

Changes to the Trademark Law in China

Summary

The new Trademark Law will enter into force on 1 January 2027 and will introduce several important changes regarding bad-faith applications and the trademark registration process.

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China is one of the main markets and thus, represents a strategic territory for many businesses. As a matter of fact, according to the last annual report published by the World Intellectual Property Office (WIPO), China remains the country with most trademark applications per year. Consequently, any amendment to the Chinese Trademark Law has significant implications not only for trademark owners but also for practitioners and market operators worldwide.

An updated and revised version of the Chinese Trademark Law will come into force on 1 January 2027. The changes are significant and are intended, in general, at enhancing protection of legitimate trademark rights.

The key changes, which will take effect next year, affect -among others- the publication period, the cancellation for non-use of trademarks and the registrations of non-conventional trademarks.

One key change concerns the registration process, which is expected to become faster as the publication period of trademark applications- — during which third parties may review the application and file an opposition —is reduced from three months to two months.

The change in the law addresses one of the main issues that have affected the Chinese trademark system for many years

Furthermore, the amended law also addresses one of the main issues that have affected the Chinese trademark system for some time regarding abusive filing practices, such as applications filed in bad faith and trademark hoarding. Previous amendments to the Chinese Trademark Law had already introduced measures aimed at combating these issues. However, the new legislation goes considerably further and is aimed to discourage trademarks abusive practices. For example, genuine intention to use the trademark in commerce at the time of filing would become a criteria to assess whether the obligation to use the trademark has been fulfilled.

, While this measure is intended at preventing bad-faith filings without intention of use, it would not require the applicant to file any declaration of genuine use. However, the Chinese Office could take into consideration to assess the genuine intention of use, whether there is a reasonable connection between the trademark activity in the register and the applicant's own production and business activities.

China National Intellectual Property Administration (CNIPA) may now also revoke trademarks ex officio

The amended law also introduces important changes regarding the revocation of trademarks for lack of use. While third party cancellation actions remain possible against any registration that has not been used for three consecutive years, the China National Intellectual Property Administration (CNIPA) may now also revoke trademarks ex officio in case the trademark has not been used within the prescribed time frame, when the non-use is not justifiable.

In relation to well-known trademarks the law aims at further strengthening their protection. Under the new trademark law, any application of well-known trademark by a third party for unrelated goods may be refused if it is misleading the public or taking unfair advantage of the reputation of it.

Lastly, it is now possible to register dynamic (moving) trademarks and / or dynamic trademarks in combination with other elements. This amendment aligns the Chinese trademark system more closely with the international legislative developments.

In light of these changes, trademark owners and practitioners should prepare to be more aware and vigilant on the new applications published by the Chinese Office from next year onwards, as the time to oppose them will be shorter, but in contrast they will count with further actions to protect their intangibles, by way of illustration, having the possibility to invalidate registrations filed on bad faith and/or to further protect well-known trademarks.