

Research on cross-border legal protection of unregistered well-known trademarks: practice and prospect in the Guangdong-Hong Kong-Macao Greater Bay Area

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Abstract. This paper provides a detailed examination of the commercial reputation of unregistered well-known trademarks, focusing on the accumulated goodwill arising from fees charged and consumer trust. The regional coordinated development of intellectual property rights and the issues surrounding cross-border legal protection are critically important. The unique "one country, two systems, three judiciaries" framework, coupled with the distinctive structure of the Guangdong–Hong Kong–Macao Greater Bay Area, offers both a practical reference for cross-border protection of unregistered well-known trademarks and a source of complex legal challenges during implementation. The paper systematically reviews and synthesizes the current protection practices in the three jurisdictions. In Mainland China, judicial practice under the *Trademark Law* increasingly applies territorial standards in a more open manner. In Hong Kong, protection is grounded in the dual-layered Trade Marks Ordinance and supplemented by common law actions against infringement, forming a robust legal defense. In Macau, although the law recognizes that the use of unregistered trademarks may be enforceable, registration remains the basis for stronger legal claims. This study further explores the prominent difficulties encountered in cross-border protection. Drawing on the extensive experience of the European Union, the United States, and ASEAN countries, the paper proposes a multidimensional approach to legal protection of unregistered well-known trademarks, encompassing system development, mechanism design, judicial enforcement, and corporate awareness, with the aim of strengthening China's protection of unregistered well-known trademarks along specific cross-border pathways.

Keywords: unregistered well-known trademarks, cross-border legal protection, Guangdong–Hong Kong–Macao Greater Bay Area

1. Introduction

An unregistered well-known trademark refers to a commercial mark that, although it has gained recognition among relevant consumers through extensive promotion over a long period and meets the criteria for well-known trademarks, has not completed the registration process within a specific legal jurisdiction. Currently, against the backdrop of the economic and trade integration of the Guangdong–Hong Kong–Macao Greater Bay Area, cross-border e-commerce is experiencing rapid growth in both personnel and goods flows. Many

highly recognized trademarks in Hong Kong and Macau have successfully cultivated widespread consumer awareness in the Mainland market. However, the Greater Bay Area's unique structure—characterized by "one country, two systems, three jurisdictions"—results in trademark protection systems that operate relatively independently in the Mainland and in Hong Kong and Macau. In the Mainland, trademark protection is primarily carried out under the *Trademark Law*. In Hong Kong, protection is based on the industrial property legal system and is implemented through the Patents Ordinance and judicial precedents. This fragmented framework places unregistered well-known trademarks in a particularly challenging position regarding cross-border protection. A series of issues have emerged, including frequent malicious registration of trademarks and the high costs associated with enforcement. These not only increase the financial burden for enterprises seeking to expand their commercial reputation but also hinder the construction of a unified economic market within the Greater Bay Area [1, 2].

The 20th Central Committee of the Communist Party of China, following its Third Plenary Session, emphasized in its decision "*On More Comprehensively and Deeply Promoting Modern Chinese Style and Global Voice*" the need to deepen cooperation in the Greater Bay Area and strengthen mechanisms for integration. Against the backdrop of the region's ongoing economic integration, the question of how to transcend traditional geographic boundaries and provide effective legal protection for unregistered commercial assets—such as business-related KKS data—has become a pressing theoretical and practical challenge. This paper focuses on the cross-border legal protection of well-known trademarks that have not been recorded in the Guangdong–Hong Kong–Macau Greater Bay Area. It emphasizes analysis of the latest developments and real-world cases during 2025, applying case studies, comparative analysis, and other research methodologies to explore feasible legal safeguards in practice.

