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INTELLECTUAL PROPERTY

Trademark and Unfair Competition: Latest Legislative Developments and Selected Cases

2025
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Regulatory Developments

IP Policy

The State Council issued the 15th Five-Year Plan for the Protection and Utilization of Intellectual Property Rights, underscoring the strategic role of intellectual property in driving national development and its pivotal role in garnering international competitiveness.

The China National Intellectual Property Administration (CNIPA) released its 2026 *Work Plan for Administrative IP Protection*, vowing continued action against bad-faith filings and trademark hoarding, stricter regulation of trademark use, and enhanced protection for GIs and foreign-related IP matters.

The Supreme People's Court issued the Implementation Plan for Judicial Protection of Intellectual Property Rights (2026–2030), setting priorities for IP adjudication nationwide, including ramping up protection in emerging fields, creating unified jurisprudence, improving the remedy regime, and better handling disputes arising from new technologies and business models.

Trademark

The revised Trademark Law was adopted on June 26, 2026, and will take effect on January 1, 2027. (QR Code 1)

- Strengthening trademark use requirements
- Stepping up efforts against malicious trademark registrations
- Tightening regulation of the use of registered trademarks
- Strengthening trademark protection
- Streamlining and adjusting procedural rules
- Strengthening oversight of trademark agencies and agents

Comparison Table of 2019 and 2026 version of Trademark Law (QR Code 2)

The CNIPA has started amending the Implementing Regulations of the Trademark Law.

Regulatory Developments

Anti-Unfair Competition

The revised *Anti-Unfair Competition Law* (AUCL) has entered into force since October 15, 2025. (QR Code 3)

SAMR Notice on Further Implementing the Anti-Unfair Competition Law (March 2026) underlines

- strengthening regulation of online unfair competition,
- intensifying enforcement against prevalent and rampant misconduct such as passing off, false advertising and trade secret misappropriation, and
- exploring the extraterritorial application of AUCL rules.

SAMR issued the *Provisions on Trade Secret Protection* (Feb 2026), which aligns with higher-level laws such as the AUCL, introduces remedies targeting trade secret misappropriation in the context of digital economy, and enhances the operability of enforcement through improved procedures and penalties.

IP General

The Supreme People's Court (SPC) issued the *Interpretation on the Application of Punitive Damages in the Trial of Civil Cases Involving Infringement of IP Rights* (April 2026), providing clearer guidance on applicability, procedural requirements, and calculation methodologies for punitive damages. (QR Code 4)

The State Council issued the *Regulation on Counteracting Unjustified Extraterritorial Application of Foreign Laws* (2026), together with the *Regulations on the Handling of Foreign-Related IP Disputes* (2025), aiming to create a fair and impartial legal environment for cross-border dispute resolution, support the oversea growth of Chinese companies and shield the interests of those with oversea economic engagement from the harm of infringement.

Scan the QR codes on the back cover for more details

Practice Highlights

Trademark Law

Bad Faith

- **"Schiff" case (WHD)** — even if the accused mark has been cancelled for non-use, the parallel invalidation proceedings may still proceed.
- **"Vetements" case** — The argument that the mark was pre-emptively registered does not stand, but the registration may still be found to have been obtained by other improper means.
- **"MUJI" case** — the applicant's subjective intent may be assessed based on its overall pattern of trademark filings, rather than solely on conduct before the filing date.

Public Interest

- **"Biquge 笔趣阁" case (WHD)** — signs associated with piracy or illegal activities cannot be registered as trademark for adverse social impact.

Deceptiveness

- **"Zeekr 极氪" case (WHD)** — deceptiveness should be assessed from the perspective of the relevant public. Zeekr's "极氪" trademarks are registrable.
- **"DERMOVATE" case (WHD)** — a mark is not deceptive where it does not mislead the relevant public as to the nature or characteristics of the goods.

Distinctiveness

- **"Pink & White 洁柔" case** — inherent distinctiveness of a figurative mark is assessed at the time of filing based on whether it can function as a source identifier to the relevant public, and its actual use and manner of use shall have no bearing on this assessment.
- **"The Tragedy of Lord George" case** — distinctiveness assessment shall be benchmarked against the perception of the relevant public for the designated goods/services.

WKTM

- **"Tmall" case** — the cat-head device has formed a stable association with the "天猫" word mark, and their reputation can mutually reinforce each other.

