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BUSINESS

Flood of Trademark Applications From China Alarms U.S. Officials

Most of the Chinese filers are tiny merchants hawking goods like pocketbooks, binoculars and phone chargers



China's southeastern city of Shenzhen, often referred to as the Silicon Valley of China, pays companies and individuals as much as roughly \$800 for each U.S. trademark they register. PHOTO: EPA/SHUTTERSTOCK

By Jacob Gershman

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Huge numbers of Chinese citizens are seeking trademarks in the U.S., flooding the U.S. Patent and Trademark Office with applications that officials say appear to be rife with false information.

The surge of filings from China has surprised the patent office. Officials say it could be fueled by cash subsidies that Chinese municipal governments are offering to citizens who register a trademark in a foreign country.



Trademark applications from China have grown more than 12-fold since 2013 and for fiscal 2017 totaled thousands more than the combined filings from Canada, Germany and the U.K. About one in every nine trademark applications reviewed by the U.S. agency is China-based, according to government data.

Patent and trademark officials say cash incentives could be a factor. As part of a national effort to ramp up intellectual-property ownership, China's provincial governments are paying citizens hundreds of dollars in Chinese currency for each trademark registered in the U.S.

Many Chinese applicants list addresses in the southeastern city of Shenzhen, often referred to as the Silicon Valley of China. Shenzhen pays companies and individuals as much as roughly \$800 for a U.S. registered trademark, according to the city's intellectual-property bureau.

The U.S. officials say many China filings show a pattern of suspicious claims about the goods in question and the qualifications of the attorneys handling them.

"There's been a dramatic increase on Chinese filings. A lot of [them] seem to be not legitimate," the patent office's trademarks commissioner, Mary Boney Denison, said at a Trademark Public Advisory Committee meeting last fall, according to a transcript.

Josh Gerben, a Washington, D.C., trademark lawyer, said fraudulent trademarks could cause costly delays for other filers if their names are too similar, a grounds for a refusal. "The significant number of fraudulent trademark filings being made from China is disrupting our trademark system," he said.

The vast majority of the Chinese filers are tiny merchants hawking online goods, such as pocketbooks, binoculars, phone chargers and knit hats, under an array of sometimes vowel-less brand names.

To qualify for a federal trademark registration, a product or service must be "used in commerce," among other requirements. But unless another company is challenging the trademark, little evidence is required to back up the "in use" claim. There have been instances when a screenshot of a listing on Amazon or another e-commerce site is all an applicant needed to demonstrate market activity.

The Patent and Trademark Office has found numerous instances of Chinese applicants asserting that a proposed trademark is used in commerce, while submitting multiple nearly-identical images of the same consumer product with a different word on the brand tag. FORLISEA, CINYIFAAN, ENJOYSWEETY and GOOKET are some of the two dozen Chinese brands shown on an identically designed pair of zebra-print pants, for example.

The trademark subsidies are part of China's "planned approach to intellectual property," said Mark Cohen, a China-focused intellectual-property expert at Berkeley Law School and former senior counsel at the patent office. As with patents, China has a "highly metric, numbers-oriented approach" to intellectual property, he said.

Having a trademark registered in the U.S. is crucial for sellers on Amazon, whose brand-registry program rewards officially trademarked products with more site visibility and a higher listing in search results.

A number of Chinese merchants appear to be represented by foreign attorneys who aren't licensed to practice law in the U.S., violating application rules. In one recent application, a Shenzhen address was listed for an attorney representing a Hong Kong client who had digitally altered a photo to insert the word "Instamarket" over a Walmart storefront.

And more than a dozen Chinese applicants entered the name "Wendy" into the entry box for the attorney name on the trademark application.

Hundreds of Chinese applicants are represented by an Atlanta trademark attorney, Amber Saunders. She said she developed her client pool after accidentally emailing a marketing message to a China-based intellectual-property company, which then started steering Chinese merchants her way.

Some of the merchants had already submitted problematic paperwork that needed fixing. Ms. Saunders said she took on only clients whose commercial activity seemed legitimate. The ones submitted by a lawyer named "Wendy" were among the red flags, Ms. Saunders said. "I wanted to know if they were making stuff up."

—*Fanfan Wang contributed to this article.*

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