



中华人民共和国国家知识产权局商标局

TRADEMARK OFFICE, NATIONAL INTELLECTUAL PROPERTY ADMINISTRATION, PRC

遏制非正常商标申请审查实践

Curbing Abnormal Trademark Applications

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“商标审查质量提升年”行动

Improving the Quality of Trademark
Examination



第一部分 我们的态度
Part I CNIPA Policy Efforts

严厉打击非正常商标申请
Cracking Down on Abnormal
Trademark Filings

中国商标大厦



改革开放以来，特别是党的十八大以来，中国不断加大知识产权保护力度，致力于为国内外企业提供一视同仁、同等保护的知识产权环境。2018年，党中央、国务院将知识产权工作提到了前所未有的高度。习近平总书记在博鳌亚洲论坛2018年年会开幕式上的主旨演讲中强调，加强知识产权保护是完善产权保护制度最重要的内容，也是提高中国经济竞争力最大的激励。国务院就知识产权工作作出一系列重要部署。国家知识产权局重视并部署打击商标恶意注册和囤积等非正常申请作为。

Since the initiation of the reform and opening-up policy, especially after the 18th National People's Congress (NPC), China has been ramping up its IPR protection efforts in order to provide a market environment where domestic and foreign companies are equally treated in and protected against IPR infringements. In 2018, the CPC Central Committee and the State Council brought IPR protection to an unprecedented level of significance. General Secretary Xi Jinping highlighted in his keynote speech at the opening ceremony of the 2018 Boao Forum for Asia that strengthening IPR protection is the centerpiece of China's effort to improve its property right protection system, and it will provide the biggest boost to the competitiveness of the Chinese economy. The State Council has launched a series IPR protection plans. The National Intellectual Property Administration (CNIPA) has also taken measures to clamp down on bad faith trademark registration and hoarding, among other unfair practices.



近年来，商标局高度重视遏制非正常申请问题，积极回应社会关注，将打击恶意注册的关口进行前移，不断探索在审查阶段依法打击恶意注册的方法。多次开展打击恶意注册专项调研，在官网上公布恶意抢注商标典型案例，数次向社会公开宣讲打击非正常申请相关政策。加强与相关部门交流，探索打击商标囤积行为。

In recent years, the Trademark Office has placed a premium on curbing abnormal trademark applications as a response to public concerns. **The crackdown effort starts as early** as the examination phase. The Office has conducted multiple rounds of special investigation/research, publicized typical cases of malicious squatting and carried out publicity campaigns. It has also worked closely with other government agencies in fighting trademark hoarding.

目前对商标注册各环节进行严密监测，在审查、异议、撤销、无效宣告各环节从严审查、坚决遏制和打击恶意注册、囤积商标等非正常申请行为。2018年严厉打击商标囤积、恶意抢注行为，驳回非正常商标申请约10万件。

The registration process, including examination, oppositions, revocations and invalidations, is under close supervision for prevention of unfair practice. In 2018, the Trademark Office rejected c. 100, 000 abnormal applications in its effort to curb trademark hoarding and squatting.



适时修法——提供强有力法律支撑

A Revised Trademark Law That Offers Strong Legal Support

4月23日全国人大常委会对商标法做了修改，自2019年11月1日起施行。从商标申请的初审程序、商标代理程序、商标异议和商标无效程序四个方面提供了打击恶意注册的明确的法律依据，从申请源头、规范代理、到授权确权争议处理全方位的提供法律保护。建立了全面完善的打击商标恶意抢注和囤积行为的制度体系，且制度的设计可谓环环相扣、层层监督。

On April 23, the NPC Standing Committee made revisions to the Trademark Law. The amended Trademark Law, which will come into effect on Nov 1, 2019, includes provisions on preliminary examination, trademark agents, oppositions and invalidations, aimed to provide legal support throughout the application process. China now has a comprehensive and well-designed system that targets malicious squatting and trademark hoarding and enables supervision every step of the way.



