

Introduction of Practice Areas of Leezhao —Anti-trust and Anti-unfair Competition

Practices:

Anti-trust and Anti-unfair Competition are the main practice areas of Leezhao. We provide professional consultation and agency services to transnational companies and domestic clients according to the Anti-trust Law of PRC, Anti-unfair Competition Law of PRC and the related laws and regulations.

Professional services provided by Leezhao mainly include:

- Consultation services regarding Anti-trust and Anti-unfair Competition

Leezhao helps many transnational companies with solving all kinds of potential complex legal problems when the transnational companies reached horizontal or vertical agreements with other competitors, vendors, distributors or clients. Leezhao can provide legal suggestions and advices in the field of monopoly and unfair competition. The monopoly behaviors include price alliance, price fraud, recommending sales price, price discount, rebate and sales rebate, tied sale, exclusive arrangement, regional restriction, predatory pricing, boycott and abuse of IP rights, etc. The unfair competition behaviors include commercial bribery, commercial secret protection, fake propaganda, fake advertising and business reputation damage, etc.

Based on the nature and trading custom of the clients, Leezhao formulates all kinds of compliance management systems and provides lectures, seminars and staff trainings regarding anti-trust /anti-unfair competition and helps the clients to deal with the investigations thereof, and reduce the legal risk to the full extent.

- Anti-trust declaration of the concentration of business operators

During the legal services, Leezhao provides professional legal suggestion to the clients about potential anti-trust problems and whether the related transaction needs to be declared in the merger and acquisition process and represents the clients to negotiate with the anti-trust Law Enforcement Agency of the Ministry of Commerce in advance. As for those transactions reach the threshold of declaration prescribed by the State Council, Leezhao composes anti-trust declaration reports of the concentration of business operators for the clients and provides them with legal suggestion about market definition and competitive analysis. Also, Leezhao

represents the clients to declare to the anti-trust Law Enforcement Agency of the Ministry of Commerce. During the examination process, Leezhao represents the clients to negotiate and communicate with the anti-trust Law Enforcement Agency of the Ministry of Commerce and participates in the procedures of statement, hearing, and on-site verification to help the clients to complete the anti-trust examination

- Dealing with administrative investigation of anti-trust /anti-unfair competition

Leezhao helps the clients with rapid response when they encountered with anti-trust /anti-unfair competition investigation or other related administrative enforcement procedures. Leezhao also assists the clients to do investigation, search and verify evidence; to formulate response strategy and provide remedial measures. In the meanwhile, Leezhao represents the clients to negotiate with the Anti-trust Law Enforcement Agency of the Ministry of Commerce and answer its inquiries; to participate statement and hearing; to apply for mercy disposal and to propose reasonable defense in order to get exemption and protect the clients' legal interests to the maximum extent.

- Representing civil action of Anti-trust /Anti-unfair Competition

Leezhao assists the clients to do appropriate investigation, provides them with proper action strategies, acts for the clients to bring lawsuit to the people's court or defends the clients against the party concerned, when the clients are accused of monopoly or unfair competition or suffered with the infringement of monopoly or unfair competition.

Achievements (Typical cases)

Leezhao's achievement in the field of Anti-trust /Anti-unfair Competition

In recent years, under the engagement of the clients, typical cases dealt by Leezhao in the area of anti-trust /anti-unfair competition mainly include:

Key word	Typical case
Lawsuits in anti-trust ; Abuse of IP rights; technology barrier; unfair competition	<ul style="list-style-type: none"> ■ A Chinese Sichuan battery enterprise sued a Japanese well-known electrical appliance enterprise (fortune 500) and one of its subsidiaries in China to Shanghai No.1 Intermediate People's Court. The battery enterprise alleged that the Japanese company and its subsidiary have abused their dominant market position by using so-called <i>Intelligent Key Identification System</i> in the lithium ion battery used in the cameras, video cameras which were produced and sold by them so as to establish an exclusive dependency relationship between the battery and cameras, video cameras, and

