

# Beijing East IP Ltd. & Beijing East IP Law Firm NEWSLETTER

May 2015.



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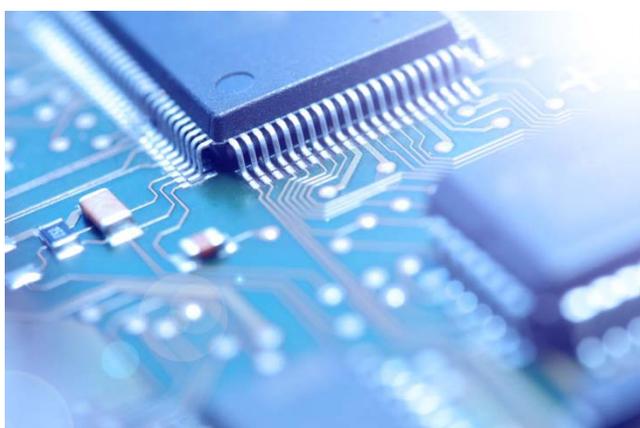
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## A Successful Opening Reception of the London office of Beijing East IP

On April 15th, 2015, a drinks reception was held in the Mandarin Oriental Hyde Park hotel in London, to mark the opening of GW & Partners (GWP). Delegates from British government, social organizations, corporations, law firms and the Embassy of P.R. China etc. attended this opening reception.

GWP is a partnership between Beijing East IP Limited and Mark Wong & Associates (MWA), a project development consultancy based in Hong Kong. GWP will act essentially as the UK representative office of Beijing East IP and MWA, looking to provide IP services in China to UK clients, and IP services in UK for Chinese clients going abroad via partners in UK.



Sir Richard Needham (left), Dr. Lulin Gao (middle) and Dr. Jacques Michel (right)

Based on the setup of GWP, Beijing East IP and MWA have faith in further increasing technology and IP communication as well as trade activities between UK and China via their expertise.

(Full text: [click here](#))

## Beijing East IP Shortlisted for the FT Asia-Pacific Innovative Lawyers Awards 2015

Beijing East IP was shortlisted for the Financial Times Asia-Pacific Innovative Lawyers Awards 2015, for its outstanding international strategy. Beijing East IP is proud to be the only IP boutique firm shortlisted among famous full-service law firms.

each category were shortlisted. FT will announce the winners at the Innovative Lawyers awards event for Asia-Pacific on 10 June 2015 in Hong Kong.

(Full text: [click here](#))

This year's report and awards drew on over 400 submissions and nominations from law firms and in-house legal teams in the Asia-Pacific Region. Only the very top ranked submissions in

## Grant Proposal Signed by Beijing East IP and the John Marshall Law School

On March 20, 2015, Beijing East IP and the John Marshall Law School (the JMLS) advanced the already well-established partnership to a new level by signing a grant proposal. According to the proposal, Beijing East IP will donate to the Chinese Intellectual Property Resource Center of the JMSL, to promote understanding between IP communities of China and US.

It is a firm belief of both Beijing East IP and the JMSL that this partnership will enhance bi-lateral cooperation on intellectual property issues while also providing ways to support international business and trade relations, which in turn helps create a solid foundation that benefits the economy of entire Asia-Pacific region and the world.



(Full text: [click here](#))

## A Seminar Successfully Co-hosted with DLA Piper

On March 25, 2015, Beijing East IP Ltd. and DLA Piper LLP (US) successfully co-hosted a half day seminar covering cost and time saving techniques and best practices for securing patent rights in China, U.S, Australia, Korea, and Japan. A distinguished panel of global practitioner from Beijing East IP, DLA Piper LLP (US), Cullens Patent and Trade Mark Attorneys, Central Intellectual Property & Law, and Ryuka IP Law Firm presented two sessions of patent prosecution and protection strategies from a global perspective.

(Full text: [click here](#))

# International Licensing

Qiang Lin and Jia Xie

## The Influence of Licensing Contract on Determination of Infringement in China

Article 11 of the Chinese Patent Law (2001) generally provides to what extent a patent can be protected under the Chinese law and, on the other hand, what actions are determined to infringe a patent right. Further, a recent court decision by the Supreme People's Court (SPC) demonstrates that for issues other than those provided in Article 11, the licensing contract shall be the final word on whether an infringement has occurred.

