AFD China
INTELLECTUAL PROPERTY LAW OFFICE

Newsletter

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AFD China Featured in Asia IP: Which Inventions are You Going to Patent?

AFD China was recently featured in an in-depth article by Asia IP, a leading international intellectual property media outlet, which explored hot topics of patent screening strategies for businesses. Xia Zheng, Founder of AFD, was invited as an expert contributor to share her insights on how companies should approach patent portfolio development.

In the article, Xia Zheng used the new energy battery sector as an example, advising that businesses should prioritize protecting inventions that directly impact core performance and offer substantial market potential, rather than minor improvements with low technical barriers. She also noted that even technologies that are not core selling points may still be worth patenting for defensive purposes to safeguard operational freedom. She cited the example of a heat dissipation structure used in packaging processes: while not a core selling point itself, patenting it can "prevent competitors from setting up patent barriers in this niche area, which would force the company to work around them or pay high licensing fees when iterating its products in the future."

AFD China remains committed to delivering intellectual property services that integrate business strategy with legal protection. We believe these practical, frontline insights can help innovators make more strategically sound patent decisions, even within limited budgets.

Read the full Asia IP article here.

China Releases Revised Patent Priority Examination Measures

On 30 July 2026, the China National Intellectual Property Administration (CNIPA) published the revised Measures for Priority Examination of Patent Applications, which will take effect on 1 September 2026. The current version in force, published in 2017, will be repealed on the same date.

The revised Measures consist of 24 articles across six chapters, covering general provisions, eligibility criteria, filing of requests, examination procedures, supervision, and supplementary provisions. The key changes are summarized below.

1. Updated eligibility criteria to align with national innovation priorities

The revised Measures focus on high-quality patent applications in emerging and future-oriented industries, including sectors such as new energy, AI, biotech, and advanced manufacturing. The scope of priority examination has also been updated to reflect the latest amendments to the Patent Law and its Implementing Regulations, as well as current examination practices. New provisions clearly define the circumstances under which a priority request will not be granted.

2. Enhanced quality control and streamlined administration

At the administrative level, the revised Measures strengthen coordination between central and local IP authorities, requiring provincial offices to take a more active role in managing applicants and providing tailored support. It also introduces a quota-based allocation system for priority examination slots, with incentives and penalties to encourage quality over quantity.

In terms of examination procedure, the new rules clarify the workflow at each stage (filing, review, and substantive examination) to improve both efficiency and consistency. At the source level, greater emphasis is placed on the technological and commercial value of the underlying invention. Patent agents are now required to provide stronger service support, helping to ensure the quality of priority examination cases. A new penalty mechanism has also been introduced for violations of good-faith principles, reinforcing quality standards.

3. Simplified procedures and better user experience

For applicants, the revised Measures reduce documentary burdens by clarifying the requirements for prior art submissions. Priority examination remains free of charge. In response to practical feedback from applicants and practitioners, the new rules also incorporate a number of procedural optimizations to make the process smoother and more predictable.

Overall, the revised Measures aim to provide a faster, fairer, and more transparent pathway for applicants whose inventions align with national innovation goals, while maintaining high quality standards throughout the examination process.

China’s Top Court updates Judicial Interpretation to Strengthen Digital Age Copyright Protection

China's top court has updated a judicial interpretation to enhance copyright protection and address the evolving needs of the digital age.

On Thursday, the Supreme People's Court (SPC) released an amended judicial document focused on the handling of civil copyright cases. This interpretation calls on courts nationwide to rigorously combat copyright infringements and foster innovation, thereby enhancing the legal framework to support cultural and scientific advancement and promote high-quality economic and social development.

In response to the growth of the internet and digital technology, the revised interpretation extends copyright protection from traditional print media to their digital counterparts. According to the new amendment, reprinting is defined as republishing a work from one newspaper in another, whether in print or its digital equivalent. Failing to properly credit the original author and source may result in civil liabilities, such as halting the infringement and issuing an apology.