2. Current institutional framework for cross-border protection of unregistered well-known trademarks in the Guangdong–Hong Kong–Macau Greater Bay Area

2.1. Mainland China's protection system for unregistered well-known trademarks

In Mainland China, the protection of unregistered well-known trademarks is primarily governed by the *Trademark Law of the People's Republic of China*, particularly Articles 13 and 14. Article 13 establishes the basic framework for protecting well-known trademarks, while Article 14 clearly sets out factors to consider when determining whether a trademark is well-known, including the level of public recognition, the duration of actual use, the geographic scope reached through promotional activities, and other relevant considerations. In judicial practice, the Supreme People's Court has provided more detailed guidance and clarification on these protection standards through judicial interpretations [3, 4]. For example, the *Interpretation of the Supreme People's Court on Several Issues Concerning the Application of Law in the Trial of Civil Dispute Cases Involving the Protection of Well-Known Trademarks* stipulates that when parties seek protection for an unregistered well-known trademark, the court must examine whether the trademark meets the relevant provisions of Articles 10 and 11 of the *Trademark Law*.

The mainstream view in Mainland legal scholarship and courts is to adhere to a territorial standard when recognizing unregistered well-known trademarks. That is, the determination should strictly follow whether the trademark has been used within Mainland China and has reached the recognition standard domestically. Even if a trademark is highly known abroad, it cannot be protected under *Chinese Trademark Law* if it lacks relevance to Chinese consumers or has not been actively promoted in the domestic market [3, 4]. Because

Hong Kong and Macau are separate jurisdictions from the Mainland, trademark use in these regions generally does not count as use within Mainland China. For instance, in the *Xiangyuan Case*, although the "Liyuanzi" trademark was well-known in Macau, because Macau Xiangyuan Ltd. did not use the "Zhenfengyuan" trademark in Mainland China, it could not be recognized as an unregistered well-known trademark, and the court ultimately found Macau Lishu Yuan Co., Ltd. to have committed infringement.

Some scholars argue for breaking the territorial principle in determining foreign well-known trademarks, though this view diverges from the mainstream Mainland standard. In one case, the court carefully considered the use of "Sotheby's" as a trademark in Hong Kong alongside the actual corporate name usage, as well as the non-trademark usage in Mainland China, ultimately recognizing it as an unregistered well-known Chinese trademark. This decision reflected the principle that prior use of a foreign unregistered well-known trademark should be respected, even across borders, in line with the principle of good faith in a market economy.

In recent years, Guangdong courts have shown a more open attitude toward such cases. For example, trademarks used through online advertising or other means in the Mainland by entities from Hong Kong or Macau can establish recognition domestically. Given the interconnected "common origin" of the three jurisdictions in the Greater Bay Area, fully independent operations cannot always be maintained. Judicial decisions must carefully balance the interests of all parties—including the trademark owners, other market participants, and consumers—while respecting the contributions made by businesses. Mechanisms such as "allowing coexistence with additional distinguishing marks" can help resolve conflicts and promote honest commercial practices.

2.2. Hong Kong's protection system for unregistered well-known trademarks

In Hong Kong, protection of unregistered well-known trademarks relies mainly on two channels. First, Section 60 of the Trade Marks Ordinance provides for the protection of well-known trademarks that are not registered. Even if a trademark is not registered in Hong Kong, its owner may obtain legal remedies through judicial procedures to fill the protection gap. Once a trademark qualifies as well-known, any conduct by others that harms its reputation or constitutes "free-riding" can be prohibited. Second, protection may also be sought under the common law tort of passing off. According to Section 12(5)(A) of the *Trade Marks Ordinance*, passing off protects unregistered trademarks. To establish a claim, three elements must be proven: the creation of goodwill, misrepresentation, and resulting damage. Hong Kong emphasizes respect for free market competition and contract-based resolution of commercial disputes, using common law remedies to combat infringement effectively [4].

The Hong Kong Intellectual Property Department (IPD) plays a significant role in protecting unregistered well-known trademarks. According to IPD guidance, owners of such trademarks may, under certain circumstances, prevent others from using identical or confusingly similar marks. This allows rights holders to challenge the registration of similar trademarks and prevent misuse even in the absence of registration.