Qianping AO v. Shenzhen DNS Industries Co., Ltd., Philips (China) Investment Co., Ltd., [Civil ruling (2012) Min Shen Zi No.197 by the Supreme People's Court, Dec. 12, 2012] relates to invention patent No. ZL 96107072.2 of the patentee, Qianping AO. After issuance of the patent, the patentee issued a license to Shenzhen DNS Industries Co., Ltd. (DNS Industries) agreeing that DNS Industries can further permit a third party to exploit the patent in a manner of commissioned processing such

as OEM or ODM. DNS Industries did not have production capacity, so the patented product had been made by the subsidiary of DNS Industries, Huizhou Hehong Wire and Cable Co. Ltd. (Huizhou Hehong). Afterwards, Philips (China) Investment Co., Ltd. (Philips) authorized DNS Industries to be its brand agent to provide production, sale, and after-sale service for sockets with the Philips logo. DNS Industries modified the original mold by adding the Philips logo, and permitted Huizhou Hehong to produce the sockets using the modified mold and to sell the produced sockets with the Philips logo.

Qianping AO sued both Philips and DNS Industries, alleging they infringed its patent. The first instance court held that both Philips and DNS Industries infringed the patent. However, the second instance court held that neither Philips nor DNS Industries infringed the patent. Qianping AO appealed to the SPC for a retrial.

## The SPC Applies Chinese Patent Law

In the ruling, the SPC states that the Chinese Patent Law only provides the patentee the right to exclude others from exploiting his patent without his authorization, but does not authorize the patentee the right to exclude the licensee from marking the patented products, which have been produced under license, with another vendor's logo.

Applying this rule, the modification of the original mold by adding the Philips logo and the

production of the sockets marked with the Philips logo by DNS Industries were not actions that infringed the patent. The SPC also states that, for the invention or utility model, "make the patented product" means to produce or form a product with all the technical features of a claim of the patent. In the case of a commissioned processing of the patented product, if the commissioning party requires the commissioned party to produce the patented products by providing the patented technical

solution or the patented products are formed based on the commissioning party's technical requirements, it can be determined that the commissioning and the commissioned parties jointly committed the action of "making the patented product." In this case, the technical solution that Huizhou Hehong used to produce the alleged infringing products was completely from DNS Industries. Philips provided Huizhou Hehong with neither the technical solution nor technical requirements. Therefore, Philips was not the manufacturer of the patented products under the Chinese Patent Law.

As an intangible property right, intellectual property is significantly different from the basic rights of natural law. It should be clearly bounded by the law. As one kind of intellectual property, patent rights should be in such a situation. The opinions of the SPC have clearly states this view. Article 11, Paragraph 1 of the Chinese Patent Law (2001) reads:

After the grant of the patent right for an invention or utility model, except where otherwise provided for in this Law, no entity or individual may, without the authorization of the patentee, exploit the patent, that is, make, use, offer to sell, sell or import the patented product, or use the patented process, and use, offer to sell, sell or import the product directly obtained by the patented process, for production or

business purposes.

According to Article 11 of the Chinese Patent Law (2001), without authorization and exploitation of patent are the essential elements of patent infringement. If there is no exploitation, no patent infringement exists. If the exploitation is limited in the authorized scope by the patentee, for example, the scope recorded in the license, there is no patent infringement either.

Article 11 of the Chinese Patent Law (2001) expressly lists the particular actions of exploiting patent, but does not explicitly provide the particular manner of "the authorization by the patentee." Usually, the patentee would limit actions, region, and period of the exploitation in the license. If the licensee exploits the patent in a manner beyond the limitations agreed in the license, the exploitation is without authorization of the patentee and the patent is infringed. In this case, the tort liability and liability for breach of a contract occur; the patentee can pursue the tort liability under the Chinese Patent Law, or pursue the liability for breach of a contract under the Chinese Contract Law.