《关于规范商标申请注册行为的若干规定》正在制定中 Several Provisions on Regulating the Application for Trademark Registration

国家知识产权局为优化商标申请注册、使用和保护等制度，形成遏制非正常申请商标注册行为的长效机制，起草了《关于规范商标申请注册行为的若干规定（征求意见稿）》及其说明，并于今年2月12日公开征求社会各界意见。

As part of its effort to optimize the trademark registration, use and protection system and establish a long-term mechanism that effectively curbs bad faith filings, CNIPA drafted the Provisions on Regulating the Application for Trademark Registration and published it for public comment on Feb 12.

拟从优化营商环境、维护市场秩序角度出发，将遏制非正常申请行为的关口前移，强调政府导向与市场驱动并重，监管与引导相结合，形成严厉打击商标囤积注册、恶意申请的长效机制。坚持商标注册以实际使用为目的的原则，从行政管理角度多方面采取措施，同时呼吁社会公众充分利用三年不使用商标撤销、注册商标无效等制度，关注注册商标使用意图，强化市场主体对有实际使用需要的商品和服务申请商标注册的良好导向，以期达到对非正常申请商标注册的行为予以规制的目的。

In a bid to improve business environment and maintain market order, government and the market must play their separate roles, providing supervision and guidance, and start the crackdown effort as early as possible. In doing so, a long-term mechanism can be put in place that effectively curbs bad faith filings and trademark hoarding. The administrative authorities will take multi-pronged measures to curb no-use applications, encourage the public to report trademarks with no use within 3 years to be removed or invalidated, and make sure that market players only apply for registrations of goods and services with real intent to use, in order to effectively regulate bad faith filings.



