



# IP CASE EXPRESS



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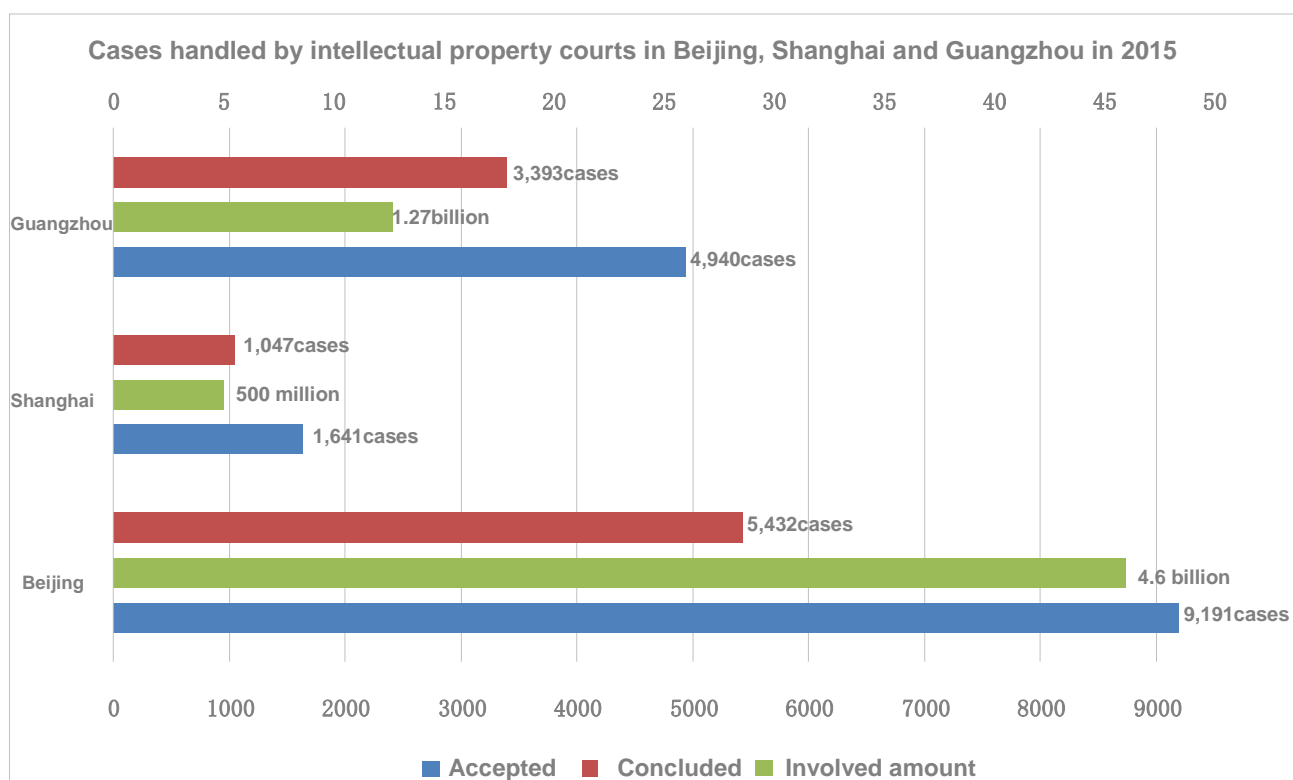
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In this edition, we browsed and analyzed IP-related court judgments and adjudications together with the key statistics recently, and we would like to share with you some noteworthy statistics and our comments on some significant cases.

## I. Statistics

### Outlines of Cases Handled by Intellectual Property Courts in 2015

- As of December 31, 2015, intellectual property courts in Beijing, Shanghai and Guangzhou had accepted 15,772 cases, among which 9,872 had been concluded.
- Beijing Intellectual Property Court had accepted 9,191 cases (a total of 4.6 billion Yuan involved), among which 5,432 cases had been concluded.
- Shanghai Intellectual Property Court had accepted 1,641 cases (a total of 500 million Yuan involved), among which 1,047 cases had been concluded.
- Guangzhou Intellectual Property Court had accepted 4,940 cases (a total of 1.27 billion Yuan involved), among which 3,393 cases had been concluded.