Non-use Cancellation

- **"FOX" case** — Where a mark as actually used differs from its registered representation and resembles more of another party's trademark, such use is neither proper use nor genuine use of the registered trademark.
- **"WORX" case** — Where a trademark owner, which has multiple registered trademarks with similar components, has been using a sign without changing the distinctive features of the contested trademark, such use still constitutes use of the contested trademark.
- **"Thor" cases** — use on goods in subcategories may be sufficient to maintain registration.
- **"Little Devil" case** — even before the publication of revocation for non-use, no retroactive judicial protection should be granted.

Likelihood of Confusion

- **"Guo Zi Shu Le 果子熟了" case** — highly distinctive or well-known marks enjoy broader/stronger protection (lower tolerance for similarity).
- **"Jin Wei 津威" case (WHD)** — confusion may be found beyond the limits of goods classification, based on the presence of actual market confusion.

"Dupe" / Clones

- **"Atour 亚朵" case** — Adding "Clone" to another party's trademark constitutes infringement. In absence of objective necessity, such use does not qualify as descriptive use.
- **"Huawei 华为" case** — combining terms like "compatible" or "generic" with third-party brands may constitute trademark infringement.

Exhaustion / Product Alteration

- **"Louis Vuitton" case** — where the goods have undergone a material alteration, the exhaustion of rights no longer applies.

AI-Related/Virtual Goods

- **"Apollo" case** — a highly reputed trademark for an autonomous driving platform may be cited to block registrations on vehicle accessories.
- **"George Patton" case** — virtual goods may be found similar to real-world goods.
- **"Tongyi Qianwen 通义千问" case** — SaaS services and software products may be treated as similar in infringement analysis.

Conflicts of Rights

- **"Tommy Hilfiger" device case (WHD)** — trademark similarity and copyright similarity follow different assessment standards.
- **"Puma" case** — a design patent application shall not be granted where the applicant's own registered trademark, as used in a modified form in the design, is similar to another party's prior trademark and is likely to cause confusion or misidentification.

Defences

- **"兔の力" case** — use of a mark having been declared invalid to infringe another's trademark cannot be defended by invoking the non-retroactivity provision under Article 47(2) of the Trademark Law.
- **"Tian Tian 天天" case** — subsequent registration does not legalize prior infringing use.

Criminal Enforcement

- **"Essilor" case** — clarified standards for counterfeiting registered trademark and calculation of illegal gains in cross-border e-commerce.
- **"Dior" case** — service marks, like goods marks, are subject to the same threshold in establishing criminality and shall receive equal protection under criminal law.
- **"Universal Studios" case** — proof of actual loss to the right holder is not required in establishing criminality for counterfeiting service marks.

Prosecutorial Intervention

- **"Lussac-Saint-Émilion" case (WHD)** — a living example showcasing the full procedural pathway, including retrial and procuratorial protest, in remedying trademark disputes.
- **"Hua Mei 华美" case (WHD)** — the difference of prior use as defense and as basis of invalidation.

Expertise Makes It Possible

Anti-Unfair Competition

Bad-faith Filings

- **"Refa 黎珐"（WHD）/ "Little Elephant Tina 小象缇娜" / "Hengkang Jiaye 恒康佳业" / "Xiao Xiao Te Gong 小小特工" / "Hao Taitai 好太太" / "Morphy Richards 摩飞" cases** — courts increasingly rely on AUCL to curb abusive trademark filings.
- **"Bull 公牛" case** — company name registration may qualify as "use" under AUCL.
- **"蓝妹" case** — Bad-faith pre-emptive trademark registration constitutes unfair competition; trademark agencies involved in such bad-faith filings may be liable for contributory infringement.

Trade Dress / Product Design

- **"Mizone 脉动"（WHD）/ "Casio" cases** — expiry of design patents does not preclude protection under AUCL.
- **"Tripp Trapp" case** — functional elements do not automatically exclude trade dress protection.

Hidden keyword

- **"Dianmao 点猫" case** — hidden keyword use may constitute unfair competition if it leads to confusion.
- **"Diexun 蝶讯" case** — hidden keywords does not constitute unfair competition where there is no likelihood of confusion and it does not harm others' lawful rights or disrupt market order.

Long-arm Jurisdiction

- **"DOC" case** — foreign trademark rights do not automatically bar AUCL claims. Unfair competition disputes primarily occurring within China and targeting Chinese entities fall under the jurisdiction of Chinese courts.
- **"SUNOVA SOLAR" case** — a bifurcated approach: IP ownership governed by place of protection, while liability subject to chosen law.

QR Code 1

QR Code 2

QR Code 3

QR Code 4

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