

Revisiting the Issue of Regulatory Measures for Trademark Reverse Confusion

Anqi Jiang

School of Law, University of Edinburgh, Edinburgh, UK

Email: 765498819@qq.com

How to cite this paper: Jiang, A. Q. (2024). Revisiting the Issue of Regulatory Measures for Trademark Reverse Confusion. *Beijing Law Review*, 15, 249-270.
<https://doi.org/10.4236/blr.2024.151016>

Received: January 16, 2024

Accepted: March 9, 2024

Published: March 12, 2024

Copyright © 2024 by author(s) and Scientific Research Publishing Inc. This work is licensed under the Creative Commons Attribution International License (CC BY 4.0).
<http://creativecommons.org/licenses/by/4.0/>



Open Access

Abstract

In the pursuit of maximizing interests in commercial activities, a new form of trademark infringement known as “reverse confusion” has become increasingly prevalent. In contrast to the traditional concept of “forward confusion” in trademark law, “reverse confusion” involves a reversal of the confusion direction, changes in the relative strength of the parties involved in infringement, confusion in the cognitive association of consumers, blurred boundaries of trademark protection, and potentially more severe consequences. These distinct forms of infringement, different from “forward confusion,” pose challenges to traditional trademark confusion theories and legal frameworks. Since the emergence of “reverse confusion,” there have been numerous disputes regarding legal issues in this area both domestically and internationally. However, no country has explicitly legislated on this matter. In China, judicial practices often refer to the identification standards and relief systems of traditional confusion, lacking objective and unified judgment criteria. This undermines the specificity of reverse confusion, leading to issues such as inconsistent judgments in similar cases and imperfect damage compensation. This, to some extent, affects the credibility of judicial decisions. This article, based on the analysis of typical cases of reverse trademark confusion, legislative disputes, and issues related to legal application, reevaluates the theoretical foundations, elements of infringement, recognition standards, judicial remedies, penalties for “ambush marketing,” and registration review concerning the regulation of reverse trademark confusion. It aims to provide insights into supplementing and improving China’s trademark law from the perspectives of maintaining legal stability and enhancing traditional confusion theories.

Keywords

Trademark Infringement, Reverse Confusion, Legal Regulation

1. Introduction

With the development of the economy and society, intensified business competition has highlighted the economic value of trademarks. Trademark infringement has evolved beyond the traditional forms of “riding on the coattails” and “forward confusion.” It has become more diverse and complex. In the past decade, a new form of trademark infringement known as “reverse confusion,” which challenges traditional concepts, has emerged in China.

Examples of reverse confusion lawsuits, such as Yan Huang Ying Dong’s lawsuit against Amazon AWS, Jianfa’s lawsuit against Michael Kors, Lian’an’s lawsuit against “Xiaomi,” Lan Ye Jiu Ye’s lawsuit against PepsiCo, and New Balance’s lawsuit against “Xin Bai Lun,” have featured unique infringement methods, significant amounts of money involved, high public attention, and have sparked discussions and debates within the legal and academic communities.

Traditional trademark “confusion” infringement typically involves the later user of a trademark seeking unlawful gains by using an identical or similar mark to a well-established mark of a more influential enterprise on similar or identical goods or services. This is done to capitalize on the reputation established by the earlier trademark, causing consumers to confuse the source of the products or services, known as “forward confusion.” In contrast, “reverse confusion” involves a prominent and well-known company using an identical or similar mark to a previously registered trademark owned by a smaller, lesser-known entity. This well-known company leverages its own market influence to promote the mark, leading to greater recognition of the mark compared to the earlier registered trademark. This confusion causes the public to mistakenly believe that the products or services associated with the earlier mark come from the later user or have some specific connection to them, even to the extent of being considered counterfeit or subpar products. The aim of this infringement is not to benefit from the earlier trademark but to infiltrate the same market, displacing the market space of the earlier trademark owner. This results in a devaluation of the earlier trademark’s value, functionality, product and brand recognition, and the ability to expand into new markets. It constitutes unfair competition in practice, harms consumer interests, and poses risks beyond what forward confusion can cause.

Clearly, “reverse confusion” arises because the trademark owner’s “fame” is far less compared to the accused infringer. Current Chinese law explicitly addresses “forward confusion” based on traditional trademark confusion theory, while “reverse confusion” remains unaddressed in legislation but has arisen in judicial practice. Analysis of Article 57 of the Trademark Law, which pertains to infringement of registered trademark rights, shows that registered trademarks are protected by law without direct linkage to their “fame” or “contribution.” In judicial proceedings, due to the differences between reverse confusion and traditional confusion in terms of subjects, characteristics, identifying elements, and the extent of harm, there are no clear legal provisions or judicial interpretations

specifically addressing reverse confusion. As a result, courts inevitably encounter a range of issues that cannot be adequately resolved through traditional trademark confusion theory. Standards of recognition and outcomes in similar cases can vary between different courts, making compensation for damages difficult to manage effectively.

The legislative purpose of China's Trademark Law is to "protect trademark exclusive rights, promote producers and operators to ensure the quality of goods and services, maintain trademark reputation, safeguard the interests of consumers and producers and operators, and promote the development of a socialist market economy." Small and medium-sized enterprises (SMEs) in China play a critical role in alleviating employment pressures and maintaining social stability. They hold a significant position in the national economy. Safeguarding fair competition in the market and the legitimate rights and interests of consumers while promoting the healthy development of SMEs is an essential measure for adhering to and improving China's socialist basic economic system. Although there may be legal debates about "reverse confusion," its characterization as an infringement is widely accepted. Given the increasing prominence of trademark reverse confusion infringement, failing to study countermeasures against the complexities and particularities of this confusion direction, supplement and refine trademark laws and their supporting systems, and equally protect the market share and legitimate interests of SMEs with earlier trademarks, could have detrimental effects on China's economic and social development and judicial fairness. This is a pressing issue that requires research and resolution in the relevant areas.

2. Basic Concepts and Legislative Controversies of Reverse Trademark Confusion

2.1. Theoretical Origin and Basic Concepts of Reverse Trademark Confusion

2.1.1. Theoretical Origin

Reverse trademark confusion is not a concept within traditional trademark legal systems. It evolved through numerous related cases in U.S. courts during the 1970s. As early as 1918, U.S. Justice James proposed the idea that reverse confusion could be recognized as one form of trademark infringement. In 1944, a U.S. legal report addressing unfair competition acknowledged the legitimacy of the reverse confusion theory, formally recognizing its existence in law. The U.S., using the 1977 "big foot" case as a precedent, began judicial applications based on the reverse confusion theory globally. With further application and research, various levels of courts established relevant precedents prohibiting reverse trademark confusion, gradually laying the theoretical and practical foundation. However, as the originator of the reverse confusion theory, U.S. courts continually reflect on its application in precedents, not providing unlimited protection for reverse confusion but highly relying on specific case facts. To this day, its appli-

cation remains within judicial practice.