第二部分 Part II

打击非正常商标申请审查实践 Fighting Abnormal Trademark Applications During Examination

中国商标大厦

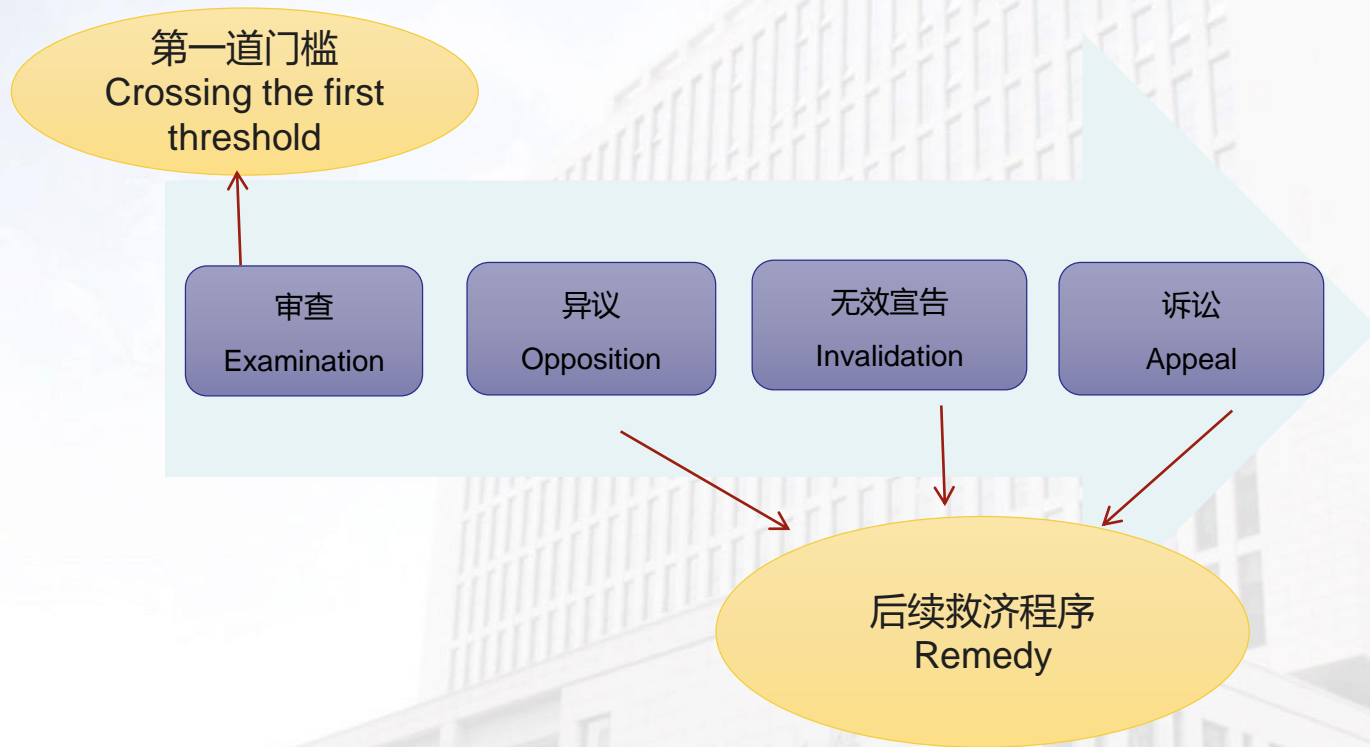
目前打击非正常申请的主要类型

Major types of abnormal filings currently targeted





各环节严厉打击 Fighting Abnormal Filings Every Step of the Way





商标注册审查阶段措施

Fighting Abnormal Filings During Examination

- 加强信息化建设。Improving IT infrastructure:
优化实质审查分文流程； Optimizing work assignment among examiners
在审查系统提示功能； Adding the “reminder” function to the examination system
审查员内部沟通机制。 Establishing an internal communication mechanism for examiners
- 梳理典型恶意注册类型，制定相关审查指导意见书，严厉打击恶意注册行为。
Collating typical malicious squatting cases and publishing examination guidance
- 探索打击囤积行为相关措施。严厉打击社会反映强烈的部分企业不以使用为目的的大量申请商标不良现象。
Taking measures to curb trademark hoarding by companies with no intent to use



异议阶段:

Fighting Abnormal Filings via Opposition:

● 优化分文流程，对典型恶意申请类型及相关案例进行梳理、汇总，采取提前审查、并案集中审查和从严适用法律等措施，大力遏制违反诚实信用原则、恶意攀附他人商标声誉、抢注知名度较高商标、侵犯他人优先权利、占有公共资源、反复抢注等商标恶意抢注行为。

Measures: Optimizing work assignment among examiners, collecting and categorizing cases of bad faith registration, moving forward the schedule, combining examination cases, applying applicable laws. Outcomes: curbing malicious filings that violate the principle of good faith, including infringement and squatting of well-known trademarks, violation of prior rights, abuse of public resources and repetitive filings.

● 特别对涉及恶意抢注知名度较高商标的行为予以有力打击，及时作出被异议商标不予注册的决定，有力维护商标领域公平有序的市场竞争秩序。

Cracking down on squatting of well-known trademarks and making timely decisions of rejection in an effort to maintain fairness and order in trademark registration.



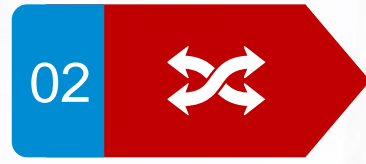
目前审查阶段发现非正常申请的途径

Existing Ways to Identify Abnormal Filings



01

审查员主动发现
Assessment by examiners



02

外界投诉举报
Complaint filings



03

媒体舆论线索
Media coverage

审查阶段打击恶意注册行为主要类型：

Major malicious registration practices targeted during the examination:

1 大量摹仿、抢注他人驰名商标或其他较高知名度商标，扰乱商标注册秩序的恶意注册行为；
Imitation and squatting of well-known trademarks with disruptive effects;

2 大量抢注公共资源，扰乱商标注册秩序的恶意注册行为；
Improper occupation of public resources;

3 大量申请知名人物姓名、企业字号、电商名称等明显侵犯他人优先权利，扰乱商标注册秩序的恶意注册行为。

Bad faith filings involving names of famous persons, companies and e-commerce businesses that violate prior rights;

4 针对同一企业驰名商标或其他较高知名度商标反复恶意抢注的行为。
Repetitive filings involving well-known trademarks.