As mentioned above, "exploitation of patent" is a premise of infringement. But the actions of "exploitation of patent" are limited to those provided in Article 11 of the Chinese Patent Law (2001)

## Points to Consider when Licensing Patents

Specific attention should be paid to two points. First, if the patentee intends to constrain other behaviors than those of "exploitation of patent," the constraints shall be clearly recorded, for example, in the license. If the licensee violates the constraints, the liability

for breach of a contract can be pursued under the Chinese Contract Law. Second, as to the action "making patented product" among those "exploitation of patent," the role of a relevant party shall be considered in producing or making the products with all the technical

features in a claim of the patent.

In this case, DNS Industries obtained license from the patentee, Qianping AO, and commissioned its subsidiary Huizhou Hehong to produce the patented product. DNS Industries provided the patent technology, and Huizhou Hehong produced the socket according to the technology. Because the production of the patented products was authorized by the patentee, the patent was not infringed.

Philips authorized DNS Industries to be its brand agent to provide production, sale, and after-sale

service for sockets with Philips logo. According to the identified facts, Philips was not involved in producing or forming the products with all the technical features of a claim of the patent. So, the SPC determined Philips was not the manufacturer under the Patent law, and did not infringe the patent.

As for marking on the alleged infringing products with Philips logo by authorization of Philips, it is not an action infringing a patent under the Patent law. If the patentee intends to restrain such behavior, the restraints shall be expressly recorded in the license.

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(Published in *Licensing Markets*, March 2015)

# Weight of Evidence of Trademark Registration Certificate and Trademark Gazette in Determining Copyright Ownership

Author: Mr. Jason Wang, partner at Beijing East IP Law Firm

On October 15, 2014, Rule 14 of the Provisions of the Supreme People's Court (SPC) on Several Issues concerning the Trial of Administrative Cases Involving the Granting and Determination of Trademark Right (Draft for Comment) was released by the SPC with two different opinions regarding the weight of evidence of trademark registration certificate and trademark gazette in determining copyright ownership. The first opinion provides that, "trademark gazette, trademark registration certificate, etc. may serve as prima facie evidence to ascertain the copyright owner or the interested party thereof. Where the applicant of the disputed trademark opposes, that applicant has the burden to provide counter evidence to support his opposition." The second opinion, however, provides that "mere trademark registration certificate, trademark gazette" "shall not be used solely to prove the copyright ownership, but may serve as the prima facie evidence of the work's copyright ownership if combined with other related evidence." In fact, regarding the issue whether mere trademark registration certificate or trademark gazette alone may serve as the prima facie evidence of the copyright ownership, there are recurring conflicting approaches in administrative and judicial practices, as well as fairly heated discussions. The author agrees with the first opinion and summarizes the ten noteworthy issues for reference.

## 1. Whether the copyright protection over the work would produce adverse impact on the trademark law system?

Beijing First Intermediate Court ruled in the "CAMEL" case that a work under copyright protection could simultaneously constitute a registered trademark which falls under the protection of trademark law; and the trademark law has incorporated provisions in relation to protection over prior rights (including prior copyright). Unlike trademark rights, copyright enjoys protection covering all 45 Classes and is not subject to cancellation due to non-use for three consecutive years. Such circumstances apparently undermine certain basic system of trademark law. However, Beijing High Court held that: protection over a work under copyright law is independent from protection over a trademark under trademark law; if a trademark constitutes a work, it will be qualified for copyright protection, and will not hinder the system of trademark law. [1] In addition, the SPC held in the "ICBC Design" case that, any object that meets the prerequisites for protection of both copyright and trademark laws qualifies for protection under both. [2]

From an academic standpoint, some judges held that copyright protection may sometimes remedy the insufficiency in effectively prohibiting the bad faith trademark resulted from the relatively vague factors in determining the similarity between goods. Granting copyright protection over trademarks according to the law may, on the contrary, maintain normal order in trademark. [3] The "copyright protection" of trademarks does not necessarily incur conflict with copyright. [4] The author concurs that there would be no harm done to

trademark law system in granting copyright protection over intellectual objects qualified for dual protection of both copyright and trademark laws.

