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Improving the Extraterritorial Application System of China's Trademark Law-From the Perspective of a Comparison between Chinese and American Rules

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ABSTRACT

Against the backdrop of deepening economic globalization and the advancement of foreign-related rule of law, the extraterritorial application of domestic law has become an important legal tool for States to defend their sovereignty and protect intellectual property rights and economic interests. Taking comparative law as its research method, this paper first reviews the legal basis and evolution of rules governing the extraterritorial application of domestic law in the United States, and systematically analyzes the adjudicative standards and operational mechanisms underlying the extraterritorial application of the U.S. Lanham Act. It then examines the overall development trend of the extraterritorial application of China's Trademark Law, clarifying the existing gaps, controversies, and practical shortcomings at the legislative, judicial, and law enforcement levels. By comparing the institutional differences between China and the United States in the extraterritorial application of trademark law across the three dimensions of legislation, law enforcement, and adjudication, and in light of China's objectives of building an IP powerhouse and a strong trading nation as well as the practical demands of improved foreign-related rule of law, this paper draws on the mature practical experience of the United States and proposes optimization schemes at four levels-legislative improvement, law enforcement standardization, judicial guidance, and talent guarantee-with a view to filling the institutional gaps in the extraterritorial application of China's Trademark Law, strengthening China's capacity to protect overseas trademark rights, constructing a systematized set of rules for the extraterritorial application of domestic law, and promoting the coordinated development of foreign-related rule of law in the new era.

KEYWORDS

Foreign-related Rule of Law; Extraterritorial Application of Domestic Law; Trademark Law; Jurisdiction.

1. INTRODUCTION

The world today is undergoing profound changes unseen in a century, with the international economic and trade landscape and the intellectual property protection order undergoing continuous restructuring. Some countries have broken through the boundaries of traditional territorial jurisdiction, expanding the extraterritorial application of their domestic laws through national legislation, judicial adjudication, and unilateral law enforcement, which has not only weakened traditional international jurisdiction rules but also driven the reshaping of the global application of law landscape. [1] Among these, the United States, as a global economic and trade power, introduced the presumption against extraterritoriality rule in the Restatement (Fourth) of the Foreign Relations Law of the United States, [2]thereby clarifying the specific conditions for the extraterritorial application of U.S. domestic law. This development has opened up new possibilities for the extraterritorial application of various U.S.

laws, including the Antitrust Law, Securities Law, Sherman Act, Lanham Act, and Trade Secret Law, and thus forming a complete extraterritorial application system.

In the field of intellectual property, the United States has long attached importance to the protection of intellectual property interests. On the one hand, it has actively promoted international intellectual property protection cooperation among countries, exemplified by the Agreement on Trade-Related Aspects of Intellectual Property Rights. On the other hand, it has sought to break through territorial limitations by expanding jurisdiction so as to achieve the extraterritorial application of its domestic intellectual property law, thereby fulfilling its hegemonic fantasy in the global intellectual property field. For example, the U.S. Supreme Court, in the 1952 case of *Steele v. Bulova Watch Co.*, established that the Lanham Act could be applied extraterritorially. [3] This case marked the first extraterritorial application of U.S. trademark law and laid the groundwork for its subsequent development. Meanwhile, in recent years, the United States has adopted unilateralist measures such as the "Section 301 investigation," extending the extraterritorial application of domestic law to protect its own intellectual property interests. This has led a growing number of countries to utilize domestic laws for the same purpose, contributing to the "fragmentation" of the international legal system on intellectual property. [4]