2.3. Macau's protection system for unregistered well-known trademarks

The trademark protection framework in Macau is rooted in the Industrial Property Legal System, formally established by Law No. 97/99/M, which provides a solid legal foundation for trademark rights. Within this system, both registered trademarks and the protection of unregistered well-known trademarks are addressed, with measures for the latter being particularly notable. Specifically, Article 214, Paragraph 1, Items (B) and (C) of the law stipulate that a trademark with a high reputation in Macau may have its registration refused if it reproduces, imitates, translates, or otherwise applies the main constituent elements of another well-known trademark for the same or similar goods or services, due to a high risk of public confusion. Moreover, even if

the goods or services involved are not within the scope covered by the well-known trademark, the registration of a new trademark may still be refused if its use constitutes improper exploitation of the distinct features or reputation of the original trademark, or if it may damage that reputation. Such acts are treated as unfair copying of unregistered well-known trademarks. Notably, Macau demonstrates a relatively flexible approach in protecting both registered and unregistered well-known trademarks. Under Law No. 56/95/M, even a trademark that has not been registered may enjoy priority rights for registration if it is used in manufacturing, sales, or service sectors, provided the owner submits a registration application within six months of first use [5]. During this period, opposition can be raised against the trademark registration, reflecting respect for actual use while addressing potential conflicts of rights in a timely manner. In practice, Macau courts have further extended the application of these provisions to unregistered well-known trademarks. This ensures that malicious registration and unfair competition are effectively restrained, maintaining a fair market environment and protecting the legitimate rights of trademark owners. Even unregistered well-known trademarks can enjoy corresponding legal protection in Macau as long as they meet certain conditions. In summary, Macau not only provides comprehensive protection for intellectual property through a well-established trademark system, but also enhances this protection through flexible measures for unregistered well-known trademarks. This framework fosters a culture of honest innovation, contributing to the economic and social development of Macau.

The Industrial Property Legal System of Macau clearly states that trademarks obtain protection through registration. While the recognition of well-known trademarks exists, their enforceable legal effect depends on whether registration has been completed. Applications are handled by the Macau Economic Bureau and the Intellectual Property Office, undergoing formal examination, as well as distinctiveness assessment and prior trademark searches during the registration process.

3. Comparative analysis of trademark protection systems in Guangdong, Hong Kong, and Macau

3.1. Differences in the basis of protection

In Mainland China, trademark protection primarily relies on Article 13 of the *Trademark Law* and related judicial interpretations. Protection for unregistered well-known trademarks is supplemental; the core principle remains registration, and unregistered marks only receive protection as an auxiliary measure. In Hong Kong, protection for unregistered trademarks operates alongside registration. Unregistered marks are mainly protected through passing-off actions under common law, which allow owners to enforce rights even in the absence of formal registration. In Macau, although most protection for unregistered marks still depends on registration, whether an unregistered well-known trademark is enforceable largely hinges on whether the registration process has been completed [5].

3.2. Differences in recognition standards

In Mainland judicial practice, the recognition of unregistered well-known trademarks generally applies a strict territorial standard, often excluding evidence of use in Hong Kong or Macau and discounting foreign reputation. By contrast, Hong Kong's recognition focuses more on the actual use of the trademark in relevant markets and its existing degree of notoriety. Macau adopts a more flexible approach, allowing recognition based on actual use to establish distinctiveness and prominence.

3.3. Differences in scope and strength of protection

In Mainland China, protection for unregistered well-known trademarks is largely limited to preventing the use of identical or similar marks on unregistered goods. In Hong Kong, the scope of protection under passing-off actions is broader, encompassing harm arising from commercial misrepresentation, goodwill, and the risk of misappropriation, even if certain elements cannot be fully proven. Macau's protection lies between Mainland China and Hong Kong. While it recognizes the existence of unregistered well-known trademarks, full legal protection generally requires registration.

3.4. Differences in enforcement mechanisms

Mainland China employs two main approaches for intellectual property enforcement. In Hong Kong, trademark registration and enforcement are primarily managed by the Intellectual Property Department, which oversees most enforcement functions. In Macau, enforcement is coordinated jointly by customs authorities and judicial offices, while the Economic Bureau assumes primary responsibility for overseeing compliance and enforcement activities.