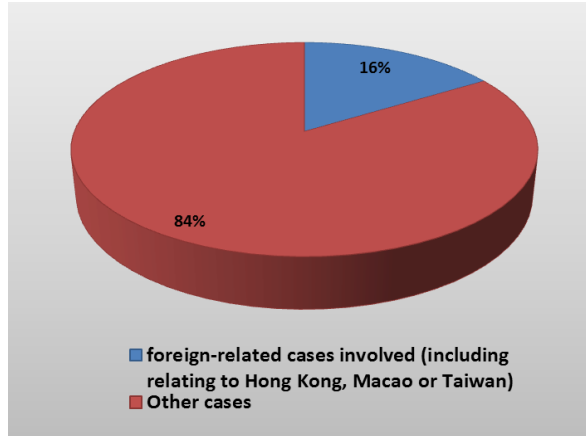


Source: People's Court Daily

- Cases handled by Shanghai Intellectual Property Court in 2015 present the following characteristics:

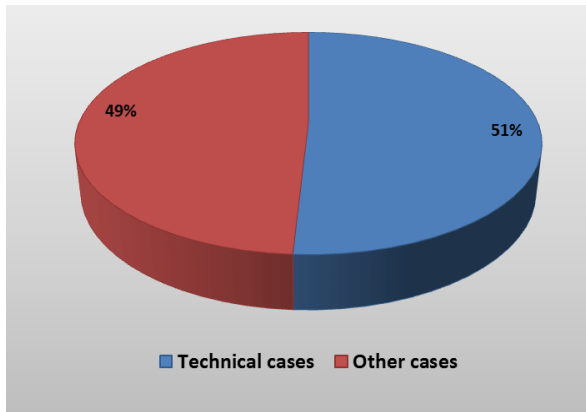
☆ Foreign-related Cases account for a high proportion

☆ There are 265 foreign-related cases involved (including relating to Hong Kong, Macao or Taiwan), accounting for 16% of total cases accepted in 2015.



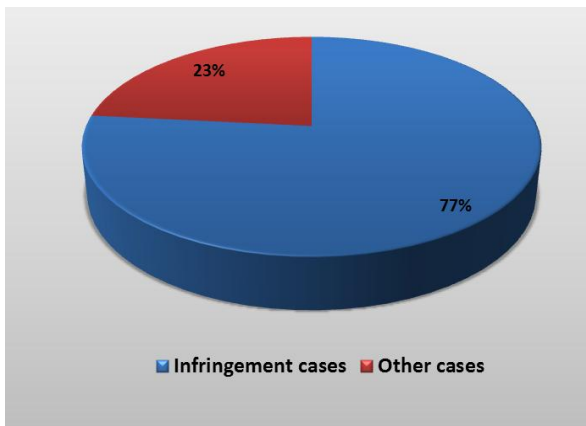
☆ Technical cases account for a high proportion

☆ There are 835 technical cases relating to patents, computer software, technical secrets, etc., accounting for 51% of total cases accepted in 2015.



☆ Infringement cases account for a high proportion

☆ There are 1,257 intellectual property infringement cases, accounting for 77% of total cases accepted in 2015.



Source: Shanghai Intellectual Property Administration

## II. Comments on Typical Cases

### Patent

### Service Invention Remuneration Dispute between Zhang Weifeng and 3M China Ltd.

- Shanghai Higher People's Court Civil Judgment (2014) Hu Gao Min San (Zhi) Zhongzi No.120
- Shanghai First Intermediate People's Court Civil Judgment (2014) Hu Yi Zhong Min Wu (Zhi) Chuzi No.240



#### Rules:

1. As for inventions partly made in China and having been granted patent right in China, inventors are entitled to require relevant reward and remuneration according to the stipulations of Patent Law and Implementing Regulations of Patent Law.
2. Under the intellectual property centralized management mode, for inventions made by employees of Chinese subsidiary and applied for patent in the name of foreign affiliated company, Chinese subsidiary shall pay service invention remuneration to

**inventors. Foreign affiliated company doesn't have labor relation with inventors, and therefore is exempted from the obligation of paying service invention remuneration to inventors.**

#### Facts:

Zhang Weifeng was an employee of 3M China Ltd. During his service period, he made an invention titled "Reflective polaroid and display apparatus with the same" together with three other inventors from 3M American company.

