

China: Michael Jordan Scores over Chinese Trademark Pirate after Nine-year Battle

By [Sahil Yadav](#)

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A nine-year tussle between NBA legend Michael Jordan and an infamously successful cyber squatter, Qiaodan Sport Co. Ltd. ("Qiaodan Sport"), for unauthorized use of Jordan's surname in Chinese culminated in the Shanghai No. 2 Intermediate People's Court ordering Qiaodan Sport to cease use of '乔丹', the Chinese equivalent of JORDAN, as a trademark and as part of its corporate name, and issue a public apology in print and online clarifying that it has no connection to the basketball phenomena (our report of an earlier decision in this case [here](#)) . While Mr. Jordan did not claim any damages per se, the Court granted him RMB300,000 (approximately \$46,000) for "emotional damages" and RMB 50,000 (approximately \$7,600) for legal expenses incurred.

Although the damages awards can only be seen as pocket change for someone whose worth has been valued at \$1.6 billion, the decision is still significant as Mr. Jordan was able to prevail without a prior registration in a first-to-file jurisdiction. Mr. Jordan claimed that the Chinese media had been covering him extensively since the 1980s and always referred to him with the Chinese transliteration of his surname. 乔丹 (Qiaodan). Due to such extensive and continuous use of his name over a long period,

he claimed that 乔丹(Qiaodan) had been inextricably associated with him in the minds of Chinese consumers. Accordingly, Mr. Jordan claimed rights in 乔丹 (Qiaodan) and that Qiaodan Sport used “Qiaodan” in its trade name, products, and advertising and promotional activities without his permission, thus misleading consumers and infringing his personality rights. Mr. Jordan was able to further establish misrepresentation based on other extenuating factors such as Qiaodan Sports also obtaining trademark registrations of his former jersey number “23,” and the Chinese transliterations of the names of his two sons, Marcus Jordan and Jeffrey Jordan.

Qiaodan Sports argued that “Jordan” is a common Western surname, not solely a reference to the NBA star, and that it was impossible for Mr. Jordan to enjoy the right of personality for a customary translation of a common English and American surname. It claimed that it had registered and used “Qiaodan” continuously for a long period of time and enjoyed trademark rights to it, and that Mr. Jordan had long known about its use but failed to take any action before the expiration of the statute of limitation.

The Court rebuked Qiaodan Sports for “registering the company name ‘Qiaodan’ and choosing the word ‘Qiaodan’ for trademark registration without Jordan’s authorization, despite knowing that he has a huge reputation.” The Court determined that Qiaodan Sports intended to mislead the public, so its use and registration of the subject mark constituted infringement of Mr. Jordan’s personality rights.

However, the win was certainly no “clean sweep.” Under Chinese Trademark Law, only pre-existing rights holders and other interested parties can file a request for invalidation based on relative grounds within five years from the date of registration. Most of Qiaodan Sports’ core trademarks, those it primarily uses in its branding and marketing activities, were registered soon after the company was founded in 1997. Therefore, the court could not revoke them and had to permit their use by Qiaodan Sport provided it adopted certain reasonable measures to avoid potential confusion between its marks and Mr. Jordan’s name, for example, using distinctive signs with the mark.

While this case provides some basis for optimism by brand owners and celebrities looking to enforce rights in China without trademark registrations there, it also serves as a cautionary tale that filing trademark registrations early in China paves the way for enforcement later. It also reinforces the importance of keeping an eye on the market to identify any misuse of marks or names, and monitoring the trademark register to check if third parties have obtained registrations for similar marks. If

problematic registrations are identified, it is crucial to take action within the first five years after registration.