

Practice Update in China:

Stricter Requirements for Trademark Cancellation Based on Non-Use

By Ms. Haiyu Li, Lawyer and Partner of Chofn International IP

Article 49 of the *Trademark Law of the People's Republic of China* stipulates that if a registered trademark has not been used for three consecutive years without justifiable reason, any entity or individual may apply to the Trademark Office to cancel the registration (hereinafter referred to as a "non-use cancellation request"). For a long time, cancellation requests have been widely used to clear prior registered trademarks, removing obstacles for subsequent conflicting trademark applications. The acceptance criteria applied in the past for such requests were relatively lenient—cancellation applicants could shift the burden of proof to the trademark registrant by simply submitting basic online search results indicating no evidence of the trademark's use.

However, since the beginning of 2025, the China National Intellectual Property Administration (CNIPA) has significantly tightened the acceptance requirements for non-use cancellation requests, imposing stricter standards on both the qualification of applicants and the preliminary evidence of investigation. Based on various office actions received by us and other industry peers, CNIPA's current requirements for accepting non-use cancellation requests include, but are not limited to, the following:

I. Qualification Requirements for Applicants

1. **Excessive Filings for Profit Unacceptable** – If an applicant has submitted multiple cancellation requests and is suspected of profiting from such actions, they must provide evidence justifying the legitimacy of the requests.
2. **Proof of Identity** – Copy of the applicant's identity or qualification documents must bear the official seal or qualified signature of the applicant.
3. **Disclosure and Commitment** – The parties should submit a commitment confirming that they have not concealed the true identity of the cancellation applicant or other material facts and that all submitted information is truthful, accurate, and complete. Such commitments must be signed and/or stamped by both the applicant and the agency.

II. Standards for Preliminary Investigation Evidence

1. **Basic Information of the Trademark Registrant** – The cancellation applicant must provide details about the trademark registrant, including their business scope, operational status, trademark registrations and so on.
2. **Requirements for owner in operation** – If the owner is operational, the cancellation applicant must submit online or offline investigation reports and evidence regarding the owner's product sales, service offerings, business premises, or office locations. If the cancellation applicant and the trademark owner are located in the same geographical region, an on-site investigation report must be supplemented.
3. **Online Platform Searches** – The applicant must provide search evidence from comprehensive online platforms, including:
 - **Mainstream search engines** (e.g., Baidu, Bing, Sogou);
 - **E-commerce platforms** (e.g., Taobao, JD.com, Pinduoduo);
 - **Social media** (e.g., WeChat, Weibo, Xiaohongshu); and/or
 - **Industry-specific websites** related to the designated goods/services.The search must include **five consecutive full-page screenshots from the homepage for each platform**, covering at least **three different platforms**. In addition, keywords must be reasonably set to completely include the **owner's name, trademark name and the designated goods/services**. Currently, some examiners require searches for each designated good/service being cancelled, while others may accept searches for only two items.
4. **Disclosure of related cases** – The cancellation applicant is required to disclose the related new trademark applications or refusal review proceedings, namely the reason to file the cancellation request.

III. Possible Consequences of Non-Acceptance

Failure to meet the aforesaid requirements may result in Office Actions. More seriously, CNIPA may reject cancellation requests under specific circumstances, such as:

1. **Contradictory Evidence** – If the cancellation applicant's explanation or preliminary investigation evidence contradicts the facts (e.g., submitted or other evidence already shows the trademark's use on the disputed goods/services).
2. **Prior Maintenance in Cancellation Proceedings** – If another party files a cancellation request for goods/services that overlap with those previously maintained in an earlier cancellation proceeding.
3. **Failure to Respond to Office Actions** – If the cancellation applicant fails to timely respond to an Office Action or submits a response that does not comply with official requirements.

The original intention of establishing the non-use cancellation system is to encourage and promote active use of registered trademarks, preventing idle trademark resources, but not to penalize trademark owners. CNIPA's stricter acceptance criteria aim to reinforce legitimate cancellation requests while preventing abuse that could disrupt the normal business activities of trademark owners. Under the current practice, if an applicant attempts to conceal their identity or repeatedly files cancellation requests to interfere with a trademark owner's operations, they may face **rejection of their cancellation requests or adverse consequences such as credit-related penalties for dishonesty.**