According to the intellectual property protocol of 3M Group, intellectual property of group members including 3M China Ltd. shall be assigned uniformly to 3M Innovation Ltd. to be managed, and be licensed to group members such as 3M China uniformly by 3M Innovation Ltd. The present invention was also filed as PCT application in the name of 3M Innovation Ltd. Said PCT application was granted by SIPO after entering China, in which Zhang Weifeng was the third inventor.

Afterwards, 3M China Ltd. awarded 20,384 Yuan to Zhang Weifeng as service invention remuneration according 3M China Service

Invention Bonus Plan. Zhang Weifeng thought that compared with the sales amount of the patented product, the remuneration awarded by 3M China Ltd. was much too low, and the patentee, 3M Innovation Ltd. didn't pay any remuneration to him. For that, Zhang Weifeng brought a lawsuit to the people's court, demanding 3M China Ltd. and 3M Innovation Ltd. jointly pay him a service invention remuneration of 4,400,000.00 Yuan and delayed payment of interest.

The present case was ruled by Shanghai First Intermediate People's Court for the first instance and Shanghai Higher People's Court for the second instance. Shanghai Higher People's Court made the final judgment on April 22, 2015 and interpreted some typical issues regarding service invention reward and remuneration of multinational companies.

**Remarks:**

**I. The application of law**

With the development of economical globalization, cooperation of cross-border research has become a more and more universal phenomenon. Under the circumstance that an invention- is jointly made by inventors from different countries, law of which country shall be applied regarding service invention remuneration?

In the present case, the court deemed that the so-called accomplishment place didn't require both the whole technical solution and its every portion be made in a certain place; the place in which part of the technical contribution was accomplished shall also be regarded as one of the accomplishment places. The present

invention was jointly developed by the plaintiff and three other inventors during his working period in 3M China Ltd. Thus, mainland China is one of the implementing places of the present invention, and Chinese law shall be applied in the present lawsuit.

**II. Payment subject of service invention remuneration**

Centralization management is one of the intellectual property management modes generally adopted by multinational companies. Such mode can make the global intellectual property departments of the holding company be operated according to unified intellectual property policy, thus to protect the integral interest of the company to a maximum extent. Under such mode, situation will appear that the company to which the inventor is affiliated is separated from the company being granted patent right. That is to say, the company that the inventor employed by is different from the company to which the patent is granted. Under such circumstance, is the company the inventor employed by exempted from the obligation of paying service invention remuneration to inventors?

For this issue, the court deemed that the centralization management mode of intellectual property adopted by 3M is based on the agreement between its affiliated companies, and can't deny relevant right entitled to inventors according to laws. The original legislative intention for the regulations of awarding remuneration to inventors in Patent Law is to give inventors due labor reward, and said legitimate right of acquiring reward shall not be impaired by the internal agreement of multinational companies. Therefore, although 3M China

is not the patentee of the present invention, it is Zhang Weifeng's employer, and shall pay service invention remuneration to Zhang Weifeng.

In the present case, 3M Innovation Ltd. is not Zhang Weifeng's employer. 3M Innovation Ltd. became the patentee of the present invention due to the agreement between 3M affiliated companies. Now that the court has already ruled that 3M China Ltd. shall pay service invention remuneration to Zhang Weifeng, there is no factual and legal basis that Zhang Weifeng required 3M Innovation Ltd. to pay service invention remuneration.