Obviously, as jurisdiction is a core element of national sovereignty, the unjustified extraterritorial application of domestic law can infringe upon the sovereignty and national interests of other countries, and may also give rise to conflicts both between states and between domestic law and international law. [5]In response to the external challenges posed by the long-arm jurisdiction of extraterritorial laws, China has explicitly proposed to coordinate the promotion of domestic rule of law and foreign-related rule of law, and to accelerate the construction of the extraterritorial application system of domestic law, so as to safeguard national sovereignty, security, and development interests. Currently, China is in a critical stage of transition from a major IP country to an IP powerhouse, and from a major trading nation to a strong trading nation. For market entities, trademarks constitute core intangible assets, and their overseas protection is directly related to the international competitiveness of Chinese enterprises. However, China's trademark law has long adhered to the principle of territoriality, characterized by a lack of rules for extraterritorial application and limited practical experience, which makes it difficult to effectively cope with extraterritorial trademark infringement behaviors and prevents it from forming reciprocal countermeasures. Based on this, taking trademark law as the perspective of entry, this article conducts a comparative study on the systems, practices, and rule logics of the extraterritorial application of domestic laws, especially trademark laws, of China and the United States. It further analyzes the legislative concepts and operational logics underlying the institutional differences between the two countries, proposes paths for improving the extraterritorial application system of trademark law based on China’s national conditions, and provides theoretical references and practical ideas for the construction of the rule of law in China’s foreign-related intellectual property.

2. THE CURRENT STATUS OF THE EXTRATERRITORIAL APPLICATION OF UNITED STATES DOMESTIC LAW AND TRADEMARK LAW

2.1. The International Law Foundation of the Extraterritorial Application of United States Domestic Law

The core of the extraterritorial application of domestic law is extraterritorial jurisdiction, the jurisprudential basis of which originates from the four principles of jurisdiction universally recognized by international law: territorial jurisdiction, nationality jurisdiction, protective jurisdiction, and universal jurisdiction. The extraterritorial application of domestic law inevitably leads to discussions on the issue of extraterritorial jurisdiction, and scholars at home and abroad hold different views on the connection between the extraterritorial application of domestic law and extraterritorial jurisdiction. Some scholars point out that extraterritorial jurisdiction is the prerequisite for the extraterritorial application of domestic law, and domestic law can be applied extraterritorially only after jurisdiction is enjoyed in accordance with the law; [6] Another group of scholars argues that the effect of the extraterritorial jurisdiction of law arises only after the extraterritorial application of domestic law. They further maintain that the extraterritorial application of domestic law primarily falls within the legislative domain, whereas extraterritorial jurisdiction mainly pertains to the domains of law enforcement and judicature.[7] Regardless of the precise relationship between the two, jurisdictional rules serve as the domestic-law embodiment of internationally recognized jurisdictional principles and provide both the theoretical and practical foundations for the extraterritorial application of domestic law

Among these, the Lotus Case, adjudicated by the Permanent Court of International Justice, is an iconic precedent of state extraterritorial jurisdiction under the modern international law framework, and it has also become an important source of legal theory for the extraterritorial application of domestic law in various countries [8]. In 1937, Hersch Lauterpacht gave this case a high evaluation, considering it "a mine of information on the question of jurisdiction" [9]. In the "Lotus Case," France pointed out that "if Turkey is to exercise jurisdiction on the high seas, there must be an express provision of international law"; Turkey held that "as long as a state's exercise of jurisdiction does not conflict with the rules of international law, it may exercise jurisdiction on the high seas"; however, the International Court of Justice indicated in its judgment on this case that "international law does not prohibit a general rule allowing states to apply their domestic laws to extraterritorial persons, property, and acts, nor does it prohibit the application of the jurisdiction of their courts to such matters, and states enjoy broad discretionary power, which may only be restricted under certain special circumstances" [10]. In other words, a country is entitled to apply its domestic law extraterritorially so long as it does not violate the prohibitive provisions of international law. Thereafter, the 1958 Geneva Convention on the High Seas and the 1982 United Nations Convention on the Law of the Sea (UNCLOS) both incorporated the judicial spirit of the Lotus Case, providing unified international law norms for countries around the world to formulate and apply extraterritorial jurisdiction rules, and the extraterritorial application of U.S. domestic law has also gradually developed with this as its jurisprudential support.

2.2. Extraterritorial Application of United States Domestic Law

The concept and rules governing the extraterritorial application of U.S. domestic law have undergone a complete evolutionary process from strict limitation, to active expansion, and then to normative contraction, which may be roughly divided into three stages.

