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# *Analysis on the Risk Prevention of "Going Global" Trademark of China Enterprises under the Background of Belt and Road*

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***Abstract.*** Under the background of the "One Belt, One Road" initiative, the number of China enterprises going abroad is increasing, and the importance of intellectual property protection is becoming increasingly prominent, especially the risk of registered trademarks overseas. Therefore, this paper summarizes the causes of the registered trademarks of China enterprises going to sea under the background of "Belt and Road", which are manifested in three aspects: the infringer takes advantage of the system differences to register, the enterprise ignores the importance of layout and market competition, and the interest-driven registration. This paper puts forward that enterprises should strengthen their awareness, clarify the specific legal system of the target country, and lay out related trademarks to effectively avoid risks. At the national level, they should actively participate in the prevention and finally form a linkage between government and enterprises to build an integrated risk prevention system. This paper provides practical support for Chinese enterprises to safeguard their own interests at sea, and also provides new ideas for solving the problems of cross-border trademark squatting internationally.

***Keywords:*** Belt and Road Initiative, enterprise going global, trademark cybersquatting, risk prevention

## 1. Introduction

Nowadays, with the practice of the Belt and Road Initiative, the overseas economy is booming and developing, and the problem of registered trademarks overseas has become prominent. Trademark is a symbol of goodwill, a dynamic factor to create goodwill, and a consumer's recognition of goods. The number of trademark applications in China has increased greatly, and the trademarks are widely distributed, so it faces with great layout and management risks, and trademark registration is frequent. For example, in August 2022, Luckin Coffee sued 50R Group in Thailand for the trademark of the head of a deer and won the case in the first instance; After the appeal of 50R Group, the Thai Court of Appeal changed the judgment in December 2023 on the grounds that Luckin had not completed the trademark transfer and did not have the qualification of litigation subject. 50R Group immediately counterclaimed that it had registered relevant trademarks in Thailand in 2000 and made a claim, but the court only filed a case without making a substantive

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judgment. In March 2024, Luckin re-sued, and finally won the judgment of the Thai court. The case has aroused widespread concern. The core controversy lies in Thailand's adoption of the principle of "first-to-file", and the defendant used the differences in trademark registration system and procedural loopholes to delay the process of rights protection. Similar to this case, HiSense's registered "Hisense" trademark in China was registered overseas because it was not laid out in advance and could not automatically obtain legal protection overseas, which reflected the regional problems of trademark protection. In addition, there are also reasons such as the profit-driven use of cybersquatting to seize the market. Based on this, this paper sorts out and analyzes the problems of China enterprises' trademark registration in the theoretical and practical circles, and puts forward some suggestions on trademark prevention, so as to help Chinese enterprises "go global" better.

## 2. Literature review

At present, the research on trademark cybersquatting by enterprises at sea mainly focuses on the types, causes and prevention of cybersquatting. Because enterprises face different laws and regulations when going out to sea, the types of squatting are also different. Some scholars advocate three types: mass squatting for transfer fees, competitors grabbing the market ahead of time, and overseas agents squatting to monopolize the local market [1]. In terms of causes, it can be divided into obstacles of objective system, subjective neglect of enterprises and incentives of market competition. The acquisition and protection of international trademarks need to follow two basic principles: regionality and statutory grant of trademark rights. For trademarks that are not registered in the layout country, everyone can apply for registration, and its nature is equivalent to the public resources of society [2]. In addition, at present, most foreign trade companies are restructured, and the trademark enterprises registered by their agents no longer have the right to register trademarks, which is not only an economic loss, but also a huge space for squatters [3]. Looking at the enterprises themselves, the number of Chinese enterprises applying for trademarks abroad is insufficient, and the awareness of intellectual property rights of enterprises is weak. People in the same industry often understand the value behind trademarks to obtain economic benefits, which often leads to the occurrence of cybersquatting. For example, Tong Ren Tang, a time-honored Chinese brand, was registered as "Tong Ren Tang in Japan" by Japanese enterprises in 1983 because it had not been established overseas in advance. As a result, the drug was recognized as infringement when it entered the Japanese market, and it could only be solved by buying a trademark, which missed the development opportunity of the Japanese market. The development of overseas business can't avoid the issue of trademark protection, so people should focus on prevention and carry out the overseas layout of trademarks as soon as possible to achieve "trademark first". Due to the regional characteristics of trademarks, enterprises need to clarify the market scope, fully consider the applicable laws and trademark protection rules in key areas, investigate similar trademarks registered first, and evaluate the infringement risk so as to make decisions [4]. Therefore, the government takes the lead in building institutions to provide new public relations, collect specific announcements of intellectual property rights at home and abroad and market information, and provide enterprises with counterfeit and infringing information, which is conducive to enterprises to raise objections within the time limit to prevent squatters from infringing acts. For example, the trademark of Chenghai toy enterprise in Shantou, Guangdong Province was registered in batches in Chile. Eventually, the government took the lead and the enterprises rallied to protect their rights, and more than 130 registered trademarks were successfully recovered, thus preventing economic losses in time [5]. This paper summarizes the causes of cybersquatting overseas by sorting out and analyzing scholars' opinions, aiming at exploring practical strategies to deal with cybersquatting.

