China’s National Intellectual Property Administration Releases Top 10 Cases of Administrative Trademark Adjudication

Article By
Aaron Wininger
Schwegman, Lundberg & Woessner, P.A.
China IP Law Update

- Administrative & Regulatory
- Corporate & Business Organizations
- Intellectual Property
- Litigation / Trial Practice
- China

Wednesday, May 5, 2021

On April 26, 2021, China’s National Intellectual Property Administration (CNIPA) released the Top Ten Cases of Administrative Trademark Adjudication (2020年度商标行政裁定案件). Administrative adjudication in China is an alternative to conventional civil litigation and can be quicker and less expensive than litigation. That said, generally only fines and injunctions are issued in administrative enforcement actions. Those seeking damages should file litigation at a People’s Court instead or in addition.

The following are approximate translations of the summaries of the cases and expert comments as published by CNIPA. The original text (Chinese only) is available here: 2020年度商标行政裁定案件.

Case 1

Maanshan Market Supervision and Administration Bureau of Anhui Province investigated and dealt with the case of infringement of the exclusive right to use “风车” and other registered trademarks
Brief Introduction

No. 753,230, "風車" trademark No. 639 160, “風" trademark No. 1,239,101 “風” are trademarks of Milani Co., Ltd. covering potato flour and corn flour. The trademarks are valid through June 27, 2025, 27th, April 27, 2023 and January 13, 2029, respectively.

On June 10, 2019, the Maanshan Market Supervision and Administration Bureau of Anhui Province inspected Maanshan Shangjia Food Co., Ltd. based on the complaint. After investigation, Shangjia produced “風" brand corn flour since September 2018, and the trademarks used for the above products are similar to the registered trademarks of Milani Co., Ltd.

On August 7, 2019, the case-handling authority determined that the parties concerned used trademarks similar to the registered trademark of Milani Co., Ltd. on the same goods, which could easily lead to confusion and constitute infringement under the Trademark Law of the People’s Republic of China. Shangjia shall be ordered to immediately stop the infringement, confiscate the infringing goods and unused packaging mainly used for the manufacture of infringing goods will be confiscated. An administrative penalty of 10,000 RMB was issued.

The parties refused to accept the administrative penalty decision and filed administrative reconsideration and administrative litigation successively. The Ma’anshan City People’s Government and the Ma’anshan City Yushan District People’s Court both upheld the administrative penalty decision. On October 28, 2020, the Maanshan Intermediate People’s Court rejected the appeal and upheld the original judgment. On December 30, 2020, the Anhui Provincial Higher People’s Court rejected the party’s request for retrial.

Expert Comment

The product involved in the case was food. The investigation and handling of the case effectively prevented the infringing food from flowing into the market and protected the people’s safety. The case-handling agency’s determination is accurate, and its similar trademark judgment idea is of reference significance for this type of case. The case went through administrative reconsideration and administrative litigation, and the decision on administrative punishment was finally supported by the judicial organs. This is of positive significance for creating a good business environment and enhancing the investment confidence of foreign-funded enterprises in my country. (Wu Dongping, Secretary General of China Trademark Association)

Case 2

Shanghai Pudong New Area Intellectual Property Office investigated and prosecuted the case of infringement of the exclusive right of “BORDEAUX” geographical indication trademark
Brief Introduction

The “BORDEAUX” trademark No. 19564618 is a collective geographical indication trademark registered on wine products by the Bordeaux Wine Industry Joint Committee. The trademark is valid until July 20, 2027.