The first stage is the stage of strict territorial limitation. In its early founding period, the United States strictly adhered to the territoriality principle and the principle of absolute sovereignty within the "Westphalian system." In the early nineteenth century, U.S. courts established the rule of "presumption against extraterritoriality," under which domestic law took effect only within the territory of the country itself and could not be applied beyond territorial boundaries [11]. For example, in cases such as United States v. Palmer and the Apollon case, U.S. courts each limited the scope of extraterritorial application of U.S. domestic law in accordance with the provisions of international law.

The second stage is the expansion stage dominated by the effects principle. In the early twentieth century, the outward expansion of the major European powers led to the extraterritorial extension of jurisdiction by various countries, and the domestic laws of various countries gradually came to regulate foreign persons, things, and conduct. The conception of the extraterritorial application of U.S. domestic law also began to shift in United States v. Bowman, in which federal criminal law was directly applied to a U.S. citizen in Brazil, breaking through the limitation of pure territoriality [12]. With the extraterritorial application of U.S. law, U.S. courts began to explore the standards for the extraterritorial application of U.S. law. In United States v. Aluminum Co. of America, the U.S. court held that the Sherman Act could be applied as long as the conduct of an entity outside U.S. territory produced a substantial effect on commercial order and economic interests within U.S. territory, thereby establishing the effects principle for the extraterritorial application of U.S. domestic law [13]. Thereafter, multiple statutes such as the U.S. Sherman Act, the Lanham Act, and the U.S. Civil Rights Act continuously expanded the scope of extraterritorial application [14], but the threshold for applying the effects principle was relatively low, which could easily give rise to parallel jurisdiction, conflicts of law, and confrontations with other states' sovereignty, and the drawbacks thereof gradually became apparent.

The third stage is the stage in which the presumption against extraterritoriality was established. In order to balance domestic interests with international comity and reduce the intrusion of the effects doctrine upon the national sovereignty of other countries as well as legal conflicts between states, the U.S. Supreme Court, in Morrison v. National Australia Bank Ltd. in 2010 and RJR Nabisco, Inc. v. European Community in 2016, abandoned the previous "effects doctrine" and established the "presumption against extraterritoriality." The application logic of this rule is divided into two layers: first, the rule first considers whether the legislation directly provides for extraterritorial application, and if such provision exists, extraterritorial application is applied directly [15]; second, if the legislation does not expressly provide for such application, the relevant legal provisions must be analyzed, taking into comprehensive consideration factors such as whether the clause possesses extraterritorial characteristics, whether legislative intent for extraterritorial application can be inferred, and whether there exists a substantial connection with the United States, in order to determine the extraterritorial application of domestic law; otherwise, U.S. domestic law may not be applied extraterritorially [16]. Subsequently, the United States re-examined the issue of extraterritorial application of laws such as the Securities Act, the Foreign Corrupt Practices Act (FCPA), and the Alien Tort Statute (ATS), and made specific provisions on the rules of extraterritorial application of U.S. domestic law in Sections 403, 404, 405, and 406 of the Restatement (Fourth) of Foreign Relations Law [17]. Accordingly, the presumption against extraterritoriality is currently the latest rule governing the extraterritorial application of U.S. domestic law, and it has also appropriately narrowed the scope of extraterritorial application of U.S. domestic law under the effects doctrine.