审查阶段对非正常申请认定因素

Characteristics of Abnormal Filings Considered During Examination

相关申请人申请商标数量
Number of
trademark applications

申请商标的具体情况
Designated use of
trademarks

申请人及相关主体登记情况
Records of the
applicant and relevant entities



以往有关行政决定、裁定以及司法判决情况
Previous administrative decisions and
rulings

出售等牟利情况
Profit-making activities, e.g. sale

行业、经营特点
Industries and operations

其他有关情况
Others



第三部分 案例介绍
Part III Case Studies

打击非正常商标申请典型案例介绍
Fighting Abnormal Trademark
Applications

中国商标大厦



审查阶段打击恶意注册形式之一：

Types of Bad Faith Filings Targeted During Examination (1):

大量摹仿、抢注他人驰名商标或其他较高知名度商标，扰乱商标注册秩序的恶意注册行为。

Imitation and malicious squatting of well-known trademarks with disruptive effects

1、同一申请人申请商标注册数量较多，且全部申请或其中多件申请具有攀附他人商誉，抢注他人驰名商标或其他较高知名度商标的明显恶意；

An excessive number of trademark filings by the same applicant, with all or most of the applications involving goodwill infringement and malicious squatting of well-known trademarks

2、表现为通过完整包含、变形、拆分重组等方式大量摹仿、抄袭、抢注他人驰名商标或其他较高知名度商标的行为。

Imitation, rearrangement and recombination of well-known trademarks

摹仿、抢注表现形式 Imitation and Squatting

- 1 完整包含他人有较高知名度商标
Complete inclusion of others' well-known trademarks**
- 2 将知名商标拆分重组
Recombination of well-known trademarks**
- 3 将知名商标进行变形
Rearrangement of well-known trademarks with different fonts, designs, etc**
- 4 在非类似商品服务上，与知名度商标相同
Identity to well-known trademarks of a different category**



福建个人
Fujian individual applicants

阿迪安踏

阿迪达斯特

保罗爱马仕

完整包含他人有较高知名度商标
Complete inclusion of others' well-known
trademarks



Ann plea
苹 俾

ORALCURE
★ 徽 软 ★

Miccoresoft
申 滑 文

S w a r o v s k i

P e p s i C o l a

湖北个人
Hubei individual applicants

将知名商标进行变形
Rearrangement of well-known trademarks



SIERNERIS



SIEMENS

Siemens AG (Germany)



腾讯科技（深圳）有限公司
Tencent Technology (Shenzhen) Co., Ltd.



华为技术有限公司
Huawei Technologies Co., Ltd.

将知名商标进行变形
Rearrangement of well-known trademarks



adi & das

美的集团股份有限公司
Midea Group Co.,Ltd.

美的 Midea

NNIKEE

ADINI 三叶草款

将知名商标进行变形

Rearrangement of well-known trademarks



zgpanasosic

HGSAMSING

SAIVISNUC

TVPHLIPS

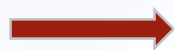
KNDKA

深夏谱

京夏谱

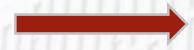
广东个人

Guangdong individual applicants



株式会社LG
LG Electronics
Inc.

zgpanasosic



松下电器产业株式会社
Panasonic

SAIVISNUC



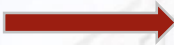
三星电子株式会社
Samsung Electronics Co., Ltd.

将知名商标进行变形
Rearrangement of well-known trademarks

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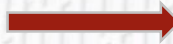


TVPHLIPS



PHILIPS

KNDKA



KONKA

**深夏谱
京夏谱**



夏普

将知名商标进行变形

Rearrangement of well-known trademarks



六风

必味

居酱

东悦起

长经

城典

风达亚

将知名商标拆分重组

Recombination of well-known trademarks



壳片卑

口壳片卑口

嘉口实口多

4	1540	CSATROL
4		壳劲
4		牌霸
4	1567	卑喜力
4	1567	壳片
4	1567	卑劲霸
4		口壳片卑口
4		口壳口牌口
4		壳片卑
4		图形
37		图形
39	1568	图形
7	1574	图形
4		美口孚
4		口美孚口
7	1573	MOBIL
7		长城滤清器
4	1588	嘉口实口多

河北
Hebei



美 经

清河县XX有限公司
Company A in Qinghe County, Hebei

孚 典

河北XX有限公司
Company B in Hebei

壳 片

卑 劲 霸

将知名商标拆分重组
Recombination of well-known trademarks



XX品牌管理有限公司
XX Brand Management Company

在非类似商品服务上完整抄袭他人独创性较强、知名度较高的商标。
The disputed trademarks are identical to well-known original trademarks of different categories.

