

China Releases Judicial Interpretation of Anti-Unfair Competition Law

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PRACTICES Asia, Corporate, China, International

On March 16, 2022, China's Supreme People's Court ("**SPC**") issued the Judicial Interpretation of Anti-Unfair Competition Law ("**2022 Interpretation**") (《最高人民法院关于适用<中华人民共和国反不正当竞争法>若干问题的解释》), effective March 20, 2022. China's Anti-Unfair Competition Law ("**UCL**") (《中华人民共和国反不正当竞争法》) was first adopted in 1993 and most recently amended on April 23, 2019. For foreign businesses in China, the UCL has long been used to protect their intellectual property rights in China, especially in unregistered trademark and trade dress cases.

The SPC issued judicial interpretation to the UCL for the first time in 2007, and then slightly amended such interpretation in 2020 to reflect applicability of the 2019 amendment to the UCL. The recent Interpretation reflects SPC's comprehensive amendments to SPC's Judicial Interpretation on Issues Concerning Civil Cases Involving Unfair Competition (2007) ("**2007 Interpretation**"). The 2022 Interpretation clarifies certain issues frequently encountered by foreign business in China and therefore, we thought it might be useful to briefly summarize the notable changes of the 2022 Interpretation:

1. **The Applicability of Article 2 of the UCL as a General Provision.**

Article 2 of the UCL has long been widely invoked in various intellectual property infringement and unfair competition cases, but the demarcation between the applicability of Article 2 and specialty laws such as patent law, trademark law, and copyright law has been blurry, which creates inconsistency and uncertainty in practice. Article 1 of the 2022 Interpretation now clarifies that Article 2 of the UCL applies generally to businesses' market disruption behaviors that are not covered by specialty laws (e.g., patent laws), including special provisions on confusion, bribery, false advertising, misappropriation of trade secrets, prize-giving sales, misrepresentation, and web sales. For these types of behavior, the UCL applies and patent law, trademark law, copyright law do not apply.

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