4. Practical exploration of cross-border protection for unregistered well-known trademarks in the Guangdong–Hong Kong–Macau Greater Bay Area

4.1. Exploration of enforcement cooperation across the three regions

Since the 1990s, Guangdong, Hong Kong, and Macau have collaborated in the field of Intellectual Property (IP) protection, gradually establishing institutional frameworks that cover multiple areas of cooperation. This process has witnessed the continuous expansion of regional collaboration. In 2023, the three regions took further cooperative measures, signing the "Memorandum on the Recognition of Intellectual Property Rights in the Guangdong-Hong Kong-Macau Greater Bay Area". The memorandum explicitly listed 12 specific areas of cooperation, serving as a comprehensive basis for legal recognition and institutional collaboration, marking a new milestone in regional IP cooperation. For example, evidence collected in Hong Kong litigation can now be directly accepted in other jurisdictions as a key factor in major judicial decisions, greatly enhancing the synergistic effect of IP protection across the three regions. This development clearly indicates that the cooperative mechanism in the GBA is becoming increasingly robust [6].

Leveraging the Guangdong-Hong Kong IP Cooperation Task Force, the three regions have established an infringement reporting mechanism in the field of trademark protection. In 2022 alone, this mechanism handled 238 cases, demonstrating strong collaborative outcomes. Guangdong is also in the process of establishing an overseas IP infringement liability insurance system, with branch centers set up locally to assist enterprises involved with Hong Kong and Macau in exercising their rights. Across the country, six overseas IP Dispute (IPD) guidance centers have been established to provide such support.

A typical example of cross-border IP enforcement cooperation is the "Operation Hailong" conducted in 2022. During this operation, the customs authorities of Guangdong and Hong Kong worked jointly to seize 430,000 infringing items with an estimated value of 280 million yuan. A 24-hour emergency handling channel was also established in collaboration with Macau's judicial and police authorities at the Zhuhai Public Security Bureau. Recent developments indicate that the three regions are focusing efforts on exploring and building a tighter cooperative mechanism. The Guangdong Provincial Intellectual Property Office has explicitly proposed the establishment of a Greater Bay Area IP Protection Alliance, aiming to construct a unified IP protection

standard system and to advance the integrated IP enforcement and rights-protection framework across Guangdong, Hong Kong, and Macau.

4.2. Exploration of judicial cooperation across the three regions

In terms of judicial innovation for cross-border protection of unregistered well-known trademarks, courts in the Guangdong-Hong Kong-Macau Greater Bay Area have actively explored this field, generating a series of cases and institutional innovations with exemplary value.

A typical case involves Sai Shang Cookies Company from Hong Kong, known for its Panda Cookies, which enjoys significant brand recognition in Hong Kong. Before setting up manufacturing and sales operations in mainland China, the company sold its products nationwide through proxy purchasing channels. In 2014, the cookies were ranked third in the "Global Snacks TOP10" online survey on social media platforms such as Xiaohongshu, making them highly visible to mainland e-commerce consumers. However, Shenzhen Shennong Food Company used the same panda design, packaging, and branding as Sai Shang Cookies without authorization, even claiming "Global Snacks TOP10 – Ranked Third" in its promotions. At the first instance, the court ruled that, at the time of the alleged infringement, Sai Shang Cookies had not opened physical stores in mainland China. The submitted web publicity did not sufficiently demonstrate that the products were known to the relevant mainland public; therefore, the evidence was deemed insufficient to support a claim. However, the appellate court held that, through various channels such as cross-border e-commerce purchases, travel gifts, word-of-mouth sharing, and online advertising, products from Hong Kong could indeed be recognized by a wide range of mainland consumers. Consequently, it was concluded that these products had a certain level of recognition and influence in mainland China.

In terms of judicial cooperation mechanisms, the Shenzhen Qianhai Court has partnered with the Hong Kong International Arbitration Centre to jointly establish platforms for dispute resolution. By 2023, this collaborative mechanism successfully facilitated the mediation of over one hundred cross-border disputes, providing a diversified platform for resolving such cases.

4.3. Challenges and difficulties for enterprises in cross-border rights enforcement

Despite progress in cross-border protection of unregistered well-known trademarks, enterprises still face substantial difficulties in practice.