西门子

“配电箱”
“distribution board”



宾利

“游艇”
“yacht”



SIEMENS

西门子

西门子股份公司
Siemens AG



BENTLEY



宾利汽车有限公司
Bentley Motors Limited

在非类似商品服务上，与知名度商标相同
Identity to well-known original trademarks of different categories.



审查阶段打击恶意注册形式之二：

Types of Bad Faith Filings Targeted During Examination (2):

大量抢注公共资源，扰乱商标注册秩序的恶意注册行为：

Improper hoarding of public resources that disrupts market order:

1、同一申请人申请商标注册数量较多，且全部申请或其中多件申请具有抢注公共资源的的明显恶意；

An excessive number of trademark filings by the same applicant, with all or most of the applications involving improper hoarding of public resources;

2、表现为大量囤积地名、风景区名称、山川名称、公共文化艺术资源、行业术语等公共资源的行为。

Disputed trademarks composed of names of scenic spots, mountains & rivers, public cultural and art resources, geographical names, industry-specific jargons, etc.

陈家嘴	潼射	锡溪
茈湖口	瓦砾	斯觉
达浒	闻溪	望垭
大忠桥	五权	瓦泽
呆鹰岭	舞雪	沙坝场
道仁矶	西眉	拖坝
邓家铺	消水	项脚
邓元泰	炭库	依洛达拉
低庄	箭板	新棉
靛房	昌波	雄坝
渡头塘	充古	石黎
端桥铺	旦都	牙衣河
范家山	得溪	东沙湖
方石坪	德石	梭坡
汾市	夺多	殷村
风石堰	俄热	

上海XX信息技术有限公司及相关利益共同体共申请注册县级以下行政区划名称商标近5000件，上述申请具有不正当占用公共资源意图，扰乱正常的商标注册秩序。

An IT company in Shanghai and its stakeholders filed c. 5,000 trademarks composed of names of sub-county-level administrative units, which constitutes improper hoarding of public resources and disrupts market order.

囤积地名

Malicious hoarding of trademarks composed of geographical names



Sichuan C

该申请人同批次申请多件“省简称+房产/房网”

The same applicant filed an excessive number of trademarks composed of **abbreviations of Chinese provinces** + “*Real Estate Website*”.

陕房网
蓉房网
滇房网
贵房网
渝房网
镐房产
陕房网
渝房产
滇房网
滇房产
陕房产
渝房网
贵房产
贵房网
蓉房产
陕房产
渝房产
滇房产

省简称+ “一绝”
Abbreviations of
Chinese provinces +
“*Superb*”

SHANGHAI

30		鄂一绝
30		琼一绝
30		云一绝
30		川一绝
30		藏一绝
30		宁一绝
30		粤一绝
30		辽一绝
30		晋一绝
30		甘一绝
30		秦一绝
30		湘一绝
30		桂一绝
43		吉一绝
43		鄂一绝
43		云一绝
43		辽一绝
43		琼一绝
43		蜀一绝





深圳市某公司大量抢注
“FPGA” “CPLD” “SDRAM” “EPROM”
等集成电路或计算机领域通用名称。

A company in Shenzhen filed an
excessive number of IC and computer
terms, such as FPGA, CPLD, SDRAM and
EPRO.

囤积行业通用名称

Malicious hoarding of trademarks
composed of industry-specific terms

9	CPLD FPGA
9	CPLD
9	FPGA CPLD DSP
9	ICFPGA
9	XC EP TMS
9	FPGA与CPLD
9	DSP/FPGA/CPLD
9	CPLD FPGA DSP
9	FPGAIC
9	EP XC TMS
9	CPLD与FPGA
9	FPGAIC
9	SDRAM
9	EPROM
35	DRAM/FLASH
35	DSP/MCU
35	CPLDIC/FPGAIC
35	CPLD 与 FPGA
35	SDRAM/EPROM
35	CPLD/FPGA
35	CPLDS/FPGAS



审查阶段打击恶意注册形式之三：

Types of Bad Faith Filings Targeted During Examination (3):