2.3. Extraterritorial Application of U.S. Trademark Law

The extraterritorial application of U.S. trademark law is a gradual process. Not until 1905 did Congress enact the "first modern federal trademark registration act" under the commerce clause, and it was the Lanham Act of 1946 that established the current statutory framework [18]. In 1952, the U.S. Supreme Court, in Steele v. Bulova Watch Co., applied the Lanham Act, U.S. trademark law, extraterritorially for the first time. In this Case, the Plaintiff, Bulova Corporation, was the Holder of the U.S. Bulova Trademark and was primarily engaged in the manufacture of watches. Defendant Steele was an American citizen who relocated from the United States to Mexico to engage in watch manufacturing; in 1933, Defendant Steele registered the Bulova trademark in Mexico in bad faith, but in 1952 the Supreme Court of Mexico held that such trademark registration was invalid, and Defendant sold in Mexico watches bearing the affixed Bulova trademark that it manufactured. Subsequently, certain consumers requested the Bulova Watch Company to repair their Bulova-branded watches purchased in Mexico, whereupon Plaintiff filed suit in the district court in Texas and appealed to the Supreme Court of the U.S. [19]. The Supreme Court of the U.S. clarified in its judgment that the term "commerce" in section 45 of the Lanham Act is to be interpreted as "all commerce which may lawfully be regulated by Congress," and that all commerce includes commercial activities between the United States and other countries; therefore, the Lanham Act possesses extraterritorial application. At the same time, the U.S. Supreme Court, in this Case, discussed three factors regarding the extraterritorial application of U.S. trademark law: first, whether the defendant's conduct has a certain effect on U.S. commercial activities; second, whether the defendant is an American citizen; and third, whether the judgment rendered by the U.S. court may give rise to a confrontation with foreign law [20]. The three factors established in this case constitute the foundation for the extraterritorial application of U.S. trademark law, which is known as the Steele Test governing the extraterritorial reach of the U.S. Lanham Act [21]. Among these factors, the consideration adopted by the U.S. Supreme Court in this case-aligns with the effects doctrine that then governed the extraterritorial jurisdiction of U.S. domestic laws, and this doctrine remains a fundamental basis for the United States to assert extraterritorial jurisdiction over its domestic legislation.

However, the provisions on the three factors for the extraterritorial application of U.S. trademark law established by the U.S. Supreme Court in Steele v. Bulova Watch Co. were relatively vague, and did not specify whether the extraterritorial application of U.S. trademark law needs to satisfy only one of these factors or all of these factors. Subsequently, in the course of adjudicating Vanity Fair Mills v. T. Eaton Co. and McBee v. Delica, the federal circuit courts of appeals of the United States refined the three factors within the effects doctrine governing the extraterritorial application of the Lanham Act, forming respectively the "Vanity Fair test standard" and the "two-step test standard." Among these, the "Vanity Fair Test Standard" formed by the Second Circuit Court of Appeals in Vanity Fair Mills v. T.Eaton Co. is stricter than the "Steele Standard," requiring that the extraterritorial application of the Lanham Act satisfy all three factors simultaneously, while also elevating the requirement from "some effect" on American commerce to "substantial effect" [22]. Subsequently, the First Circuit Court of Appeals in McBee v. Delica did not adopt the "Vanity Fair Test Standard," but instead adopted a two-step judgment standard: the first step determines whether the defendant is a U.S. citizen; if the defendant is a U.S. citizen, the Lanham Act may be applied extraterritorially; if the defendant is not a U.S. citizen, a second step is required for determination; the second step determines whether the overseas trademark infringement produces a "significant effect" on the United States, and if a significant effect is produced, the Lanham Act may be applied extraterritorially, otherwise it may not [23]. As is evident from a comparison, the two-step test eliminates the third Steele factor, thereby streamlining the determination of the Lanham Act's extraterritorial applicability.

Evidently, the legislative and judicial practice of U.S. trademark law demonstrates that U.S. trademark law has the possibility of extraterritorial application. However, the extraterritorial application of U.S. trademark law is subject to limitations, and it may be applied extraterritorially only if the corresponding standards are satisfied.

3. CURRENT STATUS OF THE EXTRATERRITORIAL APPLICATION OF CHINA'S DOMESTIC LAWS AND TRADEMARK LAW

3.1. Overall Landscape of the Extraterritorial Application of China's Domestic Laws

Compared to the mature rule system of the United States, China's legal system for the extraterritorial application of domestic laws is still in its initial stage. Rules on the extraterritorial application of domestic laws have long remained in a conservative state in legislation, law enforcement, and adjudication, with only a small number of laws and regulations setting forth clauses related to the extraterritorial application of domestic laws, and the defensive function of such clauses outweighs their offensive function [24].