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## 3. Current situation and causes of trademark hijacking abroad under the Belt and Road Initiative

### 3.1. Status quo and characteristics

After China's reform and opening up, international cooperation has become increasingly frequent, and the in-depth promotion of "Belt and Road" cooperation has brought opportunities as well as challenges. The number of Chinese enterprises "going out to sea" has increased greatly, and the internationalization of brands has become the main goal, so trademarks are an inevitable key issue. In order to open up overseas markets, the speed of trademark layout is unimaginable, but the serious disconnection between protection awareness and layout speed is a thorny key issue. According to the latest incomplete statistics of China Trademark Association, the average annual growth rate of overseas trademark applications has reached 25%, and the number of overseas trademark disputes is eight times that of ten years ago, and the high-incidence areas are also countries along the Belt and Road. For example, Southeast Asia (Thailand, Malaysia, Indonesia), the Middle East (United Arab Emirates, Saudi Arabia) and Eastern Europe (Poland, Hungary) are areas with high incidence of cybersquatting. The registered targets are mainly consumer brands (such as catering, household appliances and food) and Chinese time-honored brands such as TongRenTang, Tsingtao Brewery and Daoxiang Village.

Overseas cybersquatting often has the following characteristics. First, the cybersquatting subjects are diversified, including competitors, local agents and professional squatters. They often understand the commercial value behind trademarks, so their main purpose is to obtain transfer fees; Second, the method of cybersquatting is hidden. Squatters mostly apply for similar trademarks in the target country in advance by monitoring the overseas business layout of Chinese enterprises, and try to escape legal sanctions by using different systems; Third, it is difficult to defend rights. Due to the great differences in laws between countries along the route, the long litigation period and the litigation cost far exceeding that in China, most enterprises choose to buy back trademarks through negotiation at high prices.

### 3.2. Causes of registered overseas trademarks

The essence of trademarks is the information represented by logo and logo. As a logo that distinguishes products or services of different companies, it associates the reputation of products with manufacturers and is a symbol of goodwill, and its value lies in its sales power [6]. The policies, systems, laws and regulations of trademark protection are different in different countries and regions, so squatters often take advantage of loopholes to make profits, and the causes of infringement will be different.

At the level of registration system, the principle of prior application and the principle of prior use are two basic principles of confirming rights in the global trademark registration system, which determine who can obtain the protection of trademark rights when different subjects have conflicts with the same or similar trademarks. Most countries along the Belt and Road adopt the principle of " first-to-file" (such as China, Thailand, and India), which means that when multiple applicants apply for registration of the same or similar trademarks on the same or similar goods, the trademark registration authority will accept the trademark that was applied first, and the approval and registration of the registration authority is the basis for obtaining the trademark right [7]. Using the principle of "first-to-use" (such as the Philippines), its real use in commercial activities is the basis for obtaining trademark rights, and registration is only the preliminary evidence of enjoying

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trademark rights. In addition, a few countries implement the principle of mixed acquisition. The difference between the three registration systems is the fundamental reason why enterprises are easily registered because they are not familiar with the local system.

At the enterprise level, start-ups often have the characteristics of weak awareness of intellectual property rights. Some enterprises focus on market expansion, pay attention to research and development, management and manufacturing, and neglect trademark protection. They think that "opening up the market first and then registering trademarks", and the lack of understanding is combined with subjective and objective reasons such as capital technology of small enterprises, which leads to the risk of cybersquatting [8].

