

## What's in this issue



p. 2 IP CHINA

Opposition goes digital:  
a problem for famous brands!?



p. 4 IP CHINA

Apostille for China instead of  
legalization: what to do?



p. 5 IP CHINA

The First protection of  
foreign GI across industries



p. 7 IP CHINA

CNIPA's battle against  
bad faith patent applications



p. 9 IP CHINA

Decathlon store design  
protected by Court



p. 11 TECH LAW

TikTok and data privacy in China:  
security assessment with CAC



p. 12 IP CHINA

New guidelines on  
service trademark in class 35



p. 14 IP CHINA

Polished armour for women in China:  
the women protection law

Dear readers,

We start this issue of Gossip with some amazing news: actually, you can find it at the end of the issue, but we are so excited that we can't wait to let you know: HFG is among the top 100 trademark agencies in China! Selected from over 32,000 agencies registered with CNIPA. Isn't that fantastic?

Ok, now back to the topics with a question: Will the CNIPA's recent decision to make online oppositions mandatory be a problem for famous brands?

And then another question: What is Apostille Convention and how it works? Don't worry – we give you the answers too!

The third article talks about the first case where the Anti-unfair Competition Law is cited by the court to protect a foreign GI across industries in China (cars and drinks involved – you have something to talk about with your buddies!).

While trademark filing in bad faith is old news for CNIPA, on the patent-side, bad faith patent applications have not had the proper attention they deserve. But something is changing...

Emblematic on design side the victory of Decathlon, that won a 1st instance case in a civil litigation against Guangdong Camel Clothing, a well-known domestic outdoor sports brand company, for unauthorized use of several distinctive elements, and particularly for imitating the store design and decoration.

Another big question (with answer, again!): What do foreign companies need to know about data privacy when dealing with China? And then an explanation about why class 35 is so popular in China.

Finally, we give you an overlook about the “Law on the Protection of Rights and Interests of Women” (Women Protection Law) of which the revision becomes effective since 2023.

Enjoy reading and get ready for the festivities to come!

## IP CHINA

### Opposition goes digital: a problem for famous brands!?



Recently, on October 7th, 2023, the CNIPA published an official Notice by which it informed that, starting from December 1st, 2023, for all opposition cases, trademark agencies “should submit electronic applications through the trademark online system, and no longer submit paper materials”.

With this move Chinese trademark agencies will not anymore be able to use the traditional paper system and can only rely on CNIPA online system to file oppositions. Being the Notice only applicable to trademark agencies, it seems that IP owners can still file paper oppositions (if not formally represented by trademark agencies).

We understand that CNIPA is trying hard - and this is much appreciated! - to accelerate the trademark examination and granting process, even in cases where rejection and/or opposition are encountered.

**Indeed, we have first-hand experience that online system for trademark filing, appeal against preliminary rejection and opposition works better in terms of total time of the process comparing to the paper system. The online system ensures a faster processing than the paper system.**

The online system for oppositions has been already in place from quite some time and therefore this should not be an issue for trademark agencies that have already created and used CNIPA online system. For those agencies that have not used online system, they have to move quickly and adopt it.

However, we foresee some issue with oppositions online system especially for famous brands with large reputation evidence file. The online system allows the opposition applicant to upload a maximum of 250MB, while a typical file for an opposition relating a trademark which enjoys certain reputation or is well-known might go up to 1 or 2 GB. Reputation is a heavy burden.

In the current practice trademark agents deal with the maximum storage issue by using the paper procedure and physical filing of materials (usually in CD-Rom), meaning that, despite the availability of the online system, they have kept filing oppositions via the paper system circumventing the 250MB limit.

Now, with the abolition of the paper filing system this possibility will be stopped and the storage space in the online system is clearly not enough for oppositions in which the opponent is an IP owner of a trademark which enjoys certain reputation or is well-known.

Now, in this coming scenario, Chinese IP owners can still file oppositions using the paper system and not using a trademark agent that can only use the online system. A trouble, with some kind of solution.

Foreign IP owners instead need - by law - to appoint a local trademark agent to file any procedure at CNIPA and therefore they only have the possibility to file oppositions via online system.

