

Deep Interpretation of Key Revisions to the New Trademark Law

On June 26, 2026, the 23rd Session of the Standing Committee of the 14th National People's Congress voted to adopt the newly revised Trademark Law of the People's Republic of China (hereinafter referred to as the "New Trademark Law"). The Law consists of nine chapters and eighty-seven articles. This revision is the fifth amendment to the Trademark Law since its entry into force in 1983. The revised version shall come into force on January 1, 2027.

We would like to analyze 7 core revisions in the New Trademark Law below:

1. Opposition Period: Shortened to Two Months
2. Expanding Scope of Cross-Class Protection for Well-Known Trademarks
3. Registrable Trademarks: Motion Marks
4. Regulating Improper Use of Registered Trademarks
5. Trademark Use and Cleanup Mechanisms: Ex Officio Cancellation
6. Malicious Application
7. Time Point for the Three-Year Non-Use Defense Against Damages

1. Opposition Period: Shortened to Two Months

Regarding trademark examination procedures, any party may file an opposition in accordance with the relevant legal provisions within **two months from the publication date** of a trademark for preliminary approval.

Our Comments:

This article is significantly shorter than the three-month period according to the current Trademark Law.

This change will directly reduce the time window for brand owners to evaluate preliminarily approved trademarks, make internal decisions, and prepare opposition materials. **We recommend that brand owners begin re-assessing their trademark monitoring and internal decision-making processes based on a two-month opposition period.**

On the other hand, this article enables market entities with genuine usage demands to obtain exclusive trademark rights faster and secure timely legal protection.

2. Expanding Scope of Cross-Class Protection for Well-Known Trademarks

According to Article 21 of the New Trademark Law, if a trademark applied for registration on goods that are not identical or similar is a reproduction, imitation, or translation of another party's well-known trademark, which is likely to mislead the public and cause damage to the interests of the holder of the well-known trademark, it shall not be registered or used in China.

Our Comments:

The threshold for cross-class protection of well-known trademarks has been substantially lowered. Article 13 of the current Trademark Law stipulates that cross-class protection on dissimilar goods is premised on "well-known trademarks already registered in China." This article removes the restriction "already registered in China." Unregistered well-known trademarks in China may also block the registration and use by others of reproductions, imitations or translations thereof that mislead the public across all relevant classes of goods. It will provide a stronger basis for cross-class defense for marks that have not been registered in China but have achieved well-known status outside China.

However, well-known status is still determined on a case-by-case and as-needed basis, with a high evidentiary threshold in practice. For core brands, securing trademark registration in China in advance remains the most reliable way to reduce dispute costs and ensure protection.

Meanwhile, to combat malicious trademark squatting, it is recommended to increase monitoring frequency and improve internal response efficiency for trademark applications filed in non-core but closely related classes.

3. Registrable Trademarks: Motion Marks

Article 14 of the New Trademark Law clearly stipulates:

“Any sign capable of distinguishing the goods of a natural person, legal person, or unincorporated organization, including ‘words, devices, letters, numerals, three-dimensional signs, color combinations, sounds, **motion marks**,’ etc., as well as combinations of the above elements, **can be applied for trademark registration.**”

Our Comments:

By adding “motion marks” to the definition article, the New Trademark Law provides a clear legal basis for animated or dynamic elements to obtain trademark registration.

Drawing on foreign experience, applications for motion marks typically require the submission of video or sequential-frame samples that demonstrate their distinctive motion features, accompanied by a document explaining the motion effects.

Article 18 of the New Trademark Law excludes from registration motion effects that arise solely from the nature of the goods themselves, are necessary to achieve a technical result, or give substantial value to the goods.

At the same time, motion marks such as mobile phone boot-up animations, dynamic app displays, and the opening animations of film and television companies are now officially included within the scope of registrable trademark elements.

4. Regulating Improper Use of Registered Trademarks

“Malicious Speculative Trademarks” have been a recurring consumer complaint in recent years. Trademark symbols are disguised as product features, effectively serving as misleading false advertising through trademark usage. Examples include noodles labeled with the registered trademark “hand-made” but actually machine-made, or chargers bearing the registered trademark “120W” while failing to meet the stated power specifications. In response, the CNIPA has been **rejecting fraudulent trademark applications, ex officio declarations of invalidity, and launching a dedicated reporting channel for “Malicious Speculative Trademarks” clues** on its official website.

