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Tommy Hilfiger prevails as Beijing High Court cements criteria for assessing trademark similarity

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Ruirui Sun, 7 January 2026, first published by [IAM](#)

On 27 October 2025, the Beijing High Court invalidated a disputed mark in proceedings brought by Tommy Hilfiger against an individual who applied for a trademark using similar colours.

Case background

Established in 1985 in New York City, Tommy Hilfiger is a recognised premium lifestyle brand, which is defined by its classic American red, white and blue colours. Tommy Hilfiger has been using its iconic logo since the early days of its creation.



Figure 1. The Tommy Hilfiger logo

In China on 6 August 2018, an individual named Liqin Xiang applied for the registration of a similarly coloured device (see Figure 2) in Class 25, designating goods including “underwear, apparel, children’s apparel, footwear”. The application received preliminary approval on 13 January 2019.



Figure 2. Xiang Liqin's mark

On 18 March 2019, Tommy Hilfiger filed an opposition and obtained a favourable decision on 20 August 2020. However, this was later overturned in review of opposition proceedings on 28 June 2021, and the trademark proceeded to registration. On 27 February 2022, Xiang Liqin assigned the mark to an affiliated company UK D&R TRADING.

On 30 December 2021, Tommy Hilfiger brought an invalidation action against the disputed trademark based on its prior trademark rights, the copyright attached to the trademark design and the registrant’s bad faith.

The CNIPA dismissed the request on 14 November 2022.

In the ensuing administrative litigation, the Beijing IP Court reversed the CNIPA decision on 25 May 2024, citing Tommy Hilfiger’s prior copyright (article 32 of Trademark Law), as well as Xiang and her associated companies’ bad faith (article 44(1)) in registering multiple similar trademarks. However, the court surprisingly denied similarity between two parties’ marks.

Both parties were unsatisfied with this decision, and both appealed to the Beijing High Court.

Tommy Hilfiger argued that the first-instance court’s reasoning was deeply flawed and paradoxical. It opined that when the disputed mark was found to be substantially similar to the prior copyrighted work, it did not make sense to negate the similarity between the trademarks and deny likelihood of confusion, when such a finding could be easily corroborated by the reputation of the cited trademark and the registrant’s bad faith.

The Beijing High Court’s ruling

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On 27 October 2025, the appeal court reaffirmed that the disputed trademark should be invalidated but based on totally different reasoning.

Contrary to the findings of the Beijing IP Court, the Beijing High Court concluded that given the simple layout and striking colours of the two trademarks, the relevant public – which relies on general impression and does not see the two signs simultaneously – is likely to be confused. Consequently, the disputed trademark and the cited trademarks constitute similar trademarks used on identical or similar goods as stipulated in article 30 of the Trademark Law.

However, as to the alleged similarity of the two signs taken as works of fine art, the court found that upon comparison, the device of the disputed trademark exhibits palpable differences from the cited work, and thus, as a whole, does not amount to copying or reproduction. Therefore, the disputed trademark does not infringe upon the prior copyright of Tommy Hilfiger and does not violate the provisions of article 32.

Further, Xiang and her affiliated entities failed to justify their registration of a large number of trademarks in multiple classes similar to those owned by Tommy Hilfiger, which demonstrated bad faith. Therefore, registration of the disputed trademark was acquired "by other unfair means" as stipulated in article 44(1) of the Trademark Law.

Taking a holistic approach

This case echoes the court's reasoning in a similar case concerning Guangdong Radio and Television Station (GRT) and Zhejiang JASAN Holding Group. In 2004, GRT registered a trademark in Class 35 (see Figure 3). It failed to renew the mark and lost the registration in 2014.



Figure 3. GRT's mark

In the same year, JASAN applied for a trademark (see Figure 4) and obtained the registration in 2016.



Figure 4. JASAN's mark

GRT then filed an application to register a new trademark (see Figure 5) but was refused on account of JASAN's prior trademark. GRT tried to contest this refusal before the CNIPA and then the Beijing IP Court but failed each time.



Figure 5. GRT's new mark

During proceedings before the Beijing IP Court, GRT tried to challenge the validity of the JASAN trademark and filed an invalidation action based this time on its copyright attached to its initial trademark that had not been renewed. However, GRT lost again as the CNIPA found no substantial similarity from the copyright perspective between the two. GRT did not appeal.

The refusal decision was therefore confirmed on 29 March 2019 by the Beijing High Court, which pointed out the differences between similarity under trademark law (likelihood of confusion) and under copyright law (whether the features have been copied). In this case, JASAN's trademark could be found similar to GRT's later filed trademark and yet be dissimilar under copyright law to GRT's prior design.

With the growing number of conflicts between trademarks and copyrights, it is expected that a stable jurisprudence will be established to distinguish the criteria for assessing trademark similarity and substantial similarity of works.