. As a Professor Assistant, he has also given lectures on Commercial Law and Procedural law, while focusing on Copyright and AI in his research. Mr. Zubimendi is a native Spanish speaker fluent in English.



# Technical IP Protection in Medtech Industry

- Matias Zubimendi, 11.11.2020





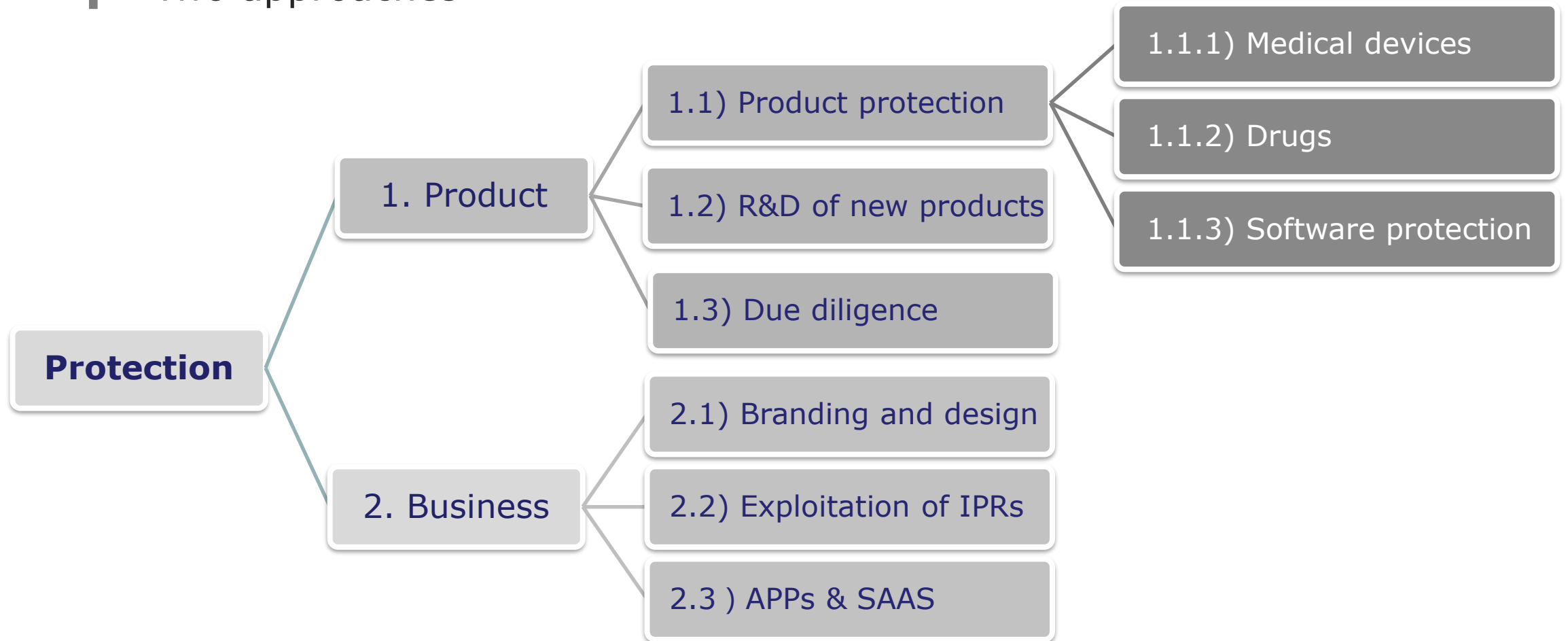
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01

# IPR in Medtech Industry

- Two approaches



# 02

## Introduction to IPR Intellectual Property Rights

### 1 Main intellectual property rights

- Innovation Patents & Utility models
- Design patents
- Trade marks
- Copyright
- Trade secrets
- Know-how

### 2 Main principles

- Registration
- Territoriality



#worldipday

# 03

## Product Protection

Alternatives for Protecting Your Products:

*Innovation Patents / Utility Models / Trade Secrets*



### Innovation Patents & Utility Models

- ? What can I protect with an innovation patent?
- ? How can I initiate patent registration?
  - China National Intellectual Property Agency (CNIPA)
  - PCT
- ? Requirements
- ? Difference between innovation patents and utility models
- ? Parallel registration

# 04

## Innovation Patents – Medical Sector Specifics



### 4.1

Methods for the diagnosis or treatment of diseases  
(art. 25 Patent Law)

- What exactly is out of protection?

### 4.2

Compulsory licenses  
(art. 50 Patent Law)

### 4.3

Non-infringement cases  
(Art. 69.5 Patent Law)

### 4.4

4th Patent Law Amendment modifications  
(2020)

- Pharmaceutical patent term extension
- Preliminary pharmaceutical patent linkage system
- Open license system

# 05

## Trade Secrets

– Keep your secrets secret



### 5.1

#### Basics

- Non-public information
- Requirements
- Protective measures
  - Physical
  - Legal
  - Electronic

### 5.2

#### Main danger for trade secrets: Bureaucracy

- Business permissions – CMA & CNAS Certificates
- Drug tests
- Academic papers

# 06 | Copyright



## Basics

- Expression of an idea
- Registration alternatives



## Software

- Copyright or patent protection



## Databases

- Copyright protection conditions
- Cyber Security Law – sensible information storage