2.1.2. Basic Concepts

Reverse confusion is the opposite of traditional or forward confusion. It involves an infringer using a trademark identical or similar to the trademark owner's, leading consumers to believe that the products from the trademark owner originate from the infringer or have a specific connection (Guan, 2022: p. 71). In simpler terms, trademark confusion infringement exists in two forms: traditional "forward confusion" and the new "reverse confusion." Both involve the unauthorized use of a trademark identical or similar to an established trademark on similar or identical goods, causing public confusion. The distinction lies in forward confusion, where the infringer, typically of lower market influence, uses a trademark similar to a well-known trademark to benefit from the established reputation. In reverse confusion, it is the dominant entity with high market influence using the trademark of a lesser-known business, creating widespread recognition and causing confusion. This results in market penetration and encroachment on the market share and development space of the trademark owner, harming not only the trademark owner's reputation and rights but also constraining the continuous development of products and the business. In practice, reverse confusion infringement occurs when the later trademark user employs another's previously registered trademark as a business identifier, brand, or product name.

2.2. Legislative Controversies

Currently, the theory of reverse trademark confusion has not gained widespread acceptance in legal circles globally, and there is significant controversy surrounding its inclusion in legislation. Examining the arguments for and against, proponents argue that "the purpose of the law is to protect the interests of trademark owners by preventing public confusion about the origin of goods and ensuring fair competition. This purpose is equally important in cases of reverse confusion. If reverse confusion is not sufficient reason for Lanham Act protection, large companies can infringe on the prior-use trademarks of small companies with impunity." (Li, 2002). Opponents argue that "reverse confusion should not be seen as a concept distinct from regular confusion because liability is determined based on the fact of confusion, not the direction it arises." (Jeremy, 2014). Some also point out that "three major factors must be considered in trademark cases: the trademark owner, the infringer, and the general public. The primary consideration should be the general public. If the majority of consumers benefit from the later trademark user's trademark application more than the prior trademark user, or if the majority of consumers are not even aware of the prior trademark user's existence, then prohibiting the later trademark user's trademark use will harm the general public. Unlimited protection should not be given to 'reverse confusion'" (Zhang & Yao, 2013). As an example, the pioneering U.S., despite having matured theoretical and practical foundations for reverse confu-

sion, “does not universally acknowledge the principle. There are disputes over its applicability criteria, and civil law countries like Germany do not have a system for reverse confusion.” (Guan, 2022: p. 72)

Similarly, China faces significant controversies in the legal regulation of reverse confusion. Supporters argue that establishing clear standards for reverse confusion, supplementing considerations for reverse confusion, and improving related measures will enhance the credibility of judicial judgments. It is considered a crucial means to protect the interests of vulnerable small and medium-sized enterprises (SMEs) and invigorate the economy. Additionally, it is seen as a necessary path to establish and improve China’s trademark legal system (Beijing Daokete Law Horizon, 2020). Some researchers suggest using a comprehensive approach to clarify the conceptual features of reverse trademark confusion. Simultaneously, factors for determination and constitutive elements can be listed. The scope of infringement compensation should be defined, and professional assessment mechanisms can be considered if necessary. However, it is crucial to distinguish reverse confusion from forward confusion, emphasizing the specificity of reverse confusion for more accurate regulation of various trademark infringement phenomena (Wang & Zhao, 2017). Some scholars propose regulating such behavior under the Anti-Unfair Competition Law in cases where the problem is not prominent, considering factors such as subjective malice, large-scale promotional use, and the consequences of causing reverse confusion (Guan, 2022: p. 73). Opponents argue that, as confusion likelihood remains the basis for judging trademark infringement in today’s emphasis on protecting trademark rights, there is no need for China, theoretically or practically, to adopt the concept of “reverse confusion.” (Dong, 2017). They contend that there is no essential difference in judgment between reverse confusion and forward confusion, and both involve adjustments based on multiple factors in the confusion check standard (Zhang, 2016). They assert that reverse confusion behavior lacks reprehensibility and should not fall under the protection scope of trademark rights (Li, 2017).

The author believes that both the positive and negative viewpoints mentioned above offer valuable academic insights that are worth studying and referencing. However, in the face of the adverse effects that “reverse confusion” in the context of market economic development has on trademark law and its related regulations, it is important to research how to effectively harness the legal system’s roles in clarification, prevention, and correction. This research should aim to align the legal framework with economic development to address these challenges effectively. “The law is not rigid, not unchanging; it must be contemporary, continually revised based on the development of the economy and society.” (Communist Party Member Network, 2013). China needs to resolve the contradiction between legal stability and social change through “adapting the law to the situation.” (Chen, 2018a). Given the complex variations in trademark confusion infringement methods amid economic and social development, actively seeking solutions, advancing the construction of China’s trademark legal system

in line with and promoting economic and social development, is highly necessary.

3. Analysis of Typical Cases of Trademark Reverse Confusion Infringement

In recent years, trademark reverse confusion infringement cases have frequently occurred in China. The judicial trials in these cases have exposed various issues and accumulated practical insights. The following positive and negative examples shed light on these matters.

3.1. Positive Example: Yanhuang Yingdong vs. Amazon AWS Trademark Infringement

Case Summary: In July 2018, Beijing Yanyuang Yingdong Technology Development Co., Ltd. (“Yanyuang Yingdong”) filed a lawsuit against Amazon Web Services (Beijing) Co., Ltd. (“Amazon Web Services”) and Beijing Halo New Web Technology Co., Ltd. (“Halo New Web”). Despite knowing about Yanyuang Yingdong’s prior registration of the “AWS” trademark, Amazon Web Services and Halo New Web forcibly operated and provided cloud computing services using the “AWS” and “aws” identifiers without permission. This constituted a highly similar trademark in the same or similar services, causing confusion among the public, deviating from the principle of good faith, and allegedly seriously infringing on Yanyuang Yingdong’s “AWS” trademark rights. The plaintiff demanded that the defendants cease using “AWS” or similar identifiers in their commercial activities, compensate for economic losses of ¥300 million, and publish a statement in the “China Intellectual Property News” to eliminate the impact of the infringement. After a two-year trial, the Beijing Higher People’s Court determined that the logos used by Amazon Web Services and Halo New Web could easily lead the public to mistakenly believe the origin of related goods or services, damaging Yanyuang Yingdong’s exclusive trademark rights. The court ruled that Amazon Web Services and Halo New Web should stop using the “AWS” logo and similar identifiers, publish a statement in the “China Intellectual Property News” to eliminate the impact of the infringement, and jointly compensate Yanyuang Yingdong for economic losses of ¥76,463,000, along with reasonable legal expenses of ¥260,000, totaling ¥76,723,000 ([NetEase, Southern Metropolis Daily, 2021](#)).

