



Beijing Municipal Higher People's Court Rejects All of RBVC Claims to The Red Bull Trademark Ownership

On November 25, 2019, the Beijing Municipal Higher People's Court rendered a judgment of first instance in the trademark ownership case between Red Bull Vitamin Drink Co., Ltd. (RBVC) and T.C. Pharmaceutical Industries Co., Ltd. (TCP), rejecting all of RBVC's claims, including the claim of ownership over the Red Bull Trademark Ownership and the claim that TCP should pay for advertising expenses incurred by RBVC. The Beijing Municipal Higher People's Court Judgement concluded the following:

- For a period spanning 20 years, since the inception of RBVC, all RBVC shareholders, including Mr. Yan Bin, have never once questioned TCP's ownership of the Red Bull trademarks. Indeed, TCP and RBVC signed several trademark licensing contracts which neither party has ever disputed. **The status of the ownership of the Red Bull (series of) trademarks is clear – the ownership belongs to TCP** – and RBVC's claims lack any factual or legal basis;
- RBVC previously filed a lawsuit against TCP at the Foshan Intermediate People's Court (which RBVC later voluntarily withdrew) on the basis of an existing trademark licensing agreement between the two parties – this constitutes sufficient evidence that RBVC has acknowledged the existence of a legal relationship between the two parties for the purpose of trademark licensing;
- Considering that the relevant advertising expenses incurred by RBVC for their own business interests have already been included in the company's operating costs, RBVC's claim that TCP should pay for advertising expenses incurred by RBVC lacks any factual or legal basis.

T.C. Pharmaceutical Industries Co., Ltd. (TCP), a member of the TCP Group and the Yoovidhya family, the inventors and owners of the Red Bull brand and trademarks globally as well as the founding shareholders of RBVC, licensed the use of the Red Bull trademark to RBVC for a period from 1996 to 2016.

During that time and to date, without the consent of the shareholders or the approval of the Board of Directors of the joint venture, Mr. Yan Bin has established companies fully under his ownership outside of the RBVC system, manufacturing and distributing Red Bull products without any trademark licenses, and, as such, has seriously violated TCP's ownership and exclusive rights for the Red Bull trademarks.

In addition, even though RBVC's trademark license term ended on October 6, 2016, RBVC continues to use the Red Bull trademarks to produce and distribute Red Bull products in China which also constitutes a serious violation of the ownership and exclusive rights of the Red Bull trademark.

TCP has since filed trademark infringement lawsuits against the above infringing companies. However, Mr. Yan Bin has repeatedly sought to delay the aforementioned lawsuits through filing numerous lawsuits against TCP by RBVC, which is under his control, challenging the ownership of the "Red Bull Series of Trademarks."

One such example of legal maneuvering to delay litigation includes the lawsuit filed by RBVC on 30 August 2018 with the Beijing Municipal Higher People's Court, asking the court to confirm that



RBVC had a legitimate interest in the ownership of the Red Bull Series of Trademarks and to require TCP, as a defendant in this lawsuit, to pay for advertising expenses incurred by RBVC.

Of particular note in the unfolding of this lawsuit is the fact Mr. Yan Bin has deliberately delayed several of TCP's trademark infringement lawsuits by controlling RBVC and filing frivolous trademark lawsuit at the Dongcheng District People's Court of Beijing (September 2017). This lawsuit was subsequently withdrawn two days before the trial (August 14, 2018). The case with Beijing Municipal Higher People's Court was then filed to continue to delay the initial trademark infringement lawsuits filed by TCP.

Mr. Yan Bin's legal maneuverings clearly aim to delay, obstruct and disrupt normal trial procedures brought by TCP. However, such tactics are now running their course as we begin to see important breakthroughs in legal rulings which overwhelmingly favor TCP.

We remain committed to seeing through the lawsuits we have filed to safeguard our legal rights, and we have full confidence in the strength of our legal position and the merits of our own claims in these cases. We trust that proceedings will follow due course and that justice will be served. Having first introduced Red Bull to China more than two decades ago, TCP is fully dedicated to maintaining our brand's strong and vibrant presence in the Chinese market. As we look to the future, we are actively exploring more business models and cooperation opportunities and will introduce more world-class offerings from TCP's "House of Brands" to Chinese consumers, ensuring we continue to provide our local fans with the highest quality products.

Media Enquiries

TCmediaenquiries@hkstrategies.com

www.hongniufacts.com