### **III. Determination of service invention remuneration**

3M China Service Invention Bonus Plan is the regulation formulated by the defendant 3M China Ltd., and is substantially an appointment of how to calculate service invention remuneration between 3M China

Ltd. and its employees. Such appointment is not against the law. When dispute regarding calculation of service invention remuneration arose, as the payer of the remuneration, 3M Chins Ltd. was supposed to provide specific calculation basis in the trial of the present case. However, 3M China Ltd. didn't provide data such as annual sales amount, product coefficient, patent distribution coefficient, inventor distribution coefficient, etc. as remuneration calculation basis. In the present case, under the circumstance that both parties' allegation about the calculation of service invention remuneration was difficult to be supported, discretionary decision was made that 3M China Ltd. shall pay 200,000 Yuan to Zhang Weifeng as service invention remuneration.

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## Trademark

### FOCKER SECURITY PRODUCTS INTERNATIONAL LIMITED v. ZHENGJIANG PUJIANG YA-HUAN LOCKS CO., LTD.

- *The Supreme Court Civil Judgment (2014) Min Ti Zi No. 38*
- *Zhejiang Higher Court Civil Judgment (2012) Zhe Zhi Zhong Zi No. 285*



#### Rules:

**When an OEM manufacturer in China uses a mark at the request of a foreign entrusting party on the products manufactured for the entrusting party, and all of the products will be exported to overseas markets rather than being sold in China, the mark will not serve the function to identify the source of goods in the territory of China and there is no possibility of causing confusion among the relevant public in China as to the source of the products. Such use of the mark is merely a physical act to attach the mark to the products, instead of a “trademark use” in the sense of law, and therefore shall not constitute trademark infringement.**

#### Facts:

FOCKER SECURITY PRODUCTS INTERNATIONAL LIMITED owns trademark registration No.3071808 for “**PRETUL**” in China, which is designated for use on goods including metal accessories for furniture; hardware lock; padlock; Metal lock (non-electronic), etc. in Class 6.

ZheJiang PuJiang Ya-Huan Locks Co., Ltd. was entrusted by (Mexican) TRUPER Co., Ltd., to manufacture padlocks. On such products, the trade mark “PRETUL” was used on the lock body, key and product

specification and the trademark “**PRETUL**” was used on the packing boxes. The aforesaid padlocks were seized by Ningbo Customs in the process of export for suspected infringement upon the above-mentioned registered trademark of FOCKER SECURITY PRODUCTS INTERNATIONAL Co., LTD.

(Mexican) TRUPER Co., Ltd. owns trademark registrations for “PRETUL” or

“**PRETUL**” in Mexico and many other countries/regions. The seized padlocks

carrying “PRETUL” or “**PRETUL**”



trademark were all produced by ZheJiang PuJiang Ya-Huan Locks Co., Ltd., under the



authorization of (Mexican) TRUPER Co., Ltd, and all to be exported to Mexico.


#### FOCKER SECURITY PRODUCTS

INTERNATIONAL LIMITED filed a lawsuit against ZheJiang PuJiang Ya-Huan Locks Co., Ltd. for infringement upon its exclusive right to the aforesaid registered trademark.

The first-instance court held Ya-Huan's use of "PRETUL" or "" marks in OEM manufacture constitutes a use in the trademark sense. Ya-Huan's use of "PRETUL" trademark, which is similar to FOCKER's registered trademark, will not cause confusion among the relevant public in China considering the goods with the trademark "PRETUL" will not be sold in China, and hence shall not constitute trademark infringement; its use of the trademark "" shall constitute a trademark infringement, because it's a use of an identical trademark on identical goods compared with FOCKER's registered trademark, in which case likelihood of confusion is no more a prerequisite for infringement.

The second-instance court held the Trademark Law of P.R.China and related judicial interpretations do not limit "relevant public" within the territory of China, and Regulations of the People's Republic of China on the Customs Protection of Intellectual Property Rights clearly prohibits exportation of goods that infringe upon intellectual property rights, so Ya-Huan's argument that its products will not be sold in China and no confusion will be caused among the relevant public is not justified. Hence Ya-Huan's uses of trademark

"PRETUL" or "" should constitute the trademark infringement.

