

Wyeth's 30.55 Million RMB Punitive Damages Award for Chinese Trademark Infringement Upheld on Appeal

Article By:

Aaron Winger

On April 26, 2021, the Zhejiang High Court [upheld a verdict of 30.55 million RMB \(~\\$4.7 million USD\)](#) in damages including punitive damages in favor of Wyeth in a trademark infringement case. Wyeth LLC (“U.S. Wyeth”), a global leader in infant milk powder, originally sued Guangzhou Wyeth Baby Maternal and Infant Products Co., Ltd. (????????????) (“Guangzhou Wyeth”) for trademark infringement and unfair competition in [Hangzhou Intermediate Court](#) and was awarded 30.55 Million RMB in damages and an injunction [per a decision released January 6, 2021](#). In addition to the damages, Guangzhou Wyeth must stop using Wyeth and ?? (a transliteration of Wyeth) in production and sales of products for infant bathing, skin care, feeding, laundry, diapers, mosquito repellent wipes, adult care and pregnancy products, product packaging, advertising and other commercial activities.



U.S. Wyeth on left vs. Guangzhou Wyeth on right.

The Hangzhou Intermediate Court determined that the Guangzhou Wyeth and co-defendants used the marks “Wyeth”, “Wyeth”(Chinese) and “Wyeth Little Lion” on the infringing products, product packaging and brochures they produced and sold, and carried out publicity on the website. This

constitutes the use of trademarks that are the same as or similar to Wyeth's registered trademarks on similar goods, which easily confuses the relevant public about the source of the goods and infringes on the exclusive rights of Wyeth's registered trademarks. Co-defendant Qingdao Wyeth's use of "Wyeth" in its corporate name constitutes unfair competition.

In terms of the amount of compensation, the Hangzhou Intermediate People's Court took into account that the plaintiff's trademark reputation was high, the defendant's malicious infringement of Wyeth's goodwill and brand name was obvious, the defendant's infringement lasted for a long time, involved a wide area, and the scale of infringement was serious. The products involved in the case are related to factors such as the health and safety of infants and young children and therefore punitive damages was appropriate.

On appeal, Guangzhou Wyeth Company argued that its use of the Wyeth logo was reasonable and legal, and there was no subjective malice of infringement, and there was no serious circumstances – the court of first instance applied punitive damages unreasonably. The Zhejiang High Court rejected that argument holding the defendant's infringement lasted for a long time and made great profits, which met the "intentional" and "serious circumstances" requirements for punitive damages, and the application of punitive damages was not inappropriate. The Court determined that the application of the law in the judgment of the first instance was correct and the trial procedures were legal, and ruled to reject the appeal and uphold the original judgement.

The full text of the Hangzhou Intermediate Court opinion is available here: [???](#) (Chinese only). The full text of the Zhejiang High Court opinion is available [here](#) (Chinese only).

© 2024 Schwegman, Lundberg & Woessner, P.A. All Rights Reserved.

National Law Review, Volumess XI, Number 118

Source URL: <https://natlawreview.com/article/wyeth-s-3055-million-rmb-punitive-damages-award-chinese-trademark-infringement>