**This means that foreign IP owners will necessarily have the limit of 250 MB evidence storage. If the foreign trademark is highly reputed or well-known, 250MB of storage space for evidence is not enough. A trouble with no solution, at currently.**

If no changes are implanted before December 1st Chinese IP owners of famous brands can still adopt the paper system to file opposition and provide reputation material through this system. On the opposite, foreign IP owners, that necessarily need to appoint an agent, Will suffer the 250MB limit to the storage space.

Given what above, with humble attitude we would suggest CNIPA to put in place solutions as soon as possible since pressure on trademark agents representing foreign famous brands is increasing day by day.

*Continue reading*

Herein a few solutions we have thought to possibly tackle the 250MB limit.

- ✓ CNIPA enlarges the online storage space for all cases or for cases in which well-known or reputed trademark are at stake;
- ✓ CNIPA allows filing paper materials for longer time period for trademark agencies (but this would be in contrast with the recently issued notice);
- ✓ CNIPA allows that evidence materials are stored into some external online cloud disk reachable with a link provided in the evidence file without possibility to alter the file after the deadline;
- ✓ CNIPA allows agencies that represent opponents with certain degree of reputation/opponents that are well-known trademark owners to file opposition in paper when the reputation files are too big.



Meanwhile, considering the worries that no solution will be ready for December 1st, careful attorneys representing foreign famous brands are preparing a special mini reputation file that can fit the 250MB storage space that will be used from December 1st if no solution is found.

**Fabio Giacobello, April Fan**  
**HFG Law & Intellectual Property**

## [NEWS] Online filing for opposition cases from December 1st 2023

### Notice on the Full Implementation of Online Application for Opposition Cases

In order to further enhance the electronic level of trademark opposition applications and promote the green development of the trademark cause, the Trademark Office of the State Intellectual Property Office (SIPO) will fully implement the online application for opposition cases by trademark agencies.

The relevant matters are hereby notified as follows:

- ✓ First, from December 1st 2023, trademark agencies for opposition business, in principle, should submit electronic applications through the trademark online service system, and no longer submit paper materials.
- ✓ Second, from the date of issuance of this notice to 1st December is the "transitional period" for comprehensively enhancing the online application for opposition cases by trademark agencies, trademark agencies should make all preparations, and agencies which do not have an account in the trademark online service system should apply for registration as soon as possible.

According to the official listing fee from CNIPA, the official fee for e-filing is CNY 450.

At the moment, though, there might be a problem because the maximum upload size of evidence is only 100MB. This limit is too small for opposition cases that require large amounts of evidence to prove the popularity and influence of client's brand.

Hopefully this limit will be expanded by December 1st.

See the notice from CNIPA [here](#) (in Chinese).

## IP CHINA

### Apostille for China instead of legalization: what to do?



The Apostille Convention came into force for China on 7 November 2023. This Convention replaces the traditional and cumbersome legalization process with a single formality: the issuance of a certificate called an Apostille.

An Apostille, issued by the State of origin, authenticates the origin of a public document so that it can be presented abroad in another contracting Country or State. So, it can work for documents that originate outside of China, that needs to be used in China, and vice-versa.



#### What is an apostille and who issues it?

Apostilles may only be issued by Competent Authorities formally designated by Contracting Parties. Competent Authorities will issue an Apostille once they are satisfied of the authenticity of the signature, stamp or seal on a public document.

The only effect of an Apostille is to certify the authenticity of the signature, the capacity in which the person signing the document has acted, and the identity of the seal or stamp which the document bears. The Apostille does not authenticate the content of the underlying public document.



#### Notices from Chinese embassies on the Apostille Convention

The embassy of China in the Netherlands, but also many other embassies of China around the world (for example the Chinese embassy in Australia), on 25 October 2023, published a notice on the new system of apostille instead of legalization for continental China.

As similar notices have been published by Chinese embassies worldwide, they need to be checked per the applicable country, even though the language is very similar.

After all, the Convention goes into force on 7 November 2023 for all member states that did not object. And it seems that only India objected.



#### Apostille instead of legalization

For the Netherlands, the notice mentions that an Apostille shall be issued onto the public documents as referred to in the Convention that are issued in the Netherlands and are to be used in continental China, instead of legalization by Chinese Embassy in the Netherlands.

Hence, from 7 November 2023, the Chinese Embassy in the Netherlands will cease to provide legalization service. For the public documents that are issued in the Netherlands and have to be used in China, therefore please apply for an Apostille from the Dutch authorities. The Convention shall continue to apply to the Hong Kong Special Administrative Region of China and the Macao Special Administrative Region of China.



