



LIFANG & PARTNERS
立方 律 师 事 务 所

Protection of Trade Secret during Technology Transfer in China

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Beijing | Guangzhou | Wuhan | Shanghai | Shenzhen | Seoul



P¹
PART

Overview

- **Technology information:** unknown to the public, business value, and protective measures
- **Protection scope:** media identified, contents shall be clarified
- **Acts prohibited**
 1. Obtaining through theft, bribery, fraud, coercion, electronic intrusion, and other improper methods of obtaining business secret;
 2. Disclosure, use, or allow other to use business secret obtained above;
 3. Breach of duty of confidentiality, or violation of requirement of confidentiality by right owner;
 4. Abet, induce, or assist others to violate the above, obtaining, disclosing, using or allowing others to use business secret.
- **Defense:** self-developed or reverse engineering; improper obtaining exception
- **Remedy:** injunction and damages (loss/gains/punitive damages/RMB 5,000,000)

➤ **Criminal threshold: Great loss**

Loss or gain: RMB 300,000/2,500,000

Causing right owner bankruptcy

➤ **Calculation of loss**

Reasonable license fee

Loss of sale profits of right owner

R&D costs and gains

Plus remedial costs

Reduced sale amount \times reasonable unit profit of owner's product

infringing sale amount \times reasonable unit profit of owner's product

infringing sale amount \times reasonable unit profit of infringing product

Reduced reasonable profits of owner

➤ **Sentence: maximum sentence 10 years**



**P²
ART**

Protections



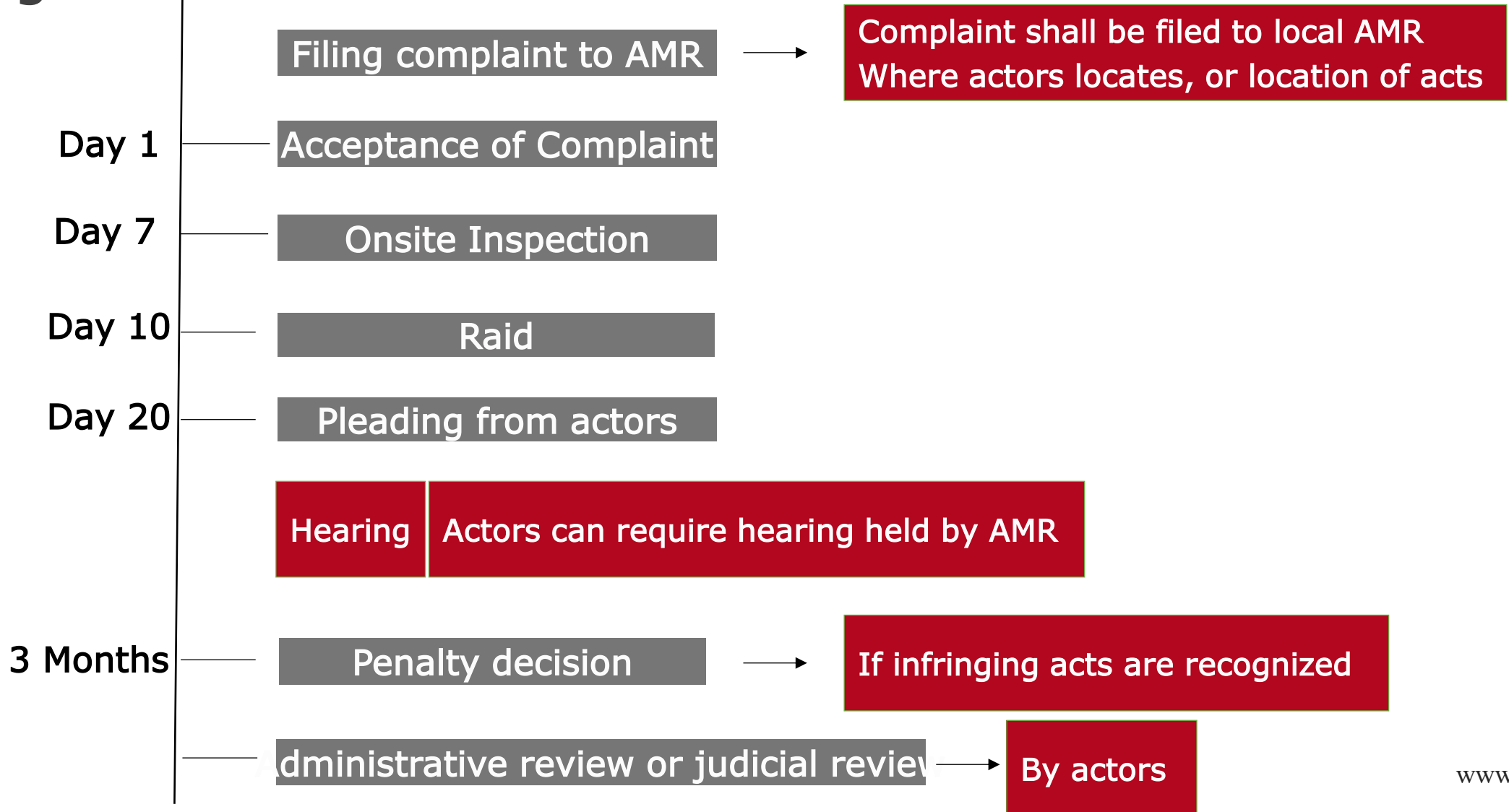
**Trade Secret Protection
in China**

Administrative
Protection

Civil
Litigation

Criminal
Protection

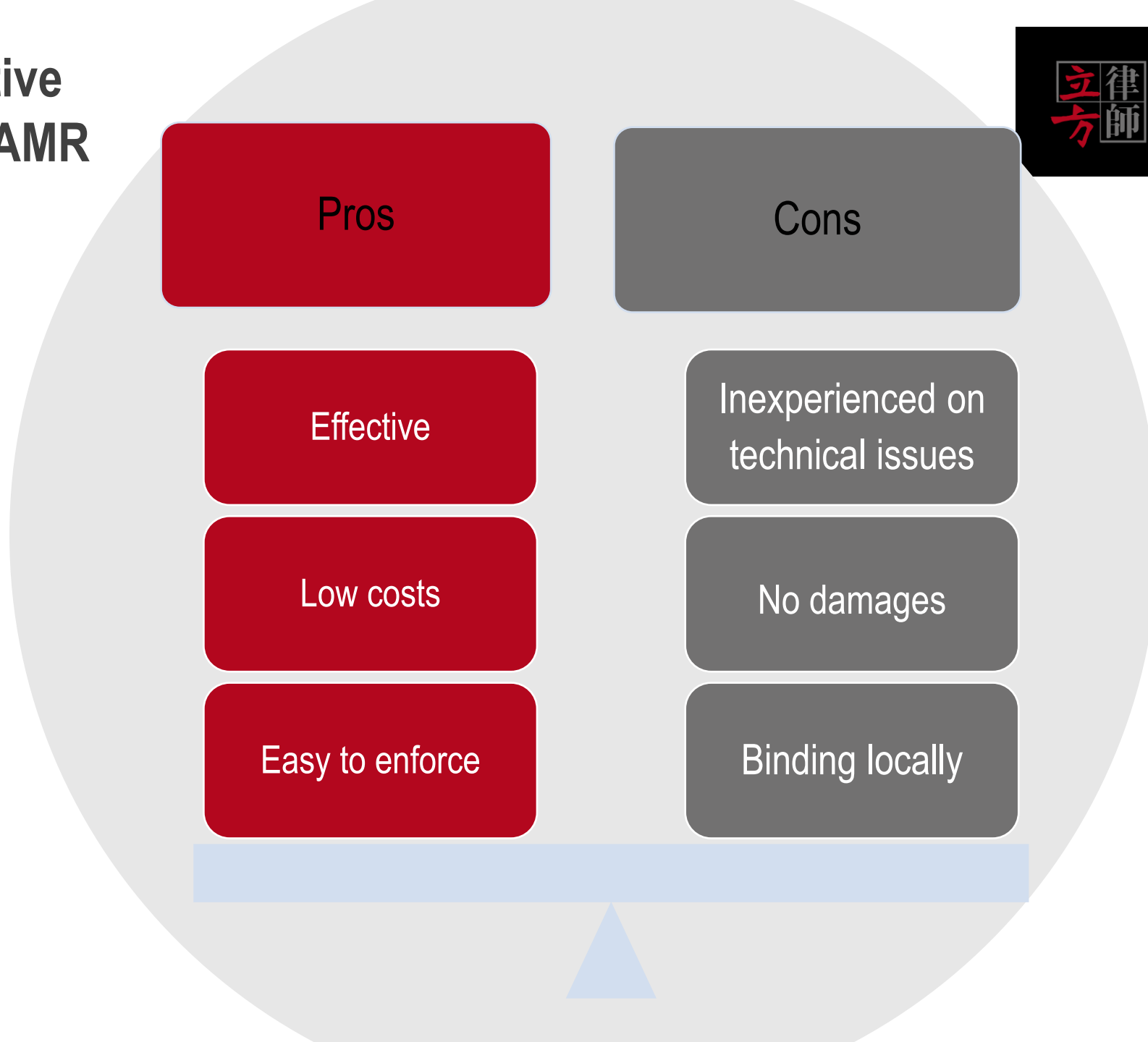
Administrative Raid Process by Administration for Market Regulation



