

Exploring the Evidentiary Value and Influence Mechanism of Inheritor Identity in Intangible Cultural Heritage Trademark Infringement Cases

-- Empirical Analysis based on 113 Judgement Documents

Ran Shao

College of Tourism and Culture Industry, Guizhou University, Guiyang, Guizhou 550025, China

Abstract. The purpose of this paper is to explore the evidentiary value and influence mechanism of the identity of the inheritor in intangible cultural heritage (NRL) trademark infringement cases. Based on the empirical analysis of 113 valid judgement documents between 2009 and 27 February 2024 on Beida Law Treasure platform, using multiple linear regression method, the study found that the influence coefficient of inheritor's identity in non-legacy trademark infringement cases is not significant, while factors such as geographic distribution and the number of legal articles based on which the judgement is made have a significant impact on the final outcome of the trial. At the same time, service marks and commodity marks show different characteristics in non-legacy trademark right infringement cases. The study not only provides empirical support for the protection of ICH, but also puts forward suggestions to strengthen the review and supervision of the improper use of ICH service marks, from a comprehensive perspective, focusing on the direct impact of the identity of the inheritor, but also exploring other relevant factors and the differences between service marks and trade marks, which is of great practical significance and theoretical value in guiding the practice of ICH protection and improving the system of ICH trade mark right protection.

Keywords: Intangible Cultural Heritage; Trade Mark Infringement; Heir Identity; Multiple Linear Regression; Service Mark.

1. Introduction

As a treasure of Chinese culture, intangible cultural heritage (ICH) not only carries deep cultural heritage and historical memory, but also becomes a valuable resource for commercial development with its unique and diversified symbolic value. With the deepening of globalisation and marketisation, the protection and inheritance of ICH is facing unprecedented challenges. Especially in the wave of commercialisation, how to ensure the originality and sustainability of NRLs has become an urgent issue.

Intangible cultural heritage is an important part of China's outstanding traditional culture, and at the same time, the multiple symbols it contains constitute a treasure trove of commercial symbols. In practice, intangible cultural heritage can be protected by trademark rights in the form of symbols. The protection of trademark right of intangible cultural heritage is a hot topic in the current academic research, and also a highly controversial issue.[1] Intangible cultural heritage has the characteristic of group[2], is not an individual's unique product, how to define the subject of the right, its very controversial. The current intellectual property system is essentially a kind of private rights, in the case of ICH projects of private rights subject is not clear, non-genetic heritage as a "representative" of the heritage project, the possibility of the trademark right to fall on its body is very large, especially some and personal skills are highly associated with the handicrafts category of ICH, easy to be transformed into a real productive capacity. Especially for some handicraft NH items, such as the water tribe horsetail embroidery, Miao batik, etc., their representative inheritors, on the one hand, due to the great honour and fame they have gained, and on the other hand, due to the policy support of the State (according to the provisions of Article 12 of the Interim Measures for the Identification and Management of Representative Inheritors of National Intangible Cultural Heritage Items, the cultural administrative departments at all levels shall provide policy and financial support to the representative inheritors of NH items), are very easy to be one step ahead in the market, implement

industrialisation and development in an independent capacity, and in turn be one step ahead in obtaining the relevant trademark rights. The existence, inheritance and development of ICH cannot be separated from the inheritor, and if the inheritor does not use the ICH appropriately, the ICH may fall into the misunderstanding such as over-commercialisation. Inheritors play a pivotal role in balancing the two dimensions of "traditional conservatism" and "innovative inheritance" of NRLs, and the protection of inheritors should ultimately be implemented in the legal system. Through the formulation of relevant policies and regulations (e.g. representative project system, representative inheritor system, regional overall protection system, etc.), China encourages the inheritors and protectors of intangible cultural heritage to make use of the trademark right for protection and inheritance. However, the legislative choice of the ICH legal system, dominated by the 2011 ICH Law, is the administrative protection path, which does not give ICH bearers rights sufficient to stop infringement. The idea of safeguarding ICH in a way that balances transmission and development poses a challenge to the practice of ICH communities.[3] The NHBs' practice has been challenged [3]. While researchers' discussions on the idea of ICH heritage and safeguarding involve macro policy guidance, for ICH bearers, the balance between inheritance and development is a matter of their own interests and real life choices. Therefore, this paper focuses on the status of the inheritor in trademark infringement cases of intangible cultural heritage, discusses the legal status of the inheritor in trademark infringement lawsuits, the types of evidence and their influencing factors, and explores how these factors play a role in the court's decision results. In addition, this study will also put forward targeted legal and policy recommendations in light of the current practical needs of intangible heritage protection, with a view to providing useful theoretical support and practical guidance for the protection and development of intangible heritage.

Previous studies have extensively explored the protection of trademark rights for ICH and have confirmed the importance of protecting ICH through trademark rights in practice. However, due to the fact that intangible cultural heritage has both public and private attributes, it is important to protect it through trademark rights in practice.[4] However, due to the fact that ICH has both public and private attributes [4], ICH is faced with a number of legal issues that need to be resolved in practice. Intangible cultural heritage carries collective memories and cultural identity, and also has the economic potential to benefit specific communities and individuals, and can become the object of intellectual property protection through registered trademarks. Communities (insiders) related to intangible cultural heritage can obtain certain economic benefits by obtaining trademark ownership during the transmission of intangible cultural heritage, thus stimulating the transmission of national culture. However, in practice, trademark ownership of intangible cultural heritage is often not adequately recognised and protected. On the one hand, market entities (outsiders) outside the ICH-related communities have seized the ICH as a trademark and used it as an opportunity to make undue profits or form a monopoly, making it difficult for insiders to safeguard their legitimate rights and interests in infringement disputes. On the other hand, due to the ambiguity of trademark ownership and the inadequacy of insiders as rights holders in defending their rights, outsiders make unauthorised use of ICH trademarks to carry out commercial activities (manifesting themselves as trademark counterfeiting, trademark imitation, adapting and selling fake trademarks, selling goods infringing on trademark rights, reverse counterfeiting, assisting in infringing infringement, and others), which results in trademark infringement. The proliferation of infringing behaviours has led to the intangible cultural heritage facing the dilemma of the "tragedy of the commons": homogenisation of product design and production, insufficient excavation of local characteristics and cultural connotations; shoddy manufacturing, low quality, and counterfeit and shoddy goods are commonplace. This not only infringes on the private property of intangible cultural heritage, but also distorts, insults and dilutes the cultural connotation of intangible cultural heritage. Therefore, it is necessary to clarify the civil right subject of the trademark right of intangible cultural heritage, so that the "right person" can obtain the trademark property and ensure the orderly development of intangible cultural heritage.

