

# Xiaomi's voice-activation command prompt awarded protection in precedent-setting trademark dispute

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In July 2017, Xiaomi launched a smart speaker with a voice activation command prompt (VACP) called '小爱同学' (Xiao Ai Tong Xue), which later became the name of its AI-powered voice-interaction product. In August 2017, a Chinese person named Chen Xiong registered 小爱同学 as a trademark. Between then and June 2020, Chen filed for 66 marks in 21 classes and, after obtaining the registration, sent a cease-and-desist letter demanding Xiaomi to cease use of the mark. Chen then began to use the mark on watches and clocks.

Xiaomi initiated a court action against Chen and the licensee of the copycat trademarks before the Intermediate People's Court of Wenzhou.

The Wenzhou Court issued a first-instance civil judgment on 14 December 2023, affirming that the name of Xiaomi's VACP should be protected under the Anti-Unfair Competition Law. The court found that Chen's extensive trademark squatting and the cease-and-desist letter breached the good-faith doctrine and prejudiced Xiaomi's rights and interests – ultimately constituting unfair competition. The court awarded Xiaomi 1.2 million yuan for commercial losses and reasonable expenses.

The judgment has now taken effect, and the case was listed as one of the Supreme People's Court's top 10 IP cases of 2023.

## Court decision

The development of AI and IoT technologies has fueled the boom of the smart-home industry. Tech giants have launched proprietary AI devices with unique VACPs, such as Apple's Siri and Amazon's Alexa. These names have functioned as source identifiers of goods and services through extensive use and promotion.

The popularity of VACPs means that brands often fall victim to bad actors seeking to profit from trademark squatting. Without explicit provisions offering protection to the legitimate right holders of VACPs in China, this case sets a precedent by affirming

that words with certain levels of influence and popularity are protectable under the Anti-Unfair Competition Law.

The judgment also clarified the scope of protection. Xiaomi has applied its Xiao Ai Tong Xue AI-powered engine widely in a slew of products, including mobile phones, TVs and smart speakers. The Xiao Ai Tong Xue VACP enables users to operate smart devices (eg, air conditioners, refrigerators and cleaning robots) using spoken commands. Thus, the court ruled that this VACP is associated with a wide range of goods that have built-in AI voice interaction engines and so should be protected on these goods.

The court found that the defendant's act of trademark squatting severely infringed Xiaomi's legitimate rights and interests, disrupted the normal trademark registration administration process and harmed fair market competition. When ascertaining the amount of damages to award in this case, the court considered the expenses that the plaintiff had incurred in combatting the defendant's behaviour including costs associated with administrative procedures, such as review of refusal and invalidation, as well as litigation costs.

### **Key takeaways**

The case is expected to serve as a point of reference for similar future cases because of the precedent it sets.

For VACP rights holders, it is crucial to prove that the names of the prompts have gained a certain level of popularity and influence and that they help to identify the source of goods or services. To do this, rights holders must proactively collect and preserve evidence of popularity during daily use to build a strong case.

Brand owners should also actively exercise their rights by taking action against trademark squatters. Otherwise, the infringer could exploit the right holder's acquiescence and use it against them.