## 2. Can trademark holders be deemed as copyright owners or at least the interested parties?

One opinion provides that the trademark holder indicated in a trademark registration certificate or a trademark gazette is not equivalent to a copyright owner. In the “ettusais and ettusa is in Chinese” case, Beijing First Intermediate Court held as follows: the intrinsic function of a trademark registration certificate is to ascertain the specific subject’s identity as a trademark holder, rather than a copyright owner; therefore, a trademark registration certificate may serve to ascertain the copyright ownership as well only when the subject is both the trademark holder and copyright owner of the same trademark. But in practice, the above rights are typically held by multiple parties. The trademark registered by a trademark holder may be derived from a legitimate copyright source, or not (namely, the trademark holder registered the trademark without the authorization of the copyright owner). The former scenario (derived from a legitimate copyright source) may further comprise of two circumstances: the trademark holder is the copyright owner and registers his / her own work as a trademark; or the trademark holder is not the copyright owner but he / she has received the copyright owner’s authorization to register and use the work as a trademark. In two of the three scenarios above, trademark and copyright ownership fall under different parties. Hence, mere trademark registration certificate cannot establish that the trademark’s owner is the copyright owner. [5]

The other opinion is as follows: trademark

registration is by nature a public notification act, and the application for trademark registration shall be assumed as legitimate (namely, the applicant is free of prior copyright infringement). Therefore, the trademark design may come from the following: 1) self-creation, 2) commission-creation, or 3) transferred. Under the first and third scenarios, the trademark rights owner is entitled to the copyright. For a trademark design created under commission, the purpose is for trademark application, and the trademark is exclusive in its nature. The registration and use of such work as a trademark shall conform to the specific purpose of the commissioned creation, namely, the right to use such work in trademark field shall belong to the trademark rights holder, unless otherwise prescribed in the contract. In this case, the trademark rights holder has the ground to claim copyright over related signs or exclusive right to use such signs as a trademark based on the trademark certificate. Under the Chinese Trademark Law, both the rights owner and the interested parties may claim prior copyright, and prior trademark rights holder obviously meets such requirement. [6]

The material distinction between the above two opinions lies in as follows: The first opinion considers the trademark holder indicated on trademark registration certificate and trademark gazette to be the only possible copyright owner, whereas the second opinion extends the definition of the trademark holder to cover copyright owner or the interested party of the trademark right or copyright. The first opinion explicitly used the term “copyright owner or the interested party thereof” to distinguish itself from the second opinion where the term “copyright ownership” is used in wording.

## 3. Whether trademark gazette differs from the author’s signature in the context of copyright law?

One opinion maintains that information indicated on the trademark registration certification or the trademark gazette shall not be equivalent to the author's signature in the context of copyright law. Beijing High Court held in the "LAO REN CHENG in Chinese and Design" case that, the trademark applicant and registrant information indicated in the trademark registration application, and its corresponding publication only indicates trademark ownership. It is not qualified as a signature as required under the copyright law. Hence, prior trademark registration certificate and trademark gazette are insufficient to prove copyright ownership. [7] Beijing First Intermediate Court and Beijing High Court held the same view in its decision for the subsequent "KA NU DI LU in Chinese and Canudilo and Design" case. [8]

The author dissents. **First**, a signature on the work is to establish the author's identity and his intention to seek protection under copyright law. And where the trademark rights holder files an application that satisfies as a copyright work, it is certain that the trademark rights holder has the intention to secure comprehensive protection, both trademark right and copyright included, for the said work. Thus the trademark gazette should not be excluded from being regarded as a form of authorial signature in the context of copyright law. **Second**, the publication of the trademark registration certificate and trademark gazette is not only to identify the copyright owner (namely, the author), but to identify the copyright owner or the interested party, which covers a wider concept than copyright owner. Thus, if a signature on a work represents the identity of a copyright owner, then the publication of trademark registration certification and trademark gazettes identifies the copyright owner or the interested party.