Based on this issue, this paper pays attention to the evidentiary value of the identity of the inheritor and its impact on the adjudication results, and analyses in depth the interaction with other potential

influencing factors, so as to provide useful references for the adjudication of trademark infringement cases of intangible cultural heritage and the formulation of relevant legal policies. At the same time, this study also expects to attract more scholars and the public to pay attention to the protection of the rights and interests of intangible heritage bearers, and jointly promote the healthy development of the cause of intangible heritage protection and inheritance.

2. Literature Review

The group nature and uncertainty presented by the subjects of rights of intangible cultural heritage culture is a major problem for the protection of intangible cultural heritage in trademark law.[5] The problem is that the subject of intangible cultural heritage rights is different from intellectual property rights [5]. Although a number of scholars have suggested that ICH rights are different from intellectual property rights[6] Although many scholars have suggested that intangible heritage rights are different from intellectual property rights [6], and that there may be internal contradictions between intellectual property rights and the protection of intangible cultural heritage, more researchers agree that intellectual property rights are still the most effective civil means of protecting intangible cultural heritage, even if the full use of the existing intellectual property rights system is not able to provide all-around protection for intellectual property rights of intangible cultural heritage holders in the transmission of their heritage[7][8][9] Intellectual Property Rights (IPR) At present, the legal system of intellectual property rights in China is the ideal choice for the protection of ICH, and the operability of intellectual property rights protection of ICH in China should be further improved and enhanced. In view of the relative ambiguity of the Intangible Cultural Heritage Law of the People's Republic of China on the provisions of intellectual property protection, researchers have studied the path of protection of trademark rights in the non-genetic inheritance of many[10] However, the above protection paths are more focused on the protection of trademark rights in non-genetic inheritance. However, the above protection paths are more focused on NHGs as public goods. One of the dilemmas of non-genetic heritage is the difficulty of safeguarding and protecting its own intellectual property rights, and this difficulty does not only lie in the preliminary validation and identification of the intellectual property rights of non-genetic heritage (public attributes), but also in how to pay attention to the intellectual property rights of the non-genetic heritage in its later practice and development. How to protect the intellectual property rights of ICH practices and the intellectual contributions of the inheritors on the basis of fully clarifying the resource property rights of ICH between the public and the inheritors, and clarifying the rights and obligations of the inheritors, has become a very important issue. In particular, when ICH inheritors face disputes over trademark infringement, how to effectively prove their identity and safeguard their legitimate rights and interests, as well as how to consider the evidence and status of the inheritor in the court's adjudication process, are all issues that need to be studied in depth. The existence of these problems is not only related to the personal interests of non-genetic heritage bearers, but also the long-term interests of the protection and development of ICH.

3. Conceptual Framework and Hypothesis

3.1 Research Hypothesis

Based on the above literature review, the following hypotheses are proposed in this study:

Hypothesis 1 (H1): The legal status of NGPs has a significant positive effect on the final outcome of NGP trademark infringement cases.

Sub-hypothesis 1a: When the inheritor is the plaintiff, his or her legal status is clear and favours the success of his or her rights.

Sub-hypothesis 1b: The legal status of the inheritor is ambiguous when he or she is a defendant, which may increase the risk that he or she will lose the case.

Hypothesis 2 (H2): The positive effect of the legal status of NGPs on the final trial outcome is more significant in trade mark infringement cases.

Hypothesis 3 (H3): In service mark infringement cases, the positive impact of the legal status of NGPs on the final outcome is relatively weak.

3.2 Test Logic

In order to verify the above hypotheses, this study will collect relevant data on ICH trademark infringement cases through the case study method, conduct descriptive statistical analysis, correlation analysis, and regression analysis on the collected data, and conduct regression analysis for different types of trademarks (merchandise trademarks and service trademarks), respectively, to test the differences in the impact of the legal status of ICH bearers in different types of trademark infringement cases. Based on the results of the regression analysis and the heterogeneity analysis, the impact of each variable on the final outcome of NRM trademark infringement cases is summarised and possible reasons and insights are discussed. Meanwhile, targeted policy recommendations and practical guidance are proposed based on the findings.

4. Data, Variables, and Methods

4.1 Selection of Empirical Research Methods

The study of jurisprudence has long been accompanied by the complexity of value judgements. The construction of social order is deeply influenced by human subjective initiative, and the social rules are diversified according to the differences of regions, times and nationalities, which greatly restricts the establishment of universality and necessity, and makes it difficult for jurisprudence to follow the example of natural sciences and search for objective truth through controlled variable experiments. Especially since Savigny, interest jurisprudence has further highlighted the value element in the method of jurisprudence, acknowledging that both legal norms and legal judgements contain value judgements[1] This plurality of values has contributed to the development of the law. While this plurality of values has contributed to the pluralistic development of legal research, it has also weakened the objectivity of legal research. However, emphasising the value factor in jurisprudence does not mean denying its objectivity, and jurisprudence as a science cannot give up the pursuit of objectivity, because overcoming arbitrariness and subjectivity in law has always been an important goal of jurists. According to Larenz, the core of modern jurisprudential research lies in exploring the criteria for objectifying value judgements[12] . He advocated a shift from interest jurisprudence to evaluative jurisprudence, abandoning the purely connotative approach in favour of legal interpretative methods with objectivity as an alternative to value judgements. In addition, the positivist research method also provides another way of thinking for the objectivisation of legal research. Empirical research is a scientific research method based on the observation and analysis of empirical facts to establish and test theoretical propositions[13] It is closely linked to the idea of legal realism. It is closely linked to the idea of legal realism, which emphasises the role of human nature in the judicial process, placing law in a social context and studying it in conjunction with other social sciences. Empirical research has become very popular in Western law schools and has led to the formation of the academic branch of positivist legal studies[14] The study of law has become very popular in Western law schools, and has formed the academic branch of positivist legal studies [14]. Some scholars even put forward the view that "the Chinese school of rule of law practice is being formed", and pointed out that the Chinese school of rule of law practice, which is characterised by empirical research methodology, is getting more and more attention [15].[15] Some scholars even put forward the view that "the school of Chinese rule of law practice is being formed", and pointed out that the school of Chinese rule of law practice featuring empirical research method is getting attention [15]. They believe that Chinese legal research method is in transition, and empirical research method is expected to become the conventional paradigm of legal research. To achieve objectivity in empirical research in Chinese jurisprudence, it is necessary to balance confirmation and falsification,

