



## American Intellectual Property Law Association

February 9, 2026

Legislative Affairs Commission of  
The Standing Committee of the National People's Congress  
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**RE: AIPLA Response to the Draft Trademark Law of the People's Republic of China Released on December 27, 2025**

**RE: 美国知识产权法协会（AIPLA）对《中华人民共和国商标法（修订草案）》的回应（2025 年 12 月 27 日发布）**

To the Legislative Affairs Commission of the Standing Committee of the National People's Congress (NPC):

致全国人民代表大会常务委员会法制工作委员会：

The American Intellectual Property Law Association (AIPLA) appreciates the opportunity to offer comments in response to the above-referenced the Draft Trademark Law of the People's Republic of China.

美国知识产权法协会（AIPLA）感谢有机会就上述《中华人民共和国商标法（修订草案）》（以下简称“《商标法（修订草案）》”）提出意见。

Founded in 1897, AIPLA is a national bar association of approximately 6,500 members who are engaged in private or corporate practice, in government service, and in the academic community. AIPLA members represent a wide and diverse spectrum of individuals, companies, and institutions involved directly or indirectly in the practice of patent (utility and design), trademark, copyright, trade secret, and unfair competition law, as well as other fields of law affecting intellectual property. Our members represent both owners and users of intellectual property. Our mission includes helping to establish and maintain fair and effective laws and policies that stimulate and reward invention while also balancing the public's interest in healthy competition, reasonable costs, and basic fairness.

美国知识产权法协会（AIPLA）成立于 1897 年，是一个拥有约 6,500 名会员的全国性律师协会，其成员活跃于私人执业、公司执业、政府服务及学术界等领域。AIPLA 会员涵盖广泛多元的群体，包括直接或间接从事专利（实用新型与外观设计）、商标、著作权、商

业秘密及不正当竞争法实务的个人、企业及机构，同时涉及其他影响知识产权的法律领域。本协会成员既代表知识产权所有者，也代表知识产权使用者。我们的使命包括协助建立并维护公平且行之有效的法律与政策，在激励和回报创新的同时，兼顾公众对健康竞争、合理成本以及基本公平的利益关切。

Overall, AIPLA supports the efforts of the NPC, in connection with the Draft Trademark Law, to streamline trademark procedures, strengthen protection of trademark rights, and address abusive and bad-faith trademark filing practices.

美国知识产权法协会总体上支持全国人民代表大会在《商标法（修订草案）》中为简化商标程序、加强商标权保护以及打击滥用和恶意商标申请行为所做的努力。

To aid in the finalization of the most recent Draft Trademark Law, AIPLA provides comments on specific Articles enumerated below. AIPLA hopes these comments and perspectives are helpful to the NPC/SPC, as they represent a full range of practitioner feedback who represent clients and work on matters now pending or in the future in China's IP courts.

为协助完成最新《商标法（修订草案）》的最终定稿，美国知识产权法协会（AIPLA）就下列具体条款提出意见。本协会希望这些意见和观点能为全国人民代表大会/最高人民法院提供参考价值，因为这些意见代表了各领域执业者的反馈，而这些执业者正代表客户处理当前及未来在中国知识产权法院待决的案件。

AIPLA further notes that the current Draft Amendment reflects revisions that are more comprehensive than the version on which the Association previously provided input. Given the breadth of the proposed changes and the limited time available for review, the comments below focus on several key issues identified by our members at this stage. AIPLA respectfully reserves the opportunity to provide additional comments or supplemental observations as the legislative process continues and as further analysis and member feedback may warrant.

美国知识产权法协会（AIPLA）进一步指出，与协会此前提出意见的版本相比，现行《商标法（修订草案）》所包含的修改内容更加全面。鉴于拟议修订涉及范围较广，且审阅时间有限，以下意见仅集中于协会会员在当前阶段识别出的若干重点问题。随着立法程序的持续推进，若经进一步分析并结合会员反馈认为有必要，美国知识产权法协会（AIPLA）谨此保留就相关问题提交补充意见或进一步说明的权利。

## 1. Comments on the relocation of Article 24:

Current Law	Draft Amendment
<b>Article 19 (4)</b> Trademark agencies may not apply for registration of trademarks other than those applied for in acting for clients.	<b>Article 24</b> Trademark agencies may not apply for registration of trademarks other than those applied for in acting for clients.

<input type="checkbox"/> 19 条 <input type="checkbox"/> 4 <input type="checkbox"/> 商标代理机构除对其代理服务申请商标注册外，不得申请注册其他商标。	<input type="checkbox"/> 24 条 商标代理机构除对其代理服务申请商标注册外，不得申请注册其他商标。
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**Comments:** AIPLA recommends relocating Article 24 of the Draft Amendment to follow Article 18.

**评论：**美国知识产权法协会（AIPLA）建议将《商标法（修订草案）》第 24 条移至第 18 条之后。

**Reasoning:** Articles 15-18 of the Draft Amendment address the absolute grounds for refusal, while Articles 19-23 address the relative grounds for refusal. Article 24 of the Draft Amendment, which imposes restrictions on trademark agencies’ applications, is more appropriately characterized as an absolute restriction rather than a relative ground. Relocating it after Article 18 would ensure logical consistency and clarity in the structure of the law.

