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# n° 64 WHD Case: TM | Chinese court invalidates MECHELEN mark registered on playing cards, citing risk of dilution to MICHELIN brand

In a decision that underscores China's evolving jurisprudence on well-known trademarks, the Beijing High Court ordered the invalidation of a copycat mark piggybacking on the globally renowned "MICHELIN" brand, despite being registered in a non-competing class. The ruling, selected to be included in the *Top 10 Judicial Cases on Trademark Granting and Affirmation in 2024* by the Beijing courts, is a living example of the Chinese judiciary endeavor in protecting trademark reputation against dilution and unfair association in China.

**Background**

At issue was the validity of trademark No. 19240349  (美奇林科技 MECHELEN M & device), registered by Guangdong MECHELEN Interactive Technology Co., Ltd. in Class 28 on February 21, 2018, covering goods such as *playing cards, toy vehicles,* and *intelligent toys*, among others.

Michelin Group, citing its prior "MICHELIN" and "米其林" (Chinese equivalent of MICHELIN) trademarks, sought to invalidate the registration on the grounds that it imitated its well-known marks in tire and improperly exploited their reputation, thus is in violation of Article 13(3) of the 2013 PRC Trademark Law.

On February 7, 2021, the China National Intellectual Property Administration (CNIPA) issued a partially favorable decision. CNIPA found that the contested mark "MECHELEN" and the cited mark "MICHELIN" are similar in terms of letter composition, pronunciation, and visual impression, so the coexistence of the two marks on similar goods such as "building blocks (toys)," "toy vehicles," and "intelligent toys" was likely to cause confusion among relevant consumers regarding the source of the goods. However, for other designated goods such as "playing cards", CNIPA concluded that these items are dissimilar to the goods covered by Michelin's cited mark and, more importantly, differ significantly in function, sales channels, and target consumers from Michelin's well-known tires. Therefore, the registration of the contested mark on those goods was not likely to mislead the public or harm Michelin's interests.

Michelin's appeal to the Beijing IP Court was also dismissed on April 16, 2023, prompting a further appeal to the Beijing High Court.

**High Court Decision**

Reversing both lower decisions, the Beijing High Court ruled on February 8, 2024, that the protection scope for a well-known trademark should be proportionate to its degree of fame and distinctiveness. The more prominent the mark, the broader the category of goods or services to which it deserves protection.

The court affirmed that the "MICHELIN" trademarks had achieved a high level of public recognition in China and should be protected as well-known trademarks. While the goods at issue, such as playing cards, were not functionally similar to tires, their presence under a visually and phonetically similar mark could mislead consumers into assuming an association with the Michelin brand. This would result in an *unfair dilution* of the brand's distinctiveness or an *illegitimate exploitation* of its reputation.

Accordingly, the court ordered the CNIPA to remake the invalidation decision, citing the need for stronger cross-class protection based on the mark's extensive goodwill and recognition.

**Key Takeaways**

This ruling marks a further embracing of the dilution theory by China's judiciary in enforcing **cross-class protection** of well-known trademarks in China.

- The case affirms that well-known trademarks with strong distinctiveness and widespread recognition merit an expansive protective scope, even into unrelated product categories.
- The court demonstrated a nuanced understanding of the commercial dynamics that drive free-riding and association risks, particularly in consumer goods with low barriers to entry.
- The decision aligns with China's stated objective of providing consistent, non-discriminatory IP protection, and may provide reassurance to foreign rightsholders.

Brand owners seeking protection in China should proactively monitor filings in similar and dissimilar classes and be prepared to invoke well-known status where appropriate. The case also reinforces the importance of maintaining robust evidence of reputation, including sales data, marketing efforts, consumer surveys, and prior enforcement records.

This decision offers a valuable reference for building compelling Article 13(3) arguments, especially in cases involving semantic imitation, transliteration, or device marks with suggestive elements.

