

# Transnational Trademark Issues: Observations from a Century of Budweiser Conflicts

by  
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Dr. Danny Friedmann is specialised in intellectual property law in all its facets, and is familiar with IP in the common and civil law systems. He has a PhD from the Chinese University of Hong Kong, holds a LL.M from the University of Amsterdam and a BBA from Nyenrode Business University/McGill University in Montreal. He has taught at CUHK and QANTM College Amsterdam and has been a speaker at various seminars/conferences in Hong Kong and overseas. He regularly publishes papers and articles for peer-reviewed law journals, book chapters and is the founder and editor of IP Dragon, a well known blog about IP in China with an international readership, since 2005.



A selection of his publications:

- 'A Paradigm Shift of the Trademark Logo: Towards Algorithmic Justice' (*Edward Elgar Publishing, expected 2014*)
- 'Protection and Enforcement of Intellectual Property in China' (*Oxford University Press, expected 2015*)
- 'Sinking the Safe Harbour Provisions With the Legal Certainty of Strict Liability in Sight' *Journal of Intellectual Property Law and Practice (Oxford Journals) Forthcoming 2014*
- 'Extension of Trademark Protection versus Extended Trademark Use' *Recommended for publication at the Trademark Reporter*
- Article: 'Rise and Demise of U.S. Social Media in China' in *China's Influence on Non-Trade Concerns in International Economic Law, Paolo Farah, ed., Ashgate Publishing UK (forthcoming 2014)*. Also published in Chinese by *Law Press of China*
- Article: 'Paradoxes, Google and China - How Censorship Can Harm and Intellectual Property Can Harness Innovation' in *Google and the Law: IT and the Law, Aurelio Lopez-Tarruella, ed., TMC Asser, 2012*
- 'How to Work Within China's IPR Enforcement System for Trademark and Design Rights' (2007-1) 8-12, *Benelux Trademark and Design Right (Bmm) Bulletin*

# The PROFECTIONAL Company Limited

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This course will provide an insight into transnational trademark law. The trademark law in Hong Kong will be used as a reference point: to clarify the differences and similarities between the Hong Kong, EU and US systems.

The course will illustrate transnational trademark law in the process via the ongoing legal battles between the US and Czech beer breweries in many jurisdictions all over the world. Rationales of trademark law, trademark categories and new challenges for the trademark are building blocks to comprehend the cases that will be used. The case law, including that of the CJEU, makes clear that beside trademark law, EU regulations about Geographical Indications, the Lisbon Agreement to Protect Appellations of Origin, contract law and bilateral agreements are all relevant factors to the matter.

## Contents:

- **Rationales of Trademark Law**
  1. *By the end of this course the participants will know the rationales of trademark law, the essential function of trademark against confusion or a likelihood of confusion: source of origin, quality and product distinctiveness and their derivatives; the doctrines of sponsorship and affiliation confusion, initial-interest confusion, post sale confusion and reverse confusion will be all explained.*
  2. *Beside the "essential" function, the participants will also learn about the communication, advertisement and investment functions, and the measures against trademark dilution or a likelihood of trademark dilution, which can be crucial for the trademark proprietor. There are two branches of the trademark dilution doctrine, which will be illustrated by relevant case law: trademark dilution by blurring and trademark dilution by tarnishment.*
- **Characteristics of Trademarks**
  1. *Trademarks will be discussed in regard to different categories, each having very different characteristics: registered/unregistered, inherently distinctive/acquired distinctiveness, well-known/famous/reputable, collective/certification, appellation of origin/geographical indication.*
- **New Challenges for the Trademark**
  1. *First the history of trademark infringement and trademark dilution will be highlighted in order to better understand the present situation. This course will then elaborate on the challenges of two fundamentals of trademark law; territoriality principle in regard to globalisation and the internet, and the specialty principle and the problems related to the Nice Classification. Alternative systems will also be reviewed.*
- **Relevant Treaty Law for Geographical Indications**
  1. *The course will explicate how collective/certification trademarks, Paris Convention, TRIPS and Lisbon Agreements are relevant for the protection of Geographical Indications, the similarities and differences in the different jurisdictions will be discussed. The participants will understand the relation and conflict between a normal trademark and a Geographical Indication.*
- **European Intellectual Property Law**
  1. *This course includes a primer on EU IP law; the participants will understand the difference between regulations and directives, and how the National Courts of the EU, the European Court of Justice/Court of Justice of the European Union and the Advocate General of the CJEU and their relationships.*
- **The Budweiser Cases**
  1. *After comprehending the aforementioned building blocks of the course, the participants will fully appreciate and comprehend the rich case law on the manifold Budweiser legal conflicts which will be reviewed. By the end of this course, the participants will have an up-to-date knowledge of the ECJ/CJEU decisions and even an ECHR (human rights) judgment in regard to the Budweiser cases.*

Scan to Calendar



Code:	<b>EVT000000015</b>	Level:	<b>Intermediate</b>
Date:	<b>17 May 2014 (Saturday) (Amended)</b>	Language:	<b>English</b>
Time:	<b>14:30 - 17:45</b>	Accreditation(s):	<b>LSHK 3.0 CPD Points</b>
Venue:	<b>9th Floor, The Chinese Club Building 21-22 Connaught Road Central Central, Hong Kong</b>	Request for Rerun:	<b>Please Contact Us for Details</b>



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