According to records, the plaintiff Yanyuang Yingdong was established in 2003 and is a low-code and BPM PaaS service provider with a business scope that includes selling self-developed software products, with “AWS” as its core brand. The company applied for and obtained the registration of the “AWS” trademark from the State Administration for Industry and Commerce Trademark Office on September 1, 2004, and December 20, 2010, with the exclusive rights valid until December 27, 2021, covering services in the fields of “cloud computing” and “computer software design.” The defendant Amazon, founded in 1995, is the largest U.S. e-commerce company, primarily engaged in develop-

ing network technology and e-commerce technology. It introduced its cloud computing service platform in 2006, entered the Chinese market in 2014, and provided technical support to over a thousand enterprises in more than 190 countries and regions worldwide (IoT Wisdom Library, 2021). In 2017, Amazon Technologies applied to register the AWS trademark in China on September 13, and its application was rejected by the Trademark Office in September of the following year, citing Yanyuang Yingdong's prior registration (Tianyancha, China Judgment Document Network, 2019). However, Amazon Web Services and its affiliates ignored this rejection, disregarded Yanyuang Yingdong's legitimate rights, and continued to use the AWS logo publicly until Yanyuang Yingdong initiated legal action.

The author believes that while the dispute between Yanyuang Yingdong and Amazon affiliates doesn't involve core technology, trademarks are crucial for corporate marketing and brand recognition. The globally renowned Amazon subsidiary knowingly used the "AWS" logo extensively, highly resembling Yanyuang Yingdong's prior registered trademark, gaining significant visibility. This led the public to mistakenly perceive Yanyuang Yingdong as an agent of Amazon, raising suspicions of leveraging Amazon's reputation. This actual confusion caused direct and potential harm to Yanyuang Yingdong's reputation and brand growth. Although the judicial ruling provided support and protection, the case reflects unfavorable trends such as "reverse confusion" and issues like insufficient legal constraints and a lag in awareness among small and medium-sized enterprises for protecting their rights. Addressing these concerns is crucial for an effective resolution.

3.2. Negative Example: Jianfa vs. "MK" (Michael Kors) Trade Mark Infringement

Case Summary: Chenghai District Jianfa Handbag Craft Factory ("Jianfa Factory") in Shantou City was granted the trademark "mk" in 1999, designated for use in Class 18 goods, including bags. Subsequently, Jianfa Factory observed the globally renowned fashion luxury brand "Michael Kors" using the "mk" and "MK" signs in its product advertisements, promotional materials, store decorations, metal decorative buckles, and on its official website and WeChat client. Jianfa Factory believed that the actions of the brand owner, Michael Kors Trading (Shanghai) Co., Ltd., and Michael Kors (Switzerland) International AG, caused confusion among the relevant public, infringed on its trademark exclusive rights, and filed a lawsuit in 2017 against the aforementioned two companies, along with Zhejiang Intime Department Store Co., Ltd., and Beijing JD Century Trading Co., Ltd., which were simultaneously selling allegedly infringing products. The plaintiff sought the cessation of infringement, elimination of impact, compensation for economic losses, and reasonable expenses incurred to stop the defendant's infringement, totaling ¥95 million.

The Hangzhou Intermediate People's Court held that the high visibility of the contested infringing sign should not be considered a factor in determining re-

verse confusion. The subsequent user, through legitimate business operations, acquired commercial achievements deserving protection of its legal rights rather than being deprived through a reverse confusion determination. Although elements of reverse confusion were present, significant differences in product prices and target consumer groups would objectively prevent confusion among the relevant public. Additionally, the trademarks were not identical, allowing for their coexistence to facilitate inclusive development among operators. Consequently, the court ruled that Jianfa Factory's claim of trademark reverse confusion infringement was not established. Dissatisfied, Jianfa Factory appealed to the Zhejiang High People's Court. The provincial high court, in its trial and analysis, considered factors such as whether the involved trademarks were significantly distinctive, whether the plaintiff had achieved strong distinctiveness and recognition through continuous and extensive use, whether the defendant had evaded the contested trademarks, the similarity of the products' consumer groups, and the potential for confusion among the relevant public. It concluded that for trademarks not yet practically used or possessing weak distinctiveness and low recognition, their restricted protection should match their level of renown. Failure to do so might result in easier claims of reverse confusion, contrary to the legislative purpose of trademark law. The decision was made to "reject the appeal and uphold the original judgment." (*Civil Judgment of Zhejiang High People's Court of the People's Republic of China, 2018*). Jianfa Factory then applied for a retrial to the Supreme People's Court.

The Supreme People's Court held that judging whether the contested infringing sign and the registered trademark constituted similar trademarks should not only assess the degree of similarity of each element of the sign itself but also consider whether it would cause confusion among the relevant public. In determining potential confusion, the actual usage of the contested infringing sign must be considered, along with evaluating the significant distinctiveness and recognition of the registered trademark. In this case, it was found that the plaintiff had no subjective intention to exploit the contested trademark's goodwill, and the contested infringing sign was not identical to the registered trademark. The relevant public would not easily be confused or make a mistake about the origin of the contested infringing sign and the corresponding products. In accordance with Article 104, Paragraph 1 of the Civil Procedure Law of the People's Republic of China and Article 395, Paragraph 2 of the Interpretation of the Supreme People's Court on the Application of the Civil Procedure Law of the People's Republic of China, the decision was made to reject Jianfa Factory's retrial application (*Supreme People's Court Civil Ruling, 2019*).