On April 25, 2019, the Intellectual Property Office of Pudong New District of Shanghai was notified by the Market Supervision Bureau of Chengdu Municipality: The party concerned, Shanghai Feitong Trade Co., Ltd., exhibited the wine suspected of infringing the exclusive right to use the “BORDEAUX” registered trademark at the National Sugar and Wine Trade Fair. Upon investigation, from July 2018, the parties concerned entrusted Yantai Owelijiman Wine Co., Ltd to process and produce the series of “Burkraft” dry red wine, and the parties concerned shall provide wine bottles, wine covers, wine bottle stickers, internal and external boxes and other materials. The wine bottle label was provided by the parties concerned and was designed and produced by Shenzhen David Evangelical Packaging Design and Printing Co., Ltd. upon authorization, and then was affixed by Yantai Owelijiman Wine Co., Ltd. “BORDEAUX” was used by the parties on the stickers of wine bottles without authorization, and the illegal business revenue was 385,900 RMB.

The case-handling agency believes that the parties’ production and sale of the above-mentioned infringing goods constitutes infringement as stipulated in Paragraph 1 of Article 57 of the Trademark Law. Due to the large quantity of goods involved and the high value of the case, which had reached the standards for criminal prosecution, the case-handling agency transferred the case to the public security agency.

On June 4, 2020, the People’s Court of Shanghai Pudong New Area issued a criminal judgment in accordance with the law and sentenced the defendant Shanghai Feitong Trading Co., Ltd. to the crime of counterfeiting registered trademarks and a fine of 100,000 RMB; the defendant Zhuge XX (the actual controller of Shanghai Feitong Trading Co., Ltd. ) is guilty of counterfeiting a registered trademark and is sentenced to 1 year and 6 months imprisonment, with a probation of 1 year and 6 months, and a fine of 50,000 RMB; wines with counterfeit registered trademarks seized shall be confiscated; the defendant Zhuge XX is prohibited from engaging in food production, sales and related activities within during probation.

Expert Comment

Geographical indications are valuable resources and wealth of a particular region. The production and sale of commodities bearing counterfeit geographical indications will seriously damage the reputation of geographical indications and seriously damage the competitive advantages and other lawful rights and interests of the producers and business operators in specific regions. The protection of geographical indications is not only an embodiment of China’s fulfillment of international treaty obligations on the protection of intellectual property rights, but also an important measure for China to promote the rural revitalization strategy. It is held by some that the crime of counterfeiting registered trademarks does not include collective trademarks and certification trademarks. The investigation and handling of this case has clarified from an empirical perspective that a collective trademark of a
geographical indication counts as a crime of passing off a registered trademark, embodies the “same protection” of geographical indication trademarks both at home and abroad, and reflects the effective operation of the cross-regional cooperation mechanism for trademark administrative law enforcement in China and the effective connection between trademark administrative law enforcement and criminal justice. (Huang Pulin, Legislative Affairs Committee of the People’s Congress of Fuzhou, Jiangxi)

**Case 3**

The Zhangjiagang Free Trade Zone Market Supervision and Administration Bureau of Jiangsu Province investigated and dealt with the case of infringement of the exclusive rights of registered trademarks such as “EagleBurgmann”, “GRUNDFOS”, and “Grundfos”

**Brief Introduction**

The trademark “EagleBurgmann” No. G913774 is the registered trademark of EAGLEBURGMANN GERMANY GMBH & CO.KG on machinery parts, pumps, compressor seals and other commodities. The trademark is valid until August 25, 2026. The trademark No. 13760797 “GRUNDFOS” is the registered trademark of Grundfos Holdings (GRUNDFOS HOLDING A/S) on pumps (machines, engines or motor parts) and other commodities. The trademark is valid until August 20, 2025. The “Grundfos” trademark No. 7652880 is the registered trademark of Grundfos Pumps (Shanghai) Co., Ltd. on bearings (machine parts) and mechanical seals. The trademark is valid until October 20, 2025.