The Supreme People's Court held in its retrial ruling that (Mexican) TRUPER Co., Ltd. is the owner of "PRETUL" or "" registered trademarks in Mexico. Ya-Huan Locks Co., Ltd., authorized by (Mexican) TRUPER Co., Ltd, uses the "PRETUL" marks on the padlocks which are all for exportation to Mexico, rather than being sold in China, so the marks will not serve the function to identify the source of goods in territory of China and there is no possibility of causing confusion among the relevant public in China as to the source of the products. The basic function of trademarks is to identify source of the goods using the trademarks. Ya-Huan's above said uses of related "PRETUL" marks is merely a physical act to attach the marks to the products in China, will neither distinguish the source of the OEM manufactured goods nor identify the source of the goods, thus should not be deemed as a use in the trademark sense and shall not constitute trademark infringement.

#### Remarks:

Foreign-related OEM generally refers to manufacture of goods for a foreign entrusting party with trademarks as designated by the foreign party, and all such goods will be exported and sold to foreign countries. In theory, foreign-related OEM can be further defined from a narrow sense and a broad sense. In the narrow sense, foreign-related OEM refers to the aforesaid manufacture where the foreign entrusting party has valid trademark registrations for the marks used on the goods in the



exportation destination countries; whereas in the broad sense, foreign-related OEM will include the situation where the foreign entrusting party may not have valid trademark registrations in the exportation destination countries. It has been a long-controversial issue in China whether use of a trademark in foreign-related OEM may infringe on other entities/persons' trademark right in China. Under legal practice in China, mainly there are four different genres of opinions on this issue as summarized below:

1. Foreign-related OEM shall constitute infringement. Pursuant to relevant provisions of previous Trademark Law of China, uses of identical or similar trademarks on identical or similar goods will constitute trademark infringement, and implementing rules of the previous Trademark Law also stipulated that usage of trademark on goods and goods' package constitutes trademark use. Due to the territoriality of intellectual property rights, owing trademark registrations in the export destination countries is not a defence against accusation of trademark infringement in China;

2. Foreign-related OEM shall not constitute infringement, in view that all OEM-manufactured products will be exported and sold in foreign countries, and will not confuse or mislead the relevant public in China. Thus, such a use won't damage the legitimate rights or interests of the registrants of the trademarks in China.

3. Whether foreign-related OEM will constitute infringement depends on in the specific case whether the OEM

manufacturer has exerted reasonable duty of care, such as on whether the foreign party has valid trademark registrations in the exportation destination countries.

4. Foreign-related OEM will constitute infringement when the trademark and the goods of the defendant are both identical with the plaintiff's. According to provisions of TRIPs and relevant judicial interpretations of the Supreme People's Court of China, the foregoing "dual identical circumstance" shall constitute trademark infringement regardless of likelihood of confusion. Other than the "dual identical circumstance", OEM manufacture will not constitute trademark infringement considering no confusion will be caused among relevant publics. The first instance court for this case also held this view.

The judgment of Supreme People's Court (retrial court) on this case is the first judgment the SPC has ever made on the issue whether foreign-related OEM in China shall constitute trademark infringement. From this precedent, the principle that "foreign-related OEM constitutes no trademark use" is officially established and recognized. But since this case only involved foreign-related OEM in the narrow sense, it remains unclear whether the same principle will apply to foreign-related OEM in the broad sense.

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## Unfair competition

### Beijing TCBCI Information Consultancy Co., Ltd. v. Beijing RCC Construction Consultancy Co., Ltd

- *Beijing No. 2 Intermediate People's Court Civil Judgment (2014) Er Zhong Min (Zhi) Zhong Zi No.12099*
- *Beijing Fengtai District People's Court Civil Judgment (2014) Feng Min Chu Zi No. 07303*

**other people may easily regard the micro blog as a part of the company's publicity, the information released on the micro blog can be considered as the legal representative's performance of his duty on behalf of the company.**

