

## Trademarks during covid: exclusive insights from law firm experts in China and Japan

As 2020 draws to a close, IP practitioners from around the world share their experience of how the covid-19 crisis shaped their trademark practice – and how changes adopted this year could shape the future of the industry.

Today, *WTR* presents exclusive insights from [Hu Gang](#), director of the international trademark department at CCPIT Patent & Trademark Law Office in China, and partner [Tomoe Takahashi](#) and senior associate [Mikako Tsukada](#) at Hogan Lovells in Japan.

*Insights from Hu Gang at CCPIT Patent & Trademark Law Office:*

### **What has been the most significant challenge for your trademark practice caused by the pandemic?**

During the pandemic period, the biggest challenge has been how to establish a set of coordination and management mechanisms for colleagues in different positions based on an online working mode. This has been very important to ensure the timely submission of cases and providing efficient services for clients. Thanks to the mature ABC (AI, Blockchain, Cloud) external technical facilities required by the legal service industry in China, we could quickly use relevant technologies and software applications. Finally, this has proven that this not only saves the labor cost and time, but also provides a successful experience for continuous digital transformation in the future.

### **Since the beginning of the year, did you make any changes to help clients that may be facing challenges due to the pandemic?**

Many countries have taken strict measures to prevent the pandemic, that is, to close external traffic and isolate people. The stagnation of commercial activities has made it difficult for enterprises, especially those in catering, entertainment, tourism and retail industries. For that reason, as a non-profit expenditure, IP protection has been reduced by enterprises. At this time, the most important thing is to communicate with clients about special discounts of payment and the possibility of payment delays, so that we can understand each other and go through this difficult period together.

In addition, we have also had a pragmatic discussion with our clients on trademark application and management during the pandemic period. The purpose is to ensure new trademark applications can focus more accurately on clients' core business, and existing trademark cases can be selectively eliminated after careful evaluation.

### **How have you engaged in new business and client generation during the pandemic, and will elements of this approach remain in place post-covid?**

We think the pandemic situation can only restrain but not reduce productivity. In some aspects, in this new era, new formats will give birth to new products and new services. Therefore, new trademarks are needed to carry new goodwill.

Furthermore, during the pandemic period, China's trademark applications in fields directly related to anti-pandemic – such as biomedicine and medical devices – showed an increasing trend. It is believed that after the outbreak, the number of trademark applications in some indirectly related to anti pandemic – such as big data, AI and health protection for the elderly – will also increase. This trend is an opportunity for trademark agencies. Now we should take the initiative to face and communicate with clients, look for new opportunities, and make certain planning for after the pandemic.

### **Did you attend any trademark-related virtual events during the pandemic?**

Yes, in this special period of 2020, I participated in online international trademark-related virtual events including INTA, AIPPI and more domestic online conferences. Frankly speaking, online communication can complete the sharing and transmission of information, but compared with participating in physical events, it is still lacking. Face to face communication mode, that kind of cordial feeling and interaction is more objective and real than language, and it is easier to establish long-term trust and cooperation.

### **Looking to the future, do you expect to attend as many physical trademark-related events in future years as you did prior to 2020?**

First of all, it is undeniable that switching from offline to online is the development trend of the industry in the future. We will have more online trademark litigation, online trademark rights protection, and online trade events in the field of trademarks. However, face to face communication and discussion mode is still indispensable for the trademark agency field. It's just that the scale may be smaller, but it may be more frequent and more efficient.

### **How do you expect the covid pandemic will affect your trademark practice and/or your firm's trademark department going into the future?**

In terms of service mode, I believe that even if the pandemic is completely over, we and our clients are unlikely to return to the office completely. With the change of client demand, the maturity of online technology and the rise of remote office, the importance of office and other hardware facilities will be reduced to a certain extent. The remote office mode will make us pay more attention to the improvement of service quality, which also means that we need to further optimise online communication and cooperation of the team.

In terms of service price, however, we believe that the long-term development immunity of an enterprise comes from the strong protection of IP rights, including trademarks. There are already encouraging signs that some Chinese companies are willing to pay higher prices for IP protection to get the best services. We also expect that with the increase of service fee, the salary of practitioners will rise.

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*Insights from Tomoe Takahashi and Mikako Tsukada at Hogan Lovells:*

**What has been the most significant challenge for your trademark practice caused by the pandemic?**

Reduced staffing in our offices as a result of increased remote working has presented a significant challenge with respect to the prosecution of trademark applications. In the course of our practice, we file trademark applications in more than 100 countries on behalf of our clients. Trademark offices in many of these countries do not have electronic database systems, thus we typically work with original documents and attend to required notarisation/legalisation. While our pre-pandemic internal staffing and filing system was set up to handle these issues, our reduced number of business services colleagues working in the office due to the pandemic has made our typical workflow a bit more difficult. We have met the challenge by coming together as a team and developing different workflows to meet the government requirements in the various jurisdictions in which we work.

**Since the beginning of the year, did you make any changes to help clients that may be facing challenges due to the pandemic?**

From April 2020, we have been hosting a series of webinars in Japanese to support our Japanese clients in continuing their legal education while working remotely during the covid-19 pandemic. We planned the webinar series, including topics, time, and duration, based on a survey of our clients that we conducted in order to better understand our clients' needs and interests. As of October, 13 members of the team have presented in seven different webinars on a wide range of topics including case laws on distinctiveness and similarity of marks in various jurisdictions. The webinar series has been highly successful drawing an average of almost 200 attendees per webinar and a total of 1,282 attendees overall.

**How have you engaged in new business and client generation during the pandemic, and will elements of this approach remain in place post-covid?**

We continue to hold webinars for our clients working remotely as discussed above. Furthermore, the firm has also been developing a groundbreaking online platform, Total Brand Care, which streamlines the branding process and strengthens brand value through smart legal technology. This platform, which is due to launch in February 2021, will help business, marketing and legal teams collaborate when launching new brands, and protect those brands through innovative and time saving modules.

**What are your thoughts on how associations and IP offices have adapted to ensure continued service to members/customers?**

The Japan Patent Office (JPO) has been very efficient and flexible in continuing to offer service to its customers. It has accepted all applications during the shut-down caused by covid-19 (which was between 13 April and 31 May 2020) and has worked seamlessly throughout this very difficult time period. In addition, it has offered remedies for due dates missed as a result of the pandemic. For example, if an original POA cannot be submitted by the due date as a result of covid-19, it could be submitted at a later date. Furthermore, the agency has actively posted helpful information on its website regarding the effect of covid-19 on overseas IP offices.

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