#### What needs to be checked in advance?

The notices mention that there is possibility that the public documents with an Apostille be rejected in China. In order to do the maximum so that this not happen, applicants are recommended to check the format, content, time limit, translation and other specific requirements of foreign public documents with relevant Chinese authorities in advance.



#### More information

For information on applying for an Apostille in any country that is part of the Hague Convention, please contact us. We will guide you in this process for your specific country and case.

## IP CHINA

### The First protection of foreign GI across industries



The recent judgement issued by the Jiangsu High Court for the dispute between the French National Cognac Industry Office and Ford Motor has sparked some discussions among IP professionals.

It's the first case where the Anti-unfair Competition Law is cited by the court to protect a foreign GI across industries in China. Let's take a close look at the case.

#### Background

"Cognac", as the first GI registered in China, represents the quality of the specific brandies produced in the Cognac region of France and has gained significant recognition among the relevant public.

Ford, the multi-national automaker, uses the term "Cognac Special Edition" to name some of its car models which feature brown exterior and interior colors.

When searching the key words "Ford, Cognac brown" online, a large amount of promotional materials can be located on mainstream auto websites, and various explanations with comparisons are found too to highlight the difference between the "Cognac Special Edition" cars and their regular versions.

The notable phrase, "Not all brandies are cognac, and not all Ford are called Cognac", is quoted to enhance the unique style and the refined taste of these cars named with "Cognac".

#### Court Ruling

The Cognac Industry Office believes that Ford's use of the "Cognac" GI for advertising their products constitutes unfair competition and brought the case to the Suzhou Intermediate People's Court.

**In the first instance judgement, the court ruled that Ford shall immediately cease using "Cognac" as the name of its car color and compensate RMB 2 million to Cognac as economic loss and reasonable expenses.**

Ford then filed an appeal with the Jiangsu High People's Court, which, in the second instance trial, upheld the initial verdict and dismissed the appeal.

#### Some Takeouts

While it's quite common to use 'cognac brown' to describe a shade of rich and warm brown color for shoes, leather sofas, bags, etc., the term 'Cognac' is not included as a generic name in China's color regulations.

**Cognac believes that Ford should be aware of the famous GI and apply stricter criteria when naming its vehicle models to prevent infringement of others' interests.**

**In this sense, the court has taken the importance of preventing the potential risk of generalizing the GI into consideration, and accordingly deems that Ford's use of "Cognac" on cars could weaken the GI's original meaning and pose risks of making it a generic name.**

Another point to notice is that, although the two parties' products seem irrelevant, in the current trend of diversified development of modern industries, cross-border cooperations is becoming increasingly common.

Therefore, Ford's use of "Cognac" is likely to create confusion and mislead the relevant public into thinking that there is specific connection between these vehicles and Cognac, thereby constituting unfair competition.

*Continue reading*

Last but not least, while the Trademark Law specifies that GI can be protected under it, it doesn't exclude the possibility that GIs can also be protected under other laws. Seeking remedies for GI protection through Anti-unfair Competition Law serves the dual purpose of maintaining competition order and safeguarding the interests of businesses and consumers.

To determine if certain actions constitute unfair competition, it's crucial to assess whether they disrupt the market competition order or harm the legitimate rights of the others.

In light of this, Ford's actions have been considered by the court as in violation of the good faith principle.



**Crystal Yulan Zhang**  
**HFG Law & Intellectual Property**

## IP CHINA

### CNIPA's battle against bad faith patent applications



Trademark filings in bad faith are a big problem in China over the past decades. There have been quite some improvements in the Chinese legal landscape with this, even though more still needs to change to get rid of the problem.

On the patent-side, bad faith patent applications have not had the proper attention they deserve. Many companies that conduct business internationally, are confronted by Chinese patents that have been applied under dubious circumstances to say the least. It is therefore a positive sign that CNIPA is putting more effort in battling these bad faith patent applications.

After all a crackdown by CNIPA on abnormal patent applications can contribute to the high-quality development of intellectual property undertakings as understood under 14th Five-Year Plan for the Protection and Use of National Intellectual Property Rights.

