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Legal Protection of Well-Known Trademarks in Globalization: Balancing Safeguards and Market Competition

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Abstract. Against the backdrop of intensifying globalization across economic, cultural, and informational spheres, well-known trademarks remain highly valuable intangible assets, but they are increasingly exposed to cross-border threats such as malicious squatting, unfair competition, and trademark dilution.Thus, this paper takes strengthening the protection of well-known trademarks and the balance between legal guarantees and market competition in the context of globalization as its research topic. It focuses on the legal systems for well-known trademarks in countries such as the U.S., the EU, and Japan. And the study adopts comparative analysis and case analysis methods. It uses international treaties such as the Paris Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights, as well as the trademark legislation of various countries, as research tools, and selects typical judicial precedents as data sources. The research findings show that there are significant differences in the criteria for recognizing and protecting well-known trademarks among different countries. Providing enhanced protection for well-known trademarks across the economic, informational, and cultural aspects of globalization is justified, but it may also give rise to the abuse of rights.

Keywords: Globalization, Well-known Trademarks, Trademark Protection, Trademark Hegemony, Interest Balance

1. Introduction

The wave of globalization has profoundly impacted the global economy, culture, and information dissemination. Well-known trademarks have emerged as highly valuable intangible assets, yet they face unprecedented infringement risks, including malicious squatting and unfair competition. And the rapid development of digital platforms and cross-border commerce has further intensified these risks, hence making effective trademark protection increasingly complex. At the same time, cultural globalization has accelerated the dissemination and reinterpretation of brand symbols, challenging the exclusivity and social value of well-known trademarks. The continuous expansion of the global market often collides with frequent trademark infringements, thereby disrupting market order. This paper conducts a comparative analysis of the legal systems and representative cases from Japan, Europe Union (EU), and the United States (U.S.) to investigate the feasibility of enhancing the protection of well-known trademarks through reasonable special measures. In addition, it addresses this complex issue by focusing on three core aspects: the recognition criteria for well-known

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trademarks, the legal basis for special protection in the era of globalization, and practical strategies for implementing such protection.

2. International differences in the recognition of well-known trademarks

There are major differences in the criterion for well-known trademarks among different countries and regions, which are reflected in the ways trademark popularity is assessed, recognition processes, and the roles of authorities.

In the United States, recognition of well-known trademarks is mainly governed by the Lanham Act, which provides anti-dilution protection. The key criterion is whether the trademark is widely recognized by the general public, regardless of industry. To determine this, courts consider factors like usage history, market influence, and consumer awareness to prevent dilution of the trademark's reputation. In contrast, EU trademark protection focuses on a mark's reputation, requiring it to be widely recognized across key member states. Specifically, EU law stipulates that a trademark must be known by a significant portion of the public in important geographical areas, not just where it was first used. This reputation covers consumer knowledge, market influence, and overall public assessment. Therefore, the EU grants broader protection to well-known trademarks, creating a more comprehensive cross-border system. In Japan, the recognition of well-known trademarks is based on their popularity among specific consumer groups. While nationwide recognition is not required, the trademark must enjoy a high degree of reputation within the relevant sector of the public, reflecting its potential influence across the market. To obtain legal protection, trademark owners usually need to submit evidence demonstrating that the brand has achieved significant recognition among these relevant consumer groups. Although national standards and procedures differ, a widely known trademark is established via popular recognition and formal certification [1]. Its recognition often determines the level of legal protection it receives.

3. Rationality and challenges of special protection for well-known trademarks under globalization

3.1. Need for special trademark protection under globalization

The process of globalization has brought about fresh challenges and expectations for the protection of renowned trademarks in economic, informational, and cultural spheres.

In particular, economic globalization has strengthened global market links, removed geographic barriers, and boosted international fame of well-known trademarks. At the same time, it has made them primary targets for malicious registration and unfair competition in the global marketplace [2]. For example, the Luckin Coffee v. Thailand Royal R50 case demonstrates that even if a trademark is globally well-known, the owner may still face difficulties in preventing third parties from using it if it is not registered locally [3]. This reveals the limits of a registration-based trademark system in protecting internationally known marks not registered locally, conflicting with globalization-driven market expansion. In countries where business has not yet been established, legal gaps may arise even with strategic planning and preemptive registration. Therefore, from an economic perspective, there is a need for protection mechanisms for internationally well-known trademarks that transcend geographical limitations.