# n° 65 WHD Case: GI | INAO successfully blocked registration of trademark 'L'OIE DES LANDES'

**Huang Mei, 3 June 2025**

The INSTITUT NATIONAL DE L'ORIGINE ET DE LA QUALITE (INAO) is a public administrative institution in France, with civil personality, under the supervision of the Ministry of Agriculture and Food Sovereignty of the French Republic. The INAO is responsible for the implementation of the French policy on the official signs of identification of the origin and quality of agricultural and food products, including appellation d'origine contrôlée (AOC), protected designation of origin (PDO), protected geographical indication (PGI), traditional specialty guaranteed (TSG), label rouge (LR) and organic farming (agriculture biologique, AB).

A Chinese company Lunniu Trading (Shanghai) Co., Ltd (Lunniu) filed on March 18, 2023, the trademark application "L'OIE DES LANDES", designatin*g "meat; fish, not live; canned cooked meat; fruit, preserved; eggs; milk; edible fats; dried edible mushroom; tofu; sausage casings, natural or artificial"* in class 29. The trademark was preliminarily published by the China National Intellectual Property Administration (CNIPA) on June 6, 2023.

On September 5, 2023, INAO initiated an opposition proceeding against this mark (the opposed mark) before the CNIPA, citing, *inter alia*, Article 10.1.7 (deceptive and misleading in terms of quality or place of origin) and Article 16 (a trademark containing a GI component, if being used on goods not originating from the indicated place thus mislead the public, shall not be registered) of the China Trademark Law.

INAO cited two PGIs to back its opposition: "Canard à foie gras du Sud-Ouest (Chalosse, Gascogne, Gers, **Landes**, Périgord, Quercy)", a PGI on duck meat and offal in France, and "Volailles des **Landes**", a PGI on poultry meat and offal. INAO underlined in the opposition that "Landes" refers to the French region of Landes, which is known for its foie gras products. The opposed mark "L'OIE DES LANDES" can be translated into "Landaise geese", thus its registration and use is likely to cause misidentification as to the origin and quality of goods among consumers. The CNIPA found the arguments tenable and invoked Articles 10.1.7 and 16 of the China Trademark Law to disapprove the registration of the opposed trademark on all the designated goods on August 26, 2024.

Geographical indication products have specific qualities and reputations, which are determined by the natural or human factors of that region. Therefore, the product and the geographical indication are closely associated insofar as a geographical indication is to be associated with explicitly defined products. The CNIPA believes that the registration and use of the opposed trademark are likely to mislead the public on all the designated goods, including those that are not similar to the geographical indication products.

This decision is very welcome. By blocking the registration of the opposed trademark on products that are dissimilar to poultry meat and offal, the CNIPA demonstrates its flexible attitude in applying the clauses in the Trademark Law, which may serve as the guardrails of geographical indications. This case has been selected as one of CNIPA's Exemplary Trademark Opposition and Adjudication Cases in 2024. **W**

# n° 22 Case: TM | Copyright v trademarks: Supreme People's Court offers guidance on assessing "substantial similarity" in administrative proceedings context

**Ruirui Sun, 25 April 2025, first published by WTR**

Article 32 of the Trademark Law provides that a trademark should not infringe on another's prior rights, including copyright. Prior copyright owners may attack a trademark – applied for or registered – for dissimilar goods/service. To do so, they need to prove that:

1. the trademark applicant had access to the copyrighted work; and
2. the disputed mark is substantially similar to the claimed copyrighted work.

In some cases, the copyrighted work is only an element of the disputed mark, and the issue is therefore to determine whether the presence of the copyrighted work in the mark justifies an affirmation of infringement. In a recent case, the Supreme People's Court affirmed that the proportion of the copyrighted work contained in a disputed mark has no bearing on the assessment of copyright infringement.

**Background**

On 24 July 2019 Chinese company Heilongjiang Mangrove Animal Husbandry Ltd ('Mangrove') applied for the registration of the mark 耕 (and device), as shown below, in connection with fertilisers-related goods in Class 1. The trademark, which contains the Chinese character '耕' ('plough') and the silhouette of a farmer wearing a straw hat, holding a hoe and working on farmland, was registered on 21 March 2020.



*The disputed mark*

On 18 December 2020 an individual, Li Feng, president of a farmers' cooperative specialising in yam cultivation, filed a request for invalidation of the mark, citing his prior copyright entitled "good hoe" (shown below), which he had created on 11 March 2016. Li contended that the registration of the disputed mark violated Article 32 (prior rights).