In order to get rid of abnormal patent applications, CNIPA is recently focusing on fabricated and plagiarized patent applications and has imposed administrative penalties on a number of agencies that acted for abnormal patent applications in violation of regulations and included them on a blacklist of serious violations and untrustworthiness. In this article we will look at four typical cases of abnormal patent applications, as published by CNIPA.

#### Patent agency submits plagiarized or fabricated patent application

**Case 1:** An IP agency filed a patent application that copied prior art where the content of the application was obviously the same. The patent applications the IP agency represents involved different fields of technology, but the contents of the description and claims were exactly the same except for the different titles of the inventions.

Furthermore, after the abnormal patent application was noticed and voluntarily withdrawn, the patent agency again submitted multiple identical applications on behalf of their client.

The agency was given the administrative penalty of "revocation of the practice license of the patent agency" due to the huge number of abnormal patent applications it represented.

#### Patent agency uses false address and contact information to submit a patent application

**Case 2:** CNIPA found out that the addresses and telephone numbers of applicants for a large number of patent applications were incorrect. For example, if the applicant for the patent application submitted by an intellectual property agency limited company is a company with the address of "Room 602, in a building, after on-site verification by the local intellectual property office, they found out that the building only has five floors, and the sixth floor is the rooftop. Thus, there is no room 602.

Another example is that the applicant for the patent application submitted by an intellectual property agency limited company is a hospital in with a certain address in a city, and after on-site verification by the local intellectual property office, the place is a residential residence and there is no hospital around.

CNIPA issued administrative penalties in these cases, ordering the two agencies to stop undertaking new patent agency business for six months. Furthermore, they were included on a blacklist of serious violations and untrustworthiness.

#### Organized fabrication, re-buying and reselling of patents

CNIPA mentions two cases as abnormal patent applications for organized fabrication re-buying and reselling of patents.

*Continue reading*

**Case 3:** In the third case example, in order to obtain patent application funding for the park, an enterprise and 50 companies associated with it hired local university students to fabricate patent applications, and the applications submitted generally stacked claims and used complex mechanical structures to achieve simple functions.

At the same time, these companies or their legal representatives change the applications names of others during the authorization period to their own names. Many of which are changed by the inventor, and then changed to different parties in many places across the country after the patent application is granted.

**Case 4:** In the fourth case example, a company formed a large-scale abnormal patent application gang, and from 2018 to 2020, many shell companies with no R&D investment, no R&D personnel, and no production and operation were registered nationwide.

The companies submitted a total of 3,602 abnormal patent applications. The patent claims were all manifested as stacked technical characteristics and unnecessarily reduced the scope of protection. At the same time, the above-mentioned companies also have a number of patent applications that change the applicant and inventor during the authorization period. As such, there is obvious subjective intention to defraud financial assistance and resell the patent.

The local market supervision department has ordered the companies to return the financial subsidy funds for intellectual property rights and has started criminal prosecution against the gang with the procuratorate and public security organs.



## Conclusion

It is a positive sign that CNIPA is recently focusing on battling bad faith patent applications. These patents are not good for China's position as a serious IP powerhouse. By making it clear that such patents are not accepted, and agencies and companies that apply for these in bad faith will be severely punished and prosecuted, China's IP environment will benefit greatly in the long term.

Hopefully, CNIPA will continue to further battle these bad faith patent applications. Changing the laws and regulations in this regard, would make it easier for CNIPA to take these bad faith applications down further in the future.

**Reinout van Malenstein**  
HFG Law & Intellectual Property



## IP CHINA

### Decathlon store design protected by Court



In February 2023, Decathlon (Shanghai) Sports Goods Co., Ltd. won a 1st instance case in a civil litigation against Guangdong Camel Clothing CO., LTD, a well-known domestic outdoor sports brand company, for unauthorized use of several distinctive elements, such as logo, product name, packaging, decoration, and particularly for imitating the store design and decoration.

Beijing Shijingshan People's Court awarded Decathlon of 2.94 million RMB in damages and 350,000 RMB for expenses and required the defendants to eliminate the impact of the unfair competition publishing a statement in the China Intellectual Property News for four consecutive weeks.

Decathlon officially entered the Chinese market in 2003, and by 2021 had 280 Decathlon stores in China. The investment in the design, decoration and logo popularized Decathlon among Chinese consumers enjoying a high reputation and prestige. The plaintiff found that the two defendants opened a sport store whose business image and goods were similar to these of Decathlon, which easily led consumers to be misled.

