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# IPR Protection in China for European SMEs

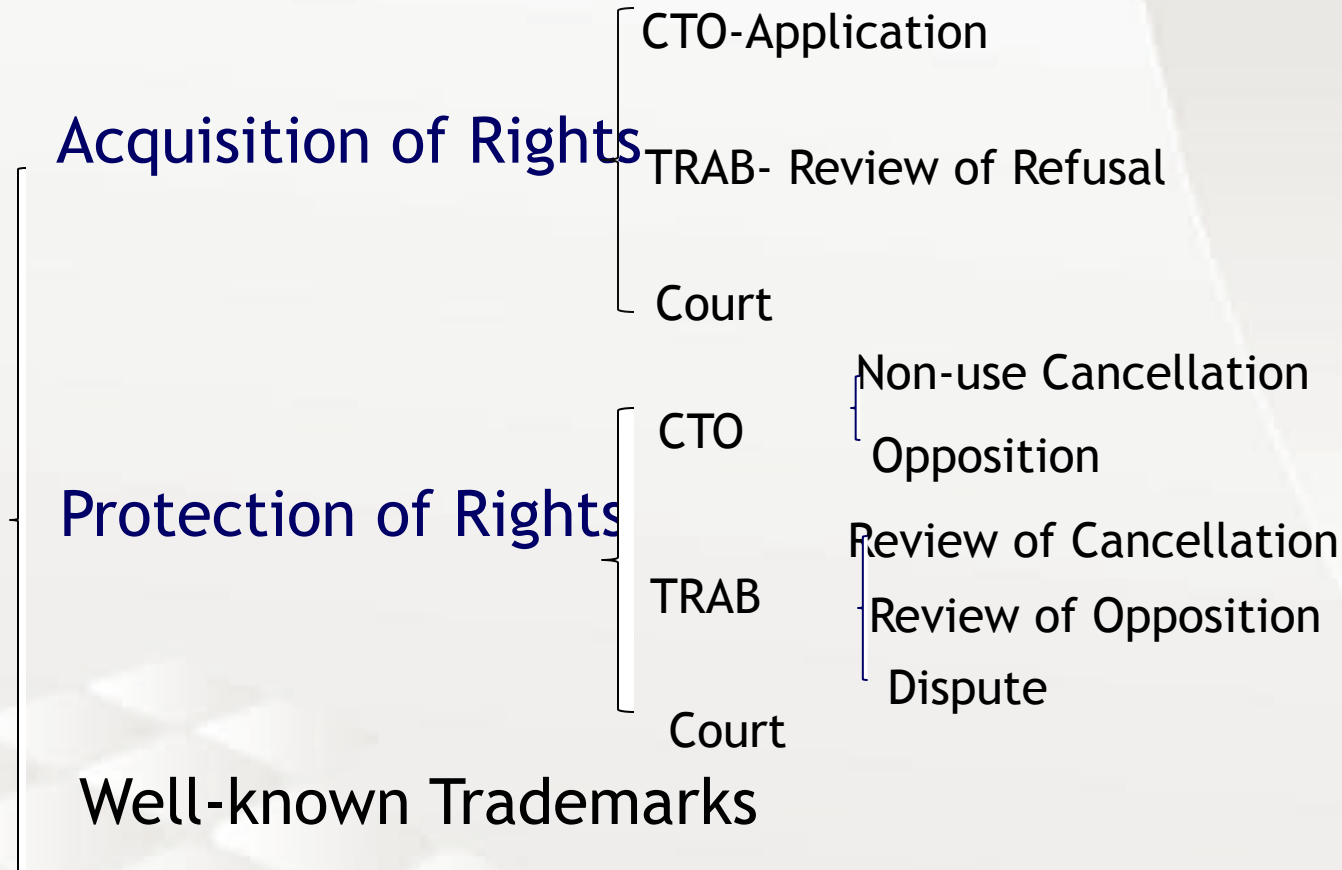
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Agency and Law Firm



# Case Demonstration

## Trademark Prosecution

# Trademark Prosecution



# Acquisition of Rights

TRAB- Review of Refusal



- Successful registration of Duracell's "Copper and black colors" of battery as Color Combination Trademark

This is the **first** color combination trademark registration in China.