On June 9, 2020, in response to the complaint of the right holder, the Zhangjiagang Free Trade Zone Market Supervision and Administration Bureau of Jiangsu Province, together with the public security department, conducted a surprise inspection of 13 mechanical seal manufacturers and sales companies in the jurisdiction. A total of more than 200 seal products of various types, more than 1,000 packaging boxes, more than 30,000 forged labels and certificates, that infringed on the exclusive rights of registered trademarks “EagleBurgmann”, “GRUNDFOS”, and “Grundfos” were seized on the spot. Five sets of laser marking machines that forged registered trademarks and more than 20 computers were seized, and the amount involved was more than 6.59 million RMB. Subsequently, law enforcement officers went to Haikou, Changsha, Yueyang and other places based on the transaction evidence found on the spot to further investigate and collect evidence on the companies involved, and successfully destroyed a batch of counterfeit production and sales dens.

The case-handling agency determined that the company involved infringed under Article 57, Paragraph 1, Paragraph 2, and Paragraph 3 of the Trademark Law, and confiscated and destroyed the infringing products in accordance with the provisions of Article 60, Paragraph 2 of the Trademark Law. A total of 10.3492 million RMB in fines were imposed on the enterprises involved, and 7 parties from 6 enterprises suspected of crimes were transferred to the public security organs in accordance with the law. After the case was completed, the German Consulate General in Shanghai and the Danish Consulate General in Shanghai sent letters of thanks.
Expert Comment

The case involved the entire chain of production, processing, and sales of infringing goods. The law enforcement agency expanded from investigations of individual cases to centralized investigations in the same industry within its jurisdiction and expanded to a joint attack in multiple provinces across the country, and finally successfully eliminated the manufacture and sale of counterfeit products. The case involved a wide area, many companies involved, and multiple trademarks. The case was complicated. The administrative law enforcement agencies coordinated across regions cracked down on the entire chain and worked closely with the public security organs, which fully demonstrated the advantages of administrative protection. (Xu Shengquann, Director of Jiangsu Trademark and Brand Research Center)

Case 4

The Quanzhou Municipal Market Supervision and Administration Bureau of Fujian Province investigated and dealt with the case of infringement of the exclusive right to use the “FILA” registered trademark

Brief Introduction

Trademark No. 163333 “FILA” is a registered trademark of Manjing (IP) Co., Ltd. on clothing, shoes, socks and other commodities. The trademark will expire on October 14, 2022.

On July 24, 2019, law enforcement officers of the Quanzhou Municipal Market Supervision and Administration Bureau of Fujian Province investigated Shishi City Han Shixuan Clothing Trading Co., Ltd. and seized 13,920 sets of clothing marked with “EILA” in the warehouse. Upon investigation, the parties involved have been selling clothing marked with the “FILA” logo through Tmall stores since March 2019, and the illegal business volume totaled 7,738,500 RMB. The parties claimed that the clothing involved was purchased from Shishi Aoerqi Clothing Co., Ltd. and mobile stalls, but law enforcement officers verified that the company had been closed on March 25, 2019, and no mobile stalls were found. Also CNIPA rejected the application for the mark “EILA” on October 31, 2019 on the grounds of similarity to the preexisting mark No. 163333. During the investigation of the case, the right holder separately filed a civil lawsuit for trademark infringement, and then the parties reached a settlement agreement with the right holder.
On September 16, 2020, the Quanzhou Municipal Market Supervision Administration determined that the registered trademarks “EiLA” and “FILA” involved in the case were similar, which could easily lead to confusion. The actions of the parties involved constituted infringement as stipulated in Article 57, Paragraph 3 of the Trademark Law. Considering that the party violated the law for the first time, actively cooperated with the investigation, and reached a mediation agreement with the right holder, the bureau imposed a fine of 1 million RMB. Later, the party applied to the Quanzhou Municipal People’s Government for administrative reconsideration. On December 15, 2020, the reconsideration agency upheld the administrative penalty decision.