The Shijingshan People's Court held that the "decoration" protected by the Anti-unfair Competition Law must possess the following elements:

- ▶ the decoration should have a unique style, and therefore had a certain distinctiveness,
- ▶ the decoration must be known to consumers and have certain influence through continuous use, publicity, and promotion by business operators before it was put into use, and
- ▶ the decoration had a stable corresponding relationship with its business operators because the shop's decoration had both distinctiveness and influence.

Specifically, Decathlon claimed that their rights should be based on "overall decoration and decorative style of the storefront" and the overall visual effects formed by 22 store decoration elements in 7 categories.

Based on photos of the stores and comments of the consumers on various e-commerce platforms, Decathlon proved that the whole decoration of its stores, presenting a very distinctive and minimalist industrial style with prominent product decoration as well as the classification of goods and price indication, was precisely copied by the two defendants.

Also, Decathlon store decoration has both the distinctiveness and certain reputation among consumers, so that consumers have formed a relatively unified perception and stable correspondence between the store trade dress and the Decathlon brand.

Shijingshan People's Court explained that the products sold by both parties are mainly outdoor sports commodities: this identifies the contenders as competitors. The crucial element in the case was whether the decoration of the stores operated by both sides were similar. In response to these claims, Decathlon provided a comparison table with more detailed descriptions and pictures of their stores.



Comparison of decoration and decoration styles between the plaintiff (left) and the defendant's store (right)



Comparison of the white signs in the aisle of the plaintiff (left) and the defendant's store (right)

The photos above were taken by Decathlon and used as notarized evidence collection. Also, many other pictures were taken by consumers when they came to the stores of both sides for purchasing and uploaded the images to a third-party platform, so the photos used were authentic and credible. Decathlon used the pictures to compare the overall decoration style and specific decoration elements of their stores.

Even if each defendant shop did not have all the decoration elements, the overall style and certain amount of decoration details were similar as well as the detailed characteristics of the specific decoration elements, the main colors, and their combinations, even a variety of posters, the placement of price tags, the way of illustrated layout and therefore, the comparison method adopted by Decathlon was accurate and reliable.

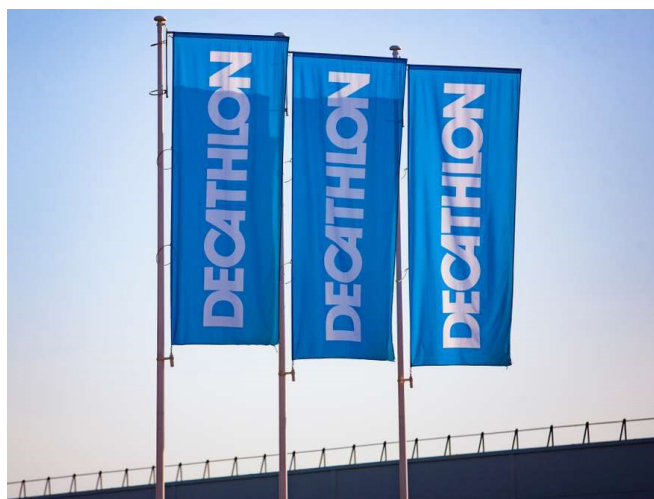
---

**Many consumers feel that “the style is similar to Decathlon” and “think that they have gone to Decathlon because the style is really similar” and “a bit like Decathlon” even though they know that they entered the defendant’s store and the defendant’s brand is also quite famous, which was sufficient to indicate the extent of similarity between the two.**

---

Although the store brands of the plaintiff and the defendant are different, the consumers still felt confused and misunderstood and wondered whether Decathlon and the defendants have a business relationship.

Shijingshan People’s Court found that the two defendants jointly implemented the activity and should bear the civil liability for stopping the infringement, eliminating the impact, and compensating for losses according to law.



In response to the defense claims of the defendant, the judgment emphasized that while the Anti-Unfair Competition Law protects innovation, it does not prohibit operators from learning from each other, or even imitating to a certain extent.

However, it doesn’t allow to exceed a reasonable boundary such as copying the whole trade dress including packaging, decoration. Improper use of the business achievements of others for profits clearly violated the principle of good faith and generally recognized business ethics and constituted unfair competition.