1. Protection gaps during the registration stage Unregistered Hong Kong and Macau trademarks are not publicly recorded in Mainland China, making it difficult for trademark authorities to detect malicious applications. For example, when some well-known food and service trademarks from Hong Kong or Macau are registered in Mainland China by third parties, enterprises often have no choice but to rely on litigation for enforcement. This not only consumes considerable time and resources but may also involve substantial licensing or transfer fees, making enforcement costs far higher than standard registration fees [6].

2. Territorial barriers in recognition of well-known trademarks Mainland courts typically apply a strict territorial standard when recognizing unregistered well-known trademarks, often excluding evidence of use in Hong Kong or Macau.

3. Insufficient enforcement cooperation Differences remain among Guangdong, Hong Kong, and Macau in enforcement procedures and evidence standards. While mutual recognition of infringing evidence is possible to some extent, the overall process remains cumbersome. For instance, even when a company wins an infringement case in Macau, a complex series of review procedures must be completed before enforcement in Mainland China, significantly affecting the effectiveness of rights protection.

5. Lessons from international experiences and implications

5.1. The European Union's cross-border trademark coordination mechanism

The European Union's efforts to establish a cross-border trademark protection mechanism offer significant reference value for the Guangdong-Hong Kong-Macau Greater Bay Area (GBA). The EU has developed the European Union Trade Mark (EUTM) system, which coordinates trademark protection across all 27 member states. Under this system, enterprises that obtain trademark protection need only complete a single registration process to operate throughout all EU countries.

The dual-layer system in the EU—where trademarks registered in individual member states can coexist with the EUTM without conflict—ensures both the efficiency of unified protection and respect for each member state's legal traditions. In the event of a conflict, the "first-to-file" principle is applied: a trademark registered earlier in a member state can challenge a later EUTM registration through opposition or invalidation procedures under Article 8(2) of the EUTMR. Regarding the protection of unregistered well-known trademarks, the EU adopts a more flexible approach. Even if a famous trademark has not been registered, its prior reputation can be invoked under relevant provisions of the EU trademark regulation to assert priority or oppose subsequent trademark applications [6].

5.2. The U.S. process for unified cross-state trademark protection

The United States' cross-jurisdictional trademark protection system provides valuable experience for addressing coordination issues in trademark protection within a country that operates under multiple legal layers. The U.S. adopts a dual system of federal and state trademark protection. Trademark registrations at the federal level are administered by the United States Patent and Trademark Office (USPTO), and disputes arising from federally registered trademarks fall under the jurisdiction of federal courts. At the same time, under this dual framework, state courts retain jurisdiction over disputes involving trademarks protected under state law or common law trademarks, as well as claims related to fraud and unfair competition.

In practice, federally registered trademarks enjoy priority over state-level trademarks. Although state trademarks may have been used earlier in time, the principle of "federal priority" ensures the uniformity and consistency of trademark protection nationwide. Federal registration provides several significant advantages, including: Nationwide presumption of ownership and validity; The ability to record trademarks with U.S. Customs to block infringing imports; The right to initiate litigation in federal courts; The exclusive right to use registered trademark symbols. Over time, U.S. jurisprudence has developed doctrines such as the "natural expansion doctrine" and the "market penetration test", which are applied by courts in resolving cross-state trademark disputes. When conflicts arise between trademark rights, courts assess factors such as duration of use, geographic scope, and commercial influence, thereby delineating the boundaries of respective rights. With respect to unregistered well-known trademarks, the United States adopts a relatively flexible approach. Under Section 43(a) of the *Lanham Act*, even if a trademark is not registered, it may still receive protection if it has acquired recognition in the relevant market. Such protection is typically enforced through unfair competition law, allowing rights holders to prevent misleading or deceptive commercial practices [7].

5.3. ASEAN regional intellectual property cooperation

The Association of Southeast Asian Nations (ASEAN) has developed an Intellectual Property (IP) cooperation model that offers significant reference value. In 1997, ASEAN member states jointly signed the "ASEAN Framework Agreement on Intellectual Property Cooperation" (ASEAN IPR Framework Agreement), which established the foundational structure for regional IP collaboration. The agreement aims to explore the

establishment of regional patent and trademark systems, while strengthening IP administration and promoting cooperation in enforcement and protection across ASEAN.

