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The Supreme People's Court's Annual Report on Intellectual Property Cases (2016) (China)

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THE SUPREME PEOPLE'S COURT'S ANNUAL REPORT ON INTELLECTUAL PROPERTY CASES (2016) (China)

Translated by Tianyi (Tammy) Wu and Xiaoyang Wang[†]

Abstract: The Supreme People's Court of China began publishing its Annual Report on Intellectual Property Cases in 2008. The Annual Report summarizes intellectual property cases, such as patent, trademark, copyright, trade secrets, and unfair competition cases. This 2016 Annual Report examines 27 cases and includes general guidelines for legal application. It reflects the Supreme People's Court's thoughts and approaches for ruling on new, difficult, and complex IP and competition cases.

Cite as: Supreme People's Court's Annual Report on Intellectual Property Cases (最高人民法院知识产权案件年度报告) (2016年)) (China), *translated in* 27 WASH. INT'L L.J. 295 (2017).

I. INTRODUCTION[‡]

In 2016, the Intellectual Property (IP) Division of the Supreme People's Court (SPC) accepted a total of 724 new IP cases in 2016. Among the new cases, there were 2 counter-appeal cases, 7 second-trial cases, 99 review cases, 601 retrial cases, 3 appeal cases, and 12 instruction cases.

When categorized by type of object involved in the cases, there were 227 patent cases, 1 new variety of plant case, 337 trademark cases, 64 copyright cases, 2 integrated circuit layout design case, 2 monopoly cases, 12 trade secrets cases, 23 other unfair competition cases, 38 IP contract cases, and 18 other cases (mainly related to IP trial management matters). When categorized by the nature of the cases, there were 352 administrative cases, of which there were 84 administrative patent cases, 268 administrative trademark cases, and a total of 372 civil cases.

The IP Division tried and finished 735 IP cases in total, including 2 counter-appeal cases, 11 second trial cases, 96 review cases, 614 retrial cases and 12 instruction cases. Among the 614 retrial cases, there were 283 administrative retrial cases, 331 civil retrial cases. The IP Division rejected

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[‡] Introduction and abstract edited by Minjung (Michelle) Hur, Washington International Law Journal's Chief Translation Editor.

454 retrial cases, reviewed 76 cases, retried 31 cases, and withdrew 18 cases (including reconciliation). There were 35 cases that the IP Division decided to settle in other ways.

The characteristics and trends of the cases handled by the SPC in 2016 are as follows:

1. The proportion of IP cases related to patents and trademarks has still remained the highest;
2. Authorization and confirmation of administrative trademark cases increased;
3. Evaluation of novelty and creativity is still the core controversy in most administrative patent cases;
4. Among the cases involving chemistry and medical biology, the main legal issue is whether the instructions have been disclosed completely and whether the right of claim bill has been supported by the instructions;
5. It is common for the status and function of patent evaluation reports to be misunderstood;
6. The role of the technology investigator system in identifying technical facts is not yet clear and needs to be continuously monitored;
7. The number of trademark cases has remained large, including a great amount of administrative trademark cases;
8. Whether the trademarks at issue has adverse effects, the condition and scope of prior rights protection, and how to apply the laws still remain controversial in trademark cases;
9. Ruling standards in trademark cases need to be clear and unified;
10. The amount of protection a trademark receives can depend on the significance and popularity of the trademark, which can be determined by considering factors such as similarity of trademarks, whether confusion of trademarks exists, and market value of the trademark. This demonstrates that the harmonious proportion principle in civil trademark cases is trending.
11. The number and proportion of copyright cases has remained stable, of which there were more cases related to Karaoke owners and other litigation subjects. It is very common that the process of evidence collection completed by the parties are below the standards and the standards of evidence identification

is inconsistent;

12. The proportion of trade secret disputes is large in competition cases, which focus on the legal issues related to the proof of basic rights, including the confidentiality of relevant information and whether the parties took any confidential measures;
13. At the same time, the number of monopoly cases has increased; and
14. The parties' litigation competence still needs to improve.

The following are the 39 legal issues significant to the field of IP in China, published in the 2016 Supreme People's Court Annual Report on Intellectual Property Cases.

I. PATENT CASES

A. Civil Patent Cases

1. The recognition of manufacturing process of alleged infringing medicine in patent infringement dispute of medicine manufacturing method

In the patent infringement dispute case, *Lilai Co. v. Changzhou Huasheng Pharmaceutical Co., Ltd.*,[1] the SPC held that, in the patent infringement dispute of a medicine manufacturing method, its registered manufacturing method in the medicine regulatory department shall be assumed as its actual manufacturing method in the absence of other contrary evidence; if any evidence proves that the registered manufacturing method is not real, courts shall determine the actual manufacturing method, according to the law, by fully reviewing technology sources, production process and records, filing documents, and other evidence of the allegedly infringing medicine. If the manufacturing method of the allegedly infringing medicine is too complicated, courts can find the truth by hiring technology investigators, expert assistants, judicial appraisers, and scientific consultants.

2. Whether the product instructions are publications under the patent law

In the patent infringement dispute case, *ThyssenKrupp Airport System (Zhongshan) Co., Ltd. v. China International Marine Containers (Group) Co., Ltd.*,[2] the SPC held that product operation and maintenance instructions are publications under the patent law, in that the user received the instructions and the product together, and the user and other people who have the instructions have no obligation of confidentiality, and it can be obtained by any person. The time of delivery to the user is considered the publication time.

一、专利案件审判

（一）专利民事案件审判

1. 药品制备方法专利侵权纠纷中被诉侵权药品制备工艺的查明

在上诉人礼来公司与上诉人常州华生制药有限公司侵害发明专利权纠纷案【（2015）民三终字第 1 号】中，最高人民法院指出，药品制备方法专利侵权纠纷中，在无其他相反证据的情形下，应当推定被诉侵权药品在药监部门的备案工艺为其实际的制备工艺；有证据证明被诉侵权药品备案工艺不真实的，应当充分审查被诉侵权药品的技术来源、生产规程、批生产记录、备案文件等证据，依法确定被诉侵权药品的实际制备工艺。对于被诉侵权药品制备工艺等复杂的技术事实，可以综合运用技术调查官、专家辅助人、司法鉴定以及科技专家咨询等多种途径进行查明。

2. 产品说明书是否属于专利法意义上的公开出版物

在再审申请人蒂森克虏伯机场系统（中山）有限公司与被申请人中国国际海运集装箱（集团）股份有限公司、深圳中集天达空港设备有限公司，一审被告广州市白云国际机场股份有限公司侵害发明专利权纠纷案【（2016）最高法民再 179 号】中，最高人民法院指出，产品操作和维护说明书随产品销售而交付使用者，使用者及接触者均没有保密义务，且其能够为不特定公众所获取，属于专利法意义上的公开出版物。其中记载的技术方案，以交付给使用者的时间作为公开时间。

3. The understanding of "retrospective effect" under Article 47 Clause 2 of People's Republic of China's (PRC) Patent Law

In the utility model patent dispute case, *Shanghai Youzhou Electronic Technology Co., Ltd. v. Shenzhen Jinghualong Security Equipment Co., Ltd.*,[3] the SPC pointed out that if courts held that there was an infringement of a patent before the patent right was declared void, the invalidation of the patent does not have retroactive effect on the prior decision. Once the patent is invalidated, the technology plan will go public and any business or individual can implement that plan without any limitation. The patent's previous owner has no right to stop the implementation.

