



# China Intellectual Property Law

## 目录 ≥

PART I – TEXT.

#### TRADEMARK.

A1: Trademark Law of the People's Republic of China (2019)

A2: Regulations for the Implementation of the Trademark Law of the People's Republic of China (2014)

A3: Interpretation of the Supreme People's Court on Several Matters Regarding the Application of Law in Trial of Trademark Civil Dispute Cases (2002)

A4: Provisions of the Supreme People's Court on Issues Concerning the Trial of Cases of Civil Disputes over Conflicts between Registered Trademark or Enterprise Name and Prior Rights (2008)

A5: Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Civil Dispute Cases Involving Protection of Well-Known Trademarks (2009)

A6: Provisions of the Supreme People's Court on Several Issues Concerning the Hearing of Administrative Cases Involving the Granting and Affirmation of Trademark Rights (2017) 68

A7: Beijing High People's Court Guidelines for the Adjudication of Cases Involving Granting and Affirmation of Trademark Right (2019)

## PATENT.

B1: Patent Law of the People's Republic of China (2008)

B2: Implementing Regulations of the Patent Law of the People's Republic of China (2010)

B3: Interpretation I of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Disputes over Infringement of Patent Rights (2010)

B4: Several Provisions of the Supreme People's Court on Issues concerning the Application of Law in the Trial of Patent Dispute Cases (2015)

B5: Interpretation II of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Disputes over Infringement of Patent Rights (2016)

COPYRIGHT.

C1: Copyright Law of the People's Republic of China (2010)

C2: Regulations for the Implementation of the Copyright Law of the People's Republic of China (2013)

C3: Interpretation of the Supreme People's Court Concerning Several Issues on Application of Law in Hearing Civil Dispute Cases Involving Copyright (2002)

C4: Provisions of the Supreme People's Court on Several Issues Concerning Application of Law in Adjudication of Civil Dispute Cases Related to Infringement of the Right of Communication via Information Networks (2012)

ANTI-UNFAIR COMPETITION.

D1: Anti-Unfair Competition Law of the People's Republic of China (2019)

D2: Interpretation of the Supreme People's Court on the Application of Laws in the Trial of Civil Disputes over Domain Names of Computer Network (2001)

D3: Interpretation of the Supreme People's Court on Some Matters Concerning the Application of Law in the Trial of Civil Cases Involving Unfair Competition (2007)

ANTI-MONOPOLY.

E1: Anti-monopoly Law of the People's Republic of China (2008)

E2: Provisions of the Supreme People's Court on Several Issues concerning the Application of Law in the Trial of Civil Dispute Cases Arising from Monopolistic Conduct (2012)

IP GENERAL.

Administrative.

Regulations of the People's Republic of China Regarding Customs Protection of Intellectual Property Rights (2010)

Rules of the General Administration of Customs of the People's Republic of China for Implementation of the Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights (2009)

Criminal

Interpretation I of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Concrete Application of Laws in Handling Intellectual

Property Criminal Cases (2004)

Interpretation II of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Concrete Application of Laws in Handling Intellectual Property Criminal Cases (2007)

Procedural

Decision of the Standing Committee of the National People's Congress on Establishing Specialized IP Courts in Beijing, Shanghai and Guangzhou (2014)

Provisions of the Supreme People's Court on the Jurisdiction of the Intellectual Property Courts of Beijing, Shanghai and Guangzhou over Cases (2014)

Decision on Several Issues Concerning the Litigation Procedures of Patent and Other Intellectual Property Cases (2018)

Provisions of the Supreme People's Court on Several Issues Concerning the Intellectual Property Court (2018)

PART II - CASES.

TRADEMARK.

TML 7.

BD, UL-20181228/B2018-20/D2018-02 (Trademark acquired in bad faith cannot be enforced and protected by law)

ABF, ELLASSAY – 20140814 / A20170306-82 / B2014-20 / F2014-22 (Trademark acquired in bad faith cannot be enforced against legitimate use)

TML 8.

S, Red Sole-20181224 (Single-color trademark designated to be applied at a specific position)

BD, Dior Perfume Bottle-20180426/B2018-21/D2018-01 (Consistency of examination criteria in assessing distinctiveness; the applicant of international trademark registration with territorial extension to China should be given reasonable chance to make corrections.)

TML 11.

F, QQ Beeping Sound-20180927/F2018-48 (Distinctiveness acquired through use only applies to the goods/services on which the trademark is genuinely used)

SW, Color Combination "Orange and Grey" -20180807 (Distinctiveness of color combination acquired through use)

TML 13.

F, Lafite - 20171227/F2017-18 (Recognising a trademark as an unregistered well-known

trademark allows the awarding of damages for infringement committed preceding the registration)

SW, KuGou - 20170313 (It is still necessary to examine whether Article 13.1 applies when applying Article 31 of the 2001 Trademark Law, cannot grant an unregistered trademark full protection to all the goods or services designated by the disputed trademark)

TML 14.

SW, MIGUMIGU-20180730 (Evidence for well-known trademark recognition should be examined comprehensively)

SW, Meituxiuxiu-20180730 (Recognition of a well-known trademark in the internet context)

F, Suo Fei Ya-20170315/F2017-14 (A party is allowed to choose from its trademark portfolio the trademark for which the well-known status recognition is sought)

TML 15.

S, CHOPPIES-20171228 (Article 15.2 applies to indirect business relationships)

TML 30.