The SPC emphasized that this revised interpretation, effective Sept 1, will help judges across the country implement the Civil Code — a fundamental law governing civil activities — and the Copyright Law, which was amended in 2020, more effectively and accurately, so as to further protect the legitimate rights of copyright owners and holders.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202608/1997447.html

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China unveils IP development blueprint for 2030

By 2030, China aims to further strengthen its overall intellectual property capabilities and international competitiveness, backed by more robust IP protection and higher-quality public IP services, according to a plan.

This target is set up in the 15th Five-Year Plan (2026-30) for intellectual property protection and utilization, which was recently issued by the State Council, China's Cabinet, and outlines the goals, key tasks and special projects for IP development during this period.

Under the plan, by 2030 the IP market value in China will also be more pronounced, the comprehensive IP management system will grow more efficient, international cooperation on IP will deepen further, and decisive progress will be made in building China into a country with strong IP rights.

The plan calls for sustained efforts to optimize IP protection environment in support of innovation, including improving the legal framework for IP and stepping up the protection of IP rights in cross-border contexts.

It also highlights the need to enhance the operational efficiency of IP to promote high-quality economic growth, with a focus on bolstering the application of IP, increasing the supply of IP to foster new quality productive forces, and advancing the high-quality development of IP service industry.

Additionally, it envisions building a new pattern of international IP cooperation that serves China's high-level opening-up, through deeper involvement in global IP governance and continued expansion of international exchanges and collaboration.

Furthermore, it establishes 12 special projects, including one concerning two-way empowerment project between IP and artificial intelligence, and one regarding high-quality IP cooperation under the Belt and Road Initiative.

https://chinaipr.mofcom.gov.cn/article/centralgovernment/202608/1997219.html

China Strengthens IP Protection on Integrated Circuit Layout Design

China has introduced a revised regulation concerning integrated circuit layout design, aimed at safeguarding exclusive design rights, fostering innovation, and promoting scientific and technological progress.

This 54-article regulation, approved and released by the State Council, emphasizes the importance of intellectual property protection for integrated circuit layouts and calls for enhanced creation, application, management, and services in this area. The updated regulation is set to take effect on Oct 15.

Integrated circuit layout design refers to the "blueprint" of a microchip, detailing the precise arrangement and connections of thousands of tiny electronic components on a semiconductor wafer. In Chinese law, this layout design is recognized as a distinct category of intellectual property rights, alongside patents and copyrights.

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The revised regulation streamlines the procedures for applying for and reviewing integrated circuit layout designs. It also clarifies that compensation should increase if these special rights are violated.

It specifies that damages for integrated circuit layout design infringement will be calculated based on the actual losses of the rights holder or the illegal profits of the infringer. In cases of willful and serious infringement, punitive damages of up to five times the calculated amount may be awarded.

https://english.cnipa.gov.cn/art/2026/8/5/art_2975_207595.html

CNIPA-EPO PPH Pilot Program Launched on August 1, 2026

Following a joint decision by the CNIPA and the European Patent Office (EPO), the CNIPA-EPO Patent Prosecution Highway (PPH) Pilot Program was launched on August 1, 2026.

Following the launch of the CNIPA-EPO PPH Pilot Program, applicants from both sides may file PPH requests with either CNIPA or the EPO in accordance with the procedures for filing PPH requests under the pilot program.

PPH is a fast-track patent examination procedure established between patent offices of different countries or regions, enabling these offices to accelerate the examination process through work sharing. Since the launch of its first PPH pilot program in November 2011, CNIPA has established PPH cooperation mechanisms with patent offices in 38 countries or regions, providing effective support for Chinese applicants seeking faster acquisition of patent rights for their overseas applications.

https://english.cnipa.gov.cn/art/2026/8/6/art_1340_207608.html

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SUPPLEMENTARY ISSUE

SPP releases Typical Case (1): Patent Litigation Abused to Disrupt Competitor's IPO

China's Supreme People's Procuratorate (SPP) has released five typical cases concerning the punishment of malicious intellectual property litigation, covering utility model patents, design patents, trademark rights, and unfair competition across multiple intellectual property domains.