# Acquisition of Rights

CTO & TRAB & Court



- Registration of Three-Dimension Trademark

**First** three-dimension trademark registration via domestic application approved by the Court.

# Acquisition of Rights

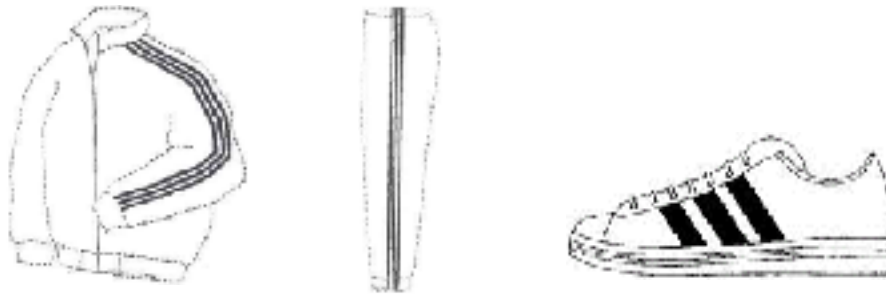
CTO- Application for Registration

# PAS

This is the **first** application in which exhibition priority is claimed and recognized in China.

# Acquisition of Rights

TRAB- Review of Refusal



Can “three-stripes” on clothes, trousers and shoes be registered as trademark?

The trademarks' distinctiveness has been established with the TRAB on the basis of use

# Protection of Rights

CTO & TRAB - Cancellation

## PDA

Offending mark

Based on the grounds that “PDA was the abbreviation of Personal Digital Assistant and the generic name of products”, filed request with CTO and finally had this registration revoked.

This revocation saved the PDA industry in China.



# Protection of Rights

TRAB & Courts of 2 instances

## 解百纳 (Jie Bai Na in Chinese)

Is this name a generic name for grape and also generally used in Chinese wine industry?

The mark had been registered in early 2002. After that, four Chinese famous wine producers filed cancellation based on the grounds that this name was not distinctive.

After the TRAB's decision and 2 instances of court procedure, this trademark was finally judged to be registrable. This case has great impact on Chinese wine industry since this name has accumulated much value up to now.

# Protection of Rights

TRAB, Courts & local AICs - Integrated measures of administrative lawsuit & civil lawsuit & raid actions



After getting registration, the offender modified the registered trademark in actual use and highlighted the company name "Crocodile in Chinese".

Although the trademark registered seemed to be an "electric eel", the actually used mark expressed itself as "crocodile".

By conducting cancellation of the offender's trademark, civil litigations in two cities, and raids of over 20 boutiques around China, the legitimate trademark owner won its case against the infringer.

# Protection of Rights

CTO & local AICs - Opposition & raid action

**MOEN'S**

**XIANDAIMOEN**

Offending mark

While filing opposition, successfully conducted a series of raid action to stop the other party's sale of products with the opposed trademark. The raid action were supplemented as evidence to support the opposition.

With such integrated measures, the legitimate trademark owner won the opposition and timely stopped the offender's use of the trademark.

# Recognition of Well-Known Trademarks

- Recognition of well-known status of “吉列/Gillette”



By administrative enforcement channel, one of the two foreign marks recognized in the first batch after the execution of Rules on the Recognition and Protection of Well-known Trademarks\_

- Recognition of well-known status of “米其林” “MICHELIN” and “Bibendum Device”

By trademark opposition channel



- Recognition of well-known status of “欧莱雅L'OREAL”

By trademark opposition channel



- Recognition of well-known status of “Crocodile Device”

By judicial judgment channel



- Recognition of well-known status of “柯达” / Recognition of well-known status of “KODAK”

By administration enforcement channel / By judicial judgment channel



- Recognition of well-known status of “美宝莲MAYBELLINE”

By administration enforcement channel



- Recognition of well-known status of “高仪Grohe”

By trademark opposition channel



- Recognition of well-known status of “依视路”

By trademark review on opposition channel

# Recognition of Well-Known Trademarks

Court

酸酸乳



How to protect an unregistered trademark and stop other's use?

“酸酸乳” (Suan Suan Ru) was the **first** unregistered trademark recognized as well-known by Chinese Court.

**Thank you for your attention**