Expert Comment

In this case, the parties argued that they did not know that the infringing products were being sold and held that they should not be liable for compensation. The case-handling authority shall, in accordance with the relevant provisions of the Trademark Law, make a determination on accuracy. As to whether civil compensation and administrative punishment can be applied simultaneously, that is, the issue of concurrence of “one compensation plus one punishment”, considering differences in legal relations between the two adjudications, civil compensation is a legal relationship between equal subjects, while administrative punishment is to protect the exclusive right to use a trademark and maintain social public order. Therefore, in this case, although the parties reached a reconciliation agreement with the right holder at the stage of judicial proceedings, it could not be exempt them from their administrative liabilities. When imposing a penalty, the administrative organ comprehensively considered the circumstances of the party’s violation and imposed the corresponding administrative penalty, which was the specific expression of the principle of equivalent penalty for exceeding the penalty in the administrative protection of trademarks. (Wang Zhiyong, senior partner of Huiye Law Firm)

Case 5

Changchun City Market Supervision and Administration Bureau of Jilin Province investigated and handled the case of infringement of the exclusive right to use the registered trademark of “Harbin Pharmaceutical”

Brief Introduction

Trademark Nos. 10484474, No. 14419610, No. 3126576 for “Hayao” [Harbin Medicine] are owned by Harbin Pharmaceutical Group Co., Ltd. for goods including tonics, human medicines, ointments, Chinese medicines, vitamin preparations, etc. The term of exclusive rights for the registered trademarks will expire on May 27, 2023, July 6, 2025, and June 13, 2023, respectively.

On October 24, 2019, the Market Supervision Administration of Changchun City, Jilin
Province inspected the warehouse leased by Changchun City Pharmaceutical Distribution Co., Ltd. and found a large number of suspected infringing drugs. Upon investigation, on April 26, 2018, the Trademark Review and Adjudication Board of the former State Administration for Industry and Commerce ruled that the trademark “Hazong” was invalid because “Hazong” and “Hayao” constitute similar trademarks. The legal representative of Jilin Province Hazong Pharmaceutical Group Co., Ltd., the former registrant of the trademark “Hazong”, informed the business operator [of Changchun City Pharma] orally. The party, knowing that the “Hazong” trademark has been ruled invalid, still purchased a total of 389,400 boxes of drugs marked with the word “Hazong” from Jilin Province Yihong Pharmaceutical Co., Ltd. and other companies in April and May 2019. As of the time of the case, the parties had sold 170,34 thousand boxes, with a sales amount of 683,800 RMB, and the remaining 219,100 boxes had not been sold.

On March 16, 2020, the case-handling agency determined that the party’s act constituted infringement under Article 57, Paragraph 3 of the Trademark Law, and in accordance with Article 60, paragraph 2, of the Trademark Law, ordered the party to immediately stop the infringement, and imposed administrative penalties of confiscation of infringing goods and a fine of 500,000 RMB. The illegal activities of Jilin Province Yihong Pharmaceutical Co., Ltd. and other enterprises shall be dealt with separately.

Expert Comment

The judgment of similarity of trademarks is one of the keys to the determination of infringement in trademark infringement cases. The parties in this case know that “Hayao” is a well-known trademark, and still purchase drugs that use the “Hazong” trademark similar to the registered trademark of “Hayao” for resale, which may easily cause consumers to confuse, misidentify or misidentify the source of the goods to believe that its source has a specific connection with “Hayao”. The case-handling agency conducted investigations in a timely manner and applied laws accurately, effectively safeguarding the legitimate rights and interests of trademark registrants and the safety of consumers’ medication. (Yao Huanqing, Deputy Director, Civil and Commercial Law Science Research Center, Renmin University of China)

Case 6

Hangzhou Municipal Market Supervision and Administration Bureau of Zhejiang Province investigated and dealt with cases of infringement of the exclusive right to use registered trademarks such as “

Brief Introduction

Trademark No. 839916 “ is a registered trademark of Zhejiang Radio and
Television Group covering radio broadcasting, news agency, TV broadcasting and other services. After renewal, the exclusive right will expire on May 13, 2026. The trademark No. 7010742 " " is also a registered trademark of Zhejiang Radio and Television Group covering arranging and organizing conferences, radio and television program production, radio entertainment programs and other services. The exclusive right period is until January 20, 2022.