Among these, the case of Foshan Company A v. Wuxi Company B regarding utility model patent infringement was selected as one of the typical examples.

Basic Facts

Wuxi Company B is primarily engaged in the R&D, manufacturing, and sales of automated material handling system equipment, including metering and batching systems, with applications across chemical, food, and pharmaceutical industries. The company holds over 100 patents and software copyrights, and is officially recognized as a high-tech enterprise and a "little giant" specialized and sophisticated enterprise in Jiangsu Province. Foshan Company A operates in the new energy equipment manufacturing and chemical new material equipment sectors. Both companies compete in the same market with similar products and patents, and have frequently bid against each other for the same projects.

In August 2019, Company A obtained the utility model patent at issue. On January 10, 2023, Company A filed a patent infringement lawsuit against Company B before the Wuxi Intermediate People's Court, claiming CNY 23 million in damages. This amount was strategically calculated to exceed 10% of Company B's disclosed net assets. Under the Information Disclosure Rules for Companies Listed on the National Equities Exchange and Quotations, such amount triggers mandatory disclosure obligations. At that critical juncture, the stock exchange had accepted Company B's IPO application only days earlier, and Company B's listing process was consequently suspended.

Procuratorial Supervision

In March 2023, the Wuxi People's Procuratorate identified the case during routine case monitoring and promptly initiated a coordinated investigation with the local grassroots procuratorate. The investigation focused on the following key issues:

First, the validity of Company A's patent. On November 23, 2022, at Company A's own request, the CNIPA issued a patent evaluation report concluding that all claims of the patent in question did not meet the requirements for patent grant.

Second, whether Company B had actually infringed the patent. Evidence revealed that Company B had engaged a supplier to manufacture the identical product as early as June 2018, predating Company A's patent application date by over a year. No infringement was established.

Third, whether Company A acted with subjective malice. Based on the competitive relationship between the parties, the timing of the lawsuit, which coincided with Company B's critical IPO phase, and the amount of damages claimed, the prosecutors determined that Company A had acted with malicious intent.

Fourth, the damages suffered by Company B. The investigation confirmed that Company A's litigation had directly caused the suspension of Company B's listing process, resulting in tangible harm.

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On April 12, 2023, the Wuxi People's Procuratorate referred the case to the Wuxi Intermediate People's Court, setting forth the facts and legal grounds establishing malicious litigation, and urging the court to identify and penalize such conduct in accordance with the law. Concurrently, the procuratorate informed Company B of its legal rights and remedies, and Company B elected to file a counterclaim to protect its interests.

In April 2023, the Court held a public hearing and delivered its judgment on the same day, dismissing all claims of Company A, ordering Company A to compensate Company B CNY 400,000 for reasonable expenses, and requiring Company A to issue a public statement on the China Capital Market Service Platform to eliminate the adverse effects. Company A appealed, and in June 2024, the SPC rendered its second-instance judgment, dismissing the appeal and affirming the original ruling. Company B successfully completed its IPO in December 2023.

Throughout the proceedings, the Wuxi People's Procuratorate actively engaged with the Wuxi Intermediate People's Court, reaching a consensus on effective measures to punish malicious litigation, protect the legitimate rights and interests of enterprises in a timely manner, prevent the further expansion of adverse effects caused by malicious litigation, and safeguard the healthy development of businesses.

Significance of the Case

This case establishes that where a party, knowing its patents are defective or lacking factual basis, initiates litigation against a commercial competitor at a strategically critical moment (such as during the competitor's IPO process) with the intent to obtain undue advantage, thereby harming the legitimate rights and interests of others and disrupting judicial order, such conduct shall be deemed malicious litigation.

When handling supervision cases involving malicious litigation, procuratorial authorities should adopt a comprehensive investigative approach, thoroughly examining whether the intellectual property rights at issue are valid, whether infringement has actually occurred, and whether the plaintiff was aware of the defects in its rights, as well as the plaintiff's litigation motives and timing.