*The prior work*

On 15 October 2021 the CNIPA rejected Li's application, holding that the image in the disputed trademark was not substantially similar to the copyrighted image in the sense of the Copyright Law.

Li brought administrative litigation proceedings before the Beijing IP court, which overturned the CNIPA's decision, finding a substantial similarity between the disputed mark and the prior copyrighted work.

The CNIPA appealed to the Beijing High Court, which ruled in favour of the CNIPA on 28 February 2024. The appeal court reasoned that the prominently featured Chinese character '耕' was the distinguishing part of the disputed trademark. In contrast to the more prominent overall visual effect of the circular contour and green farmland, the image of a farmer holding a hoe was very small and inconspicuous. Therefore, the disputed mark and the claimed prior work were distinctively different in terms of structure and layout, composition elements and overall effects. As a result, they were not substantially similar.

**Supreme People's Court decision**

Li filed a retrial application before the Supreme People's Court. On 24 March 2025 the court revoked the decision of the Beijing High Court and confirmed the first-instance judgment:

1. The prior work, which featured the silhouette of a farmer wearing a straw hat, holding a hoe and working on farmland, was aesthetic and original, and thus constituted a work of fine art in the sense of the Copyright Law.
2. The disputed mark comprised a component that was almost identical to the graphic part of the prior work, making it substantially similar in the sense of the Copyright Law.
3. The prior copyrighted work had been registered on 22 July 2016 and made public prior to the application date of the disputed mark. Therefore, Mangrove had access to Li's copyrighted work before filing the disputed mark.
4. The proportion of the graphic element featuring a farmer holding a hoe in

the disputed mark had no bearing on the assessment of copyright infringement.

**Comment**

It seems that the CNIPA and the appeal court confused "substantial similarity" in the context of the Copyright Law with "trademark similarity" in the context of the Trademark Law. Substantial similarity between two conflicting works is to be strictly assessed by a detailed comparison of the works, while trademark similarity is based on the assessment of the likelihood of confusion, which is a much more flexible method of comparison. In the present case, the Supreme People's Court was satisfied that the exact reproduction of the copyrighted work inside the disputed trademark was sufficient to establish copyright infringement; in contrast, from a trademark comparison point of view (with the likelihood of confusion in mind), the outcome could have been different.

Other cases illustrate the difference between substantial similarity and risk of confusion. In *Cars v The Autobots* (2017), the infringers raised the defence that the poster at issue would not cause confusion among consumers, owing to other distinguishable elements used in the promotion of the movie. The Shanghai IP Court found the defence without merit and, focusing on the substantial similarities of the cartoon images, affirmed copyright infringement.



| Prior work | Infringing work |

# n° 23 Case: CP | Using copyrighted content to train generative AI can be deemed fair following Ultraman infringement dispute

With the extensive adoption of AI-powered tools, copyrighted content is increasingly being used to train large language models (LLMs). Whether this qualifies as fair use is a hotly debated topic around the world.

In February 2025 a ruling handed down by the Hangzhou Intermediate Court in December 2024 came to light. The court found that using copyrighted content to train generative AI could be deemed fair, provided that there is no evidence proving that such use intends to plagiarise the original expression of the copyrighted works or has impeded the use of the originals or unreasonably prejudiced the copyright owner's legitimate interests.

**Case background**

Tsuburaya Productions is the copyright holder of Ultraman, a Japanese anime character, while Shanghai Character License Administrative (SCLA) – the plaintiff – is the exclusive licensee of Ultraman fine art works.