and to focus on the accumulation of literature, the logic of understanding, and the summary of practical experience. However, on the whole, traditional paper-based research has led scholars to favour theoretical exploration, while empirical research has been relatively scarce and insufficiently in-depth. This is closely related to the choice of research questions, as research in the field of law enforcement tends to focus on "living law", i.e. how the law operates in reality, and thus empirical analyses are more common in this field.

4.2 Data and Sample Construction

This study uses Beida Law Treasure as the search platform, and takes "Full text: 'Intangible cultural heritage' and 'Trademark right'", "Subject matter: Civil> Intellectual Property and Competition Disputes>Intellectual Property Ownership, Infringement Disputes>Trademark Ownership, Infringement Disputes>Infringement of Trademark Rights Disputes" as the search criteria, and searched a total of 1,862 adjudicative documents between 2009 and 27 February 2024, and obtained a total of 113 valid documents after eliminating the cases that did not meet the requirements.

4.3 Variable Construction

4.3.1 Independent Variables

Inheritor: according to the instructions of the judgement, when one of the plaintiffs and defendants is a clear bearer of the ICH, regardless of whether there is a clear ICH bearer or not, a value of 1 will be assigned; otherwise, a value of 0 will be assigned.

LegalStatus: when the trade mark owner has obtained the legal status of the non-genetic bearer, the assigned value is 1; otherwise it is 0.

4.3.2 Dependent Variables

Win: this is an indicator of the outcome of the litigation, with a dummy variable assigned according to whether or not the ICH bearer has won the ICH trade mark infringement litigation, with a value of 1 when the outcome is upheld, as well as partially upheld and partially reversed, and 0 when the outcome is fully reversed.

4.3.3 Control Variables

1. Trademark factors

Popularity: the popularity of the trade mark in question in the market. According to the instructions of the judgement, when the trademark has a high degree of popularity, it is assigned a value of 1; otherwise, it is 0.

Distinctiveness: the degree of distinctiveness of the trade mark in question, which makes it easy to identify and remember. According to the description of the judgement, when the trademark has distinctiveness, the value is assigned to 1; otherwise, it is 0.

Time: the length of time the trademark in question has been used in the market.

2. Violator factors

Compensation: Compensation by the infringer for damages suffered by the right holder, including the amount awarded for economic and moral damages.

3. Trademark owner factors

Cost: The reasonable expenses incurred by the right holder in pursuing his claim for compensation and the amount of litigation that he has been awarded.

Length: calculated by taking the time of filing or acceptance of the case at first instance as the starting point and the time of delivery of the effective judgement as the end point. The shorter the period of time, the more efficient the judicial protection of the case; conversely, the less efficient.

Locality: according to Long Xiaoning and Wang Jun[16] According to Long, Xiaoning and Wang, Jun [16], whether the plaintiff is located in the same place as the court has a significant positive impact on whether the plaintiff can obtain a favourable judgement, so it is assigned a value of 1 when the plaintiff is local, otherwise it is 0.

Article: The number of articles on which the judgement is based reflects the basis provided by the parties for determining the amount of compensation, and the higher the number of articles means that the evidence is more sufficient. The article refers to the number of legal articles involved in the Copyright Law of the People's Republic of China, excluding the number of legal articles of other procedures.

Area: the geographical location or area where the case occurred.

4.4 Modelling

Since the dependent variable identified in this paper (the final outcome of the ICH trademark infringement case) is a typical multivariate categorical variable, this paper proposes to use a multivariate logistic regression model as an analytical tool for testing and analysing the causal relationship between the status of the ICH bearer and the final outcome of the ICH trademark infringement case.

Specifically, the logistic regression model equation can be expressed as:

$$Y_i = \ln(P/1-P) = \beta_0 + \beta_1 \text{Inheritor} + \beta_2 \text{LegalStatus} + \beta_3 \text{Cost} + \beta_4 \text{Length} + \beta_5$$

$$\text{Compensation} + \beta_6 \text{Popularity} + \beta_7 \text{Distinctiveness} + \beta_8 \text{Time} + \beta_9 \text{Area} + \beta_{10} \text{Locality} + \beta_{11}$$

$$\text{Article} + \epsilon$$

In this model, Y_i is the log odds of winning the case (log-odds), which is the natural logarithm of the ratio of the probability of winning the case to the probability of losing the case. p represents the probability of winning the NRM infringement case, and $1-p$ is the probability of losing the NRM infringement case. β_i ($i=1, 2, 3, \dots, n$) represents the respective variables that are proposed to be included in this paper's regression model, β_i is the coefficient of influence of the respective variable on the dependent variable Y , and ϵ is the random residual.[17] According to this formula, as a typical multivariate causality analysis method specifically applied to dependent variables that are multivariate categorical variables, what multivariate logistic regression analysis predicts is, in fact, a probability. More precisely, multivariate logistic regression analysis can specify the probability that each specific factor as a cause leads to a specific outcome. Therefore, multivariate logistic regression analysis is fully consistent with the basic logic of this paper to realise the causality analysis between the identity of the ICH bearer and the final outcome of the ICH trademark infringement case by testing the correlation between the identity of the ICH bearer and the final outcome of the ICH trademark infringement case.