For intellectual property cases still pending before the people's courts, where a procuratorate determines after examination that the litigation constitutes malicious conduct, it may refer case-related information to the court to draw attention to any irregularities, thereby enabling effective punishment of malicious litigation, upholding judicial fairness and authority, and promoting the development of a social credit system.

SPP releases Typical Case (2): Malicious Suit Filed by Concealing Patent Invalidation

SPP has released five typical cases concerning the punishment of malicious intellectual property litigation, covering utility model patents, design patents, trademark rights, and unfair competition across multiple intellectual property domains.

Among these, the case of Individual X v. Company A regarding design patent infringement was selected as one of the typical examples.

Basic Facts

In May 2017, X obtained a design patent for a body-shaping garment. X subsequently purchased multiple products identical or similar to the patented design through online platforms and had the entire purchase process notarized. Between October 2018 and April 2019, X filed multiple lawsuits against various parties, alleging infringement of the design patent. Among these, on October 11, 2018, X initiated the present action against Company A.

On August 16, 2019, the Hangzhou Intermediate People's Court of Zhejiang Province held that the patent-in-suit was valid and in force, that the accused infringing products sold by Company A fell within the scope of protection of the patent, and thus constituted infringement. The court ordered Company A to cease the infringement and to pay CNY 10,000 in damages and reasonable expenses for stopping the infringement. Neither party appealed, and the judgment became final.

Procuratorial Supervision

In June 2023, the Hangzhou People's Procuratorate of Zhejiang Province received case leads transferred by the Suzhou People's Procuratorate of Jiangsu Province. Upon screening, it identified five potential leads involving malicious litigation, including the present case, and initiated supervisory proceedings ex officio.

Through investigation, the Hangzhou People's Procuratorate established the following facts: In January 2019, a third party, Y, filed a request with the CNIPA to invalidate the patent-in-suit. X submitted written observations and participated in the oral hearing before the CNIPA. On July 3, 2019, the CNIPA issued a decision declaring the design patent entirely invalid, and the decision was sent to X via registered mail on July 10, 2019.X disagreed with the invalidation decision and filed an administrative lawsuit with the Beijing Intellectual Property Court in September 2019. The court dismissed X's claims at first instance. X appealed, and the SPC rendered a second-instance judgment in March 2021, dismissing the appeal and affirming the original ruling.

On December 29, 2023, the Hangzhou People's Procuratorate submitted the case to the Zhejiang Provincial People's Procuratorate for appeal. On July 4, 2024, the Zhejiang Provincial People's Procuratorate filed a protest with the Zhejiang High People's Court, contending that X, knowing that the design patent had been declared invalid by the CNIPA, deliberately concealed this fact during the litigation, obtained five enforceable judgments, and applied for enforcement of those judgments. Such conduct violated the principle of good faith and constituted malicious litigation. The protest further argued that the newly discovered evidence was sufficient to overturn the effective judgments.

On November 12, 2024, the Zhejiang High People's Court accepted the procuratorial protest, issued a ruling setting aside the original judgment, and dismissed X's claims. The court further found that X's failure to disclose the invalidation of the patent-in-suit had caused the court to render erroneous judgments, constituting obstruction of civil litigation, and imposed a fine of CNY 50,000 on X. X has paid the fine.

Significance of the Case

Under Article 2 of the *SPC's Interpretation on Several Issues Concerning the Application of Law in the Trial of Disputes over Patent Infringement*, "where the claim asserted by the rights holder in a patent infringement lawsuit is declared invalid by the patent administration department under the State Council, the court adjudicating the patent infringement dispute may rule to dismiss the lawsuit instituted by the rights holder based on the invalidated claim. Where there is evidence proving that the decision to declare the above claim invalid is revoked by an effective administrative judgment, the rights holder may file a lawsuit separately."