First, at the legislative level, China has not yet promulgated a unified foundational rule on extraterritorial application, and the relevant provisions are scattered across various branches of law. A small number of laws, such as the Criminal Law, the Anti-Monopoly Law, the Law of the People's Republic of China against Unfair Competition, and the Securities Act, have set forth provisions related to extraterritorial application, the functions of which are primarily defensive and countermeasure-oriented, with relatively few provisions that actively regulate conduct occurring abroad. In recent years, along with the advancement of the rule of law in foreign-related matters, regulations such as the Export Control Law, the Rules on Counteracting Unjustified Extra-territorial Application of Foreign Legislation and Other Measures, and the Provisions on the Unreliable Entity List have been successively promulgated, and China's countermeasure legal system against foreign states' unjustified extraterritorial jurisdiction has taken initial shape [25]. In order to grant a greater number of laws and regulations extraterritorial effect, some scholars have proposed directly amending the Legislation Law of the People's Republic of China to provide a legal basis for the extraterritorial application of China's domestic laws [26].

Second, at the enforcement level, instances in which China's executive branch has applied domestic laws extraterritorially are extremely rare. In 2018, the Airport Branch of the Shanghai Administration for Industry and Commerce issued an Administrative Penalty Notice against Booking.com, a company registered in the Netherlands, for false propaganda, pursuant to the Law of the People's Republic of China against Unfair Competition [27]. This case represents the first extraterritorial application of China's Law of the People's Republic of China against Unfair Competition; however, administrative law enforcement lacks a normalized mechanism, law enforcement means tend toward singularity, extraterritorial law enforcement actions such as property penalties and conduct penalties are inadequately supported, and law enforcement procedures are insufficiently aligned with internationally accepted rules.

Third, at the judicial level, Chinese courts have also played an insufficient role in participating in the judicial practice of extraterritorial application of domestic law; the number of relevant precedents is scarce, and a unified judicial guidance and system of typical cases has not yet been formed. Overall, the extraterritorial application of domestic law in China remains at an exploratory stage, and there remains a considerable gap before it can achieve systematized and normalized operation.

3.2. Practical Dilemmas and Theoretical Controversies in the Extraterritorial Application of Chinese Trademark Law

China's Trademark Law has long adhered to the principle of territoriality, establishing the fundamental position of "territorial application as the rule, extraterritorial application as the exception." Whether in legislation, judicial practice, or theoretical research, the extraterritorial application of trademark law exhibits obvious shortcomings, and unified rules have not yet been established to date.

The discussion of this issue in China's practice and theory originated from the controversy over whether trademarks in foreign-related original equipment manufacturing (OEM) constitute infringement. Foreign-related OEM processing refers to a situation in which the defendant, commissioned by a foreign business, affixes a mark lawfully registered by the plaintiff in China onto products manufactured and processed within China's territory. Such products are exported only to foreign countries, are not sold domestically, and will not flow back into the domestic market. Some scholars argue that such products infringe upon the trademark rights of Chinese trademark owners. With regard to the issue of foreign OEM processing, consideration should be given to the adverse impacts of extraterritorial processing and manufacturing activities on China. It is proposed that when China’s Trademark Law applies extraterritorially, reference be made to the principle of safeguarding national interests adopted by U.S. trademark law in its extraterritorial application, so as to explicitly establish the principle of international comity governing the extraterritorial application of China’s Trademark Law [28]. Other scholars argue that when courts prohibit trademark-infringing acts in foreign OEM processing pursuant to domestic trademark law, this does not constitute the extraterritorial application of domestic trademark law. Rather, in accordance with the principle of territoriality, because the infringing act occurs within Chinese territory, trademark law may be directly applied to such acts, and thus no issue of extraterritorial application arises [29]. Moreover, the case of Les Ateliers Louis Vuitton International Ltd. v. Pujiang Yahuan Lock Co., Ltd., tried by the Supreme People's Court of the People's Republic of China (hereinafter referred to as the SPC) in 2015, also concerned the issue of OEM processing, in which the Supreme People's Court applied the Trademark Law of the PRC pursuant to Article 50 of the Law of the People's Republic of China on the Laws Applicable to Foreign-related Civil Relations [30]. However, legal norms applied pursuant to the guidance of conflict-of-laws rules do not fall within the scope of the discussion of extraterritorial application of domestic law in this article.