4.5 Research Pathways and Specific Programmes

This study follows a clear and systematic research path, aiming at comprehensively analysing the evidentiary value and influence mechanism of the identity of the inheritor in intangible cultural heritage (ICH) trademark infringement cases. Specifically, the study firstly comprehends the relevant theoretical and legal frameworks of intangible heritage protection, trademark infringement and inheritor identity through an extensive literature review, in order to lay a theoretical foundation for the subsequent empirical analyses. On this basis, using the 113 valid judgement documents collected on the Beida Law Treasure platform as empirical data, the study applies multiple linear regression method to deeply explore the influence coefficient of the inheritor's identity in ICH trademark infringement cases, and at the same time, examines the significant influence of other key factors, such as the geographical distribution and the number of legal articles on which the judgement is based, on the final trial results. In addition, the study will also compare and analyse the different characteristics of service marks and trade marks in non-legacy trademark right infringement cases, in order to reveal the differentiated impact of the inheritor's identity in different types of trademark cases. Eventually, combined with the results of empirical analyses, targeted legal and policy recommendations will be put forward, with a view to providing useful theoretical support and practical guidance for the protection and development of ICH.

5. Findings

5.1 Descriptive Statistical Analysis

Table 1. Descriptive Statistics Overview

Variable	Obs	Mean	Std. Dev.	Min	Max
Win	113	.805	.398	0	1
Inheritor	113	.867	.341	0	1
LegalStatus	113	.814	.391	0	1
Cost	113	145414.16	111903.51	6700	800000
Length	113	212.858	190.208	55	693
Compensation	113	25061.947	36557.509	8000	130000
Popularity	113	.655	.478	0	1
Distinctiveness	113	.451	.5	0	1
Time	113	433.071	208.439	89	798
Area	113	1.425	.652	1	3
Locality	113	.973	.161	0	1
Article	113	4.735	1.343	3	8

5.1.1 Analysis of Independent Variables

Inheritor: In the selected sample, the mean value of the legal status of ICH bearers (Inheritor) is 0.867, close to 1, indicating that more than 80 per cent of the cases involve ICH bearers as one of the original defendants. This data reflects the central position of NGPs in the protection of NGP trademark rights, and also reveals their importance in legal proceedings.

LegalStatus: the mean value of this variable is 0.814, again close to 1, indicating that the majority of trademark owners were granted the legal status of a non-genetic bearer in their cases. This data further reinforces the legal significance of NGPs in the protection of trademark rights and may have a significant impact on the outcome of cases.

5.1.2 Analysis of Dependent Variable

Win: The mean value of this variable is 0.805, indicating that about 80 per cent of the cases in the selected sample ended in favour of the trademark owner. This data reflects the effectiveness of the protection of ICH trademark rights and also implies the positive role of ICH owners in the cases.

5.1.3 Control Variable Analysis

1. Trademark factors: the average value of trademark popularity is 0.655, indicating that most of the trademarks in question have a certain degree of popularity in the market; the average value of trademark distinctiveness is 0.451, indicating that some of the trademarks are more distinctive but the overall level of distinctiveness is not high; the average value of the trademark's usage (Time) is 433.071 days, indicating that the trademark has been in use for a longer period of time. The mean value of Time is 433.071 days, indicating that the trademark has been used for a long time.

2. Infringer factors: the mean value of the infringer's subjective intent (Intent) is 0.301, indicating that the infringer's subjective intent is generally low; the mean value of the infringement cost (Compensation) is \$25,061.95, with a large standard deviation, showing that the amount of compensation varies significantly from case to case.

3. Trademark Owner Factors: The average value of Cost is RMB 145,414.2, indicating that the cost of defending the right is high; the average value of Length is 212.858 days, indicating that it takes a long time for the case to be heard; the average value of Locality is 0.973, indicating that the majority of the plaintiffs are enterprises or organisations located in the locality where the case is heard; the average value of the number of articles relied upon is 4.734, indicating that the court cites a large

number of articles when making its judgement. The mean value of the number of articles relied upon is 4.734, indicating that the court cited a large number of articles in its judgement.

5.2 Relevance Analysis

In order to exclude the problem of covariance between the variables, this study uses Pearson coefficient to implement the correlation analysis of the four dimensions of the control variables and two independent variables. According to the requirements of the Pearson coefficient, its value range is generally between -1 and 1, and as the absolute value of the coefficient increases its correlation increases, that is, when the coefficient is closer to 1, the more absolute correlation is presented, in which when the absolute value of the coefficient is greater than 0.3, it is considered that the variables are closely related to each other. The correlation analysis of the indicators of this study is shown in the following table:

Table 2. Correlation Matrix of Variables

Variables	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
(1) Win	1.000											
(2) Inheritor	0.532	1.000										
(3) LegalStatus	0.397	0.618	1.000									
(4) Cost	0.485	0.239	0.148	1.000								
(5) Length	-0.216	-0.165	-0.054	-0.576	1.000							
(6) Compensation	0.217	-0.087	-0.172	0.309	-0.295	1.000						
(7) Popularity	-0.216	-0.284	-0.299	-0.159	0.321	0.187	1.000					
(8) Distinctiveness	0.087	0.198	0.205	0.094	-0.347	-0.274	-0.651	1.000				
(9) Time	0.543	0.204	0.092	0.501	-0.450	0.434	-0.210	-0.082	1.000			
(10) Area	-0.573	-0.427	-0.283	-0.479	0.570	-0.288	0.475	-0.484	-0.575	1.000		
(11) Locality	0.336	0.260	0.204	0.154	-0.124	0.073	-0.120	0.150	0.186	-0.316	1.000	
(12) Article	0.003	0.039	-0.010	0.198	-0.351	0.349	-0.367	0.499	0.132	-0.410	0.050	1.000

From the analysis of the above table, we know that the Pearson coefficients between the independent variable, the legal status of NGT (Inheritor), and the dependent variable, the final outcome of NGT trademark infringement cases (Win), are both greater than 0.3, while showing a certain degree of significance, which indicates that the relationship between the variables is closely related, so it is consistent with the test of correlation.

In this paper, the correlation analysis of all the samples of the relevant factors and the results of the court decision, because the selected variables are continuous variables, so choose to use the Pearson correlation analysis, the correlation coefficient is calculated by stata, the correlation coefficient for the positive is a positive correlation, for negative is a negative correlation.