Moreover, information globalization has facilitated the widespread use of social media and the ease of acquiring domain names, reshaping consumer decision-making [4]. In this context, famous trademarks are vulnerable to "free-riding" infringement, enabling infringers to deceive the public by

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deliberately registering online accounts or domain names that are identical or similar to well-known trademarks, thus compromising the trademarks' functions. For example, the JC Hospitality Group v. Marisa Hochberg case and the ThyssenKrupp domain arbitration case show that such infringements violate trademark rights and mislead consumers. This indicates that the prevalence of the internet increases the difficulty of preventing trademark infringement: false or misleading information can easily confuse consumers, infringe on the legitimate rights of trademark owners, and disrupt market order [5,6]. To keep up with global information trends, it is necessary to strengthen protection of well-known trademarks.

In addition, cultural globalization breaks down regional barriers, hence promoting the spread and reshaping of cultural symbols. This weakens the exclusivity of luxury brand symbols, making them more accessible. Although it strengthens well-known trademarks as indicators of social prestige, placing too much emphasis on cultural symbolism can reduce their connection to product quality and brand reputation. The Japanese Hermès v. "HAIRMES" case indicates that infringers using a well-known trademark on unrelated products misappropriate its cultural value and distinctiveness, undermining the owner's control [7,8]. Thus, the protection of well-known trademarks must address the risk of rights dilution caused by popular culture.

3.2. Trademark hegemony and the boundary restrictions of special protection

Trademark hegemony denotes the abuse of rights wherein proprietors of well-known marks inordinately expand their exclusive rights. This overreach not only jeopardizes fair competition but also encroaches upon the legitimate space for commercial expression. Consequently, special protection must be strictly bounded; otherwise, it risks stifling market vitality, marginalizing small and medium-sized enterprises (SMEs), and ultimately chilling the broader climate of innovation [9].

In the context of economic globalization, the trend toward global market integration is evident, challenging the territorial principle of trademark protection. Although implementing a uniform high standard of protection for internationally well-known trademarks may help maintain order in the global market, it may also exacerbate regional disparities. This can lead to trademarks in developed regions leveraging market advantages to establish economic hegemony over less developed areas, weakening market fairness and economic diversity, and violating the original goal of intellectual property law to promote innovation. With information globalization, complex online content and varied public discourse render well-known trademark rights uncertain. Yet, strict control over all relevant information may restrict freedom of expression and public oversight, potentially fostering hegemony instead. The widespread availability of the internet increases information accessibility; consumers rely on information in decision-making, and trademark value is influenced accordingly. Although negative information poses operational challenges, well-known trademarks typically have sufficient resources to establish relative counterbalance. Thus, comprehensive and fair information should be provided rather than entirely excluding third-party intervention, with legal intervention applied on a case-by-case basis. Under cultural globalization, trademarks strengthen distinctiveness through symbolic and personalized advertising. However, excessive emphasis on distinctiveness should not serve as a basis for expanding protection, but rather as a reason to restrict unauthorized use by others [10]. In New Kids on the Block v. News America Publishing, the court established nominative fair use, allowing a trademark to be used when necessary to identify a product or service, provided no endorsement is implied. This case limits trademark hegemony and preserves a balance between IP protection and fair competition.

In the era of globalization, the market influence and commercial value of well-known trademarks continue to grow. Reasonable limitations on their exclusive and ownership rights are necessary to

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allow owners to gain legitimate reputational benefits, while preventing trademark protection from becoming a tool that hinders innovation and fair competition. This balance is a critical issue in the process of granting special protection.

4. Practical paths for the special protection of well-known trademarks

4.1. Removal of barriers to achieve open prosperity

Implementing international provisions on well-known trademarks is essential to support economic globalization, maintain fair competition, and promote global inclusive development. Article 6bis of the Paris Convention obliges member states to refuse or cancel registration of marks that copy, imitate, or translate a well-known mark likely to cause confusion. This obligation underlies the prohibition of using such marks under national laws, even for non-identical goods. Likewise, Article 16 of the TRIPS Agreement extends protection to dissimilar goods and services, hence addressing the territorial principle's limitations and supporting the global expansion of well-known trademarks.