This is the only case in recent years among reverse confusion trademark cases where the claimant lost. It was included in the "Top 10 Most Valuable Intellectual Property Judgments in China in 2017" and "50 Typical Intellectual Property Cases in Chinese Courts in 2019." (*Fu, 2020*). The clear reasoning provided by the courts undoubtedly serves as a reference for judicial practice and regulatory research on "reverse confusion." It's worth noting that the case lasted for three

years, during which Jianfa Factory failed to provide any evidence showing extensive sales of products using the contested trademark in China. When the “Michael Kors” brand entered China in 2011, the contested “MK” trademark did not gain stronger recognition and a larger market presence through Jianfa Factory’s continuous and extensive use. Instead, Jianfa Factory began applying for registration and extensively using a sign more closely resembling the contested infringing sign on bag products, actively seeking a market confusion effect. This suggests that while legally addressing “reverse confusion,” measures should also be taken to prevent trademark rights holders from intentionally abusing trademark exclusive rights for undue benefits, even engaging in “extortion” against well-known enterprises. It is advisable to increase the penalties for “ambush marketing” and malicious registration practices related to trademarks, strengthen trademark registration scrutiny, and enhance regulatory measures. By raising the cost and consequences of illegal and unethical actions, we can effectively deter subjective malicious behavior in the field of trademarks.

3.3. Commonalities and Differences in Judicial Analysis

The analysis of the two cases reveals both similarities and differences in the approach taken by the respective courts. Similarities can be observed in how both courts emphasized the significance, fame, and origin of the prior trademarks when determining reverse confusion. This highlights that the assessment of reverse confusion should consider the essential attributes of trademark rights and the basic standards of trademark infringement and confusion theory. Additionally, it should involve a comprehensive evaluation of the intensity of the contested identifier’s use and the prominence and fame of the trademarks in question.

The main difference lies in how the courts assessed the “likelihood of causing confusion.” In the Amazon case, the court deemed that the extensive and prolonged use of the “AWS” commercial symbol by Amazon contributed to its high level of recognition. This led to the public mistakenly associating the prior trademark holder, Yanyuan Yingdong, as Amazon’s agent or as leveraging Amazon’s reputation by using the “AWS” trademark, constituting reverse confusion infringement. Conversely, in the “MK” case, the court considered Michael Kors to have a certain level of recognition in the Chinese market. The design differences between the accused infringing mark and the relevant trademark were acknowledged. Furthermore, due to higher product prices and distinct consumer groups, it was concluded that consumers would not be confused, thus rejecting the claim of reverse confusion infringement.

The author believes that the determination of confusion depends on the subjective perceptions of the relevant public. In the former cases, the high level of recognition of the later mark was a factor that led to the establishment of reverse confusion, while in the latter cases, the high recognition of the later mark facilitated consumer differentiation from the earlier trademark, making reverse confusion untenable. Assessing confusion requires considering trademark signific-

ance, fame, and contribution, along with the general attention of the relevant public, the effects of confusion, and objective evidence.

4. Harm and Analysis of Recognition of Trademark Reverse Confusion Infringement

4.1. Harm of Reverse Confusion Infringement

Reverse confusion infringement of trademarks revolves around the prior trademark “symbol.” In the context of a market economy, a trademark for businesses no longer simply denotes a symbol, a set of words, or an image. Its functions have evolved beyond basic product source identification to include advertising, sales promotion, ensuring product quality, and establishing commercial reputation. These interrelated functions form a comprehensive state of legitimate rights and interests for trademark owners. The act of reverse confusion infringement violates the legal principles of fairness and justice, disrupts the normal operational order of the commodity market, constitutes damage to the functions and interests of prior trademarks and trademark owners, and infringes upon the societal public interest primarily focused on consumers.

4.1.1. Harm to the Interests of Trademark Owners

This is mainly reflected in four aspects.

Firstly, it diminishes the reputation and value of the prior trademark. To begin with, a trademark serves as a symbol of a product, and its worth is directly correlated with its recognition and reputation among the public. Reputation, being an intangible asset, is intricately linked to a company and serves as a reflection of its overall image. A company that boasts good product quality and a solid reputation tends to have a higher valuation for its reputation. In cases involving reverse confusion, the more dominant user of the later trademark capitalizes on its advantages to promote and advertise, effectively merging symbols that are similar or identical to the earlier trademark into the collective memory of the public. This strategy attracts specific customer groups, leading the public to mistakenly believe that the products or services of the trademark owner originate from the later user or have a specific association with them. In some instances, they may even mistake them for counterfeit or subpar products, eroding the reputation painstakingly built by the trademark owner over time. Furthermore, as a form of intellectual property, a trademark holds a legally granted monopoly and represents a critical intangible asset for a company. It has the potential to boost a company’s competitiveness in the market, foster brand loyalty, facilitate brand extensions, and create opportunities for collaboration. The economic value it holds is paramount for a company’s growth and success. However, the economic value of a trademark can fluctuate due to various factors such as shifts in the market, evolving consumer preferences, competitive pressures, and adjustments in business strategies. To adapt to the ever-changing market dynamics, trademark owners must consistently invest resources in preserving and enhancing the value of their trademarks. In cases of reverse confusion, not

only is the reputation of the earlier trademark compromised, but its economic value is also stifled and devalued.

Secondly, it disrupts the indicative function of the prior trademark. Identification of the source of goods or services is the fundamental and essential function of a trademark, known as the “indicative function.” In a reverse confusion situation, widespread use of the trademark by the later user creates a closer connection between the trademark and the later user, causing confusion among the relevant public. This hampers the ability of the prior trademark to effectively indicate the source of goods or services, disrupting the relationship between the trademark symbol and a specific source, and subsequently, impairing several functions of the trademark, severely damaging the trademark owner’s rights.

Thirdly, it leads to the loss of exclusive rights to the prior trademark. The exclusive right to a trademark is a legal monopoly granted, constituting the intangible assets of the trademark holder. It includes the complete right to use the registered trademark, the right to exclude others from using it, the right to transfer, and the right to permit others to use it. In situations of reverse confusion, the later trademark user with a stronger commercial presence utilizes a symbol identical or similar to the earlier trademark on similar products, driven by their business needs. They may not be concerned about whether the trademark owner grants permission or not. By leveraging their influence for promotion and advertising, they can easily create cognitive confusion among consumers. As a result, they sever the connection between the trademark owner and the trademark in the minds of consumers, effectively weakening or displacing the earlier trademark owner’s exclusive rights to the trademark in practice. Typically, trademark owners have the right to obtain consideration through licensing or transferring their trademarks. However, “reverse confusion” undoubtedly damages the legitimate interests of the trademark owner to exercise exclusive rights and receive compensation for licensing or transfer fees. When the infringing party mismanages operations, resulting in serious problems with the goods or services, it inevitably affects the trademark owner, almost exhausting their control over the trademark.