Accordingly, whether before or during litigation, once the patent-in-suit is declared invalid by the CNIPA, the patentee is obligated to inform the court in a timely manner, and this is a fundamental

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requirement of the principle of good faith. Where a patentee deliberately conceals the fact that the patent has been declared invalid and continues to pursue litigation, such conduct violates the principle of good faith and constitutes malicious litigation, and procuratorial authorities are obligated to supervise and correct it.

SPP releases Typical Case (3): Hoarding Trademarks and Bulk Enforcement constitutes Malicious Litigation

SPP has released five typical cases concerning the punishment of malicious intellectual property litigation, covering utility model patents, design patents, trademark rights, and unfair competition across multiple intellectual property domains.

Among these, the case of Shenzhen Company A v. Wenzhou Company B and its Legal Representative X for trademark infringement was selected as one of the typical examples.

Basic Facts

In April 2017, Shenzhen Company A obtained the trademark at issue, registered for use on pillows and other goods in Class 20, with a validity period through April 2027. In November 2018, Company A's entrusted representative, accompanied by a notary, visited the business premises of Wenzhou Company B as a consumer and purchased a number of latex pillows and accessories, two of which bore the trademark at issue. In May 2019, Company A filed a trademark infringement lawsuit against Company B and its legal representative X before the Rui'an People's Court of Zhejiang Province.

In August 2019, the Rui'an Court rendered a first-instance judgment, holding that Company B had infringed the registered trademark and ordering it to cease the infringement and pay CNY 75,000 in damages and reasonable expenses, with X bearing joint and several liability. Neither party appealed.

Procuratorial Supervision

During routine case monitoring, the Rui'an People's Procuratorate identified unusual patterns in Company A's bulk enforcement activities. Through review of litigation files, retrieval of Company A's litigation data, and verification with market regulatory authorities, the procuratorate discovered that Company A had registered over 600 trademarks across various goods categories and had filed lawsuits against multiple latex product companies in Zhejiang Province since 2019, raising suspicion of malicious litigation. An on-site investigation confirmed that Company A had no actual business premises, no business activities, and no operational capacity. Its registered trademarks were not used in genuine commercial operations. Meanwhile, the trademark at issue had been invalidated by the CNIPA following a third-party invalidation request, and Company A had filed an administrative lawsuit challenging that decision. In 2024, both the Beijing Intellectual Property Court and the Beijing High People's Court ruled against Company A.

Considering Company A's operational status, the scale of its trademark hoarding, the number of lawsuits filed, and its litigation motives, the procuratorate concluded that Company A had engaged in malicious litigation.

In April 2023, the Rui'an People's Procuratorate issued a supervisory recommendation to the Rui'an People's Court, but the court declined to adopt it on the ground that the administrative litigation concerning the trademark had not yet become final. In November 2024, the Rui'an People's Procuratorate referred the case to the Wenzhou People's Procuratorate for a protest. In

January 2025, the Wenzhou People's Procuratorate filed a protest with the Wenzhou Intermediate People's Court, arguing that the first-instance judgment was factually erroneous and that new evidence was sufficient to overturn the original decision.

In September 2025, the Wenzhou Intermediate People's Court rendered a retrial judgment, revoking the first-instance ruling and dismissing Company A's claims.

Significance of the Case

Where a trademark registrant registers and hoards a large number of trademarks without using them in actual business operations and seeks to obtain undue benefits through litigation, such conduct violates the principle of good faith, disrupts judicial order, and constitutes malicious litigation. When handling supervision cases involving malicious litigation, procuratorial authorities should actively leverage big data to screen and identify case leads. In assessing whether the plaintiff acted with malice, they should thoroughly investigate and verify the trademark registrant's business operations, litigation volume and motives, as well as trademark registration and usage, and make a comprehensive assessment of multiple factors to determine whether litigation was used as a means of securing undue benefits. Where a court declines to adopt a procuratorial supervisory recommendation in a malicious litigation case, the higher-level procuratorate, upon review and where appropriate conditions are met, shall file a protest to ensure effective supervision.

SPP releases Typical Case (4): Bad-Faith Registration of Established Trade Name and Subsequent Litigation constitutes Malicious Suit

SPP has released five typical cases concerning the punishment of malicious intellectual property litigation, covering utility model patents, design patents, trademark rights, and unfair competition across multiple intellectual property domains.