Currently, the case is under appeal.

**Laura Batzella**  
**HFG Law & Intellectual Property**

## TECH LAW

### TikTok and data privacy in China: security assessment with CAC



The US congressional hearing of the TikTok CEO this March has further divided opinion on data privacy and China. But what about personal data privacy in China? What do foreign companies need to know about data privacy when dealing with China?

Did you know that most multinationals in China have to file for a security assessment or take equivalent actions as required by the Cyberspace Administration of China (CAC) when transferring personal data to outside of China, and that this policy can be enforced since 1 March 2023, if not applied?

#### ✓ Which laws in China are about data

The Data Security Law, Cyber Security Law and the Personal Information Protection Law form a comprehensive legal framework in the field of data security, that will protect data and tries to solve data leakage.

#### ✓ Personal information and the security assessment by CAC

The Personal Information Protection Law demands that if personal information is transferred out of China, that the processors obtain separate consent from data subjects, that there is a personal information protection impact assessment and that there is one of the following three requirements fulfilled:

- ✓ a successful CAC security assessment issued;
- ✓ certification from CAC approved institution;
- ✓ data transfer agreement with the recipient conform the template by CAC.

The Measures of September 1, 2022, made the security assessment requirement applicable to any company that wants to transfer 'important data' outside of China. Due to broad classification, most multinational companies would fall under this. Hence the Measures gave a six-month grace period to comply, which ended on 1 March 2023.

#### ✓ Revocation of business license and other heavy fines

For the Personal Information Protection Law companies could be fined up to 50 million RMB, but also even harsher penalties as suspending business, revoking business license, or even pursuing criminal responsibility could apply.

#### ✓ Who has applied for security assessment by CAC

At the current date, not many foreign companies have filed for data security assessments with the Beijing CAC.

#### ✓ Companies need to know how to protect whose data where

For companies it is key to know how data needs to be protected in accordance with China's laws. As there is a realistic chance that TikTok will get into further scrutiny in the USA, it would not be surprising if China will enforce its various Data Laws to punish companies that are not compliant.

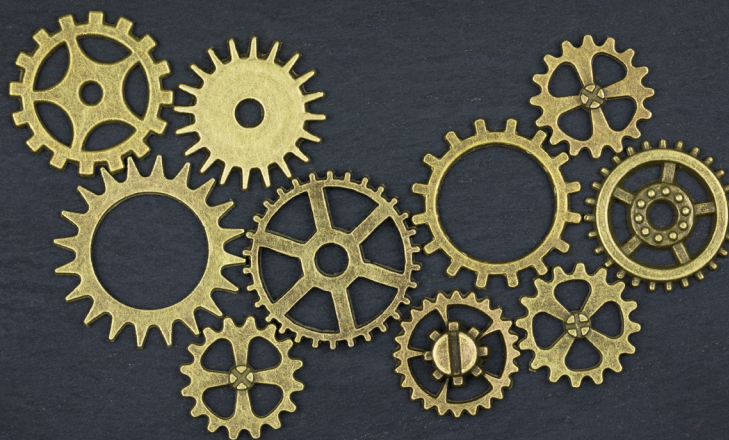
As revocation of business license is one of the potential measures that can be applied, businesses could lose their right to operate on the Chinese market.

Being compliant is now more than important than ever before, especially since the six-month grace period regarding the Measures of the Personal Information Protection Law is over. We can expect many companies to be getting into trouble very soon.

Reinout van Malenstein  
HFG Law & Intellectual Property

## IP CHINA

### New guidelines on service trademark in class 35



According to Nice Classification, Class 35 includes mainly services, such as business management, operation, organization, and administration of a commercial or industrial enterprise, as well as advertising, marketing and promotional services.

In China, Class 35 is usually nick-named as “all-purpose class”. Given the requirements from online e-commerce platform or physical shopping mall or defensive purpose, many companies have additionally registered the mark in Class 35. According to the trademark annual report, the number of trademark applications in Class 35 are always at the top of the filing list.

In practice, the lack of appropriate understanding on services mark in Class 35 might be one of cause of the “pollution” in class 35. Also doubts persist when it comes to the trademark infringement or trademark administrative cases, such as non-use cancellation action.