Fourthly, it limits the ability of trademark owners to explore new markets. In a scenario of “reverse confusion,” the later user, with a higher commercial status and stronger operational capabilities, establishes market dominance through vigorous promotion and use of the prior trademark. This creates a stable public recognition. Once the trademark owner expands their product marketing into regions covered or influenced by the infringing party, competition between similar products labeled with identical or similar trademarks will inevitably arise. This competition creates barriers of confusion and misrecognition among the relevant public, hindering the trademark owner’s products from entering that region and expanding their business into other areas. It restricts the trademark owner’s ability to explore new markets, ultimately leading to the encroachment of the infringing party on the development space of the infringed trademark. This is a potential threat that forward confusion cannot generate.

4.1.2. Harm to the Interests of the Public

This is mainly manifested in two aspects.

Firstly, the existence of reverse confusion harms consumers' interests. One of the legislative purposes of trademark law is to protect consumers from confusion about the origin of goods. When infringers exploit their advantage to extensively promote and use a pre-existing trademark, it often leads to the widespread recognition of that trademark and its products. This can cause consumers to mistakenly identify the infringer's goods as the legitimate products of that trademark, creating confusion in shopping directions, hindering timely purchases of desired items, and depriving consumers of the right to distinguish and choose products, making them the ultimate victims of reverse confusion. In fact, consumers have the right to distinguish and choose goods. However, reverse confusion blurs consumers' direction of choice, hindering consumers from promptly purchasing the items they desire. In reality, consumers become the ultimate victims.

Secondly, "reverse confusion" damages the anti-unfair competition function of trademarks, resulting in unfair competition in related goods or services, disrupting normal market operation, and constituting harm to the interests of the public.

4.2. Analysis of Recognition of Reverse Confusion Infringement

China is a codified law country, and the court's recognition of trademark reverse confusion infringement must be based on existing "Trademark Law," its judicial interpretations, and administrative regulations. Precedents are only selective references without legal binding force. The standard for determining trademark infringement prone to confusion or misrecognition is based on the existing standards of the "Trademark Law." In cases where goods are identical or similar, and trademarks are similar, considering the significance and visibility of the trademarks, judgment is based on the general attention of consumers and the relevant public. This might lead to confusion or incorrect recognition of the source of products (Chen, 2018b).

Given the lack of unified standards and subjective variations among judges, coupled with diverse case circumstances, there is a significant issue of different judgments for similar cases. With the globalization of the commodity economy, trademark reverse confusion infringement will become more frequent and complex. Establishing a unified judicial determination standard is highly necessary. In this regard, the author proposes a "threefold comprehensive judgment":

4.2.1. Comprehensive Judgment of the Significance of the Trademark

According to China's "Trademark Law," a registered trademark should have distinctive features. Traditionally, the significance of a trademark is divided into inherent significance and acquired significance. "Inherent significance" refers to the use of suggestive, arbitrary, and fanciful vocabulary in trademark design. Trademark symbols cannot be reasonably understood as a description or decoration of the attached products. Consumers automatically consider such symbols as representations of the product's origin and can be directly registered as trade-

marks. “Acquired significance” refers to the situation where the design or vocabulary is directly descriptive or can reasonably be considered a decorative symbol of the product. There is a strong connection between the design and vocabulary and the showcased goods, making it ineligible for trademark registration. However, when the symbol, after prolonged use and advertising, gradually acquires the function of indicating the specific origin of the product or service, it attains the commercial significance of a registered trademark, known as the “secondary meaning.” Traditionally, this is also referred to as the “concocted significance.” This commercial significance changes with the degree of consumer awareness. Since the indicative function of a trademark needs to be jointly achieved by inherent significance and the notoriety formed through prolonged use, both factors influence the judgment of the possibility of confusion. In fact, even symbols with inherent significance are not automatically recognized as trademarks by consumers during registration or initial use. Their significance can only be truly obtained through the sale of goods or advertising. Therefore, inherent significance is only a favorable condition for obtaining the significance of a trademark in the market, and it does not guarantee that the trademark will have a strong significance in the market. “Acquired significance” is the determining condition for the strength of a trademark. In this sense, the real significance of a trademark is acquired over time, and determining “reverse confusion” requires a comprehensive judgment based on both factors.

4.2.2. Comprehensive Judgment of the Similarity of Trademarks

The determination of the similarity of trademarks is a core issue in the infringement judgment of “weak trademarks” with weak inherent significance. Article 57(2) of China’s “Trademark Law” clearly defines the scope of comparison features for determining the similarity of trademarks, including the shape of characters, pronunciation, meaning, composition, color, and the overall structure of various elements. If there is similarity and it is likely to cause confusion or misrecognition among the relevant public, it constitutes an infringement. Article 12 of the “Interpretation of the Supreme People’s Court on Several Issues Concerning the Application of Law in the Trial of Civil Cases Involving Trademark Authorization and Confirmation” clarifies the principles for determining the same or similar trademarks. This is based on the general attention of the relevant public, requiring both overall and main part comparisons, considering the significance and notoriety of the registered trademark seeking protection. In a reverse confusion scenario, for trademarks with weak inherent significance, the identification of the source of goods by the relevant public primarily relies on the overall impression of the trademark rather than its constituent elements. Therefore, considering specific products or services, a method emphasizing overall comparison with subsidiary consideration of significant parts should be adopted for a comprehensive judgment of the similarity of trademarks.

4.2.3. Comprehensive Judgment of the Possibility of Confusion

Preventing confusion is the core of trademark laws worldwide, and the existence

of confusion is the most crucial element in determining trademark infringement. Regardless of the direction of trademark confusion infringement, the judgment of the possibility of confusion is the foundation for recognizing trademark infringement. In 2013, China's third amendment to the "Trademark Law" introduced the confusion theory, clarifying the relationship between similarity and the possibility of confusion. However, there is no unified standard for judging this. Subsequently, the "Provisions of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Administrative Cases Involving Trademark Authorization and Confirmation" (Judicial Interpretation [2017] No. 2) clearly outlines five factors for determining the possibility of confusion with an unregistered well-known trademark: the degree of similarity of the trademark symbols, the similarity of goods, the significance and popularity of the registered trademark seeking protection, the level of attention of the relevant public, and the subjective intent of the trademark applicant, as well as evidence of actual confusion. The "Standard for Judgment of Trademark Infringement" (State Council Letter [2022] No. 23) in Articles 13, 19, 20, and 21 provides rules for "easily causing confusion" and defines five situations where a textual trademark is considered identical to a registered trademark, as well as the identical situations involving the composition, appearance, and arrangement of textual and graphical combination trademarks (China Legal Publishing House, 2022). These have important guiding significance for trademark infringement law enforcement. However, the above-mentioned provisions do not differentiate between directions of confusion infringement, and there are differences in the mutual relationships of the listed factors and their importance in specific cases. Therefore, determining whether reverse confusion infringement has occurred requires a detailed analysis and comprehensive consideration of the specific facts and relevant evidence, evaluating each factor one by one. The final conclusion depends on whether there is a possibility of confusion and whether the relevant public has actually experienced confusion regarding the source of the goods or services.

