

Key Points of the 2025 Draft Revision to the Trademark Law

On December 27, 2025, the website of the National People's Congress (NPC) of the People's Republic of China published the "2025 Draft Revision to the Trademark Law" (hereinafter referred to as the "Draft") and opened it for public comment, attracting widespread attention across various sectors of society. This revision marks the Fifth Amendment since the Trademark Law of the People's Republic of China came into effect on March 1, 1983, and it is also the first comprehensive revision. The changes are primarily reflected in systemic restructuring, refinement of definitions, expansion of regulatory scope, procedural optimization, and strengthening of legal liabilities. The Draft responds to highly concerning issues such as malicious registration and hoarding of trademarks, the scope of protection for well-known trademarks, procedural deadlocks in opposition and review proceedings, and misuse of trademarks that misleads the public.

The Draft introduces a new chapter entitled "Conditions for Trademark Registration," building on the current law's eight chapters and 73 articles. After revision, the Draft will contain 84 articles across nine chapters, with a restructured system that is more scientific and rigorous. Below is an explanation of several key aspects of the Draft that have a significant impact on trademark authorization and validation practices.

I. Expanding the Types of Registrable Trademarks: Adding Protection for "Dynamic Marks"

For the first time, the Draft includes "dynamic marks" as a registrable trademark type. Article 14 stipulates that "any signs, including words, graphs, letters, numbers, three-dimensional symbols, color combinations, sounds, dynamic marks, etc., or any combination thereof, that are capable of distinguishing the goods of a natural person, legal person, or unincorporated organization from those of others, may be applied for registration as a trademark" (underlined portions indicate modifications or additions; same below).

This is not merely an addition of new elements but also a systemic innovation aligned with the digital age. It provides a clear legal basis for protecting dynamic marks created by enterprises in digital environments (e.g., startup or shutdown screens of mobile phones or computers, loading animations when an application launches, or an athlete's iconic celebration gesture).

II. Regulating Malicious Registration and Hoarding: Clarifying Examination and Penalty Rules

In trademark registration provisions, Article 18 of the Draft integrates the relevant rules from current Article 4 (rejection of malicious applications) and Article 44 (invalidation of registration obtained by improper means), stipulating that "trademark registration applications that are not intended for use and clearly exceed the needs of normal production and operation shall not be registered. Trademark registration shall not be applied for by deceptive or other improper means."

On one hand, the current provision—"malicious trademark registration applications not for the purpose of use shall be rejected"—is amended to "applications not for the purpose of use and clearly beyond the needs of normal production and operation shall not be registered." This clarifies that the core criterion for determining "malicious" intent is the degree of alignment between "purpose of use" and "needs of normal production and operation," making the examination standard more objective.

On the other hand, the act of registering a trademark "by deception or other improper means" is shifted from being a ground for invalidation (declared by the Trademark Office) to a ground for refusal of registration. This adjustment reflects a shift in maintaining trademark registration order from "post-registration relief" to "pre-registration prevention," thereby reinforcing the principle of good faith.

Moreover, the Draft clearly defines the specific circumstances and penalties for malicious trademark registration applications. Article 53 provides that if an applicant engages in malicious trademark registration applications and causes adverse effects, the department responsible for trademark law enforcement shall issue a warning and may impose a fine of not more than 100,000 RMB.

First, the specific circumstances of "malicious application" listed in this article include:

1. Applying for registration of a mark knowing that it violates Article 15 (Prohibited Marks) of the Draft (i.e., marks identical or similar to the name, flag, emblem, or medal of the Communist Party of China; the name or flag of the People's Republic of China; the name or flag of a foreign country; the name or flag of an intergovernmental international organization; official signs or inspection stamps indicating control or guarantee; the name or emblem of the Red Cross or Red Crescent; marks that are deceptive and likely to mislead the public as to the quality, characteristics, or origin of the goods; or marks detrimental to socialist morality or having other adverse effects). Notably, this article adds marks related to the Communist Party of China to the list of prohibited signs.
2. Applying for trademark registration in violation of Article 18 of the Draft (i.e., "applications not for the purpose of use and clearly exceeding normal production and operation needs," or "applications by deception or other improper means").
3. Intentionally applying for trademark registration in violation of Article 20 (protection of well-known trademarks), Article 21 (preemptive registration of another's unregistered trademark), or Article 23 (Trademark applications shall not infringe prior rights or be filed with intent to preemptively register).

Second, the new penalty of "warning + fine of not more than 100,000 RMB" for "malicious application" elevates the legal consequence from "non-registration" (refusal/invalidation) within the trademark registration system to an independent administrative penalty directly imposed by the market supervision and administration department. This means that "malicious application" is no longer merely a procedural issue of an individual application being denied, but constitutes a standalone administrative violation.