The table shows the results of the correlation analysis of the main variables of the full sample. Among the discretionary factors in the above table, there is a strong correlation between the length of time the trade mark has been used in the market and the outcome of the court decision, with the

absolute value of the correlation coefficient being greater than 0.5, while whether or not the trade mark owner has obtained the legal status of a ICH bearer, the similarity of the trade mark, the subjective intent of the infringer, and the cost of defending the right are moderately correlated with the outcome of the court decision (with absolute values between 0.3 and 0.5), and the trade mark's popularity, trade mark's distinctiveness, trademark popularity, trademark distinctiveness, whether the infringer is an enterprise or organisation, and the cost of infringement are weakly correlated with the outcome of the court decision (the absolute value is less than 0.3).

As for the length of time a trademark has been in use, the length of time a trademark has been used in the market is often directly related to the trademark's popularity and market influence. The longer a trade mark has been in use in the market, the more it is known and accepted by consumers, which also gives the trade mark owner a stronger legal position when defending its rights. When adjudicating, the court will take into account the market influence and consumer awareness of the trade mark, as both are important components of the value of the trade mark. Therefore, there is a strong correlation between the length of time a trade mark has been used and the outcome of the court's decision, with the absolute value of the correlation coefficient being greater than 0.5.

With regard to the four factors of the legal status of the trademark owner and the cost of defending the right, although the factor of whether the trademark owner obtains the legal status of a non-hereditary bearer has a certain enhancement to the legal status of the trademark owner, the status of a non-hereditary bearer does not directly determine the outcome of the judgement on trademark infringement. The court will consider a number of factors when deciding on the case, and the status of the non-hereditary bearer is only one of them. Although the cost of defending the right has a direct impact on the actual interests of the trade mark owner, the court pays more attention to factors such as the nature and consequences of the infringing act as well as the actual loss of the trade mark owner when adjudicating. Therefore, there is a moderate correlation between the cost of defending the right and the outcome of the decision.

With regard to the four factors of trade mark popularity, distinctiveness and infringement cost, although trade marks with high popularity have certain advantages in defending their rights, popularity is not the only factor determining the outcome of adjudication. Courts still need to take other factors into account when deciding. A distinctive trade mark can reduce the likelihood of consumer confusion to a certain extent, but the determination of distinctiveness is subjective, and not all distinctive trade marks can obtain the same legal protection. The cost of infringement reflects the severity of the infringement, but not all high-cost infringements will be severely punished. The court will make a comprehensive judgement on a case-by-case basis.

5.3 Regression Analysis

Table 3. Variance Inflation Factor (VIF) of Variables

Variable	VIF	1/VIF
Distinctiveness	3.94	0.254064
Area	3.59	0.278755
Time	2.45	0.408581
Compensation	2.43	0.411201
Popularity	2.17	0.461847
Article	2.10	0.476105
Length	2.05	0.487913
Inheritor	1.91	0.523955
Cost	1.76	0.566719
LegalStatus	1.72	0.579783
Locality	1.16	0.862385
Mean VIF	2.30	

As noted in the previous elaboration, the modelling approach used in this subsection is multiple linear regression, and the basic form of the model is $y = F(x_1, x_2, \dots, x_{i-1}, x_i, e_i)$. And before regressing the factors affecting the final outcome of the non-legacy trademark infringement case, it is necessary to test the covariance of the 13 variables to ensure that there is no multicollinearity

problem between each antecedent variable, and the way to exclude this problem is to make the tolerance greater than 0.1 and the VIF (Variance Inflating Factor) is less than 10, and with the aid of the software tool to produce the results of the covariance test is shown in the table below:

Through the covariance test results presented in the above table, it can be seen that the tolerances of the 13 variables are all greater than 0.1 and the VIF is less than 10, so it can be obtained that there is no problem of multiple covariance between each of the antecedent variables, and therefore the covariance test has been passed, and it is suitable for multiple regression analysis.

After the 13 variables passed the covariance test, with the help of software tools to implement multiple regression analysis on the influence factors of the final trial results of the infringement cases of non-legacy trademark rights, the specific analysis results are shown in the table below:

Table 4. Linear Regression Model Results

Source	SS	df	MS	Number of obs	= 113	
Model	11.2944919	13	.868807066	F(13, 99)	= 13.39	
Residual	6.42232231	99	.064871942	Prob > F	= 0.0000	
				R-squared	= 0.6375	
				Adj R-squared	= 0.5899	
Total	17.7168142	112	.158185841	Root MSE	= .2547	

Win	Coefficient	Std. err.	t	P> t	[95% conf. interval]	
Inheritor	.2922195	.0980642	2.98	0.004	.0976388	.4868001
LegalStatus	.0981721	.0811113	1.21	0.229	-.0627704	.2591146
Popularity	-.0276053	.0765173	-0.36	0.719	-.1794323	.1242216
Distinctiveness	.0808158	.0980982	0.82	0.412	-.1138324	.2754639
Time	.0005565	.0001825	3.05	0.003	.0001943	.0009187
Enterp2	.1360816	.0931684	1.46	0.147	-.0487847	.320948
Compensation	1.68e-06	1.04e-06	1.62	0.109	-3.80e-07	3.74e-06
Cost	1.01e-06	2.87e-07	3.52	0.001	4.42e-07	1.58e-06
Length	.0005579	.0001954	2.85	0.005	.0001701	.0009457
Locality	.2043115	.1605891	1.27	0.206	-.114332	.5229551
Article	-.0781023	.0266015	-2.94	0.004	-.1308854	-.0253193
Enterp1	-.128684	.1685418	-0.76	0.447	-.4631075	.2057395
Area	-.1747226	.0710325	-2.46	0.016	-.3156665	-.0337788
_cons	.3279723	.3525603	0.93	0.354	-.3715838	1.027528

From the results of the regression analysis in the table above: the value of R^2 of the explanatory power of the variables on the dependent variable is 0.6375, which indicates that the model is a good predictor of the dependent variable; the F-value is 13.39, and the P(F) value is $0.0000 < 0.01$, which indicates that the model as a whole is significant. Combining the results of the R^2 value and the F-test, it can be concluded that the results of the model are good and in line with expectations. Among the 13 variables, except for whether the trademark owner obtains the legal status of non-genetic bearer (LegalStatus), trademark popularity (Popularity), trademark distinctiveness (Distinctiveness), the cost of infringement (Compensation), whether the plaintiff is local (Locality), do not have a significant effect on the final outcome (Win) of the non-legacy trade mark infringement case, the other five variables show some degree of influence on the explained variables, and the specific explanations for each of the variables are as follows:

1. regardless of whether there is an explicit non-genetic inheritance, whether one of the original defendants is a non-legacy explicit inheritor (Inheritor) on the non-legacy trademark infringement case of the final trial results (Win) impact coefficient is 0.2922195, statistically significant at the 5% level, which indicates that obtaining the legal status of non-genetic inheritance of non-legacy on non-legacy trademark infringement case of the final trial results (Win) played a significant positive correlation impact. This is due to the fact that the legal status of NGPs provides them with stronger legal protection and increases the likelihood of obtaining support in trademark right disputes, and may also reflect a higher level of social recognition of their rights.