大量申请知名人物姓名、企业字号、电商名称等明显侵犯他人优先权利，扰乱商标注册秩序的恶意注册行为。

Bad faith filings involving names of famous persons, enterprises and e-commerce businesses that violate prior user rights and disrupt market order

1、同一申请人申请商标注册数量较多，且全部申请或其中多件申请具有抢注知名人物姓名、知名企业字号的明显恶意；

An excessive number of trademark filings by the same applicant, with all or most of the applications involving malicious squatting of names of famous persons and enterprises;

2、表现为大量申请知名人物姓名（含知名笔名、艺名等）、知名企业字号、电商名称等明显侵犯他人优先权利的行为。

Disputed trademarks composed of names of famous persons (incl. pseudonym, stage name, etc.), enterprises and e-commerce businesses.



Shanghai C

申请了大量与诺贝尔奖获得者名字近似的商标，如“兰迪·谢克曼”、“让·马里·莱恩”、“费里德·穆拉德”。

Repetitive filings of disputed trademarks composed of names of Nobel laureates, e.g. Randy W. Schekman, Jean-Marie Lehn and Ferid Murad.

抢注名人姓名

Malicious squatting of names of famous persons

蓝迪·谢克曼 RANDY XIE

马克思·普克朗 MAX PUKRON

TRACE MINERALS RESEARCH

兰迪·谢克曼 RANDY W.SCHEKMAN

TRACE MINERALS RESEARCH

让·马里·莱恩 JEANMARINALE

马克思·普克朗 MAXPUKRON

马克思·普克朗 MAXPUKRON

TRACE MINERALS RESEARCH

让·马里·莱恩 JEANMARINALE

兰迪·谢克曼 RANDY W.SCHEKMAN

兰迪·谢克曼 RANDY W.SCHEKMAN

让·马里·莱恩 JEANMARINALE

TRACE MINERALS RESEARCH

马克思·普克朗 MAXPUKRON

兰迪·谢克曼 RANDY W.SCHEKMAN

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TRACEMINERALS RESEARCH

FERID MURAD



Shenzhen C

该公司共申请1900多件商标，涉嫌大量抢注天猫网站公司在先使用商标

The company filed over 1,900 disputed trademarks in violation of prior rights of merchants on Tmall.com

大量抢注企业字号
Malicious squatting of company names

20		帛芸
20		拜丁
20		夜静宁
20		健暖乐
20		妃冠
20		璟雯
20		安奈秀
20		英凤
20		眠夜
20		苏斐雅
20		时妃
20		唐妮
20		赤晨
20		爱郎喜
20		萱羽
20		蚕久
20		金柒
20		夏优
20		于婆婆
20		乡絮尔

11		一七一三
11		众烟客
11		洲克
11		托胜
11		伊帅舵
11		初臣
11		怡怀
12		皮茜茜
12		卡沙巴王子
12		美人春
12		卡洛布布
12		悦之恋
12		伊汐寝饰
12		苏小堂
12		南柯一梦
12		萌萌兔
16		俏代美
16		夕姿
16		确邦
16		足梦
16		佳口林



Anhui P

在知名新型互联网科技企业对外公布重大融资消息后，即将该等企业的字号、主要产品名称申请注册为商标。

A great number of company/product-related trademarks of a well-known tech startup were filed right after the startup announced its major financing plan.

大量抢注企业字号
Malicious squatting of
company names

24	商汤科技
25	商汤
9	办伴 DISTRII
9	燕文
9	吾来
9	TOMGOO
9	萃选
39	燕文
9	燕存宝
9	燕邮宝
35	燕邮宝
35	燕存宝
9	阿拉丁未来
35	蜂汇 BEEPAY
36	蜂汇 BFIN
39	蜂汇 BFIN
42	阿拉丁未来
43	乐摩吧
9	淳石



审查阶段打击恶意注册形式之四：

Types of Bad Faith Filings Targeted During Examination (4):

针对同一企业驰名商标或其他较高知名度商标反复恶意抢注的行为：

Repetitive filings involving well-known trademarks:

- 1、同一申请人针对同一企业驰名商标或其他较高知名度商标进行反复抢注，具有攀附特定企业商誉的明显恶意。

Repetitive filings by the same applicant, with all or most of the applications involving goodwill infringement and malicious squatting of well-known trademarks