The layout of trademarks lags behind, and the overseas trademark registration coverage of enterprises is low. According to the survey, only a small number of enterprises in China have registered their core trademarks in the main target countries. However, many of them have only completed the registration of a single trademark and have not registered a localized trademark for the core logo combined with the language and cultural characteristics of the target country along the "Belt and Road". Some enterprises have not even registered any related trademarks and defensive trademarks. Therefore, in the target country, it is very easy to find the counterfeiting of trademarks and the registered trademarks of related products in advance. Using similar trademarks on the same goods, using the same trademarks on similar goods and using similar trademarks on similar goods all infringe on trademark rights.

The rush to register at the market level is often driven by competition. Competitors take advantage of the differences in legal systems to prevent Chinese enterprises from entering the local market by preempting trademarks, many of which are already in use but not registered in advance. The squatters often know the value behind the trademark and the goodwill it represents, so they use the form of "trademark transfer" to induce benefits through affiliated companies. The transfer price of the trademark is usually 10-50 times of the registration cost. Through the systematic operation of cybersquatting-negotiation transfer-compensation, a new way of making profits is constructed. High profits attract "professional squatters" to squat well-known trademarks in China in batches, and then transfer them to the original enterprises at high prices, which creates many obstacles for enterprises to enter the target country market [9].

## 4. The "Belt and Road" background of Chinese enterprises "going global" trademark risk prevention suggestions and countermeasures

### 4.1. Enterprise level

Before entering the overseas market, enterprises should entrust local professional intellectual property institutions to carry out research on trademark legal system, and make clear the principle of confirming rights, registration process and tort relief rules. In practice, local law firms and professional intellectual property agencies can be entrusted to complete the pre-investigation of territorial trademark rules, and clarify the system differences (first-to-file/first-to-use), registration process, protection period, approximate judgment criteria, etc. In this way, people can not only make clear the judgment standard and accurately grasp the judgment scale but also identify legal risks and potential loopholes. Finally, based on the research results, the Trademark Protection Guide of the Target Country is compiled to help enterprises to clarify the registration process, material preparation, compliance points and corresponding rights and obligations, and provide practical guarantee for cross-border trademark registration.

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Enterprises should combine the legal rules of the target country to construct a three-dimensional layout system combining related trademarks with defensive trademarks.

Firstly, the layout of related trademarks. Related trademarks are trademarks that have a certain connection with specific trademarks, which are commonly found in trademarks similar to words, pronunciations and graphics (such as Chinese and English trademarks and graphic trademarks) in order to prevent infringers from infringing risks by changing trademarks.

Secondly, the layout of defensive trademarks can be defined as trademarks registered for defensive purposes, that is, applying for registration of trademarks similar to all their well-known brands. Specifically, from the perspective of defense, people can apply for registration of the same trademark as own brand on goods and services other than the goods people use. When a trademark is widely known, the infringer will use it on different and similar goods or services, thus causing damage to goodwill. It is characterized as "defensive" because it provides a wider range of protection for trademarks [10]. Covering the whole industrial chain with defensive trademarks is a powerful measure to reduce the risk of infringement.

The commonness of the two lies in their unique functions. By registering related trademarks in different categories, it can effectively prevent others from modifying, stealing or squatting, and maintain the goodwill represented by trademarks. In addition, it can also reserve a certain development space for enterprise development, for example, expanding new business can reduce the cost of applying for registration again. Of course, the focus is on the effectiveness of rights protection of related trademarks and defensive trademarks. When infringers use similar trademarks for profit, enterprises can sue for rights protection through registered trademarks, which effectively reduces the difficulty of rights protection and "prepare for a rainy day" at the source.

### 4.2. National level

Because of the regional principle of trademarks, registering trademarks in one country is not suitable for other countries, so there is an effective way to simplify the process of trademark registration in the target country. Enterprises can make full use of the Madrid Agreement system to realize multinational trademark protection through one application, greatly reducing the layout cost and the risk of cybersquatting. This system is managed and operated by the World Intellectual Property Organization (WIPO). Under this system, applicants can submit an application in one language and pay a fee, which can cover multiple member countries of the Agreement, without submitting repeated applications to the trademark administrations of member countries, effectively saving costs and improving layout efficiency [11]. The above-mentioned mutual recognition of trademark registration results simplifies the procedure of rights protection and provides a new idea for China to connect with international rules. Accelerate in-depth strategic cooperation with countries along the "Belt and Road", promote the signing of bilateral agreements on trademark protection, and help enterprises reduce risks and pressures from international cooperation.

