

## From China to Vietnam: Unfair competition - What key takeaways for businesses?

*Intense competition in the current business environment is driving many companies to resort to illegal and unethical tactics to profit, such as "riding on the coattails" of famous brands (capitalizing on the reputation of famous brands) or "borrowing the name" of others to sell their products. What will happen if such actions are not addressed? Will any company dare to invest in research and development when their achievements can be easily stolen? And what responsibilities do **online platforms** have in protecting intellectual property ("IP") rights on their platforms?*

Recently, the Haidian District People's Court in Beijing has issued a ruling on the [unfair competition](#) lawsuit between Glucox Biotech AB (Glucox) and Hangzhou Guangyuan Biotechnology Company (Guangyuan) and Beijing Xilin Book Network Technology Company (Xilin). According to the ruling, Guangyuan and Xilin violated the law and must compensate Glucox for damages.

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### Unethical competition via reputation exploitation

The lawsuit centered on 114 compounds developed by Glucox Biotech. The names of these compounds included Glucox's "acronym" and an "Arabic numeral." After information about the 114 compounds was published, their functions were mentioned in numerous medical documents and were widely cited, establishing Glucox's reputation.

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**Making Matters Worse:** Xilin Company, the network service provider operating the disputed website, failed to handle the infringement information appropriately. Despite taking some measures after receiving complaints, inaccurate information about the 114 compounds continued to appear when users searched for it. This further exacerbated the damages suffered by Glucox.

The court has issued a ruling ordering Guangyuan Company and Xilin Company to [compensate](#) Glucox Company for damages. This is a costly lesson for businesses that lack business ethics and take advantage of others' reputations for profit.

### Unfair competition – What key takeaways for doing business in Vietnam?

**[1]** The aforementioned lawsuit serves as a prime example of unfair competition practices and their legal consequences. This case offers valuable lessons for businesses and network service providers:

**For businesses:** Using the trademark or product name of another business to advertise your own products can mislead consumers into believing they are purchasing products from the referenced business. This can damage the reputation and goodwill of the infringed business, leading to potential loss of revenue, market share, and customers. Therefore, such actions constitute unfair competition.

**For network service providers:** They have a responsibility to cooperate with relevant stakeholders, such as IPR holders and authorities, to promptly and effectively handle infringement

information on their platforms. Network service providers need to establish clear and efficient procedures to identify, remove, and prevent infringement, including complying with legal requirements and respecting IP rights.

**[2] Refraining from selling [counterfeit goods](#) does not equate to respecting the IP rights of others.** In reality, "riding on the coattails" of established brands and misleading consumers to profit from the reputation and goodwill built by other businesses constitutes a legal violation and can be categorized as unfair competition. However, the underhanded tactics of unfair competition, no matter how sophisticated, will eventually be exposed and face the appropriate legal consequences.

**[3] Does using another company's trademark for advertising without directly affixing it to your product constitute infringement?** Many seemingly harmless actions can violate IP rights and constitute unfair competition, leading to serious consequences for businesses. **Here are some common practices that may constitute IP infringement:**

**(a) Direct use of product names and trademarks:**

- **Using product names/trademarks in ad titles:** For instance, "Our new product is X times better" (direct comparison with product X).
- **Using product names/trademarks in ad content and images:** Displaying images/videos of competitors' products in your ads, potentially accompanied by direct comparisons or simply to create associations. Examples: "Our product is perfectly compatible with all X devices" (mentioning product X to attract users who already use X). Or, an ad image showing your product next to the well-known product X.
- **Using in "domain names" and "sub-brands":** Registering domain names or creating sub-brands that contain the names of competitors' products/trademarks to attract potential customers and direct users to their website when searching for those products.

**(b) Implicit suggestions and comparisons:**

- **Using suggestive language about other products/trademarks:** For example, "The #1 product for those who love smoothness" (alluding to product X known for its smoothness).
- **Indirectly comparing to other products/trademarks:** For instance, "Our product outperformed all competitors in quality tests" (implying product X is one of the competitors).
- **Using product comparison images/videos:** For example, an ad video showcasing your product's performance against product X.

**(c) Exploiting reputation and brand:**

- **Using positive reviews/comments about other products/trademarks:** For example, quoting user praise for company X's product in your product's ad.
- **Creating confusion about affiliation with other products/trademarks:** For instance, using logos or designs [similar](#) to product X to deceive consumers.
- **Associating your product with events/activities related to other products/trademarks:** For example, sponsoring an event where product X is the main sponsor.

**(d) Other marketing activities:**

- **Using keywords in online advertising:** Utilizing the names of products or trademarks from other companies as keywords to enhance ad visibility on search engines or online platforms.
- **Using in promotional programs:** Employing the names of competitors' products or trademarks to create promotions, such as "Buy product X, get product Y free" with product Y being from the competitor.
- **Using packaging or product design similar to competitors' products:** For instance, a company using packaging or product design that closely resembles a well-known competitor's product to mislead consumers into believing their product is from the popular company.

## Final thoughts

For sustainable growth, businesses must stand on their own feet, not on the shoulders of others. In reality, there are numerous intertwined competitive practices, but the line between permissible and

unfair competition seems blurred. Clearly, understanding the law and respecting the IP rights of other entities to prevent getting bogged down in legal disputes in today's increasingly competitive landscape is a paramount requirement for every business. Harboring intentions to "ride on the coattails" or "borrow the name" of others for profit is the quickest path to destroying a business's creative and developmental efforts.

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