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## Wanhuida Wins CBLJ 2023 Deals of the Year Award

日付: Mar 19 2024

@Wanhuida Intellectual Property

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On 19<sup>th</sup> March 2024, Hong Kong-based legal magazine China Business Law Journal (CBLJ) releases the winners of its *"Deals of the Year Award 2023"*.

Two deals of Wanhuida Intellectual Property are selected by the magazine to be included in the section of *"INTELLECTUAL PROPERTY"* and another deal, which the firm acts as a co-counsel, is selected to be included in the section of *"DOMESTIC DISPUTE RESOLUTION"*. The firm has been a winner of the magazine's *"Deals of the Year"* awards since 2012.

In the winning deal (INTELLECTUAL PROPERTY 04) *"BNIC, Ford China lawsuit over Cognac indication"*, Wanhuida represented BNIC, the French National Bureau of Cognac Industry in prevailing in two instances of unfair competition suit against Ford Motor Company. The Courts found unfair competition, ordered cessation and awarded damages of RMB 2 million. The case serves as a pivotal legal precedent for right owners searching for the civil remedies on geographical indications (GI) registered as GI Products in China. Not only does it confirm that GI Products registrants may act on the basis of the Anti-Unfair Competition Law, but more importantly, it considerably extends the concept of competitive relationship. This is not without similarity with the very broad European concept of "evocation", which is specific to the protection of GIs: a simple "association" in the mind of the consumer is sufficient to trigger the protection. The products or services concerned do not even need to be similar.

In the winning deal (INTELLECTUAL PROPERTY 16) *"Lacoste, Nanji dispute over 'crocodile' mark"*, Wanhuida represented LACOSTE in prevailing in the retrial proceedings (initiated by Nanji E-Commerce and CARTELO) and the second instance proceedings (initiated by Nanji E-Commerce) before the Beijing High Court, which ended with the copycat standalone left-facing crocodile registration in Class 18 and in Class 25 being invalidated in China. The decisions offer LACOSTE stronger weaponry in attacking the copycat registration and use of the standalone crocodile image. The retrial decisions distinguishing the criteria in assessing trademark similarity and infringement in administrative and civil proceedings will lay groundwork for and shed light on LACOSTE's pending cases against Nanji E-Commerce and CARTELO.

In the winning deal (DOMESTIC DISPUTE RESOLUTION 19) *"SPC overturns market abuse finding"*, Wanhuida Intellectual Property acted for Hefei Enroute in successfully defending the legitimacy pertaining to the patentee's implementation of a valid chemical compound invention in a high-stake anti-monopoly appeal proceeding, a case listed as one of the SPC's *Exemplary Anti-monopoly and Unfair Competition Cases of 2023*. The Supreme People's Court (SPC) overturned the unfavourable first instance court decision, which ordered the client to pay hefty damages of RMB 90 million. The SPC rendered a landmark decision that may serve as a point of reference as regards monopoly assessment of patented API and construction of the scope of protection of compound patent. It is very welcome that the SPC elucidates the correlation between market foreclosure effect and the exercise of patent rights. The SPC decision is expected to help establish a stable jurisprudence in terms of API monopoly assessment involving patents in China.

The winning deals have, as in previous years, been chosen by the magazine's editorial team based on a number of factors including the overall significance, complexity, innovative nature and deal size. Qualified deals must have been closed or have made significant progress between 1 November 2022 and 31 October 2023.

China Business Law Journal's independent editorial team made its own choices on the deals they felt were the shining stars for the year. The winning deals and cases are presented in 12 sections: Equity capital markets; Debt capital markets; ABS/Reits; Mergers and acquisitions; Private equity and venture capital; Projects;

General corporate matters; Liquidation, bankruptcy and restructuring; Intellectual property; International trade investigations; Domestic dispute resolution and Cross-border dispute resolution. This year, a total of 191 deals were chosen from a vast submission database of Chinese and international law firms.

For more information of the Wanhuida winning deals, please refer to: <https://law.asia/china-deals-of-the-year-2023/>.

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