S, YEMA-20181224 (The reputation of a trademark does not automatically mean that where such trademark is combined with the less known trademark of another person, such combined trademark can resist the invalidation requested by the owner of such less known trademark)

BFW, Crocodile Device-20181129/B2018-22.25/F2018-46 (Co-existence Agreement reached outside the jurisdiction of China has no bearing on the assessment of trademark similarity in China)

B, XILIUFU-20181126/B2018-23 (The reputation of the later applied disputed trademark is generally not to be considered when assessing the similarity of the trademarks)

SW, SUPOR-20181115 (A prior trademark that has not been used cannot be used to invalidate a later trademark which has been used and has acquired a reputation)

CW, Spider-20171222/C2018-11 (The reputation built up on a prior mark may extend to a later mark filed by the same applicant, but trademark registration can only be extended through renewal)

BF, Montagut-20131213/B2013-23/F2013-47 (The reputation/good will of a prior trademark may extend to a later mark of the same applicant)

B, Apple Man-20100910/B2010-20/F2010-20 (When assessing the similarity between the opposed mark and the cited mark, the Court may take into consideration the similarity between the opposed mark and a prior registered mark owned by the applicant of the opposed mark)

TML 32.

S, Kui Hua Bao Dian-20190130 (The current jurisprudence does not afford direction protection over merchandising rights)

BCF, Jordan II-20171227/B2017-26/C2018-09/F2017-44 (The portrait seeking prior right protection should be identifiable)

BD, Jordan I-20161207/B2016-21.22.23/D2016-01 (Right of name may be protected as prior right under the Trademark Law)

TML 44.

S, AmCham-20170711 (An application filed in bad faith may be refused by applying Article 44 and the Principle of Good Faith)

TMI 49.354

S, USAPRO-20181220 (Affixing trademark on OEM products and facilitating the exportation of such products by OEM manufacturer may be ascertained as genuine trademark use of the trademark by its owner)

F, MANGO-20171215 (A trademark affixed on OEM products does not function, in mainland China, as a source identifier of the goods to which it is affixed, and is not used in the sense of the Trademark Law)

TML 57.

F, DOMINO-20181225/F2018-23 (Whether remodeling and selling other's products constitutes trademark infringement depends on the extent of the remodeling)

S, DONG FENG-20171228 (The OEM manufacturer does not commit trademark infringement if he fulfills its duty of care and causes no substantial damages)

S, MOBIL-20171129 (Determination on trademark dilution)

S, PEAK-20170421 (Exportation cannot deny the trademark use and the possibility of confusion in the environment of internet economy)

BF, PRETUL-20151126/B2015-19/F2015-07 (Affixing trademark on OEM products is not trademark use)

TML 63.

S, FILA -20181120 (Court grants punitive damages of three times the proceeds earned by the infringer)  $\frac{1}{2}$ 

DW, Xinhua Dictionary-20171228/D2017-05 (The Court uses the method of prejudice calculation provided in the Trademark Law for the infringement of an unregistered well-known trademark)

PATENT.

PTL 11.

S, Huawei SEP-20180104 (Fault determination in the negotiations on SEP licensing)

PTL 13.

D, Zhongnan Shuanglv Co.-20170907 (Determination of royalties for invention patent in temporary protection period)

PTL 23.

B, Staples-20171225 (Only the prior rights holder and interested parties are allowed to file an invalidation petition on the grounds that the design patent rights conflict with the prior legal rights acquired by others)

PTL 59.

S, VALEO-20190327(Criteria for ascertaining infringement of functional features)

B, Lifan Co.-20171212 (In patent infringement litigation, whether the estoppel is explicitly denied should be based on an objective and comprehensive judgment over the examination process of the patent prosecution and invalidation procedure.)

B, Dyson-20171113 (In patent infringement litigation, if other patents and the patent at issue enjoying common priority, the statement of opinion in the prosecution of such other patents has the effect of estoppel.)

PTL 60.

B, Yulin IP Office-20171225 (In patent administrative enforcement, if a panel member that has been replaced still signs the administrative decision, it constitutes a serious violation of the due process.)

PTL 65.

S, Guowei-20180626(Method of calculating compensation for damages)

ANTI-UNFAIR COMPETITION.

AUCL 2.

S, Coppertone - 20180308 (Enforcing a trademark acquired in bad faith disturbs market order and constitutes unfair competition)

AUCL 6.

C, TIANRONG-20161110/C-201810 (Using the English enterprise name of others on exports may be found unfair-competition)

AUCL 17.

S, Gold Mantis-20180417 (No damages can be claimed against the unfair competition act of merely registering the trademark of another person as one's enterprise name)

#### TRADEMARK.

Introduction to the 4th Amendment to the Trademark Law of China (2019)

Introduction to the 3rd Amendment to the Trademark Law of China (2013)

Introduction to the Amendment to the Implementing Regulations of the Trademark Law of China (2014)

## PATENT.

Introduction to the Amendment of the Guidelines for Patent Infringement Determination by the Beijing High People's Court (2017)

Introduction to SIPO's Amendment to its Patent Examination Guidelines (2017)

## ANTI-UNFAIR COMPETITION.

Introduction to the 2nd Amendment to the Anti-Unfair Competition Law of China (2019)

Introduction to the 1st Amendment to the Anti-Unfair Competition Law of China (2017)

# IP GENERAL.

China's 2018 National Intellectual Property Action Plan.

Regulations Clarify Role of New Agencies Following China's IP Institutional Reform.

The Outlook for IP and Brand Owners in the Context of China's Institutional Reform.

Provisions on Several Issues Concerning the SPC IP Court

INDEX.