Therefore, as of now, no direct conclusion has been reached as to whether China's Trademark Law can be directly applied extraterritorially, and the specific standards for the extraterritorial application of the Trademark Law also remain undetermined; research on the extraterritorial application of China's Trademark Law is still insufficient. Accordingly, we should consider the current situation and problems of the extraterritorial application of China's Trademark Law from the aspects of legislation, law enforcement, and adjudication, and propose solution paths from the corresponding levels, explore a Chinese-style standard for the extraterritorial application of trademark law, improve the mechanism for the extraterritorial application of China's Trademark Law, and thereby promote the construction of a legal system for the extraterritorial application of China's domestic law.

4. COMPARATIVE ANALYSIS OF THE CURRENT STATUS OF EXTRATERRITORIAL APPLICATION OF TRADEMARK LAW IN THE UNITED STATES AND CHINA

Through an analysis of domestic law and the extraterritorial application of trademark law in the United States and China, the basic features of such application in the two countries can be identified. To further examine the similarities and differences in the current status of extraterritorial trademark law application between China and the United States, it is helpful to conduct the analysis from three dimensions: legislation, law enforcement, and adjudication.

First, at the legislative level, neither China's Trademark Law nor the United States' Lanham Act expressly provides for extraterritorial application in statutory sections, and the extraterritorial application of trademark law was not directly created by legislation in either country. Whether trademark law possesses extraterritoriality is a precondition for the extraterritorial application of trademark law. If the extraterritoriality of trademark law cannot be clarified at the legislative level, this will result in law enforcement and judicial authorities being unable to directly apply trademark law extraterritorially. However, differences exist between the two countries regarding the extraterritorial application of trademark law, and these differences lie in the sources of rules and legislative philosophy: the United States relies on well-established jurisdictional jurisprudence, with judicial authorities filling gaps in the rules through case law; China's trademark legislation adheres to the tradition of territoriality, has not reserved institutional space for extraterritorial application, and has not issued legislative interpretations to supplement this gap, resulting in a complete absence of institutional supply.

Second, at the enforcement level, the measures and methods for extraterritorial law enforcement by the executive branch remain to be improved and enhanced. Regardless of the branch of law involved, there are few instances in which China's law enforcement authorities directly apply domestic law extraterritorially. The practice of the executive branch applying trademark law extraterritorially is almost nonexistent. The reasons include the fact that China's Trademark Law does not provide for extraterritorial effect. Moreover, the administrative law enforcement measures provided for in China's Trademark Law are not sufficiently developed; for example, the current domestic legal norms on extraterritorial application mainly concern penalties on personal liberty, such as criminal liability and administrative detention, while neglecting property penalties such as fines and forfeiture. At the same time, the law enforcement methods of China's executive branch need to be improved. For instance, the extraterritorial application of China's domestic laws is still announced in the form of the Foreign Ministry Spokesperson's responses to reporters' questions, rather than through the issuance of administrative orders by the executive branch. In the United States, however, the trademark administrative law enforcement system is well developed, being equipped with diversified law enforcement actions such as property penalties, forfeiture, and injunctions, which can be implemented against related extraterritorial infringing acts, with extraterritorial law enforcement rights and responsibilities being clearly defined and procedures being standardized.