3. 对专利法第四十七条第二款中“追溯力”的理解

在再审申请人上海优周电子科技有限公司与被申请人深圳市精华隆安防设备有限公司侵害实用新型专利权纠纷案【（2016）最高法民再 384 号】中，最高人民法院指出，在专利权被宣告无效前，人民法院作出侵权认定的判决已经执行完毕，宣告专利权无效的决定对上述判决内容不具有追溯力。但专利权被无效后，有关技术方案即进入公有领域，任何单位和个人均可自由实施，专利权人无权予以制止。

B. Administrative Patent Cases

（二）专利行政案件审判

4. Judgment of the practicability of the patent

In the review of patent reexamination administrative dispute case, *Gu Qingliang v. Patent Reexamination Board of the State Intellectual Property Office of the P.R.C. ("SIPO")* (hereinafter referred as review of "*Magnetic Levitation and Power Engine*" patent reexamination administrative dispute case),[4] the SPC held that patents should have practical meaning, which means that the design should conform with the laws of nature and be applied and industrialized in reality.

4. 发明专利申请是否具备实用性的判断

在再审申请人顾庆良、彭安玲与被申请人国家知识产权局专利复审委员会发明专利申请驳回复审行政纠纷案（简称“磁悬浮磁能动力机”发明专利权驳回复审案）【（2016）最高法行申 789 号】中，最高人民法院指出，发明专利申请具备实用性，是指该技术方案本身符合自然规律，可实际应用并能够工业化再现。

5. The relationship between "be able to be manufactured or used" and "be able to be implemented" under patent law

In the above review of *Magnetic Levitation and Power Engine* patent reexamination administrative dispute case, the SPC held that "[to] be able to be manufactured or used" under Article 22 Clause 4 of PRC Patent Law means that the invention or utility model preserves the possibility to be manufactured or used in an industry. "To be able to be

5. 专利法关于“能够制造或者使用”与“能够实现”之间的关系

在前述“磁悬浮磁能动力机”发明专利权驳回复审案中，最高人民法院指出，专利法第二十二条第四款规定的“能够制造或者使用”是指发明或者实用新型的技术方案具有在产业中被制造或使用的可能性。专利法第二十六条第三款规定的“能够实现”是指本领域技术人员根据说明书的内容能否实现该发

implemented" under Article 26 Clause 3 means that technicians in the specific field should be able to implement the invention or utilize the model according to the instructions. The two criteria have no similarities and necessary connections between them.

明或实用新型。两者判断标准不同，之间没有必然联系。

6. The requirement of sufficient disclosure on chemical patent applications

6. 化学产品专利申请充分公开的要求

In the review of patent reexamination administrative dispute case, *Mitsubishi Tanabe Pharma Corp. v. Patent Reexamination Board of SIPO*,[5] the SPC held that an application for a chemical patent should have sufficient disclosure of the product's function and/or effect. If the technicians in the specific area believe the invention is unable to perform the described function and/or unable to cause effect by using the existing technology, the instructions shall include the date of any qualitative or quantitative experiments sufficient to prove that the invention is able to implement the described function and/or effect.

在再审申请人田边三菱制药株式会社与被申请人国家知识产权局专利复审委员会发明专利申请驳回复审行政纠纷案【（2015）知行字第 352 号】中，最高人民法院指出，对于化学产品的专利申请，应当完整公开该产品的用途和/或使用效果。如果所属技术领域的技术人员无法根据现有技术预测发明能够实现所述用途和/或使用效果，则说明书中还应当记载对于本领域技术人员来说，足以证明发明的技术方案可以实现所述用途和/或达到预期效果的定性或定量实验数据。

7. The standard of using existing technology's public content in determining the novelty of compounds

7. 化合物新颖性判断中现有技术公开内容的认定标准

In the review of patent reexamination administrative dispute case, *Genetic Technology Co., Ltd. v. Patent Reexamination Board of SIPO*,[6] the SPC held that to determine whether the compound is or is not novel and whether existing technical publications have disclosed the compound, the standard is whether an average technician can make or separate the compound based on the existing publication.

在基因技术股份有限公司与国家知识产权局专利复审委员会发明专利驳回复审行政纠纷案【（2015）知行字第 356 号】中，最高人民法院指出，在涉及化合物专利是否具有新颖性的判断过程中，对于现有技术文献是否已公开了该化合物，应以所属领域的普通技术人员根据该文献的启示，能否制造或分离出该化合物为标准。

8. The judgment on the instructions in support of a biological sequence patent that is based on homology and defined by the source and function

8. 使用同源性加上来源和功能限定方式的生物序列权利要求得到说明书支持的判断

In the invalid patent administrative dispute

在再审申请人国家知识产权局专利复审委员

case, *Patent Reexamination Board of SIPO v. Jiangsu Boli Bioproducts Co., Ltd.*,[7] the SPC held that, in determining whether the instructions support a biological sequence patent, courts need to consider the effect of the homology, source, function, and other technical factors on limiting the biological sequence patent. If the limitations of those factors result in very limited biological sequences contained in the patent and those very limited biological sequences can be predicted to achieve the purpose of the invention and desired technical effect, the patent can be supported by the instructions.

会、诺维信公司与被申请人江苏博立生物制品有限公司发明专利权无效行政纠纷案【（2016）最高法行再 85 号】中，最高人民法院指出，对于保护主题为生物序列的权利要求是否得到说明书的支持，需要考虑其中的同源性、来源、功能等技术特征对该生物序列的限定作用。如果这些特征的限定导致包含于该权利要求中的生物序列极其有限，且根据专利说明书公开的内容能够预见到这些极其有限的序列均能实现发明目的，达到预期的技术效果，则权利要求能够得到说明书的支持。

II. TRADEMARK CASES

二、商标案件审判

A. Civil Trademark Cases

（一）商标民事案件审判

9. The general rules for exercising rights by trademark co-owners

9. 商标权共有人行使权利的一般规则

In the trademark infringement dispute case, *Zhang Shaoheng v. Cangzhou Tianba Farm Mach. Co., Ltd.*,[8] the SPC held that, when the trademark owners share the trademark in common, the exercise of the trademark shall be governed by the principle of autonomy, and the trademark shall be exercised by consensus; if there are no consensus or proper reasons, none of the parties can prevent other co-owners from permitting others to use the trademark.

在再审申请人张绍恒与被申请人沧州田霸农机有限公司、朱占峰侵害商标权纠纷案【（2015）民申字第 3640 号】中，最高人民法院指出，在商标权共有的情况下，商标权的行使应遵循当事人意思自治原则，由共有人协商一致行使；不能协商一致，又无正当理由的，任何一方共有人不得阻止其他共有人以普通许可的方式许可他人使用该商标。

10. The protection of trademark shall be consistent with its significance and popularity

10. 商标权的保护强度应当与其显著性和知名度相适应

In the trademark infringement dispute case, *Hangzhou Aupu Kitchen and Bathroom Appliances Technology Co., Ltd. v. Zhejiang Modern Xinnengyuan Co., Ltd.*,[9] the SPC held that the protection of trademark shall be proportional to its significance and popularity. If the use of a trademark does not harm the identification and distinguished function of the trademark or cause market confusion, it is not prohibited by law.

