China’s Intellectual Property Protection in Franchising

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Abstract

Since the concept of franchising was introduced into China, the franchising sector has witnessed a spectacular growth in the last decade. China today is the most franchised country in
the world in term of number of systems. The value and success of most franchising concepts are often substantially based on intellectual property – primarily trademarks, trade names, copyrights, trade secrets, and patents. If a franchisor is to capitalize on the exclusivity of its unique intellectual property to provide it and its franchisees a competitive advantage, legal protection of these valuable assets is essential in China and contemplated business. The tremendous development of franchising has inevitably brought forth different kinds of problems such as the franchise contract disputes, intellectual property infringement disputes, etc. The strong growth of domestic and international franchising urges the great importance of protecting the intellectual property rights (IPRs) in China today.

This paper addresses the legislative of Chinese franchising law and intellectual property law, analyzing the enforcement and protection of intellectual property law in China today in combination of some judicial cases judged by the courts. With more and more serious situation of intellectual property infringements in China it is crucial for the intellectual property rights to be maintained and safeguarded, some suggestions were put forward to protect the IPRs from the franchisors’ perspective.

**Key words:** intellectual property, infringement, enforcement, protection, measures