Third, at the judicial level, the role played by Chinese courts in the extraterritorial application of trademark law is not sufficiently pronounced. The extraterritorial application of trademark law was reflected in China's case of "Fujian Quanzhou Peak Sporting Goods Co., Ltd. v. Wuxi Zhenyu International Trade Co., Ltd. et al. for Trademark Infringement Dispute" [31]. However, the Supreme People's Court of China has not specified, in its relevant judicial interpretations of trademark law, whether trademark law may be applied extraterritorially, nor has it set forth the specific standards for such application. Moreover, China has not yet issued any guiding cases concerning the extraterritorial application of trademark law. Compared with U.S. courts, which have clarified the extraterritorial effect of trademark law and the standards for its extraterritorial application through judicial interpretations and precedents, the role played by Chinese courts in the extraterritorial application of China's trademark law remains insufficiently pronounced, which is detrimental to the protection of the lawful rights and interests of Chinese trademark holders abroad.

5. INSIGHTS FROM THE U.S. SYSTEM FOR IMPROVING THE EXTRATERRITORIAL APPLICATION OF CHINA'S TRADEMARK LAW

5.1. Analysis of the Necessity of the Extraterritorial Application of China's Trademark Law

First, from the national perspective, the extraterritorial application of trademark law has promoted the rulemaking of international rules in the trademark field, mapping domestic trademark law onto international rules, which helps to demonstrate the country's voice in the rulemaking of international rules [32]. At the same time, as law serves as an important tool for a country's external engagement, the extraterritorial application of domestic law also benefits the realization of the country's foreign policy. Moreover, the extraterritorial application of China's Trademark Law constitutes an important component of the broader issues of domestic-law extraterritorial application and extraterritorial jurisdiction, thereby laying a foundation for further exploring the relevant standards. At the same time, by strengthening the fundamental theories of the extraterritorial application of domestic law and extraterritorial jurisdiction, theoretical support is provided for the construction of the legal system for the extraterritorial application of Chinese law.

Second, from the social perspective, the extraterritorial application of trademark law has effectively safeguarded domestic social interests and has also actively protected the overseas rights and interests of Chinese trademarks. The extraterritorial application of trademark law will transcend the territoriality principle of trademarks, possess a robust defensive function, and provide a counter-tariffs basis for resisting the unreasonable extraterritorial application of foreign trademark law.

Third, from the individual perspective, the extraterritorial application of trademark law has protected the lawful rights and interests of enterprises and individuals, reasonably circumvents the compensation for extraterritorial profit losses under indirect infringement provided for in foreign trademark law, provides a reference path for the compliance construction of trademark rights of enterprises and individuals, and reduces financial loss arising from the extraterritorial application of foreign law.

5.2. Path for Improving the Extraterritorial Application System of Trademark Law in China

Having analyzed the reasons for the current state of extraterritorial application of China's trademark law from the three levels of legislation, enforcement, and adjudication, corresponding breakthrough paths should likewise be proposed from these same three levels.

First, at the legislative level, China's legislature should amend and improve China's trademark law, adding new legal clauses addressing the issue of extraterritorial application of trademark law. Considering that clarifying the extraterritorial application of trademark law through legislative amendment involves a complicated procedure and takes a relatively long time, the Standing Committee of the National People's Congress may clarify the issue of extraterritorial application of trademark law by way of legislative interpretation, and further consideration needs to be given to the conditions, manner, scope, and legal consequences of the extraterritorial application of trademark law. After all, the extraterritorial application of trademark law is created in human activities, and it is necessary to examine the development of the extraterritorial application of trademark law from a social perspective. Law is closely connected with society, and the establishment of legal rules must conform to the needs of social development; the past, present, and future of a legal system must be explored within the mutual influence between society and law. Therefore, through legislative interpretation, the relevant systems that effectively guarantee such application can be clarified and implemented within a short period of time, thereby providing legal guarantees for subsequent enforcement and adjudication.

