

9 February 2026

Legislative Affairs Commission of the  
Standing Committee of the  
National People's Congress  
No. 1 Qianmen West Street  
Xicheng District  
Beijing, Postcode: 100805

***Re: Comments on the Draft Amendment to the Trademark Law of the People's Republic of China***

Dear Legislative Affairs Commission:

The Intellectual Property Owners Association (IPO) appreciates the opportunity to respond to the request for comments on the Draft Amendment to the Trademark Law of the People's Republic of China.

IPO is an international trade association representing a "big tent" of diverse companies, law firms, service providers, and individuals in all industries and fields of technology that own, or are interested in, intellectual property (IP) rights. IPO membership includes over 125 companies and spans over 30 countries. IPO advocates for effective and affordable IP ownership rights and offers a wide array of services, including supporting member interests relating to legislative and international issues. IPO's vision is the global acceleration of innovation, creativity, and investment necessary to improve lives.

IPO appreciates the aim of the National People's Congress (NPC) to try to improve the trademark system through this amendment. IPO commends the draft trademark law for the following provisions, in particular:

- **Article 18:** Addressing abuse by rejecting trademarks not intended for use and those exceeding normal business needs,
- **Article 55:** Introducing licensee quality assurance,
- **Article 56:** For the sensible change to only cancel the mark under severe circumstances, and
- **Article 74:** Allowing the rights owner to be compensated for reasonable legal expenses in cases where the court awards statutory damages.

IPO offers suggestions relating to certain Articles below for consideration. Our organization hopes that our comments will be helpful during the process of finalizing the Trademark Law of the People's Republic of China.

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## Article 19 – Examination and Coexistence

- **Coexistence Agreements / Consents**

Prior to 2022, the China National Intellectual Property Administration (CNIPA) and Chinese courts routinely approved trademarks in the course of appeals applications for marks deemed similar to prior registrations based upon consents and coexistence agreements between the applicant and the owner of a cited mark. After 2022, policies in this regard changed, and virtually no such applications were approved, for reasons that have not been clearly explained. This new policy has resulted in harm to rightsholders that have used their marks globally and within China for many years, as well as harm to consumers based on the greater difficulty of rights holders to enforce their marks against counterfeits.

IPO therefore strongly recommends that the NPC consider adding a new provision—perhaps within Article 19—that would explicitly allow for coexistence/consent arrangements. This provision could include reasonable requirements for the acceptance of such arrangements.

- **Examination against Prior Applications**

Under Article 19 of the draft, CNIPA would examine new applications for registration against all prior applications, and not just applications that have been preliminarily approved. IPO supports this change, as it accords with international practice and will bring greater efficiency to the registration process.

However, IPO notes that CNIPA has been citing a larger number of prior marks during examination—perhaps due to the use of new AI tools—with many of these citations appearing on their face to be unreasonable. Our members express the hope that the proposed change will not result in an even greater number of unreasonable citations.

## Article 21 – Unauthorized Filings by Agents and Business Partners

Article 21 (current Article 15) allows oppositions and invalidations against marks filed without authorization by agents and business partners of a rights holder. But protection is limited under this provision to only goods and services deemed identical or similar to those of interest to the rightsholder. Given market realities, the trend of "brand extension," and the fact that agents make such applications in almost all cases in obvious bad faith, IPO members recommend that the NPC consider widening the scope of protection within the current Article 15 to dissimilar goods and services.

## **Article 23 – Bad Faith vs. Intention**

Articles 23 and 74 of the NPC draft effectively seek to replace the concept of "bad faith" filing behavior with "intention" to register the mark of another party. This change seems to be motivated in part by the legislature's desire to bring consistency with other Chinese laws, including the PRC Civil Code.

It is our understanding that the NPC drafters did not intend to change the burden of proof or legal standard for determining liability when replacing "bad faith" with "intention." IPO seeks clarification if this is not the case.

Regardless, it is recommended that the future law clarify that liability attaches based upon deemed knowledge, *i.e.*, where there is sufficient evidence the pirate "should have known" the relevant mark was owned by another.

## **Articles 35 and 38 – Opposition Period**

Regarding Articles 35 and 38, IPO expresses serious concern that reducing the trademark opposition period from three months to two months may disadvantage foreign stakeholders by limiting their ability to thoroughly assess and respond to newly approved applications, thereby potentially undermining fair competition and international interests.

IPO suggests at least reverting the opposition period to three months, if not increasing this period to, for example, six months.

## **Articles 36, 37, and 57 – Review Deadlines**

The draft states that applicants may apply for a review within 15 days from the date of receipt of the notification about related rejections or decisions. IPO believes the 15-day deadline to apply for a review is unduly short and may adversely affect applicants' legitimate procedural rights. As such, IPO strongly recommends extending the deadline to at least 30 days.

Applicants, particularly small and medium-sized enterprises or foreign applicants, often require some time to receive the written notice, consult with trademark counsel, review the legal and factual basis of the decision, and determine an appropriate response. A 15-day period is insufficient in practice to complete these necessary steps, especially in cases involving complex legal issues or where coordination across jurisdictions and time zones is required. Extending the deadline to 30 days would be consistent with common international practice and would better balance administrative efficiency with applicants' right to meaningful review.

## **Article 40 – Suspension of Pending Cases**

Article 40 of the NPC draft includes a minor adjustment of language that would facilitate the suspension of pending cases to account for co-pending disputes that are relevant to the outcome thereof. IPO is supportive of this provision.

However, the second paragraph of Article 40 creates uncertainty whether the current judicial practices in this regard will remain. Under current practice, Beijing courts suspend proceedings in appeals for up to one year pending the outcome of co-pending proceedings. Paragraph 2 states that the courts must render decisions based upon the factual status "at the time the challenged decision or ruling was made." IPO seeks clarification whether this would preclude the granting of one-year suspensions and the reinstatement of trademark applications where the barrier to registration is ultimately eliminated through separate proceedings.

## **Article 53 – Administrative Penalties against Bad Faith Filers**

Article 53 of the NPC draft would broaden somewhat the range of bad faith behaviors that can be subject to administrative penalties and increase the maximum fines that may be imposed on filers to RMB 100,000, a ten-fold increase from the level currently set under administrative regulations. IPO supports this new proposed language and the codification in the draft law of the maximum fine against violators.

## **Article 70 – Fair Use**

Article 70(3) of the NPC draft introduces language intended to clarify the scope of fair use of registered trademarks, subject to the limitation that such use will not cause consumer confusion. Paragraph 3 states that registrants cannot prohibit others from using a mark if the mark is used "...merely to indicate the purpose, applicable target, application scenario of the goods provided or to indicate the true source (parallel imports), where such use does not cause consumer confusion".

IPO members are concerned over the intentions behind this language and whether it may result in a change in the status quo. Disputes involving fair use of registered trademarks are typically very fact-specific, and it is unclear if any of the above language is intended to expand or narrow the application of fair use. IPO members believe in particular that any unauthorized use of a registered trademark in a stylized format should be presumptively prohibited.

IPO thanks the Legislative Affairs Commission for its consideration of these comments

and welcomes any further opportunity to discuss these important issues. IPO has enclosed this letter as translated herewith.

Sincerely,



John J. Cheek  
President

Enclosure