**RCC** 瑞达恒

VS

天辰 **TCBCI**

#### Facts:

Beijing RCC Construction Consultancy Co., Ltd. ("RCC"), the plaintiff in the first instance, and Beijing TCBCI Information Consultancy Co., Ltd. ("TCBCI"), the defendant in the first instance, are doing similar business thus constitute competitors. TCBCI used to publish on its website six articles, including an article titled TCBCI Solemn Declaration, contents of which involve RCC and its employees. In a previous lawsuit, the court ruled that the contents of the articles published by TCBCI have damaged RCC's goodwill, thus TCBCI's acts constitute unfair competition acts and TCBCI should stop such infringing activities. After the previous lawsuits completed, RCC files this lawsuit based on claims that defaming articles published by TCBCI can still be found on Google search engine and Cui Yan, TCBCI's legal representative, is found publishing defaming contents on his own micro blog (operated in his real name), whose link is posted on the TCBCI's corporate website, and requests the court to order TCBCI to stop the infringement.

#### Rules:

1. **If a court has made an effective judgment against an infringement, and the defendant continues to do infringement after the judgment but the content of the continued infringing act is not identical with the former one, the continued infringing act shall be regarded as a new infringement, for which the infringed party can file a new lawsuit.**
2. **If a company's legal representative put a link to his personal micro blog on the corporate website so that**

The plaintiff's claims in the present case are supported by courts of the first instance and second instance, which hold the view that the defaming contents in the present case cover these in previous lawsuit but also have new defaming contents, thus shall be considered as new infringement. At the same time, the courts think act of Cui Yan, TCBCI's legal representative, is a performance of his duty on behalf of the company. The courts rule that TCBCI shall stop infringement on RCC's goodwill.

### **Remarks:**

It is still a controversial issue in China whether a repeated infringement should be resolved by forcible enforcement of the original judgment or considered as a new infringement resolved by a new lawsuit. Opinions on this issue can be divided into three groups. One group of people thinks, if an effective court judgment has affirmed the infringement and ordered stop of the infringement, the defendant's continued infringement shall constitute refusal to implement effective court judgments, and the plaintiff shall apply to the court for forcible enforcement of the previous effective court judgment. The second group of people holds that infringement emerging after conclusion of the previous lawsuit shall be considered as a new infringement, not falling into the trial scope of the previous lawsuit, thus the right holder shall be entitled to file a new lawsuit. The third group thinks that right holder who suffers repeated infringement is entitled to choose between forcibly implementing the previous effective court judgment and filing a new lawsuit for the new/repeated infringement.

Our view is that if the subject of the new/repeated infringement is totally the same as in the previous lawsuit, the principle of non bis in idem shall apply and it will be inappropriate for the court to rule again to order stop of the infringement, since in the previous lawsuit the court has issued an injunction. But if the new/repeated infringement causes extra damage, right holders are entitled to file a new lawsuit to ask for damages. In the event the subject of the new/repeated infringement is different from that in the previous lawsuit, it shall constitute new infringement, so right holders can file a new lawsuit and the court can also issue a new injunction.

How to distinguish a company's legal representative's personal behavior from his/her performance of duty is another important issue under debate. If the legal representative acts in the name of the company and within his/her power as the company's legal representative, consequences of his/her acts should be borne by the company. In the present case, it's unclear whether TCBCI's legal representative's publishing defaming content against RCC in his personal micro blog was done on behalf of the company. However, TCBCI put on its corporate website the link to its legal representative's personal micro blog, which is very likely to lead the public to believe it as a part of the company's publicity. In the absence of contrary evidence, this should be regarded as an act of the company.