China National Intellectual Property Administration and the Ministry of Commerce should jointly establish an early warning mechanism for overseas trademark risks and regularly publish early warning reports on registered trademarks of countries along the Belt and Road. With the help of this platform, enterprises can pay close attention to potential risks, understand the high-incidence areas, and seize the dynamics, so as to take preventive and coping measures in advance. With regard to the release of typical cases, enterprises can also learn from the precedents and draw lessons from the relief measures afterwards. Secondly, it is necessary to establish a detection mechanism for trademark information in key countries. More specifically, it is necessary to set up an overseas trademark monitoring system. Enterprises can regularly search for trademarks similar to or similar

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to all brands, find the risk of cybersquatting in time, take countermeasures in advance to avoid further economic losses, and keep their due market share. In order to make rights protection more comprehensive, it is particularly critical to set up the "Belt and Road" trademark rights protection legal aid center. It can not only create new jobs, deepen the level of legal services in China, but also provide legal advice, rights protection guidance for enterprises, coordinate local judicial resources and provide a key guarantee for further development.

Equality dialogue and consultation mechanism between countries is an important way to resolve cross-border trademark disputes and improve protection rules. Countries can sign bilateral cooperation agreements on intellectual property rights through consultation, such as the mutual recognition mechanism of trademarks between treaty countries: specify the regulation provisions of cybersquatting in the memorandum of bilateral cooperation and unifying the identification standards of malicious cybersquatting. In terms of regional cooperation, relying on platforms such as "China-ASEAN Free Trade Area" and "Shanghai Cooperation Organization", people actively participated in the formulation of trademark registration rules of international organizations such as WIPO at the international level, and contributed unique ideas in combination with the specific practices of Chinese enterprises. This process not only reduces the risk of infringement of enterprises in various countries but also saves time and cost. At the same time, the process of brainstorming and learning from others also provides new ideas for the revision of relevant laws in various countries.

For specific cybersquatting disputes, the intellectual property offices of the two countries took the lead in building a consultation platform to guide the two sides to mediate. Mediate the identification factors such as brand awareness and subjective malice and finally reach the signing of the transfer agreement. The negotiation method saves the cost of rights protection of cross-border enterprises, avoids judicial confrontation, and strengthens the coordination of international intellectual property protection and promotes international exchanges.

### 4.3. Coordinated prevention by government and enterprises

Constructing a three-dimensional prevention mechanism of government guidance, enterprise subject and collaborative linkage will help to reduce the risk of cross-border brand infringement in advance and form a complete relief system afterwards.

Establish an information sharing mechanism: When an enterprise discovers trademark squatting, bulk hoarding, climbing registration and other infringements overseas, it shall promptly submit the information of overseas trademark squatting to China National Intellectual Property Administration. The government issued an accurate early warning report to the whole industry after summarizing the high-incidence areas, forms of squatting and typical cases.

In view of mass cybersquatting cases (such as the example of trademark cybersquatting case in Chile, a toy enterprise in Chenghai, Shantou, Guangdong), a new mode of cybersquatting is provided to protect rights. The government should play a leading and coordinating role, integrate professional resources such as lawyers and agencies, and assist enterprises to carry out communication and consultation on rights protection with local authorities. This model solves the problems of asymmetric information of enterprises and lack of rights protection resources. Secondly, the scale benefits of enterprises holding groups, enterprises jointly set up rights protection alliances, share evidence and costs, and improve the success rate of rights protection. Thus, it is the key to explore efficient solutions.

Finally, the government will guide the development of government-enterprise training cooperation. The government, in conjunction with trade associations, regularly organizes enterprises to carry out overseas trademark protection training, and invites legal experts and senior agencies to

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share their experiences. The content is closely related to practice, including practical content such as layout strategy, application process, risk analysis, and rights protection methods. Through professional and continuous learning, people will enhance the awareness of intellectual property protection and escort enterprises to promote the continuous process of global trademark layout.

## 5. Conclusion

In this paper, under the background of "One Belt, One Road", the problem of overseas registered trademarks faced by Chinese enterprises "going global" is studied, and the reasons behind it, such as system and regional market, are analyzed. This paper holds that when enterprises guard against risks, they should know the market laws and regulations of the target country in advance and lay out overseas markets. At the same time, the state actively builds a dialogue platform with the release of early warning reports, thus forming a preventive system of government-enterprise linkage. Because the overseas protection of trademarks involves legal connection and the practice of safeguarding rights, this paper is limited in space and only analyzes cybersquatting behavior. The theoretical and practical circles in the future can further study the trademark legal rules of countries along the "Belt and Road" and coordinate the programs that are suitable for Chinese laws and regulations, so as to ensure the smooth "going out" of Chinese enterprise trademarks.

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