Administrative Protection-AMR



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Pros

Cons

Effective

Inexperienced on technical issues

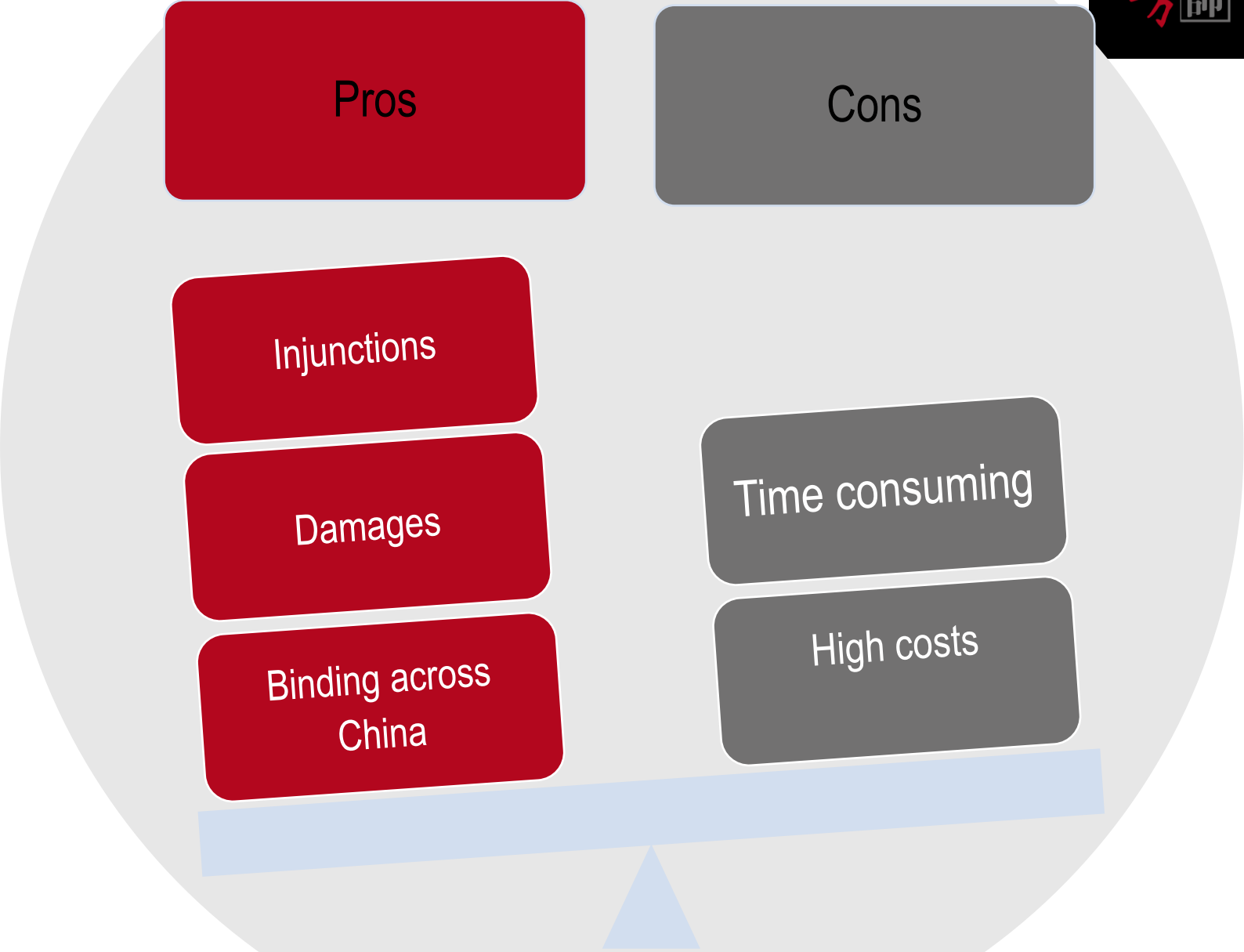
Low costs

No damages

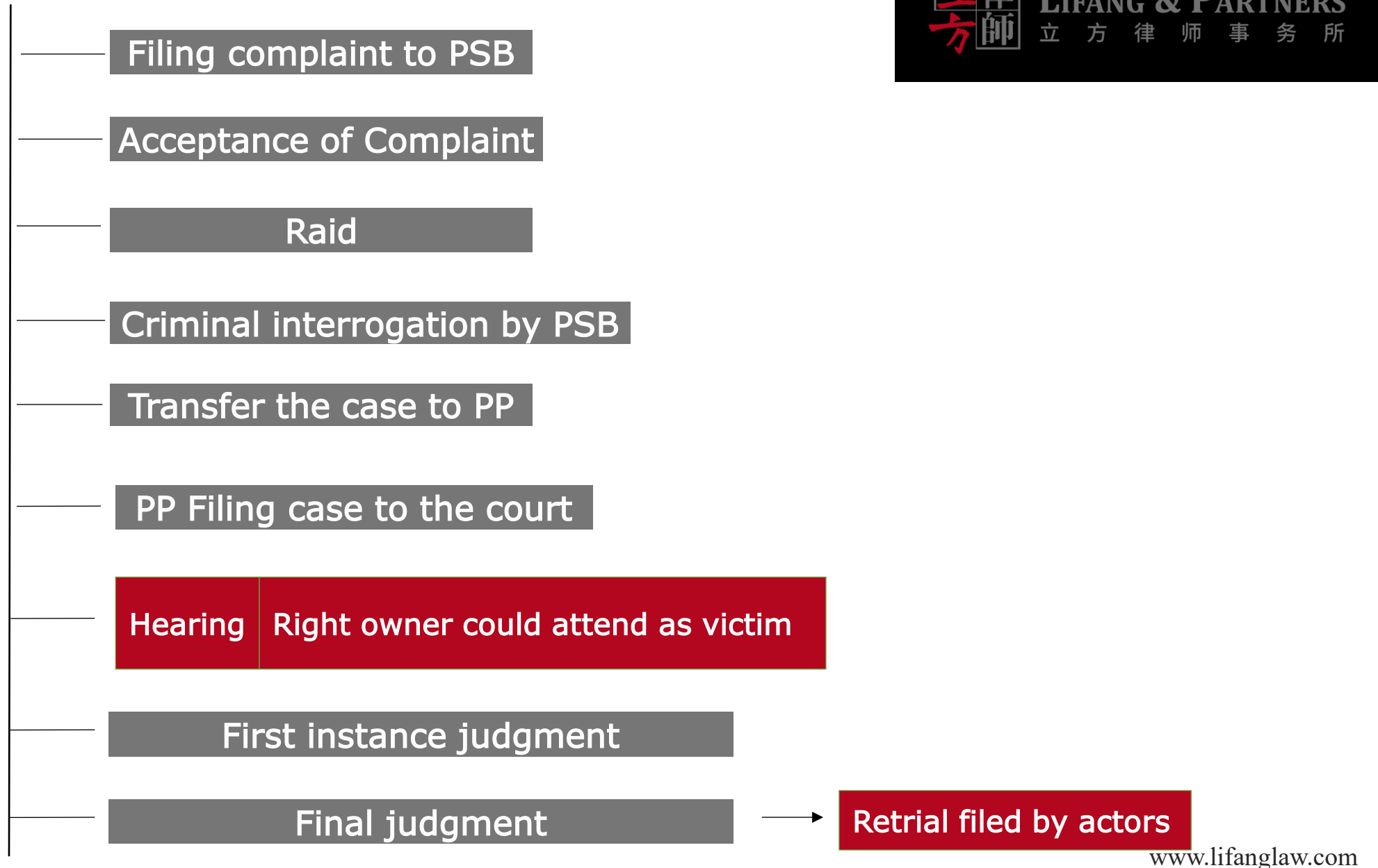
Easy to enforce

Binding locally