On November 22, 2019, the Hangzhou Municipal Market Supervision and Administration Bureau of Zhejiang Province received a report. The informant claimed that Hangzhou Jingxi Network Technology Co., Ltd. (hereinafter referred to as “Jingxi Company”) used it in an APP product promotion conference without permission. The “Zhejiang Satellite TV” name and " " logo were recorded in an interview video of the on-site promotion meeting and publicized it on the company's official website, WeChat, Weibo and other platforms. After investigation, it was determined that Jingxi Company entrusted Hangzhou Duoyifen Cultural and Creative Co., Ltd. (hereinafter referred to as “Duoyi Branch”) to organize the new product promotion conference in order to promote the APP, and requested the media of “Zhejiang Satellite TV” to be invited to interview on site. Because the events held by the parties did not meet the interview requirements of “Zhejiang Satellite TV”, according to the requirements of Jingxi Company, Duoyi Branch used the logo on microphones....

On July 7, 2020, Hangzhou Municipal Market Supervision Administration determined that the actions of Jingxi Company and Duoyi Branch constitute infringement as stipulated in Article 57, Paragraphs 1 and 2 of the Trademark Law, in accordance with the Trademark Law Article 60, paragraph 2, orders the parties to immediately stop the infringement, and fined them 200,000 RMB and 20,000 RMB for administrative penalties respectively.

**Expert Comment**

This case is a case of infringement upon the exclusive right to use a service trademark by using multiple Internet self-media platforms. In this case, the parties involved in this case broke through the scope of traditional mediums (commodity packaging or containers and commodity trading documents), used trademarks for advertising and other commercial activities on the current popular Internet self-media platforms, and the forms of infringement are diversified, fast spread, hard to conceal, cause great harm and difficult to obtain evidence. Law enforcement officers timely attained the evidence involved in the case, accurately confirmed the use of a trademark, effectively deterred the use of Internet self-media platforms to infringe upon the exclusive right to use a trademark, and accumulated useful experience in handling similar cases. (Du Ying, Director of the Intellectual Property Research Center of the Central University of Finance and Economics)
Case 7

Guangzhou Municipal Market Supervision and Administration Bureau of Guangdong Province investigated and dealt with the case of infringement of the exclusive right to use the registered trademark.

Brief Introduction

On October 11, 2018, Maiji Co., Ltd. in Taiwan in China sold cups, bowls, drinking straws and other products, tea beverages, smoothies, fruit ice and other products, non-alcoholic carbonated beverages, milk tea (non-milk based), and tea flavors. For non-alcoholic beverages and other commodities, teahouses, bar services, mobile catering services and other services, Maiji applied to the CNIPA for registration No. 33962075, No. 33962074, No. 33962073, No. 33962071 “ ” trademarks, which were approved on June 28, 2019. The exclusive right period is until June 27, 2029. The right holder has signed a trademark exclusive license contract with Shanghai Maji Catering Management Co., Ltd. (hereinafter referred to as “Maji Company”), authorizing it to use the above four trademarks, and the license period is until June 27, 2029.

In December 2019, the Guangzhou Municipal Market Supervision and Administration Bureau of Guangdong Province received a report from Maji Company, stating that many companies infringed on the registered trademark. After investigation, Guangzhou Xinbo Catering Management Service Co., Ltd., Tea Control Enterprise Management (Guangzhou) Co., Ltd., and McGee (Guangzhou) Catering Brand Management Co., Ltd. have used and other graphics similar to those of the registered trademark of the People’s Republic of China. The parties may open directly-operated stores, or recruit franchisees by charging franchise fees, and open similar milk tea shops across the country to make huge profits.