在再审申请人杭州奥普卫厨科技有限公司与被申请人浙江现代新能源有限公司、浙江凌普电器有限公司、杨艳侵害商标权纠纷案【（2016）最高法民再 216 号】中，最高人民法院指出，商标权的保护强度，应当与其显著性和知名度相适应。如果使用行为并未损害涉案商标的识别和区分功能，亦未因此而导致市场混淆的后果，即不为法律所禁止。

11. The use of non-infringing trademarks on a sales invoice is lawful

In the trademark infringement and unfair competition dispute case, *Wuxi Little Swan Co., Ltd. v. Inner Mongolia Baotou Department Store Co., Ltd.*,[10] the SPC held that, in determining whether the use of trademarks on a sales invoice is lawful, it depends on whether the relevant goods or service itself is legal.

11. 销售发票指向非侵权商品的商标使用行为不构成侵权

在再审申请人无锡小天鹅股份有限公司与被申请人内蒙古包头百货大楼集团股份有限公司及内蒙古包头百货大楼集团股份有限公司昆区海威超市侵害商标权及不正当竞争纠纷案【（2016）最高法民申2216 号】中，最高人民法院指出，销售发票上的商标使用行为是否合法，需要根据其指向的商品或服务本身是否构成侵权作出判断。

12. The commercial use of citizens' names cannot conflict with other people's prior legal rights

In the trademark infringement and unfair competition dispute case, *Qingfeng Stuffed Bun House v. Shandong Qingfeng Restaurant Management Co., Ltd.*,[11] the SPC held that citizens have a legal title right to use their names reasonably without violating the principle of good faith and infringing upon the prior rights of others. If a person knows that another person's registered trademark or trade name has higher reputation, and still registers the same parts of another person's trademark or trade name as his or her own and highlights the same parts in order to obtain the reputation of the other person's registered trademark, such use of name will be unreasonable and constitute trademark infringement and unfair competition.

12. 姓名的商业使用不能与他人合法的在先权利相冲突

在再审申请人北京庆丰包子铺与被申请人山东庆丰餐饮管理有限公司侵害商标权与不正当竞争纠纷案【（2016）最高法民再 238 号】中，最高人民法院指出，公民享有合法的姓名权，并有权合理使用自己的姓名，但不得违反诚实信用原则，侵害他人的在先权利。明知他人注册商标或字号具有较高的知名度，仍以攀附他人知名度为目的，将相同文字注册为字号并突出使用，即使该字号中含有与姓名相同的文字，亦不属于对姓名的合理使用，而构成侵害他人注册商标专用权及不正当竞争。

13. The judgment on determining the existence of a prior right for a trademark

In the trademark infringement and unfair competition dispute case, *Lianghuo v. Anhui Caidiexuan Cake Group Co., Ltd.* (hereinafter referred as "*Caidiexuan*" trademark infringement and unfair competition case),[12] the SPC held that a party claiming to have the prior right of use shall prove that it started to

13. 商标侵权案件中对是否构成在先使用的审查判断

在再审申请人梁或、卢宜坚与被申请人安徽采蝶轩蛋糕集团有限公司、合肥采蝶轩企业管理服务有限公司及一审被告、二审被上诉人安徽巴莉甜甜食品有限公司侵害商标权及不正当竞争纠纷案【（2015）民提字第 38 号】（简称"采蝶轩"侵害商标权及不正当竞争案）中，最高人民法院指出，主张在先

use the trademark before the filing date of the registered trademark and that the unregistered trademark has had some reputation due to its act of use.

使用权益的一方当事人，应当举证证明其使用时间早于注册商标的申请日，且通过使用行为使未注册商标产生了一定影响。

14. The amount of damages should be calculated in accordance with the principle of proportionality

14. 损害赔偿数额的计算应当遵循比例原则

In the above *Caidiexuan* trademark infringement and unfair competition case, the SPC held that sales revenue is closely related to not only the use and popularity of the trademark, but also production scale, advertisement, quality of goods, and other factors. And there is no legal basis to support a claim that the calculation of profits off of infringement is based on only sales revenue and profitability.

在前述“采蝶轩”侵害商标权及不正当竞争案中，最高人民法院指出，销售收入与生产经营规模、广告宣传、商品质量等密切相关，而不仅仅来源于对商标的使用及其知名度。当事人主张以全部销售收入与销售利润率为基础计算侵权获利的，不应予以支持。

B. Administrative Trademark Cases

（二）商标行政案件审判

15. Trademarks harming religious sentiments can be identified as “having other adverse effects”

15. 伤害宗教感情的标志可以认定为“具有其他不良影响”

In the administrative trademark dispute case, *Taishan Gypsum Co., Ltd, v. Shandong Wanjia Building Material Co., Ltd.*,[13] the SPC held that, for trademarks which have religious meanings, generally courts can regard them as having “other adverse effects” due to the harming of religious sentiments, religious belief, or civil belief. To determine whether a trademark that claim to have religious meanings actually have such meaning, courts should look to evidence provided by the parties, recognition by religion experts, the historical origin of the religion, and social reality.

在再审申请人泰山石膏股份有限公司与被申请人山东万佳建材有限公司及一审被告、二审被上诉人国家工商行政管理总局商标评审委员会商标争议行政纠纷案【（2016）最高法行再 21 号】中，最高人民法院指出，对具有宗教含义的商标，一般可以该商标的注册有害于宗教感情、宗教信仰或者民间信仰为由，认定其具有“其他不良影响”。判断商标是否具有宗教含义，应当结合当事人提交的证据、宗教人士的认知以及该宗教的历史渊源和社会现实综合予以认定。

16. Determining the proof for the distinctiveness of trademarks

16. 证明商标显著性的认定

In the retrial of denial of the administrative dispute case, *Bulutesi SIG Co., Ltd. v.*

在再审申请人布鲁特斯 SIG 有限公司与被申请人国家工商行政管理总局商标评审委员会

Trademark Review and Adjudication Bd. of State Administration for Industry & Commerce,[14] the SPC pointed out that the Trademark Law provides specific requirements for proving the identity of an applicant, the subject of a trademark application, and basic functions of the trademark. The distinctiveness requirement for registering trademarks shall also apply to proving trademarks.

商标驳回复审行政纠纷案【（2016）最高法行申 2159 号】中，最高人民法院指出，商标法虽然对证明商标的申请主体、使用主体及基本功能作出了专门规定，但商标法关于注册商标应当具备显著特征的要求，同样适用于证明商标。

17. The standard of review for evidence proving well-known trademarks

17. 驰名商标认定的证据审查标准

In the retrial of trademark dispute case, *Apple Co., Ltd. v. Trademark Review and Adjudication Bd. of State Administration for Industry & Commerce*,[15] the SPC noted that in judging whether evidence can prove that a trademark qualifies as a well-known trademark, the company's history and popularity does not necessarily correspond to the trademark's history and popularity. Courts shall consider whether the public can recognize and get to know the trademark through formal and effective media. General publications, rather than advertising for the trademark, could not sufficiently prove whether a particular trademark has been widely advertised in China to qualify as a well-known trademark.