In practice, however, protection remains uneven due to differing national approaches to the localization of internationally well-known trademarks and the economic interests countries seek to preserve. Failure to recognize the role of internationally known trademarks in fostering domestic innovation and healthy competition, while overprotecting local trademarks for improper advantage, undermines the uniformity of international market order and impedes the benefits of globalization. Consequently, applying existing international law and consciously safeguarding fair competition in judicial practice not only aligns with economic globalization but also promotes global inclusive growth and shared prosperity.

4.2. Efficient use of mediation for resource conservation

The popularization of the Internet has promoted the circulation of information and also intensified the confrontation of remarks. The phenomenon of malicious exploitation of well-known trademarks emerges in an endless stream, but the reputation and influence they enjoy objectively put them in a relatively advantageous position, enabling proactive action. Besides, the profit-making methods of third parties in social media and domain name access are relatively transparent, and the degree of profit is relatively vague. In this regard, overactive judicial intervention may limit freedom of expression and diminish the supervisory and innovative role of public commentary on well-known trademarks. At the practical level, the judicial regulation of Internet-related commercial discussions should be moderately eased, and well-known trademark owners should be encouraged to resolve disputes through public relations and mediation means as much as possible [11]. This promotes market regulation, restores public rights to information and choice, and conserves judicial resources, enabling courts to concentrate on cases with significant third-party gains and enhance efficiency.

4.3. Boundary setting for competitive balance

While relying on anti-dilution theory to protect well-known trademarks, it is necessary to invoke the principle of "fair use" (or the doctrine of "nominative use") to prevent cultural appropriation and accurately delineate the boundaries of protection.Anti-dilution protection seeks to prevent the undue erosion of the distinctiveness and reputation of well-known trademarks, rather than permitting them to extend their rights based on their cultural symbolic value. Indeed, the very mechanism designed to safeguard distinctiveness harbors an inherent risk: the over-extension of rights. A trademark's

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inherent distinctiveness is meant to enhance market differentiation, but if protection is overextended, it can easily morph into a tool of monopoly.

When applying the anti-dilution rules in court, the key consideration should be "actual damage to distinctiveness." Accordingly, acts that exploit the cultural reputation of well-known trademarks to ride on their popularity and impair their cultural distinctiveness must be regulated, while at the same time, vigilance is required to ensure trademark owners do not use anti-dilution as a pretext for cultural dominance. It is forbidden to incorporate public cultural elements into exclusive protection, hindering the legitimate use and innovation of cultural symbols by the public. A check-and-balance mechanism should be set up to counter this risk of overreach. This mechanism would both protect trademark owners' cultural rights and keep cultural public space open. Thus, it prevents restrictions on cultural exchange and market innovation, while achieving anti-dilution protection and the prevention of cultural hegemony.

5. Conclusion

This paper takes the in-depth globalization of the economy, culture, and information as its research background and examines the legal systems and typical judicial precedents concerning well-known trademarks in the U.S., EU, Japan, and other countries and regions. In particular, the study explores the international recognition of well-known trademarks, the rationale and challenges of special protection, and practical protection strategies, while analyzing the current status and potential improvements of the protection system in the globalization era. The results indicate that reasonable special protection for well-known trademarks is an inevitable response to globalization. Only by building international consensus on recognition, implementing existing international treaties, reducing judicial barriers, fully utilizing diversified dispute resolution mechanisms, and establishing a system of checks and balances between trademark rights and market competition can the balance between trademark protection and fair competition be achieved, effectively safeguarding trademark owners' rights and ensuring the orderly functioning of the global market.

However, the research objects mainly focus on the well-known trademark systems of developed countries and regions like the U.S., EU and Japan, while also providing limited discussion of the institutional practices and practical needs of developing countries, thus failing to fully account for the trademark protection requirements of regions at different stages of development worldwide. Besides, most of the research cases select typical judicial precedents and arbitration cases, lacking quantitative analysis of the judicial practice of well-known trademark protection, and the data-level excavation of the type distribution of infringement acts and the implementation effect of protection mechanisms needs to be deepened. Furthermore, the discussion on the international coordination mechanism for well-known trademark protection is relatively inadequate, and the specific solutions to the conflicts of national rules are not discussed in depth. Future research will focus on the rule coordination mechanism for the international protection of well-known trademarks, promoting the construction of a more operational international well-known trademark protection system. At the same time, it will pay attention to the new challenges posed by emerging fields such as the digital economy and artificial intelligence to well-known trademark protection, and explore new rules and methods of trademark protection adapted to digital globalization.

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