#### 4. Could the trademark registration certificate and trademark gazette serve as prima facie evidence?

According to the first opinion of Rule 14 of the SPC on Several Issues concerning the Trial of Administrative Cases Involving the Granting and Determination of Trademark Right (Draft for Comment), the trademark registration certificate and trademark gazette could only serve as the prima facie evidence certifying the copyright owner or the interested party. According to Rule 7 of the SPC's Interpretations concerning the Application of Laws in the Trial of Civil Disputes over Copyright, Rule 22 of Guidelines of Beijing High Court for Trial of Administrative Cases concerning Trademark Right Granting and Confirmation, and judicial practice, the copyright registration certificate could only serve as the prima facie evidence to ascertain the copyright ownership. In this sense, trademark registration certificates, trademark gazettes, and copyright registration certificates have no intrinsic difference in terms of the legal effect as the prima facie evidence.

Thus, can trademark registration certificates and trademark gazettes, in the form of a publication of rights, serve as the prima facie evidence certifying that the trademark holder is the copyright owner or the interested party? In particular, (1) trademark registration certificate and trademark gazette shall serve as conclusive evidence, certifying the only association between a trademark rights holder and the copyright owner / the interested party; or (2) the trademark registration certificate and trademark gazette could simply preliminarily prove that the trademark right holder has a finite but uncertain relationship with either the copyright owner or the interested party, namely,

the trademark right holder is either the copyright owner or the interested party. In other words, whether trademark registration certificate, or trademark gazette may serve to preliminarily eliminate the possibility that the trademark owner is neither the copyright owner nor the interested party.

## 5. How to allocate the burden of proof among dispute parties?

One opinion provides that: the trademark design is entitled to too much protection via copyright protection, thus a heavier and more adequate burden of proof shall be allocated when it comes to ownership. Another opinion provides that: the threshold of protection should not be raised arbitrarily to impose more burden of proof on the claimant, not to mention refusing to grant copyright protection to a work just because it has been registered and used as a trademark or it is especially designed as a trademark. [9] Just as one opinion provides that: the nature to prove the prior copyright ownership solely by trademark registration certificate, in the essence, is to oppose other's later filed, but preliminarily approved or registered trademark designated on dissimilar goods or services, which would undoubtedly break the balance among relevant provisions in the Chinese Trademark Law. However, in practice, the main purpose of many owners to create distinctive designs in trademarks is to use it as a trademark design, thus upon completion, the creator may not "publish under his own signature" other than applying for a trademark, and the creator is less likely to intentionally retain the original manuscript. Theoretically speaking, there is nothing wrong to restrict the weight of evidence of prior registration certificate; but in actual practice, this indeed will impose difficulties for the actual copyright

owners to produce evidence and will cause prejudice in prohibiting preemptive registration in bad faith of other's copyrighted work. [10]

The author agrees with the latter opinion. Ascertaining the copyright owner or the interest party thereof directly based on trademark registration certificate and trademark gazette is beneficial to alleviate the burden of proof of the right holder and may effectively prohibit unreasonable situations such as high cost for enforcement, low cost for infringement, or other unreasonable circumstances, such as the Chinese idiom "Hurting one's friend while making the enemy pleased." The first opinion of Rule 14 of the SPC on Several Issues concerning the Trial of Administrative Cases Involving the Granting and Determination of Trademark Right (Draft for Comment) has allocated reasonably the burden of prove among disputed parties, namely, trademark gazette, trademark registration certificate, etc. may serve as prima facie evidence to ascertain the copyright owner or the interested party thereof; where the applicant of the disputed trademark opposes, that applicant has the burden to provide counter evidence to support his opposition.

## 6. What are the administration and judicial value orientations?

One opinion provides that, the protection over prior copyright will affect the conflict of rights and the balance of interests between the parties, and a work's ownership needs to be treated diligently: the ascertainment of a work ownership is the premise and requirement of legitimacy for the prior copyright protection, a strict standard of proof can prevent the abuse of prior copyright protection. [11] Another opinion provides that, in the absence of evidence to the contrary, ascertaining directly

the identity of the trademark holder as the copyright owner or the interested party thereof by trademark registration certificate can not only greatly simplify the process of producing evidence, but also guarantee a basic substantive justice. [12]

Admittedly, to ascertain directly the copyright owner or the interested party solely by trademark registration certificate and trademark gazette is like opening the Pandora's Box, where many unknown issues are likely to be involved. But the strict requirement of producing evidence to ascertain copyright ownership by combining trademark registration certificate, trademark gazette and other evidence may lower the likelihood of unjustified, false, or erroneous cases for the administrative and judicial departments. However, the rights of actual holder are difficult to be realized and the judicial demand in practice cannot be satisfied. The author hold the view that, it is essential to take into full account the administrative, judicial value orientations as well as the balance between the maintenance of stability and the protection of rights.

