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## **Under Armour Defeats Uncle Martian at China's Supreme People's Court in Trademark Battle**

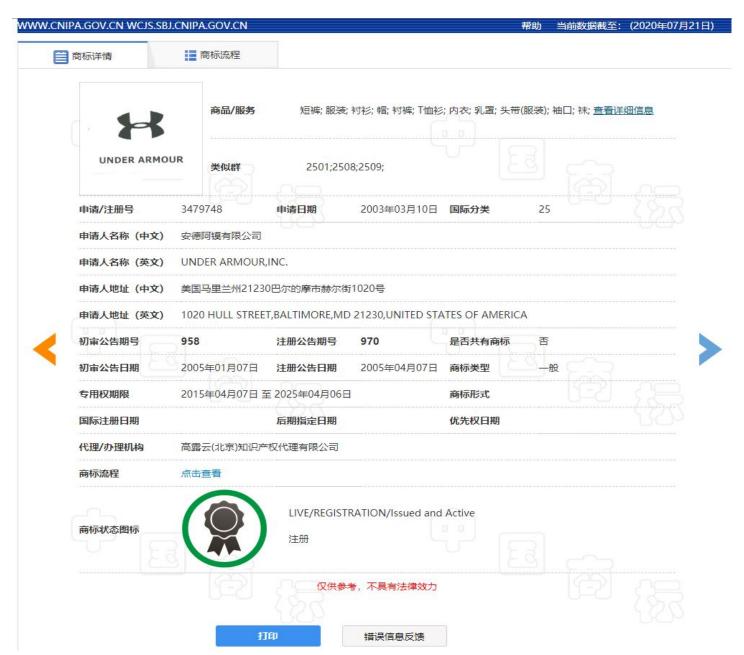
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In a <u>decision dated July 17, 2020</u>, China's <u>Supreme People's Court</u> ruled for <u>Under Armour, Inc.</u> against Fujian Tingfeilong Sporting Goods Co., Ltd. (????????????) for trademark infringement and unfair competition. Under Armour was founded in 1996 and as of 2018 had almost \$5 billion USD in annual revenue selling sportswear, such as clothing and running shoes. In contrast, Tingfeilong launched the brand "Uncle Martian" in 2016 in China also in the sportswear field. As can be seen below, the Uncle Martian logo is extremely similar to the Under Armour logo. Unsurprisingly, Under Armour immediately sued Tingfeilong for trademark infringement and unfair competition and, also unsurprisingly, won. The Supreme People's Court has just affirmed that ruling.



Under Armour has multiple registered Chinese trademarks, which served as the basis for the claim of infringement, including No. 12165772 "Under Armour" in class 28; No. 3463214 "UNDERARMOUR" in class 25; No. 7329995 "UNDERARMOUR" also class 25; No. G996450 "UNDERARMOUR" class 25; No. G996450 "UNDERARMOUR" class 28, Trademark No. 3479748 for the logo in class 25, and a Chinese-language equivalent of "Under Armour."



Under Armour's Registered Chinese Trademark No. 3479748 in class 25

The court of first instance held that Tingfeilong was the correct defendant as it had infringed as evidenced at least by the use of the logo on investment promotion advertisements and at a brand press conference, which connected the logo's use to Tingfeilong.



This infringement constituted trademark infringement. Regarding trademark infringement, the brand press conference featuring the logo, the investment promotion advertisements featuring the logo, the logo used on the business premises, the logo used on brochures, shoes and a basketball having the logo displayed in a sample room, wristbands and t-shirts with the logo, etc. all identify the source of goods. After a comparison of the Uncle Martian logo with the registered marks to Under Armour, the Court of First Instance held "Tingfeilong's claim that there is a difference in the design style and overall appearance between the logo and the trademark of Under Armour is not accepted due to insufficient factual and legal basis." However, Tingfeilong's use of the brand name "Uncle Martian" was not infringing.

The Court of First instance also ruled there was unfair competition because Tingfeilong used "Under Armour (China) Co., Ltd." on its business card despite having no relationship with Under Armour.

Accordingly, the Court of First Instance issued an injunction, required destruction of infringing products, payment of damages of 2 million RMB (~\$286 thousand USD), and publish a public apology.

On appeal, the Supreme People's Court upheld the verdict stating "Tingfeilong's appeal request cannot be established and should be rejected; the first-instance judgment has clearly established the facts and the applicable law is correct and should be maintained."

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