

# **The New Chinese Trademark Law: Subject Matter and the Public Interest**

Prof. Guan H. Tang  
Shanghai University of Finance & Economics  
Visiting Professor  
Centre for Commercial Law Studies, Queen Mary  
g.h.tang@qmul.ac.uk  
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# Trademark Law of the PRC

- Adopted at the 24th Session of the Standing Committee of the Fifth National People's Congress on 23 August 1982;
- Revised for the first time according to the Decision on the Amendment of the Trademark Law of the People's Republic of China adopted at the 30th Session of the Standing Committee of the Seventh National People's Congress, on 22 February 1993;
- Revised for the second time according to the Decision on the Amendment of the Trademark Law of the People's Republic of China adopted at the 24th Session of the Standing Committee of the Ninth National People's Congress on 27 October 2001;
- Revised for the third time according to the Decision on the Amendment of the Trademark Law of the People's Republic of China adopted at the 12th Session of the Standing Committee of the Forth National People's Congress on 30 August 2013.

# Sound is in, but what about smell marks



- Any visible sign that can serve to distinguish the goods of a natural person, legal person, or other organization from those of another, including any work, design, letter of the alphabet, numeral, three-dimensional symbol and color combination, or any combination of the above, may be made a trademark for application for registration. (Article 8, 2010)
- Any sign that can serve to distinguish the goods of a natural person, legal person, or other organization from those of another, including any work, design, letter of the alphabet, numeral, three-dimensional symbol, color combination and sound, or any combination of the above, may be made a trademark for application for registration. (Revision of Article 8, 2013)

# The public interest in trademark regime

- Article 1 This Law is enacted for the purpose of improving the administration of trademarks, protecting the exclusive right to the use of a trademark, and encouraging producers and dealers to guarantee the quality of their goods and services and preserve the credibility of trademarks, so as to protect the interests of consumers, producers and dealers and promote the development of the socialist market economy.



# Tri-dimension of the public interest

- To protect the legitimate right of trademark holders;
- To safeguard the consumers' right ;
- To promote the socialist market economy.



# Smell or no smell?

- ...
- More than one billion people live with disability
- 200 million experience considerable difficulties in functioning
  - Over 45 million blind
  - Over 90 million deaf
- *“Across the world, people with disabilities have ... less economic participation than people without disabilities.”*

(The World Report on Disability)

Thank you very much (xie xie)