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## Technology Contract

### Zhejiang Kewei Energy-saving Technology Co., Ltd. v. Cangzhou Zhongtie Equipment Manufacturing Materials Co., Ltd.

- *The Supreme Court Civil Ruling (2014) Min Shen Zi No. 430*
- *Zhejiang Higher People's Court Civil Judgment (2013) Zhe Zhi Zhong Zi No. 302*

 科维

VS

 CEM  
中铁装备

#### Rules:

**1. Law allows parties to set forth the liquidated damages, fixed amount or the method for the calculation, when they conclude a contract, and law also gives parties the right to request the court or arbitration tribunal to adjust the set liquidated damages.**

**2. When parties request the court or the arbitration tribunal to adjust the liquidated damages, the principle of burden of proof, “he who asserts must prove”, should be applied. Article 113 of PRC Contract Law shall be applied generally when contractual parties do**

**not agree upon a liquidated damages term in the contract, and usually the party who claims for damages takes the burden of proof. Article 144 shall be applied to the situation that both parties make a liquidated damages clause in the contract, and the party who requested to adjust the liquidated damages should take the burden of proof.**

#### Facts:

Kewei Company and Zhongtie Company signed a contract for a deal on energy-saving equipment. Kewei Company is going to provide Zhongtie Company with energy-saving equipment and technical support, and therefore will obtain 70% of the profit resulted in Zhongtie Company's power-saving. According to the aforesaid contract, if Zhongtie Company unilaterally terminate the contract before the installation of the energy-saving equipment, or refuse to accept the technical support, it should take responsibility for breach of contract at the cost of paying for 50% of the contract price. In order to get the contract performed, Kewei Company purchased relevant equipment but Zhongtie Company refused to honor the contract. Then Kewei Company sued Zhongtie Company being liable to pay the liquidated damages. Both the first and second instance supported the claim of Kewei Company, ruling that Zhongtie was liable to the contractual amount of liquidated

damages based upon the counting method agreed upon by the parties. Zhongtie Company was unsatisfied with the judgments and resort to the Trial Supervision Proceeding with the Supreme Court. The Court rules that in accordance with Article 114 of the Contract Law, the parties could set forth the amount of liquidated damages or the calculation method. The parties could also request to increase or decrease the liquidated damages base on the reason that the liquidated damages were lower or too much higher than actual loss incurred due to the breach. Zhongtie Company did raise a plea that the liquidated damages were too much higher than the actual loss suffered by the Plaintiff, but it did not provide any evidences to prove its stated facts. Therefore, the Supreme Court held that the judgments made by first and second instance were not incorrect, and accordingly rejected the application for a retrial filed by Zhongtie Company.

**Remarks:**

The liability for breach of a contract usually base on the actual loss of the suffering party, but law allows parties to set forth the amount of liquidated damages or the method for calculating the liquidated damages when they conclude a contract, and law also gives parties the right to request for the adjustment of the liquidated damages by a court or arbitration tribunal. The parties are often negligent in the principle of burden of proof, i.e. “he who asserts must prove”, while request for adjusting the liquidated damages. In accordance with Article 114, paragraph 2, the burden of proof shall also be taken by

the party who raises the claim. In this case, since Zhongtie Company requested the Court to reduce the liquidated damages base on the reason that the liquidated damages were much higher, it should take the burden of proof for the allegation that “the liquidated damages were much higher than the actual loss incurred to the Plaintiff”. Zhongtie Company should not blame the courts of first instance and second instance by simply saying unjust judgments were made because Kewei did not prove the actual damages. The disputed contract definitely stated that Kewei Company will obtain 70% of the power-saving profit in 4 consecutive years. (Because Kewei Company will provide energy-saving equipment and technical support) In addition, the specific amount of each year’s power-saving profit was stated in the contract. According to the contract, if Zhongtie Company breaches the contract, it should compensate Kewei Company in the amount of 50% of the deserved profit. All the above factors constitute the method for calculating the liquidated damages. It should be pointed out that Article 113 of the Contract Law shall be applied in the situation that the parties do not agree upon the liquidated damages in the contract, and usually the honoring party takes the burden of proof. Article 144 shall be applied in the situation that both parties have made a liquidated damages clause in the contract, and the party who request for the adjustment of the liquidated damages should take the burden of proof.