From a judicial perspective, the recognition of trademark reverse confusion infringement involves various factors such as subjectivity and objectivity, facts, and law. Judicial recognition cannot rigidly adhere to established standards and requires a comprehensive judgment based on fundamental requirements like the significance of the trademark, the similarity of trademarks, and the possibility of confusion. Therefore, it is necessary for China's "Trademark Law" and related regulations to summarize and formulate a unified, fundamental standard for the recognition of "reverse confusion" within the same legal framework, implementing a "distinguishing forward and reverse confusion" to enhance legal clarity.

5. Overview of Legal Application of "Reverse Confusion"

5.1. International Perspective: Precedents in Practice, Lack of Clear Regulations

Currently, in the field of international trademark law, there is no unified theo-

retical concept for “reverse confusion,” and the determination of infringement lacks clear legal grounds. In the United States, after over forty years of research and practice in the field of trademark reverse confusion, a relatively clear application system has gradually emerged. It stipulates three conditions for the application of reverse confusion: the later user’s commercial strength is sufficient to cover the rights holder, the trademark applying reverse confusion must be protectable, and there must be a possibility of confusion between the two trademarks (Wang, 2013). Preventing “the possibility of confusion” is the basic purpose of U.S. trademark law and a core issue. The Lanham Act, the federal trademark law in the United States, specifically embodies the application of confusion theory in trademark examination, registered trademark protection, and combating unfair competition. Section 43 provides that “any person who, without the consent of the registrant, uses in commerce any reproduction, counterfeit, copy, or colorable imitation of a registered mark in connection with the sale, offering for sale, distribution, or advertising of any goods or services and that is likely to cause confusion or to cause mistake, or to deceive shall be liable in a civil action for infringement.” However, it does not explicitly address reverse confusion. The U.S. trademark registration system follows the “use principle,” requiring trademark applications to be trademarks that have been used or are ready for use. Therefore, trademarks eligible for reverse confusion protection are those that have made a certain contribution through honest operation. In cases of trademark reverse confusion infringement, the rights holder can file a lawsuit based on common law in various states, or they can file a lawsuit based on federal trademark law. The federal Lanham Act, in Section 43(1), implies legal responsibility for confusion on a reverse recognition basis. The legal provisions involve the use of trademarks causing confusion in “affiliation, connection, or association” concerning goods (Li, 2002); the UK’s Trade Marks Act Sections 5 and 10 also provide for confusion theory as a basis for trademark infringement determination but do not mention reverse confusion. The EU’s Trademark Regulation in Article 9 stipulates that “any person who, without the consent of the proprietor of the EU trade mark, uses in the course of trade in relation to goods or services where an EU trade mark is registered a sign identical with, or similar to, the EU trade mark shall be liable to be sued by the proprietor if the use without due cause takes unfair advantage of, or is detrimental to, the distinctive character or the repute of the EU trade mark.” However, it does not consider reverse confusion as a concept with independent value. The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in Article 16(1) states that “the owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner’s consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion.” The legal systems of the EU focus on regulating confusion behavior, determining whether the disputed trademark causes confusion based on factors such as the significance, notoriety, and consumer awareness of

the disputed trademark. Additionally, in many countries, the use of “confusion” is not limited to narrow trademarks. For example, Section 31 of the German Trademark Act states that “the provisions of this law shall apply irrespective of differences in the form of the trademark in words, graphics, and other forms or changes in other respects. Trademarks, coats of arms, names, trade names, and other signs on goods, regardless of how they are altered, shall not affect the application of this law if they are sufficient to cause confusion in business transactions.”

In summary, the United States and European Union countries have a clear application of the confusion theory in trademark infringement, with the “likelihood of causing consumer confusion” as the standard for infringement, which has been recognized by international intellectual property conventions. However, while following traditional trademark confusion theories, they have not made explicit definitions regarding reverse confusion.

5.2. Domestic Perspective: Initial Exploration, No Relevant Regulations

China’s legal issues related to trademark reverse confusion are still in the early exploration stage. In the third amendment of the Trademark Law in 2013, the confusion theory was introduced for the first time in the determination of trademark infringement. The constitutive element of “likelihood of confusion” was added, clearly making it the main basis for trademark infringement. However, there is no unified standard for determining whether the use of two trademarks can cause confusion. In 2019, China’s fourth amendment to the Trademark Law defined seven situations that constitute infringement of the exclusive rights of registered trademarks in Article 57, including using the same or similar trademark on identical goods without the permission of the trademark registrant (paragraph one) and using a similar trademark on similar goods without the permission of the trademark registrant, which is likely to cause confusion (paragraph two). In addition, Article 12 of the “Provisions of the Supreme People’s Court on Several Issues Concerning the Application of Law in the Trial of Administrative Cases Involving Trademark Authorization and Confirmation” lists factors to consider for the “likelihood of confusion,” including the degree of similarity of the trademark symbols, the similarity of goods, the significance and popularity of the registered trademark seeking protection, the level of attention of the relevant public, and other relevant factors. It explicitly states that the subjective intent of the trademark applicant and evidence of actual confusion can be important references for judging the likelihood of confusion. The “Standard for Judgment of Trademark Infringement” (State Council Letter [2022] No. 23) in Article 13 clarifies that “a trademark identical to a registered trademark refers to a textual trademark that is suspected of infringement and is completely identical to a registered trademark, or a visual effect that is basically indistinguishable from a registered trademark, and the relevant public has difficulty distinguishing the trademark.” The introduction of this standard clarifies situations and con-

siderations for “likely to cause confusion,” (China Legal Publishing House, 2022) providing important guidance for trademark infringement law enforcement. However, all the above-mentioned legal provisions follow traditional trademark confusion theories and do not distinguish the direction of confusion. The specific problems arising from the uniqueness of reverse confusion in judicial practice have not been completely resolved.

The author believes that the main issues surrounding reverse trademark confusion encompass criteria for infringement determination, consumer cognition and the likelihood of confusion, the scope and limitations of trademark rights, unfair competition, and market impact. The applicability of reverse confusion theory may vary in different legal systems across countries and regions, and legal regulatory issues should be studied and addressed based on the legal environment and specific circumstances.