Among these, the case of Company A v. Company B regarding trademark infringement and unfair competition was selected as one of the typical examples.

Basic Facts

Company A was established in 1998 and listed on the Shenzhen Stock Exchange in 2010. It is a high-tech enterprise whose core business revolves around electricity/power (电). Since its founding, Company A has used "Changgao" (长高) as its trade name, and from 2006 onwards, it registered a series of "Changgao" trademarks in Class 9 for power equipment and related goods.

Between March and April 2022, Company B applied to register 12 "Changgao Dianxin" (长高电新) trademarks (*AFD Note: Company A's trade name "Changgao" (长高), combined with its core business "electricity" (电), forms the basis of its corporate identity. The disputed mark "Changgao Dianxin" (长高电新) directly incorporates both elements —"Changgao" (Company A's established trade name) and "Dian" (electricity, Company A's core business), which is central to the allegation of bad-faith preemptive registration.*) across more than 10 classes of goods and services. In September 2022, Company B used the "Changgao Dianxin" trademark as intellectual property capital to establish Company C.

In November 2022, Company B and Company C filed a lawsuit against Company A before the Changsha Intermediate People's Court, alleging trademark infringement and unfair competition, and seeking an injunction and CNY 10 million in damages.

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Procuratorial Supervision

During routine case monitoring, the Changsha People's Procuratorate identified leads suggesting that Company B and Company C were engaged in malicious litigation. In March 2023, the procuratorate officially accepted the case for investigation and established the following key facts:

First, Company A had long used "Changgao" as its trade name and had registered corresponding trademarks in its core business field (electricity/power equipment).

Second, on-site inspections revealed that Company B's registered address showed no signs of business activity, and Company C's registered address had no production facilities. Neither company had employee social security records, and their products did not comply with industry standards.

Third, between March 2021 and November 2022, Company B applied for a total of 129 trademarks, most of which covered goods and services outside its actual business scope.

Fourth, Company B had applied to register several trademarks that were identical or similar to the trade names of multiple enterprises in other provinces, with the application timing closely aligning with those companies' name changes.

Fifth, there was a suspiciuous timing and motive behind Company B’s actions. The day after Company A publicly announced its name change to "Changgao Dianxin," Company B applied to register the identical "Changgao Dianxin" trademark. After securing the registration in September, Company B immediately filed the present lawsuit in November seeking CNY 10 million in damages, which demonstrated a clear indication of an improper motive.

The Changsha People's Procuratorate concluded that Company B and Company C had preemptively registered the "Changgao Dianxin" trademark in bad faith, without any genuine intent to use it, and that their rights were fundamentally defective. After securing the registration, the two companies sued Company A for infringement and unfair competition, seeking substantial damages with the intent to obtain undue benefits, violating the principle of good faith and constituting malicious litigation.

In September 2023, the Changsha People's Procuratorate referred the case to the Changsha Intermediate People's Court, alerting the court to the suspected malicious litigation and recommending appropriate sanctions.

In December 2023, the Changsha Intermediate Court found that Company B and Company C had engaged in malicious litigation, dismissed their claims, and imposed a fine of CNY 100,000. Company B and Company C applied for reconsideration, but the High People's Court of Hunan Province upheld the decision in January 2024. Meanwhile, through coordination among the procuratorate, the court, and the Changsha Intellectual Property Office, the CNIPA declared 72 registered trademarks held by Company B, Company C, and their affiliated entities invalid.

Significance of the Case

Where a party, knowing that its trademark was preemptively registered in bad faith and that its rights are defective, initiates litigation to seek undue benefits, such conduct constitutes malicious litigation. Malicious litigation not only harms the legitimate rights and interests of others but also disrupts judicial order, undermines judicial authority, damages the social credit system, and harms public interests.

