

New Balance Fails to Invalidate Chinese New Balance Trademark at Beijing Higher People's Court

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In a decision dated February 9, 2021 and first reported by [?????](#), [New Balance](#) has failed on appeal to invalidate a Chinese trademark that is a transliteration of its name. Specifically, New Balance had attempted to invalidate the mark ??? (4100879 in class 25) to Guangzhou New Balance Enterprise Management Co., Ltd. (?????????????) first at the former Trademark Office of the State Administration for Industry and Commerce (now China National Intellectual Property Administration (CNIPA)), then at the [Beijing Intellectual Property Court](#), and now on appeal at the Beijing Higher People's Court. This contrasts with New Balance's [earlier Chinese victory against New Barlun](#) for the "N" logo.

This is just one trademark battle between New Balance and Guangzhou New Balance. Earlier, Guangzhou New Balance successfully sued New Balance for trademark infringement winning 98 million RMB and an injunction. The Guangzhou Intermediate Court's ruled that New Balance immediately stop using "???" to mark and promote its products; compensate the plaintiff 98 million RMB (~\$15 million USD); and publish an apologies on the New Balance (China) official website and on Tmall store websites.

balance ?????” combination trademark of New Balance.

According to Zhou, the legal representative of Guangzhou New Balance, the disputed trademark was registered by Zhou Lelun on the basis of his earlier registered “Bai Lun” trademark. The registration and use are reasonable, and “???” is not a transliteration of “NEW BALANCE”. There is no connection between the two; the “NEW BALANCE” trademark did not constitute a well-known trademark before the registration application date of the disputed trademark, and the disputed trademark is not a copy or imitation of the well-known trademark of New Balance, nor does it constitute a similar trademark. “???” is not New Balance’s prior trade name nor a well-known mark.

The Beijing Higher People’s Court held that the disputed trademark and the combined trademark of “new balance ?????” are significantly different in text composition, sound, and overall visual effects. They do not constitute similar trademarks, and “???” and “New Balance” and do not correspond with each other. Accordingly, the Court upheld the earlier verdict.

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