Given that reverse confusion has a greater impact on the interests of prior trademark owners and market order compared to forward confusion, and with the process of economic globalization, there is growing concern about the possibility of its occurrence and the limitations of the judicial system. How to explore new avenues for regulating reverse confusion while maintaining legal stability and adhering to traditional legal principles, effectively protecting the legitimate rights of prior trademark owners and consumer interests, and upholding a fair competitive environment in the market, is a pressing issue that requires thoughtful consideration and resolution.

6. Reflection on Legal Regulation of Reverse Confusion in Trademarks

China is currently in a new phase of development, and the enhancement of a fair competition system is a vital guarantee for implementing the new development concept. It is essential to approach the unique nature of reverse confusion and its differences from traditional confusion with rational thinking. Researching and supplementing targeted legal measures to address reverse confusion is of utmost importance. This is necessary to protect the legitimate rights of small and medium-sized enterprises (SMEs) and maintain a fair competitive market environment. In this regard, the author has made several reflections:

6.1. Clarifying the Legal Definition of Reverse Confusion

While the current trademark laws in China do not provide an explicit definition of reverse confusion, it is evident from numerous judicial cases that China does not reject this new form of infringement and has, to some extent, accumulated judicial awareness through practical experience. Building on this foundation and considering China’s emphasis on establishing an efficient market system based on principles of fair competition, it is suggested that a market-oriented approach be adopted.

To achieve this, it is recommended to incorporate reverse confusion into the traditional confusion theory, provide a clear legal definition for it, and establish

its legal status within the framework of the law. This would lay the theoretical groundwork for supplementing and enhancing relevant legal regulations and clarifying legal responsibilities related to reverse confusion.

6.2. Distinguishing Types of Infringement for Reverse Confusion

“Reverse confusion” differs from forward confusion in various aspects, including the intent of infringement, market position, cognitive confusion, and the consequences of infringement. Legal protection in the case of reverse confusion places more emphasis on ensuring that the prior “weaker trademark” does not lose its basic identifying function, thereby safeguarding the development space of the prior trademark owner. If the forward confusion theory were to be applied to reverse confusion over an extended period, it would be challenging to address the series of judicial issues resulting from the lack of relevant legislation.

Therefore, it is recommended that “reverse confusion” be explicitly recognized as a type of infringement within the current trademark law. This recognition should clarify its core elements, scope of application, and legal responsibilities, thereby establishing unified judicial guidelines and standards.

6.3. Establishing a Unified “Fallback” Standard for Judicial Determination

To address the practical issues faced by courts in handling reverse confusion cases due to a lack of clear guidance, it is suggested to consider China’s reality, refer to the application and recognition standards in U.S. reverse confusion precedents, and focus on the differences and characteristics between reverse and forward confusion. The proposed criteria for recognizing reverse confusion infringement include the protectiveness of the trademark, different entities using similar trademarks, significantly greater commercial strength and recognition by the subsequent user compared to the trademark owner, and the potential for confusion between the two trademarks. Research and establish a unified and foundational “bottom line” standard for judicial practice in China. Additionally, consider the subjective intent of the subsequent user, the contributions made by the prior rights holder to the trademark’s fame and distinctiveness, and conduct a comprehensive assessment based on the circumstances and evidence to reduce judgment errors and uphold judicial credibility.

6.4. Graduated Compensation Standards for Reverse Confusion

Currently, there are two main judicial remedies for trademark reverse confusion infringement in China: prohibiting use, eliminating impact, and issuing apologies; and compensation for damages. The existing Trademark Law does not directly address relief for “reverse confusion,” typically relying on Article 63 to handle such cases. However, in cases of reverse confusion infringement, the losses suffered by trademark owners primarily manifest in the depreciation of the trademark’s value, the disruption of its functionality, damage to reputation, and hindered development. It becomes challenging to determine direct econom-

ic losses and apply the compensation provisions referenced in the section on “Compensation for Infringement of Trademark Exclusive Rights.” This can result in difficulties in accurately determining the appropriate compensation and may give judges significant discretion, potentially leading to overuse of litigation by prior rights holders and moral risks.

Therefore, it is recommended to supplement specific compensation provisions in the trademark law that address the uniqueness of “reverse confusion.” These provisions should consider the actual level of harm inflicted by the infringer on the trademark owner, including factors related to the damage to reputation with potential economic value. A tiered system of compensation standards should be established to avoid judicial loopholes and provide more precise protection of the legitimate rights and interests of trademark owners. This would ensure that affected small and medium-sized enterprises receive proper compensation and protection.

6.5. Strengthening Penalties for “Ambush-Style Rights Protection”

According to Chinese law, ambush behavior falls under extortion, and judgments should determine the illegality based on the severity of the circumstances and the amount involved. The Supreme People’s Court emphasized the lawful maintenance of market fairness during the 2022 “Two Sessions,” aiming to strengthen judicial protection for traditional brands, well-established trademarks, and renowned trademarks. This includes curbing unfair competition practices like “riding on the coattails” and saying no to “ambush-style rights protection” to support legitimate operators and penalize illegal operators (Xinhua Net, 2021).

However, in the field of trademark law, “ambush-style rights protection” that harms others’ legitimate rights and disrupts market fair competition is not uncommon due to low illegal costs and insufficient deterrence. In the context of reverse confusion, trademark owners often have lower visibility, while the accused infringer, with substantial strength and established product or service recognition, may engage in “ambush-style rights protection” to exploit the situation.

It is recommended to strengthen credit supervision and credit penalties by establishing a “Trademark Discredit Blacklist” system and a “Public Supervision Reporting Reward System.” Additionally, the introduction of a counterclaim system for malicious litigation can be considered to deter trademark confusion infringement that hinders fair competition in the market. These measures should impose substantial costs on those who engage in intentional “litigation for profit” and malicious infringement, discouraging such behavior.

6.6. Revise and Improve the Trademark Registration and Examination System

China currently follows the “first-to-file principle” for trademark registration, allowing trademark registrants to register multiple trademarks without necessar-

ily using them in business operations, or using them minimally to prevent trademark revocation. This creates opportunities for malicious registration practices such as trademark squatting and hoarding. It is suggested to consider adopting the “use-based principle” similar to the United States’ trademark registration system. Under this principle, the use of the applied-for trademark and the actual usage after registration are taken into account during examination and monitoring. Clear examination criteria and strict revocation rules should be established to continuously enhance the trademark registration and management mechanism, adapt to market developments, and curb subjective malicious behaviors.

Furthermore, it is important to provide knowledge and education on intellectual property laws to small and medium-sized enterprises (SMEs). This will help them understand the specific content of legitimate trademark rights, the main forms of trademark infringement, and the situations in which trademark rights may be lost. Enhancing their ability to recognize trademark infringements and raising awareness of trademark protection is essential.