### **7. Can the actual copyright owner regulate effectively the wrong copyright owners or interested parties?**

It is undeniable that there might be some circumstances that the copyright owners or the interested parties thereof is erroneously ascertained when using mere trademark registration certificate and trademark gazette, etc. as the prima facie evidence. Under these circumstances, can the actual copyright owners protect themselves effectively? Can an interested third party counterplead effectively? Can the exception principle of effective judgment regulate the errors effectively?

The actual copyright owner may oppose or apply for invalidation against the trademarks claimed by others based on prior trademark or other evidence of prior creation, use, publication of the work of the actual copyright owner, where the actual copyright owner enjoys the prior copyright in different Classes or different jurisdictions. Even upon the expiration of the dispute period of the disputed trademark owned by the other party, the actual copyright owner still owns the prior copyright. Of course, upon the expiration of the trademark dispute period, for those orphan works (the copyrighted works which are difficult or even impossible to identify the copyright owners), the later trademark holder will be mistakenly identified as the copyright owner or interested party. However, this does not preclude a third party from challenging the copyright owner, with prior orphan works, or the interested party who ascertained their rights by trademark registration certificate and trademark gazette. In other words, even if the rights status is stable upon the expiration of the trademark dispute period, the claims and rights of prior copyright can still be regulated effectively.

### **8. Can a third party challenge the wrong copyright owners or interested parties based on non-originality and the independent creation of the work?**

In the "Wan Xiang Ri Yue and Design" case, the opposed party submitted as evidence a trademark application of a third party in substantial similarity with the opponent's trademark but prior to the completion date of the opponent's work. In light of this, Beijing High Court ruled that, as a third party trademark is substantially similar to the opponent's work, and the opponent has failed to prove that he

independently created such work and the completion date of such work is not in conformity with the objective facts, therefore, the opponent's claim for copyright over such work lacks factual and legal basis. [13] In accordance with the logic of the foregoing case, a third party is fully entitled to producing proof that there is trademark or copyrighted work with an earlier application date prior to the trademark registration certificate and trademark gazette, and to challenge the wrong copyright owners or interested parties thereof based on the non-originality of the work.

In addition, a third party may challenge based on the independent creation of the work, namely, the work of the disputed trademark is his independent creation, and the similarity with prior trademark is pure coincidence and free of infringement. Rule 15 of the SPC Interpretations concerning the Application of Laws in the Trial of Civil Disputes over Copyright provides that, "for works created by different authors regarding the same subject, where the work is independently completed and is original, it shall be affirmed that the authors enjoy independent copyright respectively." This also entirely conforms with the accessibility principle in determining copyright infringement.

### **9.Can the exception principle of effective judgment regulate effectively the wrong copyright owners or interested parties thereof?**

**I**tem 4, Rule 9 of the SPC Provisions on Evidence in Civil Procedures provides that, "the facts as mentioned below need not be proved by the parties concerned by presenting evidence:.....The facts affirmed in the judgment of the People's court that has taken effect; ..... (The facts) shall be excluded if they can be

overthrown by contrary evidence of the parties concerned." Rule 3.3 in Section 3 of the Trademark Review and Adjudication Standard also provides that, "the facts affirmed in the effective judgment that the interested party enjoys prior copyright may be recognized in the absence of adequate evidence to the contrary." In accordance with the foregoing laws and regulations, even the effective judgment affirming the prior copyright could be reversed with contrary evidence. In addition, effective judgment has its specificity, and there already are precedents in practice, such as the "Wei Long in Chinese and Wei Long (stylized)" case. [14]