The case-handling agency determined that the party’s conduct constituted an infringement as prescribed in Paragraph 2 of Article 57 of the Trademark Law. In August 2020, the Guangzhou Municipal Market Supervision Administration of Baiyun, Liwan, and Panyu ordered the parties involved in the case to stop the infringement, confiscate the infringing items and tools, and imposed a fine of over 5.52 million
RMB in accordance with the second paragraph of Article 60 of the Trademark Law.

**Expert Comment**

In recent years, there have been increasing cases of trademark infringement by attracting franchisees and distributors. Some infringers use seemingly legal logos or packaging on beverages, snacks, cosmetics, and other commodities that are not exactly the same as others' registered and well-known trademarks, and promote them through the Internet to mislead consumers. This mode of infringement is highly concealed and can be seen everywhere in physical stores, but the source is difficult to find and occurs frequently across regions, and subjective maliciousness is obvious. In this series of cases, law enforcement agencies cooperated, actively investigated and collected evidence, and extracted key evidence such as franchise service fee transfer records, laying a solid foundation for the investigation and handling of the case and achieving good results. (Xiong Wencong, Associate Professor, School of Law, Minzu University of China)

**Case 8**

Beijing Chaoyang District Market Supervision and Administration Bureau investigated and dealt with the case of infringement of the exclusive right to use the “3M” registered trademark

**Brief Introduction**

Trademark No. 6246533 “3M” is the registered trademark of 3M Company in the United States on respirators, safety masks, protective masks and other products other than artificial respiration. The trademark will expire on April 27, 2030.

On January 26, 2020, the Beijing Chaoyang District Market Supervision Administration received public opinion monitoring information, reflecting that the “3M” mask sold by Kangbaixin Pharmacy was suspected of counterfeiting registered trademarks. The actual operating entity of the store is “Beijing Kangbaixin Haoyisheng Pharmacy Co., Ltd. First Branch”. Based on the preliminary investigation and inquiry, the Enforcement Corps of the Beijing Municipal Market Supervision Administration coordinated the investigation with the Beijing Municipal Public Security Bureau and arrested Li, the person in charge of the company. According to his confession, a total of 21,135 suspected counterfeit 3M masks were seized, which were recognized by the right holder as counterfeit.

The case-handling agency determined that the party's behavior constituted infringement as stipulated in Article 57, Paragraph 3 of the Trademark Law, and the clearly calculated illegal business revenue was 291,600 RMB, which met criminal thresholds. The Chaoyang District Market Supervision and Administration Bureau transferred the case to the public security organs in accordance with the law.

On June 19, 2020, the People’s Court of Chaoyang District, Beijing issued a first-instance verdict and sentenced Li to 15 years in prison and a fine of 4 million RMB for the crime of producing and selling counterfeit and inferior goods; his accomplices Li and Luo were sentenced to fixed-term imprisonment of 10 and 9
years, the fine was 3 million RMB and 2.5 million RMB respectively; recover the illegal income of the three persons, which was more than 3.3 million RMB. The three refused to accept the judgment of the first instance and appealed to the Beijing No. 3 Intermediate People’s Court. On August 21, 2020, the Beijing Third Intermediate People’s Court made a ruling, dismissing the appeal and upholding the original judgment.

**Expert Comment**

In the face of the sudden coronavirus epidemic in 2020, the market supervision department has made remarkable achievements in effectively stopping the price gouging of anti-epidemic materials and promptly investigating and punishing sellers of counterfeit and inferior anti-epidemic materials. As an important anti-epidemic material, masks are related to the lives, health and physical safety of the broad masses of people. After thorough investigations in this case, the agency that handled the case accurately determined the perpetrators and efficiently ascertained the facts involved. At the same time, it actively cooperated with the public security, procuratorate and other agencies to deal with the sale of counterfeit masks and other anti-epidemic materials that have serious violations, serious damage consequences, and bad social impacts. Severe crackdowns and transfer of criminal evidence involved in the case have played a good demonstration effect and deterrent effect. (Tao Jun, Intellectual Property Court of Beijing Higher People’s Court)

**Case 9**

Shanghai Municipal Market Supervision Administration investigates and handles the case of illegal application for registration of the “火神山” trademark

**Brief Introduction**

Wuhan Huoshenshan Hospital was established on January 27, 2020, with a unified social credit code of 12420100MB1B8439XP.