在再审申请人苹果公司与被申请人国家工商行政管理总局商标评审委员会、一审第三人新通天地科技（北京）有限公司商标异议复审行政纠纷案【（2016）最高法行申 3386 号】中，最高人民法院认为，在判断相关证据能否证明引证商标驰名与否时，应当注意，公司的经营历史及知名度与引证商标的宣传、使用历史及知名度并不必然等同；相关公众能否通过正规、有效的渠道，认知和了解引证商标；一般性的消息报道，而非针对引证商标的广告宣传，不足以作为认定特定商标已在中国经广泛商业宣传达到驰名程度的事实依据。

18. Whether a stable association exists between the Chinese and foreign trademarks should be considered in determining similarity between the two trademarks

18. 判断中外文商标是否构成近似应当考虑二者是否已经形成了稳定的对应关系

In the retrial of trademark dispute case, *Château Lafite Rothschild v. Trademark Review and Adjudication Bd. of State Administration for Industry & Commerce* (hereinafter referred as "*Lafite*"),[16] the SPC ruled that in determining the similarity between a Chinese trademark and a foreign trademark, courts should consider the components of the trademarks and their overall similarity, the trademarks' distinctiveness and popularity, the similarity between their

在再审申请人拉菲罗斯柴尔德酒庄与被申请人国家工商行政管理总局商标评审委员会、南京金色希望酒业有限公司商标争议行政纠纷案【（2016）最高法行再 34 号】（简称"拉菲庄园"商标争议案）中，最高人民法院指出，判断中文商标与外文商标是否构成近似，不仅要考虑商标构成要素及其整体的近似程度、相关商标的显著性和知名度、所使用商品的关联程度等因素，还应考虑二者是否已经在相关公众之间形成了稳定的对应

products carrying the trademarks, and whether the two has formed a stable association among the public.

关系。

19. Determining whether a registered trademark has formed a stable market order

19. 已注册商标是否已经形成稳定的市场秩序的判断

In the preceding *Lafite* case, the SPC ruled that to determine if a registered trademark has established a high market reputation and formed the relevant public groups, courts should apply an objective standard to see if the relevant public groups can distinguish the trademarks in the market to avoid confusion.

在前述“拉菲庄园”商标争议案中，最高人民法院指出，对于已经注册使用的商标，是否已经通过使用建立较高市场声誉，并形成了相关公众群体，应当以相关公众能否在客观上实现市场区分并避免混淆误认的结果为判断标准。

20. The role of a co-existing agreement under Article 28 of the Trademark Law amended in 2001

20. 共存协议在 2001 年修正的商标法第二十八条适用过程中的作用

In denying a retrial of trademark administrative dispute case, *Google Inc. v. Trademark Review and Adjudication Bd. of State Administration for Industry & Commerce*,[17] the SPC pointed out that the existence of a co-existing agreement is a critical factor in determining if a trademark application violates Article 28 of the Trademark Law amended in 2001. But if a co-existing agreement does not harm the interests of the State, the public, or the legitimate rights and interests of a third party, it shall not be ruled inadmissible because it allegedly harms the interest of consumers.

在再审申请人谷歌公司与被申请人国家工商行政管理总局商标评审委员会商标驳回复审行政纠纷案【（2016）最高法行再 103 号】中，最高人民法院指出，共存协议是认定申请商标是否违反 2001 年修正的商标法第二十八条规定的重要考量因素。在共存协议没有损害国家利益、社会公共利益或者第三人合法权益的情况下，不应简单以损害消费者利益为由，对共存协议不予采信。

21. The name right constitutes a "prior right" under the protection of the Trademark Law

21. 姓名权构成商标法保护的“在先权利”

In the retrial of trademark dispute case, *Michael Jeffery Jordan v. Trademark Review and Adjudication Bd. of State Administration for Industry & Commerce* (hereinafter referred as “*Jordan*”),[18] the SPC ruled that the name right is an important personal right of a natural person. The name right can constitute a prior right under Article 31 of the Trademark Law amended in 2001.

在再审申请人迈克尔·杰弗里·乔丹与被申请人国家工商行政管理总局商标评审委员会, 一审第三人乔丹体育股份有限公司商标争议行政纠纷案【（2016）最高法行再 27 号】（简称“乔丹”商标争议案）中, 最高人民法院指出, 姓名权是自然人对其姓名享有的重要人身权, 姓名权可以构成 2001 年修正的商标法第三十一条规定的“在先权利”。

22. A natural person may use the name right to protect a specific name which is not actively used

In the preceding *Jordan* case, the SPC pointed out that "using" a name is only one part of the name rights people enjoy. It is not an obligation or a legal condition to claiming protection over his or her name. Pursuant to conditions of protecting the name right, a natural person has the right to protect an unused specific name under Article 31 of the Trademark Law amended in 2001.

22. 自然人可就其未主动使用的特定名称获得姓名权的保护

在前述“乔丹”商标争议案中，最高人民法院指出，“使用”是姓名权人享有的权利内容之一，并非其承担的义务，更不是姓名权人主张保护其姓名权的法定前提条件。在符合有关姓名权保护条件的情况下，自然人有权根据 2001 年修正的商标法第三十一条的规定，就其并未主动使用的特定名称获得姓名权的保护。

23. Conditions must be met for a natural person to claim the protection of a specific name

In the preceding *Jordan* case, the SPC pointed out that when a natural person claims his or her name right on a specific name, the specific name shall meet three conditions: (1) the specific name has a certain level of popularity and it is known by the relevant public in China, (2) the relevant public uses the specific name to refer to the natural person, and (3) a stable association exists between the specific name and the natural person. If the Chinese translation of the natural person's foreign name meets the three conditions, the person can claim protection over the name right.

23. 自然人就特定名称主张姓名权保护时应当满足的条件

在前述“乔丹”商标争议案中，最高人民法院指出，自然人就特定名称主张姓名权保护的，该特定名称应当符合三项条件：其一，该特定名称在我国具有一定的知名度、为相关公众所知悉；其二，相关公众使用该特定名称指代该自然人；其三，该特定名称已经与该自然人之间建立了稳定的对应关系。外国人外文姓名的中文译名如符合前述三项条件，可以依法主张姓名权的保护。

24. The commercial success and market order achieved without good faith are not valid reasons to maintain a trademark registration

In the preceding *Jordan* case, the SPC ruled that the market order, or commercial success in the case, were not achieved with good faith. To some extent, the success was a result of the public's misunderstanding. Maintaining such market order or commercial success will harm legitimate rights and interests of the owner of the name right, the consumers, and the trademark registration system and the user environment.

24. 非以诚信经营为前提的商业成功与市场秩序不是维持商标注册的正当理由

在前述“乔丹”商标争议案中，最高人民法院指出，商标权人主张的市场秩序或者商业成功并不完全是诚信经营的合法成果，而是一定程度上建立于相关公众误认的基础之上。维护此种市场秩序或者商业成功，不仅不利于保护姓名权人的合法权益，而且不利于保障消费者的利益，更不利于净化商标注册和使用环境。

25. The trademark application or the registrant's information does not constitute signatures attributed to the author under copyright laws

25. 商标申请或注册人信息不属于著作权法规定的表明作者身份的署名行为

In the retrial of trademark administrative dispute case, *Geligaoli Hiking Equipment Co. Ltd. v. Trademark Review and Adjudication Bd. of State Administration for Industry & Commerce* (hereinafter referred as "*Geligaoli*"),[19] the SPC ruled that the applicant and registration information of a trademark can only show the ownership of the trademark. The ownership is different from an author's signature under the Copyright Law.