Moreover, even the claim against the disputed trademark raised by the party that is not the actual copyright owner based on the identity of copyright owner or the interested party thereof as ascertained by trademark registration certificate and trademark gazette is supported, the interests of the disputed trademark are not illegally infringed. The reason is that, no matter the prior copyright is claimed by the actual copyright owner or the copyright owner or the interested party is ascertained by trademark registration certificate and trademark gazette, the final result remains the same. Of course, further explicit limitation may be considered that, the copyright owner or the interested party ascertained by trademark gazette and/or trademark registration certificate shall apply only to administrative cases involving determination of trademark right, and shall not apply to copyright infringement cases.

### **10. Whether trademarks with different degree of stability should be treated differently?**

**I**n light of trademark rights and the stability of legal effect, trademarks could be divided into

three categories: registered trademark where the time limitation for dispute has expired, registered trademark where the time limitation for dispute has not expired, and unregistered trademark. The author suggests distinguishing the different situations based on different degree of stability of the trademark. (1) Registered trademark where the time limitation for dispute has expired may serve as prima facie evidence to ascertain the copyright owner or the interested party thereof. The time limitation for dispute for the trademark registration in China is five years; and foreign trademark

registration shall comply with the time limitation provided in such local laws, with reference to provisions of the Chinese laws. (2) Registered trademark where the time limitation for dispute has not expired may serve as prima facie evidence to ascertain the copyright owner or the interested party, or may serve as prima facie evidence of the work's copyright ownership if combined with other related evidence. (3) Unregistered trademark may be considered to serve as prima facie evidence of the work's copyright ownership if combined with other related evidence.

\* Originally published on the website of Judicial Protection of IPR in China on December 18, 2014.  
(<http://www.chinaiprlaw.cn/file/2014121834983.html>)

Notes:

[1] *Beijing First Intermediate Court Administrative Judgment (2012) Yi Zhong Zhi Xing Chu Zi No. 1286, Beijing High Court Administrative Judgment (2012) Gao Xing Zhong Zi No. 1782*

[2] *Supreme People's Court Administrative Order (2012) Zhi Xing Zi No. 60*

[3] *CHE Honglei, "Falsification of the Conflict between Copyright and Trademark Right of Trademark Signs", People's Court Daily, January 30, 2013.*

[4] *YUAN Bo, "Do not Misinterpret Copyright Protection over Trademarks", Procuratorial Daily, April 7, 2014.*

[5] *Beijing First Intermediate Court Administrative Judgment (2012) Yi Zhong Zhi Xing Chu Zi No. 165*

[6] *DONG Xiaomin, "Issues concerning Claiming Prior Copyright Based on Trademark Signs", China Copyright, Vol. 1 (2014), P. 39.*

[7] *Beijing High Court Administrative Judgment (2009) Gao Xing Zhong Zi No.1350*

[8] *Beijing First Intermediate Court Administrative Judgment (2009) Yi Zhong Zhi Xing Chu Zi No. 1800, Beijing High Court Administrative Judgment (2010) Gao Xing Zhong Zi No. 872*

[9] *ZHOU Yunchuan, "Judging Standard of Copyright Case of Trademark Signs", People's Judicature (Application), Vol. 3 (2014), P. 39.*

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[10] XU Lin, “Weight of Evidence of Copyright Registration Certificate and Trademark Registration Certificate in Ascertaining Prior Copyright”, *TRAB Legal Communications*, Vol.58 (July 2012).

[11] KONG Qingbing, “Issues on Ascertainment of Ownership of Prior Copyrighted Work under Article 31 of Chinese Trademark Law”, *China Trademark*, Vol. 1 (2014), PP. 52-53.

[12] DONG Xiaomin, “Issues concerning Claiming Prior Copyright Based on Trademark Signs”, *China Copyright*, Vol. 1 (2014), P. 39.

[13] *Beijing High Court Administrative Judgment (2013) Gao Xing Zhong Zi No.1312*

[14] *Beijing First Intermediate Court Administrative Judgment (2012) Yi Zhong Zhi Xing Chu Zi No. 2386.*

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