

Bentley Motors Limited v. China National Intellectual Property Administration and Other Trademark Administrative Dispute Second Instance Administrative Judgment

- **Case Nature:** Administrative Second Instance
- **Judgment Case Number:** (2024) Jing Xing Zhong 3373
- **Case Region:** Beijing
- **Filing Year:** 2024
- **Trial Duration:** 289 days
- **Judgment Date:** February **, 2025
- **Judgment Result:** Revoke the first-instance judgment
- **Cause of Action:** Other trademark administrative disputes
- **Trademark Category:** Class 25

Parties:

- **Appellant (First-instance Plaintiff):** Bentley Motors Limited.
 - **Representative:** Justin Pridding, Company Officer.
 - **Entrusted Litigation Agents:** Xiao Yuexin and Guo Lingxiao, Lawyers at Taihe Tai (Beijing) Law Firm.
- **Respondent (First-instance Defendant):** China National Intellectual Property Administration.
 - **Legal Representative:** Shen Changyu, Director.
 - **Entrusted Litigation Agent:** Pang Min, Examiner at China National Intellectual Property Administration.
- **First-instance Third Party:** Heshan Bentley Trading Co., Ltd.
 - **Legal Representative:** Li Minshan.

Trial Process:

Bentley Motors Limited (hereinafter referred to as Bentley Motors) was dissatisfied with the administrative judgment (2022) Jing 73 Xing Chu 19328 of the Beijing Intellectual Property Court of the People's Republic of China (hereinafter referred to as the first-instance court) regarding a trademark invalidation request administrative dispute and appealed to this court. After accepting the case on May 13, 2024, this court formed a collegiate bench and held a public hearing on January 10, 2025. Bentley Motors'

entrusted litigation agents Xiao Yuexin and Guo Lingxiao, and the entrusted litigation agent of the China National Intellectual Property Administration (hereinafter referred to as the CNIPA), Pang Min, attended the litigation. The first-instance third party, Heshan Bentley Trading Co., Ltd. (hereinafter referred to as Bentley Trading), was absent from the trial without a justified reason after being served a summons by public announcement, and the case was tried in absentia. The trial has now concluded.

First-instance Trial Findings:

The first-instance court found:

1. Disputed Trademark:

- **Registrant:** Bentley Trading.
- **Registration Number:** 1128579.
- **Application Date:** November 15, 1996.
- **Exclusive Period Until:** November 20, 2027.
- **Mark:** "宾利 BENTLEY".
- **Approved Goods (Class 25, Similar Group 2507):** Leather shoes; sports shoes; rubber shoes; sandals; slippers, etc.

2. Challenged Decision: Trademark Review [2022] No. 21660 "Decision on the Request for Invalidation of Trademark No. 1128579 '宾利 BENTLEY'".

- **Date of Challenged Decision:** January 24, 2022.
- **Challenged Decision Finding:** Bentley Motors failed to provide sufficient evidence to prove that the disputed trademark was obtained by "other improper means" as stipulated in Article 27 of the 1993 revised "Trademark Law of the People's Republic of China" (hereinafter referred to as the 1993 Trademark Law), and thus the claim of Bentley Motors was not supported.

First-instance Judgment:

The CNIPA, based on the provisions of Article 44, Paragraph 3, and Article 46 of the 2019 revised "Trademark Law of the People's Republic of China" (hereinafter referred to as the 2019 Trademark Law), ruled to maintain the disputed trademark.

Other Facts:

On February 25, 2021, Bentley Motors filed an invalidation request against the disputed trademark with the CNIPA. During the trademark review stage, Bentley Motors submitted the following main evidence materials to the CNIPA: 1. Evidence related to Bentley Motors and its brand introduction; 2. Evidence of brand promotion and related reports; 3.

Web pages of Bentley's Chinese official website regarding dealers and after-sales service centres in China; 4. Audit reports, annual/semi-annual reports, sales evidence; 5. National Library search report; 6. Decisions and judgments recognising "BENTLEY" and "B & Design" trademarks as well-known to the relevant public; 7. Copyright registration certificates; 8. Promotion, sales evidence, and related reports of Bentley watches, glasses, car audio, furniture, etc.; 9. Corporate information, trademark information, website screenshots, non-registration/review decisions of Bentley Trading and its affiliates as evidence of bad faith; 10. List of trademarks containing "BENTLEY"; 11. Other related evidence; 12. Introduction and translation of the surnames "BENTLEY" and "JORDAN" from a surname database website; 13. Explanation and translation of the "BENTLEY" entry in the online version of the Longman Contemporary English Dictionary; 14. Baidu Encyclopedia or web introduction of celebrities named "BENTLEY"; 15. Related materials on the protection of Bentley trademarks; 16. Web introduction of Jordan Kate and Ola Jordan; 17. Other judgments; 18. Website information of Bentley Trading.