在再审申请人格里高利登山用品有限公司与被申请人鹤山三丽雅工艺制品有限公司及一审被告、二审被上诉人国家工商行政管理总局商标评审委员会商标异议复审行政纠纷案【（2016）最高法行申 2154 号】（简称“格里高利”商标异议案）中，最高人民法院指出，商标申请人及商标注册人信息仅能证明注册商标权的归属，不属于著作权法规定的表明作品创作者身份的署名行为。

26. The legal effect of a copyright registration certificate in proving existing copyrights

26. 著作权登记证书对在先著作权的证明效力

In the preceding *Geligaoli* case, the SPC held that if a copyright registration certificate is obtained prior to the trademark filing date, the certificate can prove the copyright registration certificate owner's existing prior copyright if the work is original absent contrary evidence. If the copyright registration certificate is obtained after the filing date of the trademark application, the certificate does not prove the existence of prior copyright.

在前述“格里高利”商标异议案中，最高人民法院指出，在商标申请日之前取得的著作权登记证书，在作品具有独创性、没有相反证据足以推翻的情况下，可以证明登记证书上记载的权利人享有在先著作权。申请日之后取得的著作权登记证书，不具有证明在先著作权的证明效力。

III. COPYRIGHT CASES

三、著作权案件审判

27. Understanding and determining the originality and tangible form of copyrighted work

27. 对作品的独创性与有形形式的理解与认定

In *Sun Zhengxin v. Ma Jukui*,[20] the SPC ruled that if an intellectual property product can only be presented in one form and such presentation fails to differentiate from an existing work, the intellectual property product does not meet the requirement of originality. As an essential requirement of its tangible form, an intellectual product must incorporate distinguishable features so that a third-party can tell and ascertain its specificity.

在再审申请人孙新争与被申请人马居奎侵害著作权纠纷案【（2016）最高法民申 2136 号】中，最高人民法院指出，如果智力成果在表现形式上是唯一的，无法体现与已有作品存在的差异，即不符合著作权法关于独创性的要求。智力劳动成果必须借助特定形式为他人知晓和确定，是作品须具备有形形式要求的应有之义。

28. Rules on exercising copyright on works containing other's prior rights

In the retrial of copyright case, *Zhuji Kaixinmao Food Ltd. v. Zhuji Youlaike Food Store*,[21] the SPC ruled that a copyright owner must follow principles of legality, good faith, and prudence when exercising his or her rights. The copyright owner should reasonably avoid prior rights if such prior rights exist within its work due to historical reasons.

28. 对包含他人合法在先权利作品的著作权行使规则

在再审申请人诸暨市开心猫食品有限公司与被申请人诸暨市优莱客食品商行、王坤、何铁永、傅凤丽、广东飞鹅包装彩印有限公司、长沙市裕得康食品贸易有限公司侵害商标权纠纷案【（2016）最高法民申 1975 号】中，最高人民法院指出，著作权人在行使自身权利之时，应遵循合法、善意及审慎的原则，对于因历史原因而包含于作品当中的他人合法的在先权利，应当合理避让。

IV. UNFAIR COMPETITION CASES

四、不正当竞争案件审判

29. Determining the standing of parties in unfair competition cases

In the preceding *Caidiexuan* case, the SPC ruled that whether the plaintiff is in direct competition with the defendant is not the sole dispositive factor in determining the plaintiff's standing.

29. 不正当竞争案件中当事人诉讼主体资格的确定

在前述“采蝶轩”侵害商标权及不正当竞争案中，最高人民法院指出，不正当竞争案件中原告主体资格的确定，不能仅依据其与被告是否为具有直接竞争关系的产品经营者判断。

30. Determining reasonable confidentiality measures in shared trade secret cases

In the trade secret dispute case, *Department of Chemical Industry Nantong Composite Material Factory v. Nantong Wangmao Industry Co., Ltd.*,[22] the SPC ruled that despite the parties sharing trade secrets, the parties have developed their confidential information separately. As a result, measures taken by one party does not relieve the other parties' obligations to take reasonable measures in protecting the trade secrets.

30. 商业秘密共有案件中合理保密措施的认定

在上诉人化学工业部南通合成材料厂、南通星辰合成材料有限公司、南通中蓝工程塑胶有限公司与被上诉人南通市旺茂实业有限公司、周传敏、陈建新、陈晰、李道敏、戴建勋侵害商业技术秘密和商业经营秘密纠纷案【（2014）民三终字第 3 号】中，最高人民法院指出，当事人虽对相关商业秘密主张共有，但涉案信息实际上是在各当事人处分别形成。故某一当事人采取的保密措施，不能取代其他当事人应分别对涉案商业秘密采取的合理保密措施。

V. MONOPOLY CASES

31. Determining dominant market positions

In the retrial of bundle sales dispute case, *Wu Xiaoqin v. Shanxi Radio and Television Media Group Co., Ltd.* (hereinafter referred as "*Radio and Television Group Bundle Sale*"), [23] the SPC ruled that because the defendant is the only legally authorized cable television transmitting and broadcasting business in the area, it has advantages over other businesses in market entry, market share, market position, and business scale. The evidence can lead to the conclusion that the defendant is in a dominant market position.

32. Determining the character of "Bundle Sale" in abuse of dominant market position cases

In the preceding *Radio and Television Group Bundle Sale* case, the SPC ruled that the defendant has taken advantage of its dominant market position by bundling basic cable maintenance fee and paid digital television program fee together. The defendant has thus forced the customers to pay for both. The bundle sale practice infringes the customers' right to choose and disadvantages businesses in the paid digital television program market. In rare cases, the defendant collected the two fees separately from some customers, but the practice still constituted a bundle sale prohibited by Antitrust Law.

VI. TECHNOLOGY CONTRACT CASES

33. The basic principle in determining if there is fraud in a technology development contract

In the contract dispute case, *Qinzhou Ruifeng Vanadium & Titanium Iron Technology Co., Ltd. v. Beihang University* (hereinafter referred as "*Vanadium & Titanium Iron Mine*" case),[24] the SPC ruled that in determining whether the developer committed fraud under a technology

五、垄断案件审判

31.经营者占有市场支配地位的认定

在再审申请人吴小秦与被申请人陕西广电网络传媒（集团）股份有限公司捆绑交易纠纷案【（2016）最高法民再 98 号】（简称广电公司捆绑交易案）中，最高人民法院指出，作为特定区域内唯一合法经营有线电视传输业务的经营者及电视节目集中播控者，在市场准入、市场份额、经营地位、经营规模等各要素上均具有优势，可以认定该经营者占有市场支配地位。

32.滥用市场支配地位案件中"搭售"行为的认定

在前述广电公司捆绑交易案中，最高人民法院指出，经营者利用市场支配地位，将数字电视基本收视维护费和数字电视付费节目费捆绑在一起向消费者收取，侵害了消费者的消费选择权，不利于其他服务提供者进入数字电视服务市场。经营者即使存在两项服务分别收费的例外情形，也不足以否认其实施了反垄断法所禁止的搭售行为。

六、技术合同案件审判

33.技术委托开发合同中欺诈行为认定的基本原则

在上诉人钦州锐丰钒钛铁科技有限公司与被上诉人北京航空航天大学技术合同纠纷案（简称"钒钛磁铁砂矿"技术合同纠纷案）【（2015）民三终字第 8 号】中，最高人民法院指出，对于技术委托开发合同中受托方欺诈行为的认定，应当尊重技术开发活动本身

development contract, courts shall be mindful of the characteristics and nature of technology development. Courts shall distinguish between different stages in technology development, and consider what the parties could have foreseen at the signing of the contract based on known facts to determine if the developer intentionally misrepresented the facts or concealed any facts.

