

China's State Administration for Market Regulation Releases Typical Cases of Unfair Competition on the Internet

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On December 29, 2024, China's State Administration for Market Regulation (SAMR) released Seven Typical Cases of Unfair Competition on the Internet ([??????????????](#)). In May 2024, the State Administration for Market Regulation formulated and issued the Interim Provisions on Anti-Unfair Competition in the Internet and accordingly the SAMR released these cases to “effectively guide business entities to operate in accordance with the law, continue to regulate their own business behavior, and jointly create a good competitive environment.”

Two of the seven are related to intellectual property, specifically trade name and trade secrets. Translation of the summaries provided by the SAMR follow. Other cases related to defamation and false advertising, etc.

3. Ningbo Municipal Market Supervision Administration of Zhejiang Province investigated and dealt with the commercial confusion case of Ningbo Yinzhou Yixing Times Beauty Hospital Co., Ltd.

Case description: Ningbo Yinzhou Yixing Times Beauty Hospital Co., Ltd. is a plastic surgery institution specializing in stomatology and medical beauty. In order to expand its business and attract consumers, the party has been promoting stomatology and medical beauty services on search engines for a long time. In order to compete for traffic, the party purchased keywords and used a large number of other competitive stomatology and beauty hospitals as keywords in the background of the search engine, forming title links containing the names of competing institutions, such as “Ningbo XX Stomatological Hospital—Imported Dental Implants—1,580 yuan each” and “Ningbo XX Plastic Surgery Hospital—[National Brand Chain][Ningbo Regular Plastic Surgery Hospital]”. When consumers enter the corresponding keywords through the search engine, the above-mentioned title links containing the names of competing institutions will be displayed first, but after clicking on the link, they will enter the party's advertising link website and customer service dialogue page, which makes consumers mistakenly believe that the party's advertising link they clicked has a specific connection with the competitive institution they searched for, misleading consumers.

Legal basis and penalties:

The party's behavior violated the provisions of Article 7, paragraph 2, of the Interim Provisions on

Anti-Unfair Competition on the Internet and Article 6, paragraph (2) of the Anti-Unfair Competition Law of the People's Republic of China. In accordance with Article 33 of the Interim Provisions on Anti-Unfair Competition on the Internet and Article 18, paragraph 1, of the Anti-Unfair Competition Law of the People's Republic of China, the party is ordered to stop the illegal behavior and, based on a comprehensive consideration of the circumstances of the case, is fined RMB 50,000.

Case Analysis:

Keyword search is an important way for consumers to search for the information they need in the vast amount of online information. Keyword promotion service is a marketing promotion service provided by Internet search engines. According to the "Interim Provisions on Anti-Unfair Competition on the Internet", when the commercial name of others with a certain influence is set as a search keyword without authorization, and the search results are sufficient to mislead people into thinking that it is another person's product or has a specific connection with it, it may constitute a confusing behavior regulated by the Anti-Unfair Competition Law. The investigation and handling of this case reminds the majority of operators that while using the Internet to increase publicity and expand their own popularity, they must not have the incorrect mentality of "taking advantage of loopholes" or "sucking traffic." They should follow the principles of honesty and trustworthiness and business ethics, always pay attention to the bottom line of competitive behavior, and innovate and develop on a legal track and move forward steadily.

VII. The Market Supervision and Administration Bureau of Gongshu District, Hangzhou City, Zhejiang Province investigated and dealt with the case of Hangzhou Shantao Technology Co., Ltd. infringing on trade secrets and making false advertisements

Case description: Since 2019, Hangzhou Shantao Technology Co., Ltd. has obtained a large amount of commodity order information, logistics information and other business data of a certain online trading platform without authorization and permission by using illegal technical means such as hacking the electronic waybill system of a certain platform's express delivery. It also used the illegally obtained transaction information to replace the merchant's commodity orders with small gifts purchased from the party on the online order-brushing website it operates, and synchronized the logistics information of the small gifts to the merchant's store backend to replace the commodity logistics information, thereby achieving the purpose of increasing commodity sales by "bidding A to send B". As of the time of the case, the party had illegally obtained more than 520,000 pieces of other people's business information, provided 589,874 "bidding A to send B" order-brushing services, and accumulated a transaction volume of more than 1 million RMB.

Legal basis and penalties:

The parties' actions violated the provisions of Article 9, paragraph 2, of the Interim Provisions on Anti-Unfair Competition on the Internet and Article 8, paragraph 2, and Article 9, paragraph 1, item (a) of the Anti-Unfair Competition Law of the People's Republic of China. In accordance with Article 34 of the Interim Provisions on Anti-Unfair Competition on the Internet and Article 20, paragraph 1, and Article 21 of the Anti-Unfair Competition Law of the People's Republic of China, the parties are ordered to stop the illegal activities and fined RMB 725,000.

Case Analysis:

In this case, the online transaction order data of the e-commerce platform has commercial value and is not known to the public. The e-commerce platform has taken strict confidentiality measures for

such operational data, which is a corporate trade secret. The party developed an online order-brushing platform on its own, used illegally obtained trade secrets, fabricated the number of goods sold, and realized the automation and customization of online order-brushing, which is faster and more harmful. In the network environment, various unfair competition behaviors are intertwined and superimposed, and are constantly renewed. The market supervision department resolutely draws the sword against illegal behaviors and regulates them according to the law. By strengthening law enforcement, it protects the legitimate rights and interests of enterprises and consumers and purifies the competition environment of the network market.

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