Bentley Trading submitted the following main evidence materials to the CNIPA: 1. Trademark information of Bentley Trading; 2. Other trademark search results; 3. News reports on the Heshan Gulao Dragon Boat Festival and intangible cultural heritage projects; 4. Evidence of trademark use, related reports, and honours received by Bentley Trading; 5. Other corporate information and related documents; 6. Some trademark cancellation review decisions of Bentley Motors.

Bentley Motors, dissatisfied with the challenged decision, filed a lawsuit within the statutory period.

During the first-instance litigation stage, Bentley Motors submitted 11 articles and translations from newspapers such as the Times from 1929 to 1936 about "Bentley" cars; Chapter 7 "Car Purchase Guide" from the 1994 "New Car Construction, Driving and Maintenance"; "Rolls-Royce's Great Show" published in the 7th issue of "Economic World" in 1944; introductions or reports about Bentley cars in magazines such as "Car Owner" from 1982 to 1994; articles in mainland China journals or newspapers from 1994 to 1998 translating "BENTLEY" as "宾利"; prior decisions, rulings, and judgments recognising Bentley Motors' prior trademarks as well-known; cases recognising Class 25 "clothing" and Class 12 "cars" as related goods; trademark files of Bentley Trading and its affiliates for "BENTLEY", "宾利", or "B & Design"; trademark transfer approval notices; prior decisions and rulings such as Trademark Review [2021] No. 235897 to support its litigation claims.

The first-instance court held that the evidence submitted by Bentley Motors was insufficient to prove that the application for registration of the disputed trademark was obtained by deceptive means or other improper means, nor was it sufficient to prove that the use of the disputed trademark disrupted the order of trademark registration and management, harmed public interests, or sought improper benefits. Therefore, the

challenged decision's finding that the disputed trademark did not constitute a situation of "obtaining registration by other improper means" as stipulated in Article 27 of the 1993 Trademark Law was not inappropriate. The first-instance court, in accordance with Article 69 of the "Administrative Litigation Law of the People's Republic of China", ruled to dismiss Bentley Motors' litigation request.

Appellant's Claims:

Bentley Motors, dissatisfied with the first-instance judgment, appealed to this court, requesting the revocation of the first-instance judgment and the challenged decision, and ordering the CNIPA to make a new decision. The main reasons for the appeal are: Bentley Trading and its affiliates have applied for registration of more than 20 trademarks in multiple categories that are highly similar to Bentley Motors' Chinese "宾利" trademark, English "BENTLEY" trademark, and "B & Design" trademark, including details and evolution of the marks that are highly consistent with Bentley Motors' related trademarks. At the same time, Bentley Trading and its affiliates have also registered more than ten trademarks in multiple categories that are identical or similar to well-known luxury car brands such as "Maybach" and "Ferrari". Bentley Trading and its affiliates have continuously and extensively applied for registration of trademarks identical or highly similar to well-known luxury car brands such as "Bentley", "Maybach", and "Ferrari", with obvious subjective malice of free-riding and brand-name association, disrupting the normal order of trademark registration management and fair and orderly market competition, harming public interests, and constituting a situation of "obtaining registration by other improper means" as stipulated in Article 27 of the 1993 Trademark Law.

Respondent's Defence:

The CNIPA accepts the first-instance judgment.

Bentley Trading did not appeal the first-instance judgment and did not appear in court to respond during the second-instance litigation.

Second-instance Findings:

Upon review, it was found that the facts ascertained by the first-instance court are true, and there is evidence such as the disputed trademark file, the challenged decision, evidence materials submitted by the parties, and statements of the parties to support this, which this court confirms.

During the second-instance litigation stage, Bentley Motors submitted the following main evidence: 1. Periodicals and books introducing Bentley Motors' "BENTLEY" brand cars from 1993 to 1996; 2. Related prior judgments; 3. Corporate credit information of Guangdong Lehua Cable Co., Ltd.; 4. Tianyancha's list of companies that have called

Guangdong Lehua Cable Co., Ltd. This fact is supported by the second-instance evidence submitted by the parties.