2. The coefficient of influence of whether the trademark owner obtains the legal status of a ICH bearer (LegalStatus) on the final outcome of ICH trademark infringement cases (Win) is 0.0981721, but it is not statistically significant ($P=0.229$), so the influence of LegalStatus on the final outcome of ICH trademark infringement cases (Win) is not clear. This may be because its effect is masked by other, more significant factors, or there is greater variability in the study sample.

3. The coefficient of influence of trademark popularity (Popularity) on the final result (Win) of the non-legacy trademark infringement case is -0.0276053, but statistically insignificant ($P=0.719$), so the trademark popularity does not play a significant influence on the final result (Win) of the non-legacy trademark infringement case. This is because although the trademark's popularity is related to the outcome of the award, it is not significantly related to the direct outcome of the infringement determination. The higher the popularity and value of the infringed trade mark, the more serious the loss suffered by the right holder may be. If the value of the infringed trademark is so low that it does not have any substantial impact on consumers' purchasing decisions, it is difficult to say that the trademark infringement has caused real damage to the business interests of the trademark owner.[18] The courts will find that the infringement of a trade mark has caused real harm to the business interests of the trade mark owner. In practice, the court will use the fact that the infringed trade mark is a well-known trade mark to find that the infringer has infringed in bad faith and should be punished more severely.

4. The coefficient of influence of trademark distinctiveness (Distinctiveness) on the final results of non-legacy trademark right infringement cases (Win) is 0.0808158, but it is not statistically significant, so the influence of Distinctiveness on the final results of non-legacy trademark right infringement cases (Win) is not obvious. This may be due to the fact that although the distinctiveness of a trade mark helps to prove the uniqueness of a trade mark, its impact may be constrained by a variety of other factors in a specific case.

5. The coefficient of influence of the length of time that the trademark in question has been used in the market (Time) on the final outcome of the non-legacy trademark right infringement case (Win) is 0.0005565, which is statistically significant at the 1% level, so that the length of time that the trademark in question has been used in the market exerts a significant positive correlation effect on the final outcome of the non-legacy trademark right infringement case (Win). This is because the longer the trademark has been used in the market, the higher its historical accumulation and consumer recognition may be, thus making it easier to gain support in infringement disputes.

6. the cost of infringement (Compensation), that is, the amount of compensation to be paid by the infringer on the non-legacy trademark infringement case of the final results (Win) impact coefficient is very small ($1.68e-06$), and but statistically insignificant, so the cost of infringement on the non-legacy trademark infringement case of the final results (Win) impact can be ignored. This is because the amount of infringement consideration is determined more after winning the case rather than a factor affecting the outcome of winning the case.

7. the geographical distribution (Area) that is, the case occurred in the region of the final trial results of non-legacy trademark infringement cases (Win) impact coefficient is -0.1747226, statistically significant at the 5% level, so the geographical distribution of non-legacy trademark infringement cases of the final trial results of the final trial results of the non-legacy trademark infringement cases (Win) played a significant negative correlation impact. This is because China's economic development is unbalanced, and there is a great difference between the economic level of the economically developed regions in the east and the economically backward regions in the west, and this difference affects the court's judgement results in similar cases. Specifically: Firstly, although it is generally difficult to ascertain the benefits obtained by the infringer, in general, the benefits obtained by the infringer from infringement in economically developed regions are generally higher than the profits obtained in economically backward regions. Secondly, the consumption level in economically developed areas is also correspondingly higher, which will inevitably lead to an increase in the cost of rights protection for the right holder. Third, the level of economic development and intellectual property protection is closely related. As the eastern region is more economically

developed, the awareness of intellectual property protection is stronger, and the legal system may be more perfect, so the court may be more inclined to protect the trademark right when making judgement, thus increasing the possibility of the plaintiff to win the case.

8. the cost of defending rights (Cost) that is, the cost of the trademark right to defend their rights and interests on the final outcome of the non-legacy trademark infringement case (Win) impact coefficient is positive (1.01e-06) and statistically significant at the 1% level, indicating that there is a positive correlation between the cost of defending the right and the successful outcome of the case. This is because the increase in the cost of defending the right may reflect the importance and resources invested by the plaintiff in the case, which in turn increases the likelihood of winning the case to some extent.

9. The coefficient of influence of litigation period (Length), i.e. the trial time of non-legacy trademark infringement cases, on the final trial outcome (Win) of non-legacy trademark infringement cases is 0.0005579, which is statistically significant at the 1 per cent level, so that Length plays a significant and positively correlated influence on the final trial outcome (Win) of non-legacy trademark infringement cases. Specifically, this is because more complex cases may require more evidence collection and examination, which may lead to a longer litigation period, but at the same time it may also make the court more prudent and comprehensive in its final judgement, which is likely to be more favourable to the plaintiff party.

10. The coefficient of influence of whether the plaintiff is local (Locality) on the final outcome (Win) of the infringement cases of non-legacy trademark rights is 0.2043115, but but statistically insignificant, so that whether the plaintiff is local or not does not have a significant impact on the final outcome (Win) of the infringement cases of non-legacy trademark rights. This may be due to the fact that the court pays more attention to the factual and legal basis of the case rather than whether the plaintiff is local or not.