The Shanghai Municipal Market Supervision and Administration Bureau initiated investigations into illegal activities in its jurisdiction based on the notice of the CNIPA on the rejection of epidemic-related trademarks such as “Vulcan Mountain” [a Wuhan hospital set up during the initial stages of the epidemic] and the clues to the cases assigned. After investigation, on February 18, 2020, Shanghai Diqi New Material Technology Co., Ltd. entrusted Shanghai Jiacheng Trademark Agency Co., Ltd. to apply for the registration of 2 trademarks for with the application numbers 44122152 and 44118486. Regarding the qualitative issues of the case, the case-handling agency actively discussed with the Shanghai Intellectual Property Office, and then the Shanghai Intellectual Property Office requested instructions from the CNIPA for opinions.
On April 22, 2020, in accordance with the comments of the CNIPA and combined with the specific circumstances of the case, the Shanghai Municipal Market Supervision Administration determined that the party’s application for the registration of the “…” trademark violates Item 8 of Article 10 of the “Trademark Law” and the “Regulations on the Trademark Application and Registration Acts” Article 3, Item 6 that has adverse effects, and also violates the Trademark Law Article 32 and the “Regulations of Trademark Application Registration Acts” Article 3, the acts that damage the prior rights of others referred to in the four items. In accordance with Article 68, Paragraph 4 of the Trademark Law and Article 12 of the “Regulations on Trademark Registration Acts.” The case-handling authority shall impose an administrative penalty of a fine of 10,000 RMB on the party concerned, and give a warning to the agency and the person in charge thereof and impose an administrative penalty of 80,000 RMB and 50,000 RMB on the parties concerned respectively.

Expert Comment

“Some people are saving lives, but some are rushing to register trademarks.” During the new crown pneumonia epidemic, individual applicants rushed to register trademarks related to the epidemic, such as “Vulcan Mountain” and “Thunder Mountain” [the two initial hospitals built in Wuhan to handle the coronavirus epidemic], which caused widespread concern and produced adverse social impacts. In accordance with the guidance of the CNIPA, the case-handling agency responded quickly, accurately, and intensively investigated and dealt with illegal applicants, agencies and their responsible persons. At the same time, it adhered to the principle of combining punishment with education and strengthened education for the enterprises involved. The investigation and handling of this case reflects the enforcement efforts of the trademark law enforcement agencies during the anti-epidemic period. The investigation and handling of this case showed the strength of law enforcement by the trademark law enforcement department during the epidemic period, and made all walks of life have further understanding of the illegality and harmfulness of maliciously registered trademarks, have a stronger deterrent effect, and have made positive contributions to the fight against the new coronavirus. (Lin Haihan, Secretary General of Shanghai Trademark and Brand Association)

Case 10

Huzhou City Market Supervision and Administration Bureau of Zhejiang Province investigated and dealt with the case of infringement of the well-known trademark “Yongyi”