的特点和规律，区分技术开发的不同阶段，以合同签订之时的已知事实和受托方当时可以合理预知的情况，作为判断其是否告知了虚假情况或隐瞒了真实情况的标准。

34. Understanding the term "product" in technology development contracts and determining fraudulent activities

34. 对技术委托开发合同中“产品”的理解与受托方欺诈行为的认定

In the preceding *Vanadium & Titanium Iron Mine* case, the SPC noted that courts shall take into consideration the different stages and the differences among products in each stage in order to understand the term “product.” When the developer assigned different definitions to the term “product,” courts shall consider the stage and procedures involved in each definition in determining if the developer misrepresented the projected product to commit fraud.

在前述“钒钛磁铁砂矿”技术合同纠纷案中，最高人民法院指出，对于技术合同中“产品”的理解，应当考虑技术研发活动具有的阶段性及阶段产品存在差异的特点。对受托方使用不尽相同的概念对技术合同中的产品进行指代的行为，应当在考虑其所处研发阶段及对应具体工序的基础上，认定其是否实施了虚报项目产品的欺诈行为。

35. Understanding "technology development cost" and the determination of fraud in the technology development contract

35. 对技术委托开发合同中“技术开发成本”的理解与受托方欺诈行为的认定

In the preceding *Vanadium & Titanium Iron Mine* case, the SPC ruled that the costs to develop technology include, but are not limited to, the costs of testing equipment. And the costs are only one of the key factors in pricing technology development contracts. Courts shall determine the costs to develop technology in conformity with the objective components of the development costs and basic rules of technology development contract pricing. Based on the determined costs, courts shall determine if the developer committed fraud by overstating the costs of development.

在前述“钒钛磁铁砂矿”技术合同纠纷案中，最高人民法院指出，技术开发成本包括但不限于试验设备的相关费用，也仅仅是决定技术开发合同价款的因素之一。对技术开发成本的认定，应当符合技术开发成本的客观构成，以及技术开发合同定价的基本规律，并在此基础上认定受托方是否以虚报技术开发成本的方式实施了欺诈行为。

36. Clients shall use their own business judgment under technology development contract and the determination of fraud committed by the developer

In the preceding *Vanadium & Titanium Iron Mine* case, the SPC ruled that in determining whether the client of a technology development contract made an error in business judgment due to fraud, courts shall fully respect the characteristics of technology development activities, and consider the client's business knowledge, available information, reasonably foreseeable situations, and other factors. In case the developer has met its duty to inform and disclose, the client's failure to use its business judgment does not prove fraud by the developer.

36. 技术委托开发合同中委托方应当自行完成的商业判断与受托方欺诈行为的认定

在前述“钒钛磁铁砂矿”技术合同纠纷案中，最高人民法院指出，判断技术合同中的委托方是否因受欺诈而陷于错误判断，应当充分尊重技术开发活动的特性，并综合考虑委托方的认知能力、信息来源及所能合理预知的情况等因素。在受托方已经尽到合理告知义务的情况下，委托方未完成应由其自行完成的商业判断，不能据此认定受托方构成欺诈。

VII. INTEGRATED CIRCUIT BOARD DESIGN CASES

七、集成电路布图设计案件审判

37. Judging whether legitimate source constitutes an affirmative defense in integrated circuit board design infringement cases

In *Nanjing Weimeng Electronic Co., Ltd. v. Quanxin Electronic Technology (Shenzhen) Co., Ltd.*,[25] the SPC pointed out that typical announcements of integrated circuit board designs include only the description of the project instead of the specific design. If there is evidence that the infringing products have obtained the design through legitimate sources, and there was no reason to know that the design was made from illegal copies of copyrighted design, the legitimate source constitutes an affirmative defense.

37. 集成电路布图设计侵权案件中合法来源抗辩是否成立的判断

在再审申请人南京微盟电子有限公司与被申请人泉芯电子技术（深圳）有限公司侵害集成电路布图设计专有权纠纷案【（2016）最高法民申 1491 号】中，最高人民法院指出，集成电路布图设计公告内容通常仅包括著录项目信息，不包括布图设计的具体内容。有证据证明通过合法途径获得被诉侵权产品，不知道也没有合理理由知道其中含有非法复制的布图设计的，合法来源抗辩成立。

VIII. INTELLECTUAL PROPERTY LITIGATION PROCEDURES AND EVIDENCE

八、关于知识产权诉讼程序与证据

38. The trademark rejection review procedure usually should not consider the evidence relating to popularity

38. 商标驳回复审程序中通常不应当考虑与知名度有关的证据

In denying administrative retrial of the trademark dispute case, *Shenzhen Bosen Household Products Co. Ltd. v. Trademark Review and Adjudication Bd. of State Administration for Industry & Commerce*,[26] the SPC pointed out that because the re-trial process of a denied application is unilateral, the applicant of a trademark has no opportunity to submit evidence to prove the trademark's popularity. In order to maintain the legitimacy of the process, courts shall not consider evidence in relation to popularity in reviewing denied trademark applications.

在再审申请人深圳市柏森家居用品有限公司与被申请人国家工商行政管理总局商标评审委员会商标驳回复审行政纠纷案【（2016）最高法行申 362 号】中，最高人民法院指出，由于商标驳回复审程序为单方程序，引证商标权利人并无机会提交有关引证商标知名度的证据。为维护程序的正当性，在商标驳回复审程序中通常不应当考虑与知名度有关的证据。

39. The treatment of the legal application of a faulty but correct judgment of the second trial

In the retrial of trademark dispute administrative case, *Huang Xiaodong v. Trademark Review and Adjudication Bd. of State Administration for Industry & Commerce*,[27] the SPC pointed out that the retrial court applied the wrong law. However, the result was correct. Referring to the Civil Procedures and relevant judicial explanations, courts shall correct the defects in the application of the law but dismiss the application for retrial.

39. 对法律适用存在瑕疵但裁判结果正确的二审判决的处理方式

在再审申请人黄小东与被申请人国家工商行政管理总局商标评审委员会、原审第三人沙特阿若必恩石油公司商标异议复审行政纠纷案【（2016）最高法行申 356 号】中，最高人民法院指出，二审判决在适用法律方面存在瑕疵，但裁判结果正确，可参照适用民事诉讼法及相关司法解释的规定，对二审判决适用法律存在的瑕疵予以纠正的基础上，裁定驳回再审申请。

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[1] Lilai Gongsi yu Changzhou Huasheng Zhiyao Youxian Gongsi Qinhai Faming Zhuanliquan Jiufenan (礼来公司与常州华生制药有限公司侵害发明专利权纠纷案) [Lilai Co. v. Changzhou Huasheng Pharmaceutical Co.], THIRD CIVIL FINAL COURT NO. 1 (Sup. People's Ct. 2005).