It was also found that the applicant for registration of the disputed trademark was Heshan Fuhao Footwear Leather Goods Co., Ltd. (hereinafter referred to as Fuhao Footwear), which was subsequently transferred to Heshan Fuhao Industrial Development Co., Ltd. (hereinafter referred to as Fuhao Industrial), Heshan Junpin Trading Co., Ltd. (formerly known as Heshan Bentley Industrial Co., Ltd., hereinafter referred to as Bentley Industrial), and Bentley Trading.

The operator of Fuhao Footwear, Li Weixiong, was once a shareholder and supervisor of Bentley Industrial. The shareholder of Fuhao Industrial, Lu Jieyi, was also a shareholder of Bentley Industrial. Bentley Industrial and Bentley Trading have the same registered contact phone number and email address, and Bentley Industrial was once a shareholder of Bentley Trading.

Fuhao Footwear applied for registration of 8 trademarks including the disputed trademark "宾利" and "豪派", all of which have been transferred to Bentley Trading and Bentley Industrial.

Fuhao Industrial applied for registration of 5 trademarks including "B & Design" and "Ferrerias", all of which have been transferred to Bentley Trading, Bentley Industrial, and Li Meishan. Bentley Industrial applied for 30 related trademarks including "宾利" and "Ferrerias", all of which, except for those not approved for registration, have been transferred to Bentley Trading and Li Meishan, Lu Xiaomin. Bentley Trading applied for registration of 2 "宾利" Chinese and English trademarks and currently holds 16 related trademarks, including the disputed trademark.

These facts are supported by the first-instance and second-instance evidence submitted by the parties.

Court's Opinion:

This court holds that the focus of the second-instance dispute is whether the registration of the disputed trademark violates the provisions of Article 27 of the 1993 Trademark Law.

Article 27, Paragraph 1 of the 1993 Trademark Law stipulates that a registered trademark that violates the provisions of Article 8 of this law, or is obtained by deceptive means or other improper means, shall be revoked by the Trademark Office; other units or individuals may request the Trademark Review and Adjudication Board to revoke the registered trademark.

In this case, the evidence submitted by Bentley Motors can prove that before the application date of the disputed trademark, the "BENTLEY" and "宾利" trademarks had a certain degree of fame and influence in the automotive goods in mainland China. The

disputed trademark was applied for registration by Fuhao Footwear and was subsequently transferred to Fuhao Industrial, Bentley Industrial, and Bentley Trading. According to the facts ascertained, there are direct shareholding or personnel cross-shareholding and employment relationships between these companies. According to the evidence on record, these companies have successively applied for registration of more than 20 trademarks identical or similar to Bentley Motors' "宾利", "BENTLEY", "B & Design" trademarks in multiple goods and service categories such as Class 9, 14, 25, and 36 since 1994, and have also applied for registration of more than 10 trademarks similar to others' well-known commercial signs such as "Ferrerias", without explaining the legitimacy of the related application registration behaviour, nor proving the continuous and effective actual use of the disputed trademark. According to general life experience and business practices, the above behaviour clearly exceeds the needs of normal production and operation and has the intention of engaging in unfair competition or seeking illegal benefits by leveraging others' well-known brands, damaging the legitimate rights and interests of other operators, thereby disrupting the order of trademark registration and harming social public interests, constituting a situation of "obtaining registration by other improper means" as stipulated in Article 27 of the 1993 Trademark Law. The relevant findings of the first-instance judgment are erroneous, and this court corrects them. The new evidence submitted by Bentley Motors during the litigation stage is not the basis for the CNIPA's challenged decision, so the case acceptance fee is still borne by Bentley Motors.

Judgment Result:

In summary, the first-instance judgment's factual findings and legal application are erroneous, and this court corrects them. Bentley Motors' appeal reasons are valid, and this court supports its appeal request. In accordance with Article 70 and Article 89, Paragraph 1, Item 2, and Paragraph 3 of the "Administrative Litigation Law of the People's Republic of China", the judgment is as follows:

1. Revoke the administrative judgment (2022) Jing 73 Xing Chu 19328 of the Beijing Intellectual Property Court of the People's Republic of China;
2. Revoke the Trademark Review [2022] No. 21660 "Decision on the Request for Invalidation of Trademark No. 1128579 '宾利 BENTLEY'" made by the China National Intellectual Property Administration;
3. The China National Intellectual Property Administration shall make a new decision on Bentley Motors Limited's request for invalidation of Trademark No. 1128579 "宾利 BENTLEY".

Acceptance Fee:

The acceptance fee for the first and second-instance cases is RMB 100 each, both borne by Bentley Motors Limited (both have been paid).

This judgment is final.