Small Design is an AI platform operator that enables users to create LoRA models by fine tuning an AI model on a custom dataset. Users uploaded images of Ultraman to this platform to train original models, which were then made available to other users for generating varied Ultraman-style content.
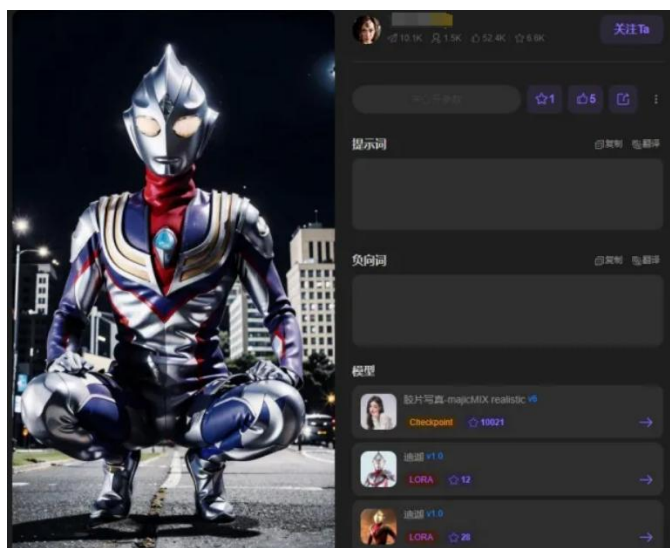


**Figure 1. The Ultraman image generated by the accused platform**

In 2024, SCLA sued Small Design on the grounds of copyright infringement and unfair

competition. It requested cessation, deletion of all relevant material and data and damages (including reasonable costs) of 300,000 yuan.

The Hangzhou Internet Court dismissed the unfair competition claim as it found the defendant's business model and operations to be legitimate, and it held that the dispute would be governed by the Copyright Law rather than the Anti-Unfair Competition Law.

The court affirmed that the defendant, as a provider of generative-AI services, was not involved in direct copyright infringement. However, it held the defendant liable for contributory copyright infringement, ordering the generated Ultraman images to be deleted and cessation of the generation and publishing service pertaining to the images at issue. The court awarded damages and reasonable costs of 30,000 yuan, which is one tenth of the initial amount claimed by the plaintiff, and rejected the plaintiff's other requests.

The Hangzhou Intermediate Court upheld this decision on appeal.

**Fair use of copyrighted content in AI training**

The trial court used a two-pronged approach. Specifically, it proposed adopting a more lenient and inclusive assessment of data input and data-training actions of LLMs. However, it underlined the necessity of a rigorous assessment when it came to the output of LLM-generated content and its use. This bifurcated approach sharply contrasts Article 7(2) of the Interim Measures for the Management of Generative Artificial Intelligence Services, which stipulate that gen-AI service providers must conduct pre-training, fine-tuning and other data-processing activities in accordance with the law – and must not infringe upon the legally protected rights of others – when IP rights are involved.

From the court's rationale, it can be inferred that the correlation between training and generation is not linear causality, as may be misconstrued by most people. The creation and evolution of generative AI requires the input of a massive amount of training data, which would inevitably include the copyrighted works of others. In principle, using these at the training stage is for learning, analysing and summarising prior works for the sake of transformative creation of new works later – without the intention to reproduce the originality of the copyrighted works. In general, data training merely temporarily retains the prior works in structural analysis of corpus data without making these available to the public during the training and generation processes.

The court therefore concluded that so long as the training process does not intend to reproduce the original works, interfere with their normal use or cause unreasonable harm to the copyright holder's legitimate interests, it may fall within the scope of fair use.

**Key takeaways**

Notably, Article 24 of the 2020 Chinese Copyright Law outlines the circumstances that

constitute fair use of copyrighted works. Although the legislation does not explicitly address the use of copyrighted works for AI training, clause 13 (other circumstances provided by laws and administrative regulations) leaves the door open, should other laws or administrative regulations sanction fair use in the context of AI training in the future.

It is interesting that the Hangzhou Intermediate Court distinguished the platform's duty to dissuade user infringement during the model-training phase (input) by using legally sourced data and models from its obligations to prevent infringement at the content-generation stage (output) by utilising necessary mechanisms that are consistent with the level of technology at the time of the infringement. This distinction reflects a growing judicial understanding in China that a nuanced approach may be warranted in determining the legal liability of platform operators hosting AI-powered tools in the different phases of AI training and utilisation.

Training AI requires huge and diverse datasets, which often include copyrighted text, images and audio. Whether such use constitutes infringement remains a legal grey area worldwide. This case, which is China's first judicial recognition in this area, seems to insinuate a more tolerant attitude toward copyrighted inputs in AI training – but a stricter stance on infringing outputs. The decision could help to shape both legal interpretation and industry practices in China and beyond.