Last December, the China National Intellectual Property Administration (“CNIPA”) published a new Guideline on the Application and Use for Service Trademark in Class 35 (“Guideline”), further explaining how to understand and use the service mark in Class 35 from an official perspective.

Herein we would like to highlight some key points:

#### ✓ Characteristic of Class 35

The Guideline emphasize that “the relevant services in Class 35 are provided for others, rather than for the right holder’s own business needs”.

As a consequence, we shall imply that the selling of the goods with the brand of the trademark owner shall not be covered by class 35. Similarly, we shall conclude for the “advertisement”: class 35 shall not include the making of the own advertising, but only the advertising for others.

#### ✓ Use of Trademark in Class 35

Considering the special feature of Class 35, the Guideline also provides the interpretation on how to use such service mark properly.

First, the Guideline explains that the use of trademark on signboard is for the purpose of selling own goods shall not be regarded as use of the services in Class 35 like “promotion for others”.

In this regard, when it comes to trademark infringement cases, even if the infringer defends that its use is legitimate since it is the “proper” use of its registered trademark in Class 35 covering “promotion for others”, such defense may not be upheld anymore. Therefore such use shall constitute an infringement against other’s registered trademark or unfair competition to a large extent, because such use for trademark in Class 35 is not the situation of “proper” use.

Second, the Guideline emphasizes that in the process of marketing, some behavior may have the nature of “commercial” and “management”. However, the owner of trademark in Class 35 cannot prohibit these market players from conducting marketing due to the existence of aforesaid nature.

We would consider such rule expressed in the Guideline were already largely practice in judicial procedures by the Court, however it is the first time this rule being expressly confirmed at administrative level, which is surely supportive for the right holders to defense and argue in the future cases.

#### ✓ How to maintain the Services Trademark in Class 35

The Guideline also provides some suggestions on how to collect the evidence to prove the use of the service trademark in Class 35, which will be considered especially when the mark is attacked by non-use cancelation action in China.

*Continue reading*

- 1.** Preserving the service contract with corresponding invoices or similar ones to prove the performance of the contract, which shall clearly indicate trademark, registration number, service content, amount, execution time, etc.
- 2.** Preserving the promotional evidence for the use of service trademark through different channel including radio, TV, newspaper, magazine, Internet etc.
- 3.** Marking the service trademark in the service place, such as on signboard, interior decoration, service manual, price list, menu, stationery, etc. and contract and invoice for the design of these products.
- 4.** If there are multiple trademarks in the same Class and the distinctive of them are different, please note to distinguish the use by the possible way of adding ® in the upper right corner of the registered trademark.
- 5.** If the trademark owner cannot put the service trademark into use due to force majeure, governmental restrictions, bankruptcy, and liquidation, it is better to prepare relevant defense evidence.



**Note:** If you would like to explore more for the goods and services classification rules in China, it is suggested to use X-CLASS (check [here](#)) for a bilingual online IP tool to navigate the Chinese (Sub-) Classification of goods and services.

**Ariel Huang**  
**HFG Law & Intellectual Property**

## IP CHINA

### Polished armour for women in China: the women protection law



If taking a look at the headlines on the WeChat official accounts of many courts in P.R.C these days, you may notice that most courts are broadcasting the issuance of “order for community property declaration”.

Why such order becomes hot topic in Chinese courts, and why should we care about relevant topics? The answers may lie in the “Law on the Protection of Rights and Interests of Women” (Women Protection Law) of which the revision becomes effective since 2023.

#### Overview of the Women Protection Law

Since its issuance in 1992, the Women Protection Law has been revised for 3 times, among which the interval of the first and the second revision are 13 years, but the interval between the second and the recent revision in 2022 is only 4 years, showing that the authorities value more and more the importance of women protection.

The Women Protection Law aims at providing all-round protection of the rights and interests of women in various aspects, including

- ✓ political aspects,
- ✓ personal aspects,
- ✓ educational aspects,
- ✓ work and social security aspects,
- ✓ property-related aspects and
- ✓ marital or family aspects.

Meanwhile, the recent revision focuses more on the women’s rights in the workplace and in the marriage relationship, especially on the sexual harassment, discrimination in work, as well as personal safety and property safety in the marriage.

#### Special measures in the Women Protection Law

Firstly, the “order for community property declaration” as mentioned at the beginning of this article is one of the most-advertised special measures in the Women Protection Law.