7. Conclusion

While the traditional trademark system protects the reputation established by trademark owners, preventing malicious counterfeiting, the reverse confusion theory demonstrates a stronger tendency towards property rights. It not only safeguards the reputation already built by the rights holder but also includes potential future accumulations of reputation above the trademark. It allocates all possible benefits related to the trademark to the rights holder (Du, 2008). In the context of China’s comprehensive implementation of the new development concept and the continuous optimization of a fair and orderly business environment, curbing the emerging infringement of trademark reverse confusion, protecting the rights granted by law to trademark owners, and enhancing judicial credibility is essential.

In this article, the author proposed six thoughtful suggestions from the perspective of maintaining legal stability and adhering to traditional legal principles. These suggestions cover clarifying the legal definition, establishing elements, determining standards, relief systems, penalties for “ambush-style rights protection,” and revising the trademark registration examination system. It is acknowledged that these recommendations might face challenges in their complete application due to the unique nature of individual cases. Establishing the concept of reverse confusion within trademark confusion theory and elaborating it in legal regulations requires further research and exploration by academia and relevant authorities.

On July 14, 2023, the Central Committee of the Communist Party of China and the State Council issued “Opinions on Promoting the Growth and Development of the Private Economy.” These opinions emphasized the need to “continuously improve the intellectual property protection system and increase the

protection of original innovation for private small and micro enterprises.” They also provided work arrangements for the comprehensive implementation of policies and systems that promote fair competition. “Law changes with the times for effective governance, and governance that suits the world’s needs achieves success.” As society progresses, the development and changes of the times impose new requirements on the advancement and improvement of the law.

The “Trademark Law” and related regulatory systems, as important legal foundations in the field of intellectual property within the market economy, should address the legal bottlenecks arising from the phenomenon of “reverse confusion” in judicial practice. This should be achieved while upholding the effectiveness of the existing legal system. It is essential to supplement the theoretical elements of reverse confusion and develop supporting regulations that focus on system coordination, effectively resolving judicial challenges, and providing equal protection for the legitimate rights of small and medium-sized enterprises with prior trademarks. Moreover, respecting consumer perceptions and market dynamics, drawing insights from international practices related to reverse confusion in trademark matters, and exploring diversified approaches to coexistence of trademarks can be beneficial. Encouraging market entities to engage in honest business practices and striving to balance the interests of prior trademark holders, lawful users of trademarks, and consumers will contribute to gradually improving the theory of trademark confusion. This approach can promote the synergy and comprehensive enhancement of China’s trademark law and related legislation. It will better serve the maintenance of a fair competitive market order and contribute to the high-quality development of China’s economy and society.

Conflicts of Interest

The author declares no conflicts of interest regarding the publication of this paper.

References

- Beijing Daokete Law Horizon (2020). *Legal Issues Research on Reverse Confusion of Trademarks*. https://www.sohu.com/a/391356019_528351
- Chen, J. Z. (2018a). How the Law Adjusts to Changing Society—An Interpretation of the “Holding Law to Reach Change” Mindset. *Tsinghua Law, No. 6*, 15.
- Chen, Z. (2018b). *Comparative Analysis of the Determination Standards for Easy Confusion in Chinese and American Trademark Laws*. NetEase Intellectual Property. <https://www.163.com/dy/article/E4BQ1CFJ051187VR.html>
- China Legal Publishing House (2022). *Intellectual Property Law* (7th ed., pp. 246). China Legal Publishing House.
- Civil Judgment of Zhejiang High People’s Court of the People’s Republic of China (2018). *Zhe Min Zhong* 157.
- Communist Party Member Network (2013). *The Law Is Not Unchanging, and It Should Be Continuously Amended Based on Social Development*. <https://www.12371.cn/2013/03/16/ARTI1363399613975435.shtml?from=groupmessage>
- Dong, X. M. (2017). On the Unnecessary Concept of “Reverse Confusion.” *Intellectual*

- Property*, No. 5, 51.
- Du, Y. (2008). Theory and Application of the Constituent Elements of Trademark Reverse Confusion. *Law*, No. 10, 8.
- Fu, T. J. (2020). *Precise Counterattack, Overcoming the Enemy—Story behind the MK Trademark Infringement Case*. Chinese Network. http://www.iprdaily.cn/article1_25007_20200615.html
- Guan, Y. Y. (2022). *Logic and Cases in Intellectual Property Judgment: Trademark Volume* (pp. 71-73). Law Press.
- IoT Wisdom Library (2021). *Judgment Result Is Out! Can Amazon No Longer Use the AWS Trademark?* https://www.sohu.com/a/441910856_160923
- Jeremy, P. (2014). *Trademark Law: A Practical Anatomy*. Renmin University Press.
- Li, M. D. (2002). “Reverse Confusion” in American Trademark Law. *Chinese Trademark*, No. 6, 2.
- Li, Y. (2017). *The “Seven Sins” of Trademark Reverse Confusion*. (In Chinese) <https://mp.weixin.qq.com/s/WRuxWZcf5EknS5gVKQ3zLQ>
- NetEase, Southern Metropolis Daily (2021). *Amazon’s AWS Logo Sued for Trademark Infringement! Faces a Claim of 300 Million, Judged to Pay over 70 Million*. <https://www.163.com/dy/article/FVJ3BDSO05129QAF.html>
- Supreme People’s Court Civil Ruling (2019). *Supreme Court Min Shen 6283*. http://www.anlisky.com/page67?article_id=856
- Tianyancha, China Judgment Document Network (2019). *First Instance Administrative Judgment between Amazon Technologies and the State Intellectual Property Office*. <https://susong.tianyancha.com/dfaa9625d50644f691ee78724b7ed722>
- Wang, S. Q. (2013). Application of Reverse Confusion in Trademarks—Borrowing from American Standards. *Modern Communication*, No. 3, 2.
- Wang, Y. Q., & Zhao, L. T. (2017). Determination of the Issue of Reverse Confusion in Trademarks. *Journal of Black Dragonjiang Provincial Political and Legal Cadre Institute*, No. 3, 4.
- Xinhua Net (2021). *(NPC&CPPCC Authorized Release) Work Report of the Supreme People’s Court (Summary)*. http://www.xinhuanet.com/2023-03/08/c_1129420082.htm
- Zhang, J. (2016). Reflection on the “Localization” of Reverse Confusion. *China Patents and Trademarks*, No. 3, 66-76.
- Zhang, X. L., & Yao, X. C. (2013). Determination of “Reverse Confusion” in American Trademarks and Its Implications for China. *International Trade*, No. 5, 41-48.