Second, at the enforcement level, China's administrative law-enforcement agencies should strictly exercise the executive power conferred by trademark law, and it is necessary to guarantee the foreseeability and stability of law-enforcement effects. At the same time, in performing administrative duties, administrative agencies should proceed in accordance with legal procedures, strictly adhering to the principle that "no action may be taken without authorization by law." In the process of implementing the extraterritorial application of trademark law, China's administrative agencies should pay attention to the principle of international comity and utilize and construct bilateral or multilateral agreements to avoid genuine legal conflicts among countries arising from law-enforcement activities. At the same time, in order to prevent the adverse effects that may be brought to China's administrative agencies, public institutions, and individuals by the extraterritorial application of other countries' trademark laws, China's administrative agencies should strengthen planning and improve the construction of prevention and counter mechanisms, and Chinese enterprises should also enhance their own risk-prevention awareness and establish enterprise compliance systems [33].

Third, at the judicial level, as a common law country, the United States differs from countries of other legal systems in terms of legislation, law enforcement, and adjudication, and the judicial interpretations and precedents rendered by U.S. courts on a series of issues concerning the extraterritorial application of trademark law are also incompatible with the provisions on the extraterritorial application of trademark law in other countries. However, China may, under the condition of conforming to China's national circumstances, study and draw upon the provisions of the United States and other Western countries regarding a series of issues concerning the extraterritorial application of trademark law. China must highlight the important role of courts in the extraterritorial application of trademark law. The Supreme People's Court may issue judicial interpretations of trademark law to expand the scope of the extraterritorial application of trademark law and make provisions on the standards for the extraterritorial application of trademark law. The extraterritorial application of the Trademark Law of China may also be achieved through the Supreme People's Court's plain meaning interpretation, systematic interpretation, and purposive interpretation of existing provisions to form judicial interpretations, in which whether the Trademark Law may be applied extraterritorially is clarified, thereby expanding the scope of application of the Trademark

Law through the method of legal dogmatics. Only after the text of the Trademark Law itself, the positional relationships within the provisions, the intent of the legislators, and other factors have been thoroughly studied can the current state of extraterritorial application of the Trademark Law be surpassed and the extraterritorial application of the Trademark Law be promoted.

Fourth, at the level of cultivating foreign-related legal talent, the extraterritorial application of trademark law spans multiple fields, including domestic law, international law, comparative law, and intellectual property law, which places extremely high demands on professional talent. Universities, judicial authorities, and executive branches should collaboratively cultivate versatile foreign-related rule of law talents who are well-versed in domestic trademark rules, international jurisdictional rules, and overseas intellectual property laws, so as to strengthen the legislative, law enforcement, and judicial teams and provide talent support for the implementation of the system. This is also an inherent requirement for constructing a legal system for the extraterritorial application of PRC law.

6. CONCLUSION

The extraterritorial application of domestic law constitutes a crucial legal tool for States to safeguard their lawful rights and interests in the era of globalization, and the extraterritorial application of trademark law is a key component of the rule of law in foreign-related intellectual property matters. Through decades of judicial practice and successive rule refinement, the United States has formed a systematized regime for the extraterritorial application of trademark law, and its adjudicative standards and the logic underlying the evolution of its rules hold significant reference value.

Turning to China, the current regime for the extraterritorial application of trademark law suffers from numerous problems, including legislative gaps, scant judicial practice, and the absence of coherent rules, rendering it ill-suited to the practical demands of building an intellectual property powerhouse and advancing the rule of law in foreign-related affairs. Based on the conclusions drawn from the comparison between the Chinese and American systems, China need not replicate the United States' long-arm jurisdiction model. Instead, it should, in light of its own legal traditions and international responsibilities, adhere to the three principles of prudent application, reciprocal protection, and international comity, remedy institutional shortcomings through legislative and judicial interpretation, standardize administrative law enforcement and judicial adjudication conduct, and progressively build a system for the extraterritorial application of trademark law with Chinese characteristics.

Improving these rules can not only protect the overseas trademark rights and interests of Chinese enterprises and counter improper foreign extraterritorial jurisdiction, but can also promote the construction of China's overall legal system for the extraterritorial application of domestic law. In doing so, it will help coordinate domestic and foreign-related rule of law, enable China to play a more prominent role in global intellectual property governance, and actively participate in the development of the international legal order.

CONFLICTS OF INTEREST

The authors declare that they have no conflict of interest.

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