III. Strengthening Protection of Well-Known Trademarks: Expanding Protection to Unregistered Well-Known Marks

Paragraph 2 of Article 20 of the Draft amends the current provision—which states that "where a trademark applied for registration in respect of dissimilar or non-similar goods is a reproduction, imitation, or translation of a well-known trademark already registered in China, misleading the public and potentially causing damage to the interests of the registrant of such well-known trademark, it shall not be registered and its use shall be prohibited"—to read: "Where a trademark applied for registration is a reproduction, imitation, or translation of another person's well-known trademark, misleading the public and potentially causing damage to the interests of the holder of the well-known trademark, it shall not be registered and its use shall be prohibited."

This amendment removes the condition "registered in China," thereby extending cross-class protection for well-known trademarks from "registered" marks to "unregistered" marks, shifting from a registration-based to a reputation-based standard. For trademark holders, enforcement now requires only proving that "the trademark has attained well-known status in China," lowering the threshold for rights protection.

IV. Optimizing the Trademark Authorization and Validation Process: Shortening the Opposition Period, Clarifying Suspension Circumstances, Standardizing the Examination Basis, and Deleting the One-Year Grace Period

The Draft optimizes the trademark authorization and validation process mainly in the following respects:

First, Article 35 of the Draft provides: "For a trademark that has been preliminarily examined and published, within two months from the date of publication, if a prior rights holder or interested party believes that it violates the provisions of Articles 19, 20, 21, paragraph 1 of Article 22, or Article 23 of this Law, or any person who believes a violation of Articles 15, 16, 17, 18, or 24 of this Law may file an opposition with the trademark administration department of the State Council. If no opposition is filed upon expiration of the publication period, the registration shall be approved, a trademark registration certificate shall be issued, and a public announcement shall be made."

Thus, the opposition period is shortened from three months to two months. This adjustment aims to improve examination and registration efficiency. However, it tightens the timeline for decision-making and evidence submission, imposing higher demands on opponents, who must monitor the trademarks in advance and complete opposition preparations within a shorter period.

Second, Article 40 of the Draft provides: "In the process of trademark opposition examination, rejection review, non-registration review, and invalidation proceedings, if the determination of prior interests involved must be based on the result of another case being trialed by a people's court or handled by an administrative organ, the trademark administration department of the State Council shall generally suspend the examination and review. After the

reasons for suspension are eliminated, the examination or trial proceedings shall be resumed in a timely manner."

This provision clarifies the circumstances for procedural suspension, changing the rule from "may suspend examination" to "generally shall suspend examination and review" in cases where the determination of prior interests depends on another pending case. This increases the certainty and predictability of procedural suspensions.

Third, Article 40 of the Draft also states: "When hearing a decision on rejection review, a decision on non-registration review, or a ruling on invalidation made by the trademark administration department of the State Council in accordance with Article 19 of this Law, the people's courts shall base their judgments on the factual circumstances existing at the time the contested decisions or rulings were issued."

This means the "changed circumstances" principle will no longer apply in trademark administrative litigation. Taking rejection review as an example: even if the status of a cited trademark changes during the litigation stage (e.g., it is revoked or declared invalid), the court must still base its judgment on the fact that the cited trademark was legally valid at the original review stage. This requires applicants to conduct early and comprehensive risk assessments of all prior rights obstacles that may arise during trademark application and to remove those obstacles before the administrative decision is made, to avoid rejection due to improper planning.

Fourth, Article 48 of the Draft provides: "Where a trademark registrant applies for cancellation of its registered trademark, within one year from the date of the cancellation announcement, the trademark administration department of the State Council shall not approve the application for registration of another trademark that is identical or similar to that trademark on the same or similar goods."

Notably, the current law's one-year grace period for trademarks declared invalid, revoked, or cancelled due to non-renewal upon expiration has been deleted. This means that once a trademark is finally determined to be invalid, revoked, or not renewed upon expiration, the prior right obstacle is removed immediately.

V. Strengthening Management of Trademark Use: Adding Liability for Misleading the Public and Detailing Use Compliance Requirements

Paragraph 1 of Article 56 of the Draft states: "Where a trademark registrant, in the course of using the registered trademark, changes the registered trademark, the name or address of the registrant, or other registered particulars, or uses the registered trademark in a way that misleads the public, the department responsible for trademark law enforcement shall order it to make corrections within a specified time limit; if corrections are not made within the specified time limit, a fine of not more than 50,000 RMB shall be imposed; where the circumstances are serious, the trademark administration department of the State Council shall revoke the registered trademark."

In addition to the core grounds for revocation under the current law (i.e., changing by itself the registered trademark, registrant's name, address, or other registration particulars), this article adds "using a registered trademark in a way that misleads the public" and further clarifies the relevant legal liability, imposing a fine of up to 50,000 RMB for such unlawful use. Thus, a progressive disciplinary framework is formed: order to rectify within a time limit → fine ($\leq 50,000$ RMB) → revocation of the registered trademark.

Conclusion

Based on the above, it is evident that if the content of this Draft is ultimately implemented, it will reshape the operational logic of trademark practice at the procedural, substantive, and liability levels. We will continue to monitor subsequent legislative developments, adapt promptly to the changes brought by the law revision, and provide more professional and efficient legal services.

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