ASEAN has introduced a number of innovative mechanisms in the field of IP cooperation. One notable example is the ASEAN Patent Examination Cooperation (ASPEC) program, the first regional work-sharing initiative covering multiple member states, including Cambodia, Indonesia, Laos, Malaysia, the Philippines, Singapore, Thailand, and others. Through this mechanism, participating countries can share patent examination results, thereby improving efficiency and reducing duplication of work. In addition, the ASEAN Working Group on Intellectual Property Cooperation (AWGIPC) has proposed the establishment of a pan-ASEAN trademark system, which would allow applicants to register trademarks through a single platform connecting the IP offices of ASEAN member states.

ASEAN has also actively strengthened cooperation with international organizations such as the World Intellectual Property Organization (WIPO). In 2023, ASEAN and WIPO signed a Memorandum of Understanding, aiming to expand collaboration in several key areas, including: Supporting ASEAN Small and Medium-sized Enterprises (SMEs) and startups in utilizing IP in regional trade activities; Promoting the use of digital technologies to enhance business development; Facilitating the monetization of intellectual property and intangible assets, thereby unlocking their economic value [7].

5.4. Implications for the Guangdong–Hong Kong–Macau Greater Bay Area

Based on the analysis of the EU, U.S., and ASEAN experiences, several key implications emerge for cross-border protection of unregistered well-known trademarks in the Greater Bay Area:

1. Launch a Unified Trademark Protection Platform Drawing on the EU EUTM system, a "Greater Bay Area Unified Trademark Registration Platform" could be established, allowing applicants to obtain protection in Guangdong, Hong Kong, and Macau with a single registration. This platform could operate in parallel with existing registration systems, ensuring efficiency without disrupting local procedures. A mutual recognition of reputation mechanism could also be introduced, similar to the U.S. "natural expansion principle," allowing a mark recognized as well-known in one region to be considered in evaluating well-known status in other regions.

2. Enhance Coordination Mechanisms Inspired by the EU's multi-level coordination model, a hierarchical system should be established, covering both government-level and enterprise-level cooperation. Authorities responsible for trademark examination, enforcement, and judicial proceedings should maintain regular consultations, while industry associations facilitate collaboration at the corporate level.

3. Innovate Protection Models Protection mechanisms tailored to the Greater Bay Area could include a "fast-track channel for unregistered well-known trademarks". This would allow marks with high recognition in one region to enjoy accelerated examination and priority protection in the other two regions.

4. Strengthen International Cooperation Active participation in international trademark protection frameworks is essential. This includes promoting cooperation under organizations such as WIPO, addressing coordination challenges among different legal jurisdictions within a country, and aligning with global IP standards.

6. Pathways to improve cross-border legal protection of unregistered well-known trademarks in the Guangdong–Hong Kong–Macau Greater Bay Area

6.1. Institutional reform recommendations

To enhance cross-border protection of unregistered well-known trademarks in the Guangdong–Hong Kong–Macau Greater Bay Area (GBA), it is necessary to establish a unified recognition framework across the three jurisdictions. This can be achieved by formulating the "Guidelines on the Recognition of Unregistered Well-Known Trademarks in the GBA." The guidelines should clearly define unified standards in three key respects. First, recognition criteria must be harmonized, including the scope of the relevant public, evidentiary thresholds, and rules governing the admissibility and probative value of evidence. Second, a cross-jurisdictional evidence mutual recognition mechanism should be established, ensuring that evidence of reputation formed in any of the three jurisdictions can be duly acknowledged and utilized in others. In addition, the coordination mechanism for trademark registration examination should be improved.

A "GBA Joint Trademark Examination Mechanism" may be introduced to facilitate real-time sharing of trademark databases across the three regions. Specific measures include: Establishing a unified trademark search platform, enabling applicants to simultaneously check registration status in all three jurisdictions; Requiring examination authorities to consider the reputation and usage of trademarks in the other two jurisdictions during the review process; Introducing cross-jurisdictional opposition and invalidation procedures to address potential malicious preemptive registrations.