**理由：**《商标法（修订草案）》第 15 至 18 条规定了绝对拒绝注册理由，第 19 至 23 条规定了相对拒绝注册理由。第 24 条对商标代理机构申请设定的限制，更应归类为绝对限制而非相对理由。将其移至第 18 条之后，可确保法律体系的逻辑连贯性与条文清晰度。

## 2. Comments on Articles 22:

### Article 22 [Bad-Faith Applications for Trademark Registration]

<b>第 22 条 【商标恶意注册申请】</b> 申请人不得恶意申请商标注册，包括： （一）不以使用为目的，大量申请商标注册，扰乱商标注册秩序的； （二）以欺骗或者其他不正当手段申请商标注册的； （三）申请注册有损国家利益、社会公共利益或者有其他重大不良影响的商标的； （四）违反本法第十八条、第十九条、第二十三条规定，故意损害他人合法权益或者权益，或者谋取不正当利益的； （五）有其他恶意申请商标注册行为的。	<b>Article 22</b> Applicants shall not apply for trademark registration in bad faith, including any of the following circumstances: (I) Filing a large number of trademark applications without an intent to use the trademarks, thereby disrupting the order of trademark registration; (II) Applying for trademark registration by fraud or by any other improper means; (III) Applying for registration of a trademark that harms national interests, the public interest, or has any other significant adverse impact; (IV) Intentionally harming the legitimate rights or interests of others, or seeking improper benefits, in violation of Articles 18, 19, or 23 of this Law; or (V) Other acts constituting bad-faith applications for trademark registration.
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AIPLA supports Article 22 insofar as it clearly and objectively targets hoarding and squatting behaviors. In particular, Article 22 (I), (II) and (IV) appropriately and helpfully target conduct that undermines an orderly trademark registration system, e.g. high-volume filings not tethered to use or intent to use, intentional registration of others' marks, fraud, etc. That said, to ensure predictability and consistency, Article 22 should focus exclusively on specific conduct and objective indicia of bad faith. AIPLA therefore recommends narrowing or deleting Article 22 (III) and (V).

The broad and subjective provisions addressing "national/public interest" and "significant adverse impact" conflates registry-integrity enforcement with subjective policy considerations. Further, these provisions can be used to stifle applicants based on shifting priorities, making it difficult for brand owners (and particularly foreign brand owners) to predict what will be acceptable.

美国知识产权法协会（AIPLA）支持第二十二条针对囤积、抢注行为所作出的明确、客观规定。尤其是，第二十二条第（一）、（二）项及第（四）项，针对破坏商标注册秩序的行为作出了恰当且有益的规制，例如与使用或使用意图无关的大量申请、故意注册他人商标、欺诈等行为。但为确保法律适用的可预期性与一致性，第二十二条的规制应当专注于具体行为及客观可识别的恶意判断指标。因此，美国知识产权法协会（AIPLA）建议对第二十二条第（三）项和第（五）项予以限缩或者删除。

其中，涉及“国家/公共利益”以及“造成重大不利影响”的相关规定表述过于宽泛且具有主观性，容易将维护商标注册秩序的执法目标与主观政策考量相混同。此外，该等规定可能随着政策重点的变化而被用于限制申请人的正当申请行为，从而使品牌权利人——尤其是外国品牌权利人——难以预判哪些申请将被视为可接受的申请。

**Comments:** AIPLA recommends retaining sections (I), (II) and (IV) of Article 22 but narrowing or deleting (III) and (V) in the Draft Amendment.

**评论：**美国知识产权法协会（AIPLA）建议在《商标法（修订草案）》中保留第 22 条第（一）、（二）项及第（四）项，并建议对第二十二条第（三）项和第（五）项予以限缩或者删除。

### 3. Comments on Article 18:

#### 第十八条

第十八条	Article 18
不以使用为目的，明显超出正常生产经营需要申请商标注册的，不予注册。	Applications for trademark registration that are not for the purpose of use and clearly exceed normal production and business needs shall be rejected.
不得以欺骗或者其他不正当手段申请商标注册。	Applications for trademark registration shall not be made through deception or other improper means.

**Comments:**

AIPLA recommends adding provisions addressing whether registered trademarks under the current law that, under the draft amended Trademark Law, fall under the category of “clearly exceed normal production and business needs” and obstruct subsequent trademark applications (“registered trademarks”), may be subject to cancellation proceedings under Article 49 of the draft amended Trademark Law.

For instance, after the amended Trademark Law takes effect, relevant rights holders (such as subsequent trademark applicants obstructed by such registered trademarks) can file trademark cancellation applications based on Article 49 of the draft amendment (regarding trademark invalidation provisions) to clear the impediment, without having to wait until the said registered trademark has been registered for three years, before filing a cancellation application.

**评论：**美国知识产权法协会（AIPLA）建议增加得条文处理对于在修订的商标法下属于“明显超出正常生产经营需要”的已注册商标且阻碍在后申请商标（“已注册商标”）的是否可以按修订草案中第四十九条提起对此类已注册商标的撤销申请，比如修订的商标法生效以后，相关权利人（如被该类已注册商标阻碍的在后商标申请人）就可以基于修订草案中第四十九条（关于商标无效宣告条款）通过提起商标无效的途径清除阻碍，而无需等待直到所述已注册商标注册满三年才去提起撤销申请。

AIPLA thanks the NPC for its consideration of these comments and welcomes any further opportunity to discuss these important issues.

美国知识产权法协会（AIPLA）感谢 NPC 对这些意见的审议，并欢迎任何进一步讨论这些重要问题的机会。AIPLA 随函附上本信函的译文。

Sincerely,

此致敬礼，



Salvatore Anastasi

President

总裁

American Intellectual Property Law Association

美国知识产权法协会