In the previous divorce cases in P.R.C, it is not rare that a party tends to hide the common property in marriage to

prevent the other party from claiming their property rights, and such behavior is difficult to be detected, let alone to be punished.

However, with the new “order for community property declaration”, both parties in the divorce litigation have the responsibility to declare the community property. Once the party that hides the property is found to have hidden the common property which is not properly declared, he/she shall get punishment such as losing the property rights of the hidden assets, and the interest of women is therefore protected.

---

Secondly, the Women Protection Law emphasized the measure of “personal safety protection order” to protect the rights of the women in various private relationship.

Before the revision of the Women Protection Law, the “personal safety protection order” mainly aims at protecting the family members from domestic violence; this revision has enlarged the protected entity to women in pre- or post-marital relationship, so even if a female has not married or has divorced, she can now apply for the “personal safety protection order” according to the Women Protection Law.

---

Apart from the above mentioned measures, the Women Protection Law also broadens the measures to protect women in other aspects, such as women can seek the protection against sex harassment not only to the civil court, the public security bureau or the authorities, but also to the employers, and the employers are obliged to provide related protection. Many articles have discussed this point in further details and can be taken as reference.

*Continue reading*

## What to do to better protect the women under the Women Protection Law

### Entities for protection

According to the revised Women Protection Law, related organizations at all levels shall have the responsibility to protect the rights of the women, no matter they are government authorities or private entities.

For example, if the female get harassment in the school, in the work place or in the hotels, all relevant departments including the schools, the employers, the hotel runner or even the residents' committees have the responsibility to report and take necessary measures to stop the infringement, then the authorities like the public security bureau, the civil affairs bureau, and the health department have the responsibility to intervene.

### Methods for protection

Apart from reporting the illegal behavior which harms the interest of women to the authorities, the relevant entities also have the responsibility to take further action, including intervene the illegal behavior, establish systematic measures to prevent the illegal behavior such as sexual harassment.

### Liability if failed to protection

Entities with responsibility to report will at least get administrative punishment if fails to provide necessary protection measures, and the punishments may vary from fine of RMB10,000 to 50,000, suspension of business operation and direct punishment to the responsible staff. If the situation is severe, the relevant entity may get criminal punishment as well.

## How women can get support under the Women Protection Law

Due to various reasons, many women struggling to protect their own rights and interests are not aware of the details of the Women Protection Law, let alone seeking relevant help. They always hope to solve the problems all by themselves, which is not only creating obstacles for themselves, but also has no benefit for the practice of Women Protection Law.

With the implementation of the revised Women Protection Law, all women should not hesitate to seek the various kinds of supports from the society to protect the legitimate rights and interests. Whenever you feel your rights and interests might be harmed, whether such harm is from private affairs or the public fields, please reach out for more assistance, and the better practice of the Women Protection Law will also lead to a more women-friendly society.

HFG Law & Intellectual Property

## HFG NEWS

HFG is one of the top 100 Trademark Agencies in China!



On November 22nd, China Trademark and IPHouse jointly released the list of "Top 600 Trademark Agencies in China" under the guidance of China Trademark Association, and a total of 600 trademark agencies were rated as 5A, 4A and 3A agencies in terms of their service capacity of trademark agency.

Based on the data-based ranking model, out of 32,000 registered in the CNIPA, 600 trademark agencies were evaluated. Based on service capabilities, these agencies were classified as 5A (100 agencies), 4A (200 agencies) and 3A, (300 agencies).

### Thanks to its excellent performances, HFG has been ranked 5A!

HFG has a passing rate of 85% in the preliminary examination of trademark applications.

As Opposer, the winning rate of trademark opposition cases was 68.59%, as Trademark Applicant, the winning rate of trademark opposition cases was 85.71%, and the winning rate of opposition cases was 68.92%.

The average winning percentage in trade mark review cases was 63.41%: as an attacking party it was 63.21%, and as a defendant it was 69.23%.

Full ranking [here](#) (in Chinese)

HFG Table with indicators' numbers [here](#) (in Chinese)

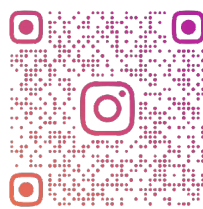
### Congratulation to all the team!

HFG Law & Intellectual Property

LinkedIn



Instagram



WeChat