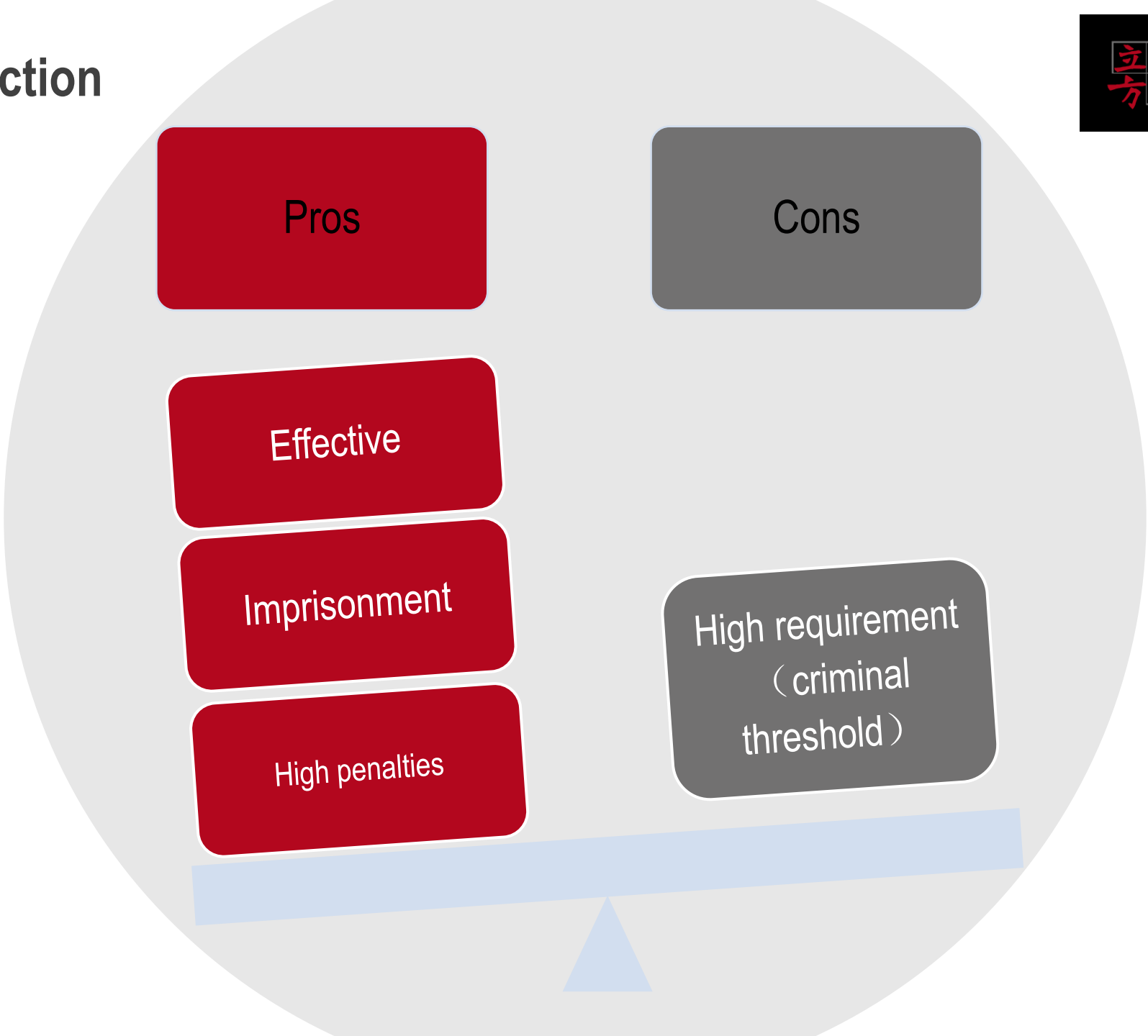
Civil Litigation



Criminal Proceeding



Criminal Protection





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