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### III. **NTD Case Selection**

## Nanjing Paris Prestige perfume Co., Ltd. v. Wuxi Commercial Mansion Corp., Ltd, and LVMH Perfume & Cosmetics Shanghai Company Ltd

- *Jiangsu Wuxi Intermediate People's Court Civil Judgment (2015) Xi Zhi Min Zhong Zi No. 00040*
- *Jiangsu Wuxi Binhu District People's Court Civil Judgment (2014) Xi Bin Zhi Min Chu Zi No. 00069*



Nanjing Paris Prestige perfume Co., Ltd. ("Prestige") was founded in 1988, a

company mainly in perfume business. On August 14th, 2000, China Trademark Office approved its application for registration of

"**ONE**" mark (trademark application no.1431198), with respect of "perfume and cosmetics" in Class 3. In 2014, Prestige brought a lawsuit with Wuxin Binhu District People's Court against Wuxi Commercial Mansion Corp., Ltd (a distributor), LVMH Perfume & Cosmetics Shanghai Company Ltd.(Dior's general distributor in China; "LVMH"), and etc., accusing the DIOR ONE ESSENTIAL intensive repair serum and mask ("the disputed goods") sold by them infringe on his right to the "ONE" trademark.

Entrusted by the producer of the disputed goods, PARFUMS CHRISTIAN DIOR ("Dior"), NTD as the attorney of LVMH and other defendants (collectively the "Defendants"), after a thorough and all-round analysis of the case, formulated a proper defending strategy, systematically argued before the courts each issue involved in this case from multi perspectives and in great depth and provided convincing evidence to support our arguments. Both Wuxi Binhu District People's Court (the "First Instance Court") and Wuxi City Intermediate People's Court (the "Second Instance Court") ultimately made a ruling in



our favor and held that trademark infringement is not established for this case, thus all claims of the Plaintiff should be dismissed.

Among all issues involved in this case, a key issue is confirmed by both courts, that is, when deciding whether the marks constitute similar trademarks, in addition to the level of similarity between the marks themselves, other factors as follows should also be considered, from the viewpoints of likelihood of causing confusion on the markets and whether the marks constitute similar trademarks under Trademark Law of China:

**(1) Distinctiveness and famousness of the Plaintiff's trademark**

In the present case, the distinctiveness of the plaintiff's registered trademark "ONE", as a common number in English language, is not high. Before and after the Plaintiff's registration of this trademark, there are many other trademarks containing the English word "ONE" having been approved for registration by CTMO. Co-existence of these trademarks will not lead to confusion on the markets.

Moreover, the plaintiff always uses the trademarks "ONE" and "望" (Chinese transliteration of "ONE") together on its products, or uses only "望" (Chinese transliteration of "ONE") as the brand of its products, for which reason the distinctiveness of the Plaintiff's "ONE" trademark has not been increased through use and promotion. As shown from the Plaintiff's evidence, the major distinctive part of its brand is "望" (Chinese transliteration of "ONE"), rather than the "ONE" English mark. In view of the low level of its distinctiveness and famousness, the Plaintiff's trademark "ONE" is relatively

weak in identifying the origin of the goods. Thus, protection scope of this registered trademark shall be limited compared with other more distinctive trademarks.

**(2) Actual uses of the trademarks by both sides:**

In the present case, the Defendants always use the trademarks "ONE" and "ESSENTIAL" together on their products. Whereas, the major distinctive mark on the Plaintiff's products is "望" (Chinese transliteration of "ONE") which serves to identify the origin of goods, while its "ONE" English mark is not being used prominently. Manners of uses of the "ONE" word by the two sides are obviously different, and will not cause confusion among consumers.

It is worth noting that on the disputed goods, the trademark "Dior" is also being used. The "Dior" trademark, which is very famous in the global market of perfume and cosmetics, is the primary and most distinctive mark on the disputed goods, use of which is sufficient to distinguish the disputed goods from the Plaintiff's goods, which further reduces the likelihood of consumer confusion.

In conclusion, in the process of handling this trademark infringing case, NTD attorneys not only fully argued on non-similarity of the trademarks being used by the parties, but also successfully profoundly elaborated on the application of the theory of confusion when deciding on trademark similarity for a trademark infringement case, which successfully convinced courts of two instances to make a judgment in our client's favor.

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