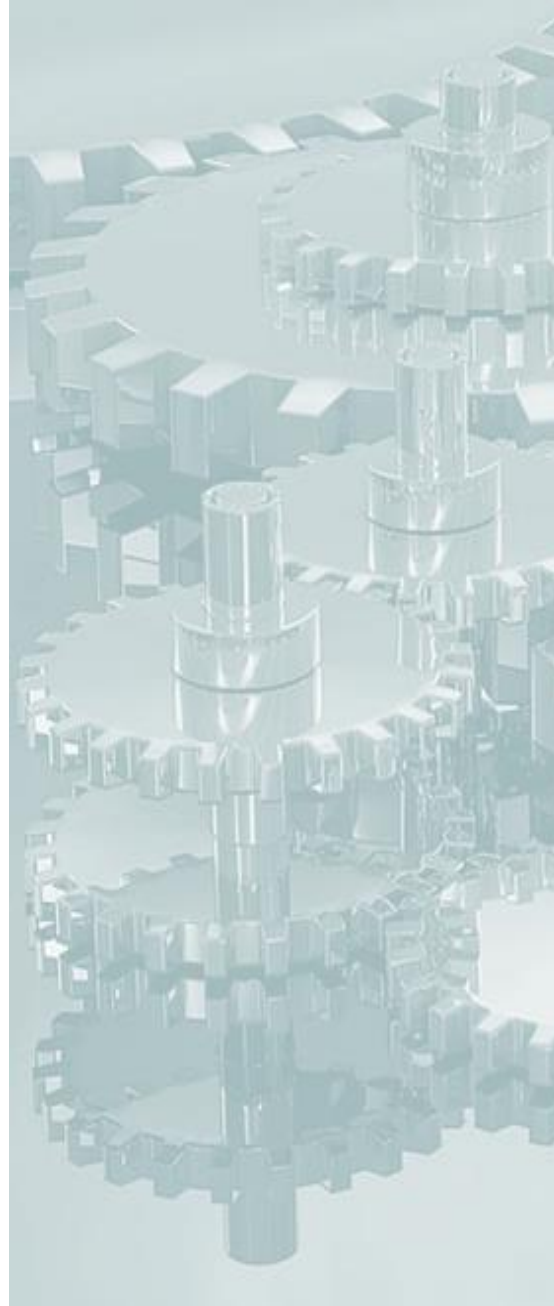
# 07 | R&D – Basics

## 7.1. Markets targeted

- Principle of territoriality
- Catalogues for export and import of technologies
  - Restrictions and prohibitions
- Foreign Investment Law (2020)
  - Restrictions and prohibitions

## 7.2. Who will develop the technology?

- EU SME
- Chinese Entity - fair compensation
- Joint work



## 7.3. Type of company

- WFOE
- Joint Ventures

## 7.4. Parties

- Inventors
- Partners – ownership rules

## 7.5. Employees – inventors

- Employee Handbooks
- Protocols
- Fair remuneration



# 07 | R&D – Ownership

## 7.6. Registration

- IPRs
  - EU entity
  - Chinese entity
- Technology transfer contracts
  - Tax benefits

## 7.7. Ownership possibilities

- Sole ownership of all the IPRs by the EU SME
- Sole ownership of all the IPRs by the Chinese partner
- Business partners
- Co-ownership, shared between the EU SME and the Chinese business partner.

## 7.8. Clauses to include in contracts for Co-ownership

- Licenses / cross licenses of accessory technologies
- Registration fees
- Enforcement
- Decision making
- Future developments
- Exploitations

# 08 | Due Diligence

## 8.1 Basics

- Concept
- Who can help?
  - Embassies
  - Chambers

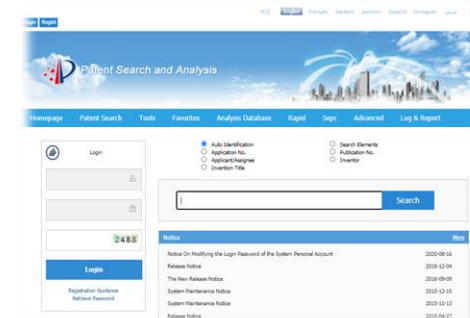
## 8.2 Tools

- National Certificates Databases
- National Enterprise Credit Information Publicity System website (<http://www.gsxt.gov.cn/index.html>)
- Patent Search on CNIPA web is [here](#)



## What should you pay attention to?

- Business scope
- Legal representative
- Shareholders
- Capital
- Type of Company
- Sanctions



# 09 | Takeaway Messages



## Product development

- ✓ Register your IPRs
- ✓ Avoid trade secrets if possible, protect them if not
- ✓ Remember the parallel registration
- ✓ Claim the extension of patent protection if there is delay



## R&D

- ✓ Have clear rules of ownership
- ✓ Protect future technologies
- ✓ Check the technology import / export catalogues in advance
- ✓ Train your employees and pay them fairly

# 09 | Takeaway Messages



## Due diligence

- ✓ Contact your Embassy and/or Chamber of commerce
- ✓ Study your partner in detail
- ✓ Check their IPRs and authorizations



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

# Questions?

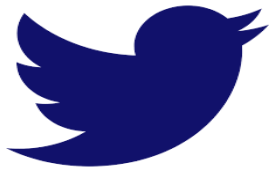
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*3 days*<sup>working</sup>

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## Stay connected!



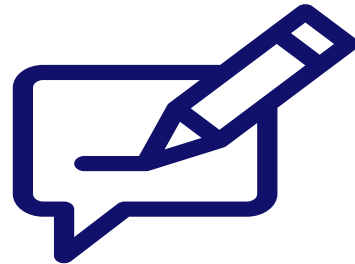
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