- 2、表现为申请人在先相关商标申请或注册商标已在异议、无效宣告等程序中多次被依法不予注册或宣告无效后，仍针对该特定企业驰名商标或其他较高知名度商标进行反复摹仿、抄袭、抢注的行为。

Repetitive filings of disputed trademarks previously rejected or invalidated for imitation and malicious squatting of well-known trademarks



Guangzhou C

在第5类、32类等商品上申请了大量“松下”或含“松下”的商标。其中大部分都已被异议或复审程序裁定不予注册。之后，该公司仍不断申请相关商标申请。

The company repeatedly filed trademarks for Category 5 and Category 32 products using Panasonic's Chinese name and pinyin, despite previous rejections.

反复恶意抢注
Repetitive filings

松下
松下
松下
松下
松下
松下
松下
松下
松下
松下
松下 三蓝医药 SONGXIA SANLAN MEDICINE
松下 三蓝医药 SONGXIA SANLAN MEDICINE
松下医药 SONGXIA MEDICINE
松下医药 SONGXIA MEDICINE



囤积商标行为

Trademark hoarding

珠海典x贸易有限公司”于2018年6月27日提交商标注册申请5060件，“珠海冠x贸易有限公司”于2018年7月27日提交商标注册申请5050件，另外13个申请主体均提交了数千件商标注册申请，多家公司的法定代表人为同一人。这些商标基本是两三个汉字的任意组合，没有刻意攀附模仿他人先商标。以上申请以囤积商标转让牟利为目的，明显缺乏使用意图。集中对该15家公司的囤积行为进行打击。

A Zhuhai trade company filed 5,060 trademarks on June 27, 2018; Another Zhuhai trade company submitted 5,050 applications on July 27, 2018; 13 other entities filed thousands of trademarks, respectively. Some of these applicants even shared the same legal person. Most of these trademarks were random combinations of two or three Chinese characters for the purpose of hoarding and potential profit-making without intent to use.

该申请人大量申请商标，缺乏真实使用意图，且明显超出正常经营活动需要，严重妨碍了市场主体的正常经营活动，损害了公平竞争的市场秩序，不予注册。

The applicants filed numerous trademarks without intent to use, which disrupts market order and hampers fair competition. Therefore, their applications were all rejected.

第7905275号LEVI ‘S商标无效宣告案 Invalidation of Trademark No.7905275

The trademark for LEVI'S, consisting of a stylized black 'L' followed by the word 'EVI'S' in a bold, black, sans-serif font.

东莞市XX五金制品厂申请，核定使用在第6类“普通金属扣(五金器具)”等商品上。2016年10月12日，该商标被利惠公司（即本案申请人）提出无效宣告请求。

On Oct 12, 2016, the applicant Levi Strauss & Co. filed an invalidation request of Dongguan XX Hardware Company's trademark for its Category 6 “metal buttons (hardware)” products.

争议商标LEVI ‘S与申请人商标LEVI’ S字母拼写完全相同，基于申请人商标较强的独创性，争议商标与引证商标的相同难谓巧合，故可以认为被申请人有复制模仿他人高知名度商标、攀附他人商标商誉的意图。虽然申请人赖以驰名的“牛仔裤”等服装商品与争议商标核定使用的普通金属扣（五金器具）等商品有一定区别，但都同为日常消费品，且牛仔褲、皮夹克等服装上经常会使用金属纽扣、铆钉或金属装饰配件等。争议商标与引证商标核定商品虽然在《类似商品和服务区分表》上不属于类似商品，但结合生活常识会发现其具有现实的联系。而本案中申请人LEVI ‘S商标的高知名度也使消费者将金属纽扣等商品上的LEVI’ S商标与申请人相联系成为可能。同时结合争议商标与引证商标的高度近似，被申请人复制模仿的意图明显等因素，可以认定通过争议商标的注册被申请人具有利用他人商标知名度获得不正当利益的可能，这就同时意味着申请人作为相关公众所熟知商标所有人的品牌利益的损失。所以本案认定申请人引证商标为相关公众熟知的商标，依照《商标法》第十三条第三款对其进行了保护，体现了商标行政主管机关对于故意攀附他人商标知名度及商誉的不正当行为的严格规制。