[2] Disenkelubo Jichang Xitong (Zhongshan) Youxian Gongsi yu Zhongguo Guoji Haiyun Jizhuangxiang (Jituan) Gufen Youxian Gongsi, Shenzhen Zhongji Tianda Konggang Shebei Youxian Gongsi, Yishen Beigao Guangzhoushi Baiyun Guoji Jichang Guchang Youxian Gongsi Qinhai Faming Zhuanliquan Jifenan (蒂森克虏伯机场系统（中山）有限公司与中国国际海运集装箱（集团）股份有限公司、深圳中集天达空港设备有限公司、一审被告广州市白云国际机场股份有限公司侵害发明专利权纠纷案) [ThyssenKrupp Airport Sys. (Zhongshan) Co. v. China Int'l Marine Containers (Group) Co.], CIVIL RETRIAL NO. 179 (Sup. People's Ct. 2016).

[3] Shanghai Youzhou Dianzi Keji Youxian Gongsi yu Shenzhenshi Jinghualong Anfang Shebei Youxian Gongsi Qinhai Shiyong Xinxing Zhuanliquan Jiufenan (上海优周电子科技有限公司与深圳市精华隆安防设备有限公司侵害实用新型专利权纠纷案) [Shanghai Youzhou Elec. Tech. Co. v. Shenzhen Jinghualong Sec. Equip. Co.], CIVIL RETRIAL NO. 384 (Sup. People's Ct. 2016).

[4] Gu Qingliang, Peng Anling yu Guojia Zhishi Chanquanju Zhaunli Fushen Weiyuanhui Faming Zhuanli Shenqing Bohuo Fushen Xingzheng Jiufenan (顾庆良、彭安玲与国家知识产权局专利复审委员会发明专利申请驳回复审行政纠纷案) [Gu Qingliang v. Patent Reexamination Board of the State Intellectual Property Office of the P.R.C. ("SIPO")], ADMINISTRATIVE RETRIAL NO. 789 (Sup. People's Ct. 2016).

[5] Tianbian Sanling Zhiyao Zhushi Huishe yu Guojia Zhishi Chanquanju Zhaunli Fushen Weiyuanhui Faming Zhuanli Shenqing Bohuo Fushen Xingzheng Jiufenan (田边三菱制药株式会社与国家知识产权局专利复审委员会发明专利申请驳回复审行政纠纷案) [Mitsubishi Tanabe Pharma Corp. v. Patent Reexamination Board of SIPO], IP ADMINISTRATIVE TRIAL NO. 352 (Sup. People's Ct. 2015).

[6] Jiyin Jishu Gufen Youxian Gongsi yu Guojia Zhishi Chanquanju Zhaunli Fushen Weiyuanhui Faming Zhuanli Shenqing Bohuo Fushen Xingzheng Jiufenan (基因技术股份有限公司与国家知识产权局专利复审委员会发明专利驳回复审行政纠纷案) [Genetic Tech. Co. v. Patent Reexamination Board of SIPO], IP ADMINISTRATIVE TRIAL NO. 356 (Sup. People's Ct. 2015).

[7] Guojia Zhishi Chanquanju Zhaunli Fushen Weiyuanhui, Nuoweixin Gongsi yu Jiangsu Boli Shengwu Zhiping Youxian Gongsi Faming Zhuanliquan Wuxiao Xingzheng Jiufenan (国家知识产权局专利复审委员会、诺维信公司与江苏博立生物制品有限公司发明专利权无效行政纠纷案) [Patent Reexamination Board of SIPO v. Jiangsu Boli Bioproducts Co.], ADMINISTRATIVE RETRIAL NO. 356 (Sup. People's Ct. 2016).

[8] Zhang Shaoheng yu Cangzhou Tianba Nongji Youxian Gongsi, Zhu Zhanfeng Qinhai Shangbiaoquan Jiufenan (张绍恒与沧州田霸农机有限公司、朱占峰侵害商标权纠纷案) [Zhang Shaoheng v. Cangzhou Tianba Farm Mach. Co.], CIVIL RETRIAL NO. 3640 (Sup. People's Ct. 2015).

[9] Hangzhou Aopu Weichu Keji Youxian Gongsi yu Zhejiang Xiandai Xinnengyuan Youxian Gongsi, Zhejiang Lingpu Dianqi Youxian Gongsi, Yang Yang Qinhai Shangbiaoquan Jiufenan (杭州奥普卫厨科技有限公司与浙江现代新能源有限公司、浙江凌普电器有限公司、杨艳侵害商标权纠纷案) [Hangzhou Aupu Kitchen and Bathroom Appliances Tech. Co. v. Zhejiang Modern Xinnengyuan Co.], CIVIL RETRIAL NO. 216 (Sup. People's Ct. 2016).

[10] Wuxi Xiaotiane Gufen Youxian Gongsi yu Neimenggu Baotou Baihuo Dalou Jituan Gufen Youxian Gongsi Ji Neimenggu Baotou Baihuo Dalou Jituan Gufen Youxian Gongsi Kunqu Haiwei Chaoshi Qinhai Shangbiaoquan Ji Buzhengdang Jingzheng Jiufenan (无锡小天鹅股份有限公司与内蒙古包头百货大楼集团股份有限公司及内蒙古包头百货大楼集团股份有限公司昆区海威超市侵害商标权及不正当竞争纠纷案) [Wuxi Little Swan Co. v. Inner Mongolia Baotou Dep't Store Co.], CIVIL RETRIAL NO. 2216 (Sup. People's Ct. 2016).

[11] Beijing Qingfeng Baozipu yu Shandong Qingfeng Canyin Guanli Youxian Gongsi Qinhai Shangbiaoquan yu Buzhengdang Jingzheng Jiufenan (北京庆丰包子铺与山东庆丰餐饮管理有限公司侵害商标权与不正当竞争纠纷案) [Qingfeng Stuffed Bun House v. Shandong Qingfeng Rest. Mgmt Co.], CIVIL RETRIAL NO. 238 (Sup. People's Ct. 2016).

[12] Liang Huo, Lu Yijian yu Anhui Caidiexuan Dandao Jituan Youxian Gongsi, Hefei Caidiexuan Qiye Guanli Fuwu Youxian Gongsi Ji Anhui Balitiantian Shipin Youxian Gongsi Qinhai Shangbiaoquan Ji Buzhengdang Jingzheng Jiufenan (梁或、卢宜坚与安徽采蝶轩蛋糕集团有限公司、合肥采蝶轩企业管理服务有限公司及安徽巴莉甜甜食品有限公司侵害商标权及不正当竞争纠纷案) [Lianghuo v. Anhui Caidiexuan Cake Grp. Co.], CIVIL RETRIAL NO. 38 (Sup. People's Ct. 2015).

[13] Taishan Shigao Gufen Youxian Gongsi yu Shandong Wanjia Jiancai Youxian Gongsi Ji Guojia Gongshang Xingzheng Guanli Zongju Shangbiao Pingshen Weiyuanhui Shangbiao Zhengyi Xingzheng Jiufenan (泰山石膏股份有限公司与山东万佳建材有限公司及国家工商行政管理总局商标评审委员会商标争议行政纠纷案) [Taishan Gypsum Co. v. Shandong Wanjia Bldg Material Co.], ADMINISTRATIVE RETRIAL NO. 21 (Sup. People's Ct. 2016).

[14] Bulutesi SIG Youxian Gongsi yu Guojia Gongshang Xingzheng Guanli Zongju Shangbiao Pingshen Weiyuanhui Shangbiao Bohui Fushen Xingzheng Jiufenan (布鲁特斯 SIG 有限公司与被申请人国家工商行政管理总局商标评审委员会商标驳回复审行政纠纷) [Bulutesi SIG Co. v. Trademark Review and Adjudication Bd. of State Admin. for Indus. & Commerce], ADMINISTRATIVE RETRIAL NO. 2159 (Sup. People's Ct. 2016).

