

Michelin's well-known trademarks protected against use for pet food and pet hospital

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Michelin tyres and the *Michelin Guides* are the two core product lines of the Michelin Group. The increasing popularity of Michelin in China recently led the company to take enforcement measures not only against tyre manufacturers or restaurants and catering businesses, but also against pet-related products and services.

Pet food case

In 2020 Michelin discovered that several types of cat and dog food product were sold with packaging bearing signs such as MICHELIN, MICHELIN SERIES, MICHELIN PAROTID GLAND, 米其林 (the Chinese equivalent of MICHELIN), 米其林法餐系列 ('MICHELIN French cuisine series') and 米其林法餐T系列 ('MICHELIN French cuisine T series').





After investigation, it was found that three companies were involved: Shanghai Tang Shi Mei Jia International Trading Co Ltd, Shandong Han Ou Biotechnology Co Ltd and Hangzhou Chong Mei Trading Co Ltd.

In December 2021 Michelin sued the three companies before the Hangzhou Intermediate People's Court, requesting cross-class protection for its well-known trademarks 米其林 (MICHELIN in Chinese) and MICHELIN, registered in Classes 12 (tyres) and 16 (*Michelin Guides*).

In December 2022 the court issued a judgment ((2021) Zhe 01 Min Chu No 3020) determining that the trademarks MICHELIN and 米其林 registered in Class 16 are well known and that the defendants had infringed such trademarks. The court ordered the defendants to pay an aggregate amount of Rmb500,000 to compensate Michelin for its economic losses, splitting the liabilities among the defendants according to their respective activities in terms of production and sales.

In the judgment, the court determined that, although the infringers were using their own trademarks on the infringing products, the presence on pet food of Michelin's trademarks, which are famous in relation to the rating of high-end restaurants, was likely to harm the reputation of Michelin's trademarks. The court thus ordered the defendants to make a public announcement in that respect.

The above judgment is final.

Pet hospital case

In 2021 Michelin discovered that a company called Jiu Chong Pet Hospital was using the words ‘米其林宠医’ (‘Michelin Pet Hospital’) on its signboard and interior decoration, as well as in its online store.



In December 2021 Michelin sued Jiu Chong Pet Hospital before the Hangzhou Intermediate People's Court on the basis of its trademarks MICHELIN and 米其林, registered in Class 12 (tyres), claiming cross-class protection for its well-known trademarks.

In December 2022 the court issued a judgment ((2021) Zhe 01 Min Chu No 2931) determining that 米其林 and MICHELIN in Class 12 are well-known trademarks, and that the use of such marks for a pet hospital constituted an act of infringement. Damages were awarded in an amount of Rmb100,000.

The above judgment is final.

Comment

The above two judgments are new milestones in the protection record of Michelin's well-known trademarks, with the court confirming that their scope of protection may cover very different types of activities, such as pet-related goods and services.

In the pet food case, the court also found that using a trademark known for high-end human dining on pet food damaged the reputation of the trademarks and ordered the defendants to publish a statement to eliminate the negative impact of their actions. In practice, there are not many cases in which courts assent to such request. For example, in the Jindian sanitary

product case ((2019) Yu 01 Zhi Min Chu No 1097), the court found that the JINDIAN trademark, registered for milk, constituted a well-known trademark; therefore, the defendant's use of JINDIAN on sanitary products weakened the distinctiveness of the plaintiff's JINDIAN mark and improperly utilised the market reputation of that mark. However, the court did not support the plaintiff's request that the defendant should publish an apology statement to eliminate the impact of its actions. Therefore, the Hangzhou Intermediate People's Court's findings and judgment in the pet food case will have a strong referential significance for similar cases.