The disputed trademark is identical to the applicant's established LEVI'S trademark in letter. Although the designated use of the disputed trademark (metal buttons/hardware) is different from that of the reference trademark (jeans) according to the Similar Goods and Services Classification List, they are both used in consumer goods and are likely to appear on the same item, as metal buttons, rivets and metal accessories are often used on jeans and leather jackets. Given the originality of the applicant's trademark, the respondent's disputed trademark constitutes imitation of well-known trademarks and goodwill infringement. Based on Section 13 (3) of the Trademark Law, CNIPA invalidates the disputed trademark filing.

欧完艺空

普美术间



欧普

OPPLE
欧普照明



按审查的一般标准，争议商标与引证商标存在一定差异，不符合构成近似商标的一般标准。但本案特殊性在于：第一，争议商标“欧完艺空”、“普美术间”均为左右结构且无具体含义的纯文字商标，文字字体形式大小基本相同，组合在一起易被识别为“欧普完美艺术空间”，显著识别部分“欧普”与申请人“欧普”文字完全相同。第二，申请人欧普OPPLE及图商标具有一定独创性，且经宣传使用已为相关公众所熟知。综上所述可以认为，被申请人申请注册争议商标有攀附申请人欧普名牌的主观恶意，有违诚实信用原则。对待该种恶意注册可以从严运用商标近似裁量法律标准。一方面，对知名度高、独创性强的引证商标给予较高水平的保护；另一方面，对恶意注册他人知名商标的行为给予更为严厉的打击。故本案认定争议商标一、二、三与引证商标分别构成近似商标。

According to common standards used in examination, the disputed trademarks and the reference trademarks are not similar trademarks. However, given that 1) the disputed trademarks “Ou Wan Yi Kong” and “Pu Mei Kong Jian” are random combinations of Chinese characters with no specific meanings and the similar font and size, but a combination of the two would read “Ople Perfect Art Space”; 2) the applicant OPPLE and its logo are well-known trademarks with originality, CNIPA decides that the three disputed trademarks are similar to the reference trademarks and that the disputed trademarks constitute trademark infringement in bad faith. This is another example of the Administration’s effort to protect well-known original trademarks by cracking down on malicious filings.



第四部分
Part IV

大力开展“商标审查质量提升年”行动
Improving the Quality of Trademark Examination

中国商标大厦



今年4月28日，国务院新闻办公室举行2018年中国知识产权发展状况发布会。国家知识产权局局长申长雨同志提到，将进一步采取措施，全面加强知识产权保护。要强化源头保护，提高知识产权审查质量和审查效率，压缩商标、专利审查周期，提高授权的及时性和权利的稳定性。同时，严厉打击专利非正常申请、商标恶意注册和囤积行为。

During the 2018 IPR Conference held by the State Council Information Office on April 28, Changyu Shen, the CNIPA Commissioner, noted that the Administration would double down on IPR protection. The CNIPA is dedicated to fighting bad faith patent applications and malicious trademark squatting / hoarding. The Administration plans to move forward the crackdown effort in the examination phase, improve the quality and efficiency of the examination, reduce examination turnaround and improve registration timeliness and stability.

A large, three-dimensional, golden number '2019' is centered on a light yellow rectangular background. The numbers have a metallic, reflective texture and are set against a backdrop of a faint, light-colored building facade with a grid of windows. The overall scene is brightly lit, suggesting an outdoor or well-lit indoor environment.

开展“商标审查质量提升年”行动 全面提升商标审查质量

Improving the Quality of Trademark Examination

“商标审查质量提升年”工作方案 What to Do

继续加强注册审查程序打击恶意注册和遏制囤积工作的指导，依法加大异议程序打击恶意注册和遏制囤积的力度。监测恶意注册和囤积行为数量变化趋势，促进商标申请质量提升，改善营商环境。

Doubling down on efforts to curb malicious squatting and hoarding during examination and by use of rejection. Monitoring the number of bad faith filings and improving trademark quality for a better business environment.





感谢聆听
Thank you

中国商標大樓