Of course, this does not target only Malicious Speculative Trademark. In practice, “Improper Use” generally covers several categories, including use that is clearly inconsistent with the registered mark, exaggerated or distorted use, substantial alteration of the trademark's distinctive features resulting in source confusion, and use of a registered trademark to create a false or misleading commercial impression.

The actual use of a trademark shall be consistent with its approved registration content.

Back to the New Trademark Law, Article 56 makes Improper Use as a standalone provision, and stipulates a corrective order within a prescribed period, a fine of up to five times the illegal turnover for amounts exceeding CNY 50,000, and a fine of up to CNY 250,000 if the illegal turnover is below CNY 50,000 or nonexistent. Failure to rectify within the time limit results in cancellation of the registration.

5. Trademark Use and Cleanup Mechanisms: Ex Officio Cancellation

According to the current Trademark Law, only third parties can file a non-use cancellation action; CNIPA will only accept such applications passively. If no one files a cancellation action, unused trademarks will never be cleared.

Article 57 of the New Trademark Law provides two parallel tracks. Others can still file non-use cancellation actions, and the CNIPA can proactively issue non-use cancellation notices without requiring any complaint from any party.

Our Comments:

This provision provides a clear legal basis for the competent authorities to proactively remove idle or non-distinctive trademarks under specific circumstances.

Trademarks that are left unused for a long time, or those that have degenerated into generic names, may be proactively cancelled even if no one files a cancellation notice. However, given the large number of trademark registrations in China, the practical likelihood of CNIPA launching large-scale, proactive cancellation actions remains low. This provision functions primarily as an institutional deterrent. It reinforces the risk of cancellation for registered but unused trademarks and thereby places sustained pressure on trademark owners to put their registered marks into genuine use.

6. Malicious Application

Article 4 of the current Trademark Law stipulates that any bad-faith trademark application filed without intent to use shall be rejected.

Article 19 of the New Trademark Law removes the term “bad-faith,” replacing it with the wording **“filed without intent to use and evidently exceeding the normal needs of production and business operation.”** Meanwhile, the prohibition on applications obtained by fraud or other improper means is set forth in the second paragraph.

Our Comments:

The focus of the assessment shifts from the applicant's subjective intent to whether the scale of trademark applications objectively corresponds to its business needs. This also provides more straightforward grounds for asserting bad faith in all types of trademark examination procedures.

This revision facilitates the crackdown on genuine trademark hoarding and squatting in practice. However, there is no clear definition of the standard “evidently exceeding the normal needs of production and business operation.” It remains to be seen in judicial practice whether legitimate defensive and forward-looking trademark filings will be mistakenly penalized.

As a prudent measure, **applicants filing defensive or bulk trademark applications should prepare supporting materials in advance to justify the legitimacy of their filings**, such as

preliminary evidence of trademark use, business plans, or brand strategy statements, when required.

7. Time Point for the Three-Year Non-Use Defense Against Damages

Article 78 of the New Trademark Law stipulates that in civil litigation over trademark infringement, if the alleged infringer raises a non-use defense against the trademark, the people's court may order the trademark owner to submit evidence of genuine commercial use of the trademark during the three years **preceding the alleged infringing act**. If the trademark owner fails to prove actual use within such three-year period or to demonstrate other losses sustained from the infringement, the alleged infringer shall bear no liability for compensation.

Our Comments:

This provision revises the wording “prior to filing the lawsuit” as contained in the Draft Amendment to “preceding the alleged infringing act.” The revision aims to prevent trademark owners from manufacturing token trademark use solely to claim compensation during the period between the occurrence of infringement and the filing of a lawsuit.

This adjustment strengthens the obligation on trademark owners to demonstrate actual use and helps curb malicious claims for damages made by holders of idle trademarks that lack genuine commercial use.

In summary, the New Trademark Law provides comprehensive regulations guiding legal trademark prosecution and use. It also offers legal support for effectively combating malicious trademark filings and improper trademark use. It returns to the principle that trademark registration is based on actual needs of use.

We recommend that brand owners focus on the following matters:

Opposition Period: Reassess trademark monitoring and internal decision-making processes based on the shortened two-month opposition period;

Layout Strategy (Motion Marks/Non-Traditional Marks): Systematically review non-traditional mark layout strategies, taking motion marks into account;

Compliance in the Use of Registered Trademarks (Avoid Misleading the Public): Conduct compliance reviews on how registered trademarks are presented in actual use, paying special attention to whether such use could be deemed misleading the public.

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