Brief Introduction

Trademark No. 15340604 “Yongyi” is the registered trademark of Yongyi Furniture Co., Ltd. (hereinafter referred to as “Yongyi Company”) on furniture, seats, chairs (seats) and other commodities. The trademark is valid until October 28, 2025.
On April 24, 2020, Yongyi Company complained to the Market Supervision Bureau of Huzhou City, Zhejiang Province that Anji Shengfeng Furniture Fittings Factory (hereinafter referred to as “Shengfeng Furniture”) used the trademark “Yongyi” identical with its registered trademark on the seat springs produced and sold by it without authorization, which misled the public and impaired the interests of Yongyi Company, and requested the protection of a well-known trademark and prohibited it from use. On April 28, the Huzhou City Market Supervision and Administration Bureau opened a case for investigation and found that from November 2019, Shengfeng Furniture had produced a total of 240 boxes of 19,200 seat springs bearing the trademark “Yongyi”. As of the time of the case, a total of 210 boxes of 16,800, with a total sales revenue of 37,000 RMB, and there were 2,400 remaining boxes in stock. After preliminary verification and examination, Huzhou City Market Supervision Administration held that although the seat springs were not similar to the commodities approved for use with the above registered trademarks, the seat springs, as parts and components of the seats, had a relatively high degree of overlap in terms of manufacturers, sellers, consumers and other aspects, were relatively strong in relevance, and the trademark “Yongyi” had a relatively high degree of popularity among the relevant public, and Shengfeng Furniture was prone to mislead the public and damage the interests of the trademark registrants, this case falls under the circumstances as prescribed in paragraph 3 of Article 13 of the Trademark Law. In accordance with Article 11 of the Provisions on the Determination and Protection of Well known Trademarks, the Request for Instructions on the Determination of Well known Trademarks and the duplicate of case materials shall be submitted to the Zhejiang Provincial Intellectual Property Office on May 14. The Zhejiang Provincial Intellectual Property Office, upon verification and examination, believes that the application conforms to the relevant provisions and, in accordance with Article 12 of the Provisions on the Determination and Protection of Well known Trademarks, submits it to the CNIPA for determination of well-known trademarks. On August 5, the CNIPA approved and determined that the trademark “Yongyi” used on the commodities of Class 20 chairs (seats), seats and furniture is a well-known trademark.

On August 30, 2020, the Market Supervision Administration of Huzhou City issued an administrative punishment according to Article 72 of the Regulation on the Implementation of the Trademark Law of the People’s Republic of China, ordering the parties concerned to stop using the trademark “Yongyi” on the seat springs, and confiscate and destroy the boxes marked with the trademark “Yongyi”, and report the handling results to the CNIPA level by level as required.

Expert Comment

The Trademark Law revised in 2001 clearly expanded the protection of well-known trademarks, and the Trademark Law revised in 2013 further improved the regulations on the identification and protection of well-known trademarks. In 2019, the CNIPA issued a special document to strengthen the protection of well-known trademarks, clearly requiring local bureaus to protect well-known trademarks in a timely manner. The “Yongyi case” is a typical case of timely protection of well-known trademarks. The entire process of handling this case lasted only four months, and it was successful. The well-known trademarks were protected in a timely and effective manner, and good law enforcement effects and social response were obtained.
2020年度知识产权行政保护典型案例发布

发布时间：2021-04-26
字号：大 中 小 分享：

为深入贯彻党中央、国务院关于全面加强知识产权保护的决策部署，指导提升办案质量与效率，有力震慑知识产权违法行为，积极营造良好的营商环境，在2021年全国知识产权宣传周期间，国家知识产权局发布了2020年度知识产权行政保护典型案例。

经案例遴选、网络投票和专家评审等环节，国家知识产权局最终评选出2020年度专利行政保护十大典型案例和商标行政保护十大典型案例。其中，专利案例涵盖发明、实用新型、外观设计三种专利，案件类型涉及专利侵权纠纷行政裁决、假冒专利查处、专利侵权假冒人资格纠纷调解；商标案例涵盖药品商标、服务商标、地理标志集体商标，案件类型涉及查处商标侵权假冒、商标一般违法、侵犯驰名商标等违法行为。这些典型案例具有较高的代表性、关注度和影响力，展现了近年来我国在全面加强知识产权保护、充分发挥行政保护优势，有力震慑违法行为、持续优化创新和营商环境等方面取得的成就。

© 2021 Schwegman, Lundberg & Woessner, P.A. All Rights Reserved.

National Law Review, Volume XI, Number 125

Source URL: https://www.natlawreview.com/article/china-s-national-intellectual-property-administration-releases-top-10-cases