11. The coefficient of influence of the number of legal articles on which the judgement is based (Article) on the final outcome of the non-legacy trademark infringement case (Win) is -0.0781023, which is statistically significant at the 1 per cent level, so that Article plays a significant negative correlation effect on the final outcome of the non-legacy trademark infringement case (Win). This may be due to the fact that cases may be more complex and involve more legal issues when the number of legal articles on which the judgement is based is higher, which may lead the court to be more cautious in making judgements, thus reducing the likelihood of the plaintiff winning to a certain extent. However, it may also reflect the fact that courts are more inclined to balance the interests of all parties when dealing with complex cases, rather than simply basing their judgements on the number of statutory provisions.

5.4 Heterogeneity Analysis

(1) Service Marks

For NGPs whose main form of profit is merchandising, their legal status demonstrates a significant positive effect in the final trial outcome of trademark infringement cases. Specifically, the coefficient (Coef.) is 0.365, indicating a strong positive correlation between increased legal status and the propensity for a favourable outcome in the final trial of the case. The standard error (St. Err.) of this coefficient is small (0.075), showing the stability and reliability of the estimation. Further, the high significance (p -value = 0) of the t -value (4.88) and the 95% confidence interval ([.212, .518]) that does not include zero reinforce the finding of the significance of the protective role of legal status in merchandise trademark infringement cases. This finding suggests that in the field of commodity trading, the legal status of NGTs is not only an important barrier to their brand protection, but also a key factor in maintaining market order and consumer rights.

Table 5. Linear Regression Model Results for Commodity Trademarks

Win	Coef.	St. Err.	t-value	p-value	[95% Conf	Interval]	Sig
Inheritor	.302	.163	1.86	.068	-.023	.628	*
LegalStatus	.045	.139	0.33	.746	-.232	.323	
Cost	0	0	3.26	.002	0	0	***
Length	.001	0	3.97	0	0	.001	***
Compensation	0	0	0.96	.34	0	0	
Popularity	-.045	.103	-0.43	.666	-.251	.161	
Distinctiveness	.182	.155	1.18	.244	-.127	.492	
Time	.001	0	2.56	.013	0	.001	**
Area	-.12	.115	-1.04	.302	-.35	.111	
Locality	.283	.227	1.25	.217	-.171	.737	
Article	-.049	.043	-1.14	.259	-.136	.037	
Constant	-.219	.51	-0.43	.668	-1.239	.8	
Mean dependent var		0.795		SD dependent var		0.407	
R-squared		0.569		Number of obs		73	
F-test		7.315		Prob > F		0.000	
Akaike crit. (AIC)		37.450		Bayesian crit. (BIC)		64.936	
*** <i>p</i> <.01, ** <i>p</i> <.05, * <i>p</i> <.1							

(2) Trade Marks

Compared to trade marks, NRMs, whose main form of profit is the provision of services, show a weaker significance in the impact of their legal status on the final outcome of the case. The coefficient (Coef.) of 0.302, although still positive, has a t-value (1.86) and a p-value (0.068) that indicate that this effect does not reach a highly statistically significant level. In addition, the confidence interval ([-.023, .628]) contains zero, further adding to the uncertainty of the results. This suggests that while the legal status of NGPs has a role to play in the protection of trademark rights in the field of service provision, their influence is constrained by informal factors such as the nature of the service, consumer perceptions, and word-of-mouth dissemination, thus failing to demonstrate a significant protection effect as in the field of goods sales.

Table 6. Linear Regression Model Results for Service Trademarks

Win	Coef.	St. Err.	t-value	p-value	[95% Conf	Interval]	Sig
Inheritor	.365	.075	4.88	0	.212	.518	***
LegalStatus	.253	.06	4.19	0	.129	.377	***
Cost	0	0	-0.68	.502	0	0	
Length	-.001	0	-2.24	.033	-.002	0	**
Compensation	0	0	0.27	.79	0	0	
Popularity	-.028	.077	-0.37	.713	-.185	.129	
Distinctiveness	-.129	.091	-1.42	.167	-.316	.057	
Time	0	0	-0.59	.56	-.001	0	
Area	-.18	.067	-2.70	.012	-.317	-.044	**
Locality	.02	.135	0.15	.884	-.256	.296	
Article	.013	.034	0.37	.713	-.057	.083	
Constant	.848	.282	3.01	.005	.271	1.425	***
Mean dependent var		0.825		SD dependent var		0.385	
R-squared		0.930		Number of obs		40	
F-test		33.918		Prob > F		0.000	
Akaike crit. (AIC)		-46.378		Bayesian crit. (BIC)		-26.112	
*** $p<.01$, ** $p<.05$, * $p<.1$							

Through the above analysis of heterogeneity, it can be concluded that the legal status of NGTs has a significant positive impact on the final outcome of their final trial in the case of goods trade mark infringement, while it shows a weaker significance in the case of service mark infringement. This difference stems from the essential differences between the sale of goods and the provision of services in terms of business model, market environment, and application of law. The sale of goods involves a clearer transactional relationship, a wider group of consumers and stricter legal regulation, so the legal status is particularly important in such cases. In contrast, the provision of services relies more on informal mechanisms such as personal relationships and word-of-mouth to maintain brand reputation and attract consumers, thus diminishing the direct role of legal standing in the process.

6. Discussion

The purpose of this study is to explore the evidentiary value of the identity of ICH inheritors in trademark infringement cases and the mechanism of its impact on the probability of winning the case. Specifically, this paper attempts to verify whether the identity of the inheritor can significantly enhance the probability of winning a ICH trademark infringement case, and to examine the role of other relevant factors, especially different trademark types. Therefore, for the study, we adopt the method of multiple linear regression analysis, which has been widely used in empirical legal research to explore the relationship between variables[23][24], which was conducted on the data collected from 113 adjudication documents. The results of the regression analysis showed that the coefficient of inheritor status was 0.309 and was significant at the level of $P < 0.01$. Therefore, it can be concluded that the identity of the inheritor has an important evidential value, which can significantly enhance the probability of winning the case of NRM trademark right infringement. Moreover, in addition to the identity of the inheritor, the cost, the length of the infringement, the time of infringement, and the specific legal provisions also have a significant impact on the probability of winning the case[19][20]. While the effects of trade mark popularity, trade mark distinctiveness and locality are not significant[21][22].

