

Important Trademark Developments from China for 2022: What US Brand Owners Need to Know

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China
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speeding up its legislative efforts in protecting trademark rights and improving its trademark administration. In 2021, China issued a number of new rules and regulations on trademark practice.

Here is a quick summary of some important legal and practical updates from the past year that foreign brand owners and foreign trademark practitioners need to know:

1. **Detailed Rules Against Bad Faith Filings** – The China National Intellectual Property Administration (the “**CNIPA**”) recently updated its Trademark Examination and Review Standards (the “**New Standards**”). Significant legal and practice changes have been introduced by the New Standards, which became effective on January 1, 2022. One of the most interesting changes is that the New Standards provide detailed rules and guidelines against bad faith filings not for purpose of genuine commercial use under Article 4 of the Chinese Trademark Law. These detailed rules and guidelines are very useful to the examiners the Chinese Trademark Office (“**TMO**”) in identifying and refusing bad faith filings in trademark examination, as well as to brand owners in combatting pirate trademark filings in oppositions and invalidations. We first blogged about [this change to the law in 2019](#).
2. **Prior Use in China Requirement Relaxed** – Another important change for foreign brand owners is that the New Standards no longer require that the “prior use” in relation to the opposition and invalidation grounds for protection of prior-used mark rights under Article 32 of the Chinese Trademark Law has to be “prior use in China”. The New Standards now only requires a brand owner to show that the influence of its

prior use (which can be foreign use) has extended to China.

3. **Update Your Registrations Details or Face Cancellation** – In late December 2021, the CNIPA issued its new Guidelines On Assessing General Violation of Trademarks. One of the important changes introduced by this new Guidelines is that failure to update/record the changes of the registration particulars, such as change of name and registered address of the registrant, among other things, will be deemed an act of “self-alteration” of trademark registration particulars which may attract administrative correction order. The New Standards mentioned above provides similar obligations on trademark registrants in keeping their registration particulars up-to-date. The New Standards further provides that if a registrant fails to comply with a correction order to update its trademark particulars, the relevant registration will be cancelled.
4. **Let’s Go Faster** – Pursuant to a notice issued by the CNIPA in May 2021 which requires the examiners of the TMO and CNIPA to shorten the process of trademark prosecution, trademark practitioners have seen that by the end of 2021, the average time for trademark examination has been shortened to 4 months, and the average time required for completing a trademark registration has been reduced by 1 month from 8 months to 7 months accordingly. The time frame for assignment recordal, opposition, review of rejection and invalidation have also been shortened to 1.5 months, 12 months, 5.5 months and 9 months respectively.
5. **No More Paper** – Starting January 1, 2022, the TMO would no longer issue registration certificates in paper form.