[15] Pingguo Gongsi yu Guojia Gongshang Xingzheng Guanli Zongju Shangbiao Pingshen Weiyuanhui, Xintong Tiandi Keji (Beijing) Youxian Gongsi Shangbiao Yiyi Fushen Xingzhen Jiufenan (苹果公司与国家工商行政管理总局商标评审委员会、新通天地科技（北京）有限公司商标异议复审行政纠纷案) [Apple Co. v. Trademark Review and Adjudication Bd. of State Admin. for Indus. & Commerce], ADMINISTRATIVE RETRIAL NO. 3386 (Sup. People's Ct. 2016).

[16] Lafeiguosi Chaierde Jiuzhuang yu Guojia Gongshang Xingzheng Guanli Zongju Shangbiao Pingshen Weiyuanhui, Nanjing Jingse Xiwang Jiuye Youxian Gongsi Shangbiao Zhengyi Xingzheng Jiufenan (拉菲罗斯柴尔德酒庄与国家工商行政管理总局商标评审委员会、南京金色希望酒业有限公司商标争议行政纠纷案) [Château Lafite Rothschild v. Trademark Review and Adjudication Bd. of State Admin. for Indus. & Commerce], ADMINISTRATIVE RETRIAL NO. 34 (Sup. People's Ct. 2016).

[17] Guge Gongsi yu Guojia Gongshang Xingzheng Zongju Shangbiao Pingshen Weiyuan Hui Shangbiao Bohui Fushen Xingzheng Jiufen An (谷歌公司与国家工商行政管理总局商标评审委员会商标驳回复审行政纠纷案) [Google Inc. v. Trademark Review and Adjudication Bd. of State Admin. for Indus. & Commerce], ADMINISTRATIVE RETRIAL NO. 103 (Sup. People's Ct. 2016).

[18] Maike'er Jiefuli Qiaodan yu Guojia Gongshang Xingzheng Zongju Shangbiao Pingshen Weiyuan Hui, Qiaodan Tiyu Gufen Youxian Gongsi Shangbiao Zhengyi Xingzheng Jiufen An (迈克尔·杰弗里·乔丹与国家工商行政管理总局商标评审委员会、乔丹体育股份有限公司商标争议行政纠纷案) [Michael Jeffrey Jordan v. Trademark Review and Adjudication Bd. of State Admin. for Indus. & Commerce], ADMINISTRATIVE RETRIAL NO. 27 (Sup. People's Ct. 2016).

[19] Geli Gaoli Dengshan Yongpin Youxian Gongsi yu Heshan Sanliya Gongyi Zhipin Youxian Gongsi, Guojia Gongshang Xingzheng Zongju Shangbiao Pingshen Weiyuan Hui Shangbiao Yiyi Fushen Xingzheng Jiufen An (格里高利登山用品有限公司与鹤山三丽雅工艺制品有限公司、国家工商行政管理总局商标评审委员会商标异议复审行政纠纷案) [Geligaoli Hiking Equip. Co. v. Trademark Review and Adjudication Bd. of State Admin. for Indus. & Commerce], ADMINISTRATIVE RETRIAL NO. 2154 (Sup. People's Ct. 2016).

[20] Sun Xinzheng yu Ma Jukui Qinhai Zhuzuoquan Jiufen An (孙新争与马居奎侵害著作权纠纷案) [Sun Zhengxin v. Ma Jukui], CIVIL RETRIAL NO. 2136 (Sup. People's Ct. 2016).

[21] Zhuji Kaixinmao Shipin Youxian Gongsi yu Zhuji Youlaike Shipin Shanghang (诸暨市开心猫食品有限公司与诸暨市优莱客食品商行侵害商标权纠纷案) [Zhuji Kaixinmao Food Ltd. v. Zhuji Youlaike Food Store], CIVIL RETRIAL NO. 1975 (Sup. People's Ct. 2016).

[22] Huaxue Gongye Bu Nantong Hecheng Cailiao Chang yu Nantong Shi Wangmao Shiye Youxian Gongsi Qinhai Shangye Jishu Mimi he Shangye Jingying Mimi Jiufen An (化学工业部南通合成材料厂与南通市旺茂实业有限公司侵害商业技术秘密和商业经营秘密纠纷案) [Dep't of Chemical Indus. Nantong Composite Material Factory v. Nantong Wangmao Indus. Co.], CIVIL FINAL TRIAL NO. 3 (Sup. People's Ct. 2014).

[23] Wu Xiaoqin yu Shanxi Guangdian Wangluo Chuanmei Jituan Gufen Youxian Gongsi Kunbang Jiaoyi Jiufen An (吴小秦与陕西广电网络传媒（集团）股份有限公司捆绑交易纠纷案) [Wu Xiaoqin v. Shanxi Radio and Television Media Grp. Co.], CIVIL RETRIAL NO. 98 (Sup. People's Ct. 2016).

[24] Qinzhou Ruifeng Fantaitie Keji Youxian Gongsi yu Beijing Hangkong Hangtian Daxue Jishu Hetong Jiufen An (钦州锐丰钒钛铁科技有限公司与被上诉人北京航空航天大学技术合同纠纷案) [Qinzhou Ruifeng Vanadium & Titanium Iron Tech. Co. v. Beihang Univ.], THIRD CIVIL COURT FINAL TRIAL NO. 8 (Sup. People's Ct. 2015).

[25] Nanjing Weimeng Dianzi Youxian Gongsi yu Quanxin Dianzi Jishu Shenzhen Youxian Gongsi Qinhai Jicheng Dianlu Butu Sheji Zhuanyouquan Jiufen An (南京微盟电子有限公司与泉芯电子技术（深圳）有限公司侵害集成电路布图设计专有权纠纷案) [Nanjing Weimeng Elec. Co. v. Quanxin Elec. Tech. (Shenzhen) Co.], CIVIL RETRIAL NO. 1491 (Sup. People's Ct. 2016).

[26] Shenzhen Shi Bosen Jiaju Yongpin Youxian Gongsi yu Guojia Gongshang Xingzheng Guanli Zongju Shangbiao Pingshen Weiyuan Hui Shangbiao Bohui Fushen Xingzheng Jiufen An (深圳市柏森家居用品有限公司与国家工商行政管理总局商标评审委员会商标驳回复审行政纠纷案) [Shenzhen Bosen Household Prod. Co. v. Trademark Review and Adjudication Bd. of State Admin. for Indus. & Commerce], ADMINISTRATIVE RETRIAL NO. 362 (Sup. People's Ct. 2016).

[27] Huang Xiaodong yu Guojia Gongshang Xingzheng Guanli Zongju Shangbiao Pingshen Weiyuan Hui, Shate Aruobi Shiyou Gongsi Shangbiao Yiyi Fushen Xingzheng Jiufen An (黄小东与国家工商行政管理总局商标评审委员会、沙特阿若必恩石油公司商标异议复审行政纠纷案) [Huang Xiaodong v. Trademark Review and Adjudication Bd. of State Admin. for Indus. & Commerce], ADMINISTRATIVE RETRIAL NO. 356 (Sup. People's Ct. 2016).