Where procuratorial authorities identify leads of malicious litigation during their routine work, they may initiate supervisory procedures ex officio under Article 37(1) of the Rules of Civil Litigation Supervision by the People's Procuratorate. For cases that have been concluded where the plaintiff's claims were upheld, the procuratorate should file a protest or issue a supervisory recommendation against the effective judgment. For cases still pending, the procuratorate should promptly refer the case to the court, alerting the court to the suspected malicious litigation and recommending that the court exercise caution and make a proper determination in accordance with the law.

SPP releases Typical Case (5): Bulk Litigation Based on Hoarded Tourism Trademarks constitutes Malicious Litigation

SPP has released five typical cases concerning the punishment of malicious intellectual property litigation, covering utility model patents, design patents, trademark rights, and unfair competition across multiple intellectual property domains.

Among them, the malicious litigation case of Chongqing Company A v. Chengdu Travel Agency B concerning trademark infringement was selected as one of the typical examples.

Basic Facts

The "Two Rivers Cruise" is one of Chongqing's most iconic urban tourism attractions, with an annual passenger volume exceeding 3 million. The names of the cruise vessels and related commercial signs have gained a certain degree of recognition within the industry through long-term promotion.

Company A, established in 2014, was primarily engaged in website development with tourism as a secondary business. Since 2017, Company A has repeatedly applied to register a number of signs associated with the "Two Rivers Cruise" across multiple classes, including Class 12 (sales of motor vehicles such as boats and ferries) and Class 39 (rental and charter services for yachts and vessels). Following the registration of these trademarks, Company A began collecting information from travel agencies operating "Two Rivers Cruise" ticket services on travel platforms. It subsequently filed seven lawsuits against multiple travel agencies, including Travel Agency B, alleging trademark infringement and seeking injunctive relief and damages. As a result, some travel agencies were forced to remove their "Two Rivers Cruise" ticketing services.

Procuratorial Supervision

In November 2023, several travel companies reported Company A's alleged unfair competition practices to the Yuzhong District People's Procuratorate in Chongqing. After accepting the case, the procuratorate conducted an investigation and established the following key facts:

First, through interviews with relevant parties and consultations with the cultural and tourism authorities, the procuratorate confirmed that the "Two Rivers Cruise" signs had been filed with and used by the vessel inspection authorities, and had acquired a certain degree of recognition within the industry.

Second, upon reviewing the transactional records and trademark licensing documents submitted by Company A, the procuratorate found that the "licensing fees" transaction records were fabricated to support the litigation, and that Company A had not actually used the trademarks in its business operations.

Third, the procuratorate established that Company A had preemptively registered and hoarded "Two Rivers Cruise" signs in an attempt to appropriate public resources, severely disrupting the trademark registration and management order. By abusing its litigation rights to initiate lawsuits against unspecified competitors in the same industry, the company had also severely disrupted the market competition order in the tourism sector.

The procuratorate concluded that Company A had maliciously applied for and hoarded trademarks, and had abused litigation rights to harm its competitors. Such conduct constituted malicious litigation. In January 2024, the procuratorate referred the case to the Yuzhong District People's Court.

On January 25, 2024, the court rendered its first-instance judgment in the case of Company A v. Chengdu Travel Agency B, holding that Company A's conduct constituted a typical abuse of rights and amounted to malicious litigation, and dismissed all of the company's claims. The court also dismissed the claims in the other six cases filed by Company A.

Significance of the Case

Well-known urban cultural and tourism signs carry the historical and cultural identity of a particular region and are of a public resource nature. Where a party preemptively registers such signs, or commercial signs that have been used by others, and subsequently initiates litigation to seek undue benefits — thereby appropriating public resources, undermining fair competition, and hindering the sound development of the tourism economy — such conduct constitutes malicious litigation. In handling such cases, procuratorial authorities should make full use of their investigatory powers to ascertain whether the relevant commercial signs have been used by others, examine the registrant's actual business capacity and use of the trademarks, and review the scope, number, and subjective purpose of the lawsuits filed. A comprehensive assessment of all these factors should be made to determine whether the conduct constitutes malicious litigation.

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