Key word	Typical case
	<p>implement unfair competition action like tied sale. The battery enterprise also claimed that the Japanese company has constituted technology monopoly by abusing IP rights which create technology barrier and exclude competition. Since the case was accepted when the Law of anti-trust still being reviewed, the whole trail got highly attention by the media, academics and judicial offices, and the case was called “the first anti-trust case in China”.</p> <p>After studying and investigating cautiously, Leezhao, as the agent of the Japanese enterprise and its subsidiary, submitted full and accurate evidence to the court proving that the plaintiff was the counterfeiter of the involved products while not the equal competitor, proving that the evidence submitted by the plaintiff existed defects and contradict the point that the defenders had market dominant position, proving that the battery products used by the defenders had many invention rights and industrial design patents, and possessed software copyrights, technical secrets in the meanwhile.</p> <p>Leezhao explained and illustrated related patents papers to the court, proving that the technologies were advanced, practical and reasonable and refuted the point that the defenders have abused IP rights, implemented technology monopoly, or constituted unfair competition, and won the support of the court in the end. The trail went through three years, Leezhao finally helped the clients to win the case and the case was selected into the <i>Intellectual Property Cases Selection</i> written by the Shanghai Municipal Higher People’s court.</p>
<p>Anti-trust declaration of concentration of business operators</p>	<ul style="list-style-type: none"> ■ Leezhao is one of the first law firms carrying out the business regarding anti-trust declaration of concentration of business operators in Shanghai. ■ Soon after the anti-trust Law of the PRC came into effect, two famous transnational electronic product manufacturing enterprises established a joint venture in Japan and proposed to consolidate a subsidiary company in China. After careful analysis, Leezhao represented the clients to negotiate with the Anti-trust Bureau of the Ministry of Commerce, confirming that the business scope of the two operators have reached the thresholds prescribed by Anti-trust Law of the PRC and shall be declared. Leezhao assisted the clients to do a large number of investigation and collect evidence, and wrote declaration reports of anti-trust for this transaction, represented the clients to apply for anti-trust examination to the Anti-trust Bureau of the Ministry of Commerce. During the examination, Leezhao

Key word	Typical case
	<p>communicated, negotiated, discussed and illustrated with the Ministry of Commerce, Development and Reform Commission and other law enforcement agencies, industry association and upstream and downstream enterprises many times, participated in the related hearing procedures, and helped the clients to pass the review smoothly and finally obtain positive approval from the Anti-trust Bureau of the Ministry of Commerce.</p>
<p>Compliance investigation of Anti-trust</p>	<ul style="list-style-type: none"> ■ Leezhao helped a famous European steel manufacturing enterprise to do compliance investigation of Anti-trust in product sales system in China. Leezhao provided professional legal suggestion and operation advices on the price alliance, restriction of resale price, restriction of sales area and other related legal problems, and assisted the enterprise to take properly measures to reduce the legal risk. ■ Leezhao helped the clients to prevent two sales systems, which exist in the same company with potential competitive relationship, to be determined as concerted action prescribed in Anti-trust Law, and helped the clients to establish a firewall system (information isolation project).
<p>Fixing or restricting resale price and recommended selling price</p>	<ul style="list-style-type: none"> ■ Leezhao helped many transnational companies, group companies, distributors to analyze whether their business activities constitute fixing or restriction of resale price stipulated by the Anti-trust Law, and to provide recommended selling price and other alternative schemes, and discussed, formulated corresponding price management measures.
<p>Formulation of anti-trust compliance schemes; Anti-trust knowledge training</p>	<ul style="list-style-type: none"> ■ Leezhao formulated anti-trust related compliance schemes to many transnational companies and provided anti-trust knowledge training to the employees of the clients which covers the industries involving auto part, chemical engineering, papermaking, machine manufacturing and electrical products manufacturing and training contents relating to firewall system (information isolation project), sales system compliance, price management, restriction of sales area, abuse of market dominant position and dealing with governmental enforcement investigation.
<p>Commercial bribery; Unfair competition; Administrative enforcement</p>	<ul style="list-style-type: none"> ■ A transnational medical equipment sales enterprise suffered a sudden inspection and was suspected of commercial bribery by local industrial and commercial bureau, and about to be imposed a huge amount of fine. Leezhao assisted the company to do a detailed investigation, participated in the hearing hold by the industrial and commercial bureau and represented the company to submit necessary statement and

Key word	Typical case
	pleading, finally persuaded the industrial and commercial bureau to withdraw the accusation of commercial bribery.
Civil cases about infringement of business secrets	<ul style="list-style-type: none"> <li data-bbox="517 324 1361 896">■ Leezhao represented a transnational electrical product company to bring a suit against a well-known advertising company that a famous actress signed by the advertising company divulged secret product information which brought economic losses to the clients thereafter, and asserted for tort liability and liability for breach of contracts. After detailed investigation and collection of evidence, Leezhao proved to the court that the product information is of business secret nature, the behaviors of reveal and the infringement conducted by the actress have caused a huge amount of economic losses to the clients, and therefore Leezhao claimed for damage compensation liability thereof. Via the mediation hold by the court, the client obtained compensation and saved the economic losses of millions of dollars.