Furthermore, a unified enforcement standard system should be developed. This includes harmonizing rules on trademark infringement determination, penalty standards, and enforcement procedures across the GBA. Particular attention should be given to: Clarifying core legal concepts such as "identical or similar goods" and "likelihood of confusion," including standards for identifying cross-border infringement; Establishing unified rules for the admissibility of electronic evidence and the handling of extraterritorial evidence requests; Coordinating penalty standards to prevent significant disparities caused by regional differences. A mutual recognition and enforcement mechanism for judicial decisions should also be established [8]. This could take the form of a "GBA Agreement on Mutual Recognition and Enforcement of Intellectual Property Judgments," enabling court decisions issued in one jurisdiction to be recognized and enforced in the others. The agreement should specify: The types and scope of judgments eligible for mutual recognition; The conditions for recognition, including procedural legality and criteria for a judgment's finality and effectiveness.

At the institutional level, further innovation could include the establishment of a "GBA Trademark Reputation Database." Utilizing technologies such as blockchain, this database would record trademark usage, public recognition, and enforcement-related information across the three jurisdictions. Its core functions should include: Information sharing, allowing access by trademark authorities, enforcement agencies, and courts in all three regions; Evidence preservation, ensuring authenticity and immutability of data through blockchain technology; Early warning mechanisms, enabling automatic alerts for potential malicious trademark registrations. Building on existing cooperation frameworks, such as the GBA IP protection memoranda, the cross-border evidence mutual recognition mechanism should be further refined. Specific measures include: Expanding the scope of evidence subject to mutual recognition; Simplifying procedures and establishing standardized processes for evidence conversion and certification; Introducing evidence preservation mechanisms, allowing enforcement authorities in the three jurisdictions to jointly secure at-risk evidence, such as proof of trademark use and market survey reports.

6.2. Improving the judicial mechanism and establishing a diversified dispute resolution system

To promote the cross-border protection of unregistered well-known trademarks in the Guangdong–Hong Kong–Macau Greater Bay Area (GBA), it is necessary to formulate the "Guidelines on the Recognition of Unregistered Well-Known Trademarks in the GBA." These guidelines should be jointly developed by the Guangdong Provincial Higher People's Court, the High Court of the Hong Kong Special Administrative Region, and the Court of Final Appeal of the Macao Special Administrative Region. The objective is to establish uniform recognition standards while fully respecting the legal autonomy of the three jurisdictions. The recognition criteria should encompass the following elements. First, the fame criterion requires that the trademark achieve a high level of recognition within the GBA (including the nine mainland cities as well as Hong Kong and Macao), with no less than 70% awareness among the relevant public. Second, the use requirement mandates continuous use of the trademark in the relevant goods or services sector for no less than five years, accompanied by a stable market share. Third, the promotion criterion requires that promotional activities cover at least two jurisdictions, with cumulative promotional investment within the GBA reaching no less than RMB 50 million. Fourth, the reputation criterion requires that the trademark has not been involved in any major quality incidents and maintains a strong market reputation. Accordingly, the guidelines should also clarify the concept of "cross-jurisdictional recognition." Where a trademark has achieved a high level of recognition in one jurisdiction and its influence has extended to others within the GBA, it may qualify for cross-border protection. For example, if an unregistered trademark has a 90% recognition rate in Hong Kong and achieves 60% awareness among the relevant public in mainland China and Macao, it may be recognized as an unregistered well-known trademark throughout the GBA. It is also essential to optimize the mechanisms for service of judicial documents and evidence collection. On the one hand, procedural requirements for entrusted service of judicial documents should be simplified, and a cross-regional electronic platform for judicial document transmission should be established to enable online delivery and processing, thereby reducing the service cycle to within one month. On the other hand, each jurisdiction should designate specialized institutions responsible for service of process, supported by coordination mechanisms to improve delivery success rates. At the same time, the mutual entrustment mechanism for evidence collection should be further improved. Clear procedures and time limits should be established for cross-border evidence collection between mainland China and Hong Kong, covering materials such as sales data, promotional materials, and consumer survey results, and expanding the scope of admissible entrusted evidence.

In terms of cross-border enforcement of judicial decisions, the relevant mechanisms must be strengthened. This includes accelerating the revision of arrangements such as the "Arrangement on Reciprocal Recognition and Enforcement of Civil and Commercial Judgments between the Mainland and the Hong Kong SAR" and the corresponding arrangement between the Mainland and Macao, so as to explicitly include unregistered well-known trademarks in infringement disputes within their scope. Additionally, a coordinated enforcement mechanism should be established, whereby courts in the three jurisdictions designate specialized bodies—similar to those responsible for asset seizure and preservation—to facilitate implementation.

Furthermore, a credit-based disciplinary mechanism should be introduced for infringers. Entities found liable for infringement may be included in a GBA-wide credit blacklist, affecting their business operations, financing, and lending activities. Restrictions should be imposed on those who refuse to comply with cross-border judicial decisions, thereby enhancing enforcement effectiveness. Beyond litigation, it is important to fully utilize Alternative Dispute Resolution (ADR) mechanisms, such as mediation and arbitration. Specific measures may include: Establishing a GBA Intellectual Property Mediation Center, staffed by legal experts from the three jurisdictions; Improving arbitration mechanisms and encouraging institutions—such as the Shenzhen International Arbitration Court and the Hong Kong International Arbitration Centre—to conduct

cross-border IP arbitration; Introducing simplified procedures for cases with clear facts and minimal disputes, enabling efficient resolution; Developing an intelligent trademark protection platform based on artificial intelligence and big data technologies [8]. This platform should provide: Real-time monitoring of trademark use and infringement risks across e-commerce platforms and social media; Intelligent analysis of market behavior and infringement patterns; Customized recommendations tailored to enterprise needs, offering targeted protection strategies.

6.3. Strengthening enterprise awareness and enhancing rights protection capabilities

Launching awareness and training programs for unregistered well-known trademarks. The IP authorities and judicial bodies of the three jurisdictions should collaborate with industry associations to regularly hold specialized training sessions on the protection of unregistered well-known trademarks. These sessions should target enterprises engaged in cross-border operations throughout the Greater Bay Area. Training content should cover: the specific recognition standards under the laws of the three jurisdictions, relevant judicial procedures, and practical enforcement techniques. To reinforce the learning outcomes, a combination of case-based presentations, distribution of informational materials, and online courses should be utilized. This approach ensures that enterprises clearly understand the value of unregistered well-known trademarks and the available avenues for protection. For example, the annual "Greater Bay Area Intellectual Property Protection Forum" could invite judges, lawyers, and enterprise representatives from all three jurisdictions to share practical experience in unregistered well-known trademark protection.

Building a cross-border rights protection support system for enterprises. On one hand, a Greater Bay Area Intellectual Property Rights Protection Assistance Fund should be established, covering subsidies for legal fees, court fees, and other expenses to support SMEs in pursuing cross-border protection. On the other hand, a cross-border IP legal service platform integrating lawyers, notaries, and other relevant resources from the three jurisdictions should be developed to provide enterprises with a "direct access" channel for rights protection. Additionally, enterprises should be guided to establish evidence management practices, retaining contracts, sales invoices, promotional materials, and other documentation in accordance with standardized requirements to secure future enforcement rights.

Promoting strategic trademark protection planning for enterprises. Enterprises should be encouraged to develop comprehensive protection strategies when adopting trademarks, emphasizing the importance of both registration and actual use. For prevention of malicious registration by third parties, enterprises should promptly complete registration in all three jurisdictions of the Greater Bay Area. Simultaneously, a regular monitoring mechanism for trademark registration and usage should be implemented to promptly detect potential infringements.

7. Conclusion

The Guangdong–Hong Kong–Macau Greater Bay Area possesses exceptional conditions and a strong foundation to serve as a pilot region for cross-jurisdictional intellectual property protection within a single country. By promoting cross-border protection of unregistered well-known trademarks, the region can establish an integrated, cross-regional IP legal protection model. Efforts should also be made to explore the creation of a specialized Greater Bay Area IP Court, dedicated to handling intellectual property cases, thereby contributing China's expertise to the global protection of IP across legal jurisdictions [9].

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