Further, this study examines the different impacts of heir identity in service mark and trade mark cases respectively. Although, in service mark cases, the identity of the inheritor shows some positive impact (coefficient of 0.302), the statistical significance is weak (p-value of 0.068, t-value of 1.86). In contrast, in trade mark cases, inheritor status had a significant positive impact on winning the case (coefficient of 0.365, p-value of 0 and t-value of 4.88, respectively).

In conclusion, in the case of goods trade mark, the protective effect of the inheritor's identity is more significant and strong; while in the case of service trade mark, although the inheritor's identity also shows a certain protective effect, its prominence and stability are relatively low. To sum up, this study not only confirms the important evidence value of the identity of the inheritor in non-legacy trademark infringement cases, but also reveals its differential impact on the probability of success in different types of trademark cases.

6.1 Evidentiary Value and Impact of Non-Genetic Bearer Status in Trademark Infringement

Hypothesis 1 addresses the relationship between inheritor status and the likelihood of winning in IPR cases involving intangible cultural heritage. Through the regression analysis, we find that the coefficient of inheritor status is 0.309 and significant at 1% significance level, which verifies our hypothesis. This finding suggests that the identity of the intangible cultural heritage bearer plays a positive role in intangible cultural heritage trademark right infringement cases. In detail, this finding implies that when the identity of the ICH bearer is recognised in a case, it can provide more legal protection for the right holder, thus increasing the possibility of winning the case. This is in line with the current policy direction of strengthening the protection of NHBs[25][26][27]. It encourages the registration of the legal identity of NHBs.

An intangible heritage bearer is an influential person who, in the transmission of intangible cultural heritage of significant value, represents the deep ethnic and folk cultural traditions of a particular heritage, has mastered outstanding techniques, technologies and skills, and is recognised by a community, group or ethnic group[28]. They are the most important figures in the folk culture of an ethnic group. They are important bearers of ethno-folk culture and transmitters of ICH techniques [29]. [29] They are the important bearers of ethnic and folk culture and transmitters of NHM techniques [29]. As discussed earlier, the identification of NGTs is the basis and prerequisite for the legal protection of NGTs. Therefore, only by first correctly identifying the ICH bearers can they be effectively protected, which in turn effectively protects the ICH. At present, China's laws on the identification of ICH bearers mainly focus on qualifications and procedures.

6.1.1 Accreditation Process for ICH Bearers

The qualification of representative bearers is stipulated in article 29, paragraph 2, of the ICH Law and article 4 of Decree No. 45 of the Ministry of Culture, in which the ICH Law stipulates three positive requirements: proficiency in the intangible cultural heritage that he or she carries on; representativeness in a specific field and greater influence in a certain region; and the active development of transmission activities.

And Decree 45 adds a negative requirement: it should not be a person engaged in the collection, organisation and research of information on intangible cultural heritage.

Scholars have criticised these laws and regulations on NGTs as unscientific.[30] Scholars have pointed out that the expression "actively carrying out inheritance activities" in the law on ICH is both a conditional provision and an obligatory one, lacking in clarity, which to a certain extent affects the effectiveness of the implementation of the provisions.[31] To a certain extent, this affects the effectiveness of the implementation of the provisions [31]. At the same time, the negative formulation of Decree 45 has also been found to be inappropriate, as it fails to explicitly support in a positive manner those who have mastered NHM skills and are able to pass them on effectively, as well as those who are involved in the collection, organisation and research of data, and instead gives the impression that such people are excluded.[30]

It can be found that China's recognition of the conditions of the heir is vague and abstract. Our country stipulates that the heirs of ICH can not be a collective, while in foreign countries there is no restriction on the identity of the main body of the heirs, to take "individual identification", "group identification", "comprehensive identification" and so on. The way of "individual recognition", "group recognition", "comprehensive recognition" and so on. Regarding the study on the qualification of representative bearers of intangible cultural heritage, foreign governments, especially Japan and South Korea, have accumulated rich reform experiences and unique qualification modes, which provide us with valuable references. Japan was the first country to carry out the accreditation of bearers of intangible cultural heritage and accorded them a fairly high social status. At the beginning, Japan recognised individuals who had a high degree of mastery of the intangible cultural property of "skills" or "technology", and in the revised Cultural Properties Protection Law of 1975, the definition of "keeping group" was clarified. In 1975, the Cultural Properties Protection Law was amended to clarify the definition of "preservation organisations" and to include "preservation organisations" in the system of identifying the subjects of transmission of intangible cultural heritage.[31] South Korea, as a country with a relatively early start in the protection of ICH, has also specified the criteria for recognising the holders of important intangible cultural property in the Enforcement Decree of the Cultural Properties Protection Act. The Act defines a special group, the "preservation group", for intangible cultural property that cannot be created by individuals but has certain characteristics, and it has the same right as individuals to be awarded the title of "National Treasure of Humanity".[32]

Based on in-depth analyses and discussions, this paper, from a legal perspective, puts forward the following urgently needed improvement suggestions for the current status quo of the qualification standards for ICH bearers. Firstly, the legal basis for the qualification should be clarified and strengthened, requiring that the inheritor must prove that he/she has learnt and mastered the knowledge and skills of his/her predecessors in depth, has a deep understanding and appreciation of the cultural connotation of the ICH items, and has a remarkable representativeness in a specific cultural field. This requirement aims to ensure that the inheritor has a solid inheritance foundation from the legal level, providing a solid guarantee for the authenticity and integrity of the ICH culture. Secondly, this paper emphasises the core legal status of "transmission" in the qualification, i.e. the inheritor, on the basis of inheriting the tradition, should have the ability to incorporate personal wisdom, innovatively develop the content of the NHM, and be able to pass it on through effective means. The law should explicitly support and encourage the innovations of the inheritors in the process of inheritance, and at the same time ensure that such innovations do not go against the core values and spirit of the NHM items, so as to promote the living transmission and development of NHM culture. In addition, the legal framework should include support measures for the comprehensive

development of the inheritors, such as providing professional training, financial support, intellectual property protection, etc., so as to motivate the inheritors to actively explore and innovate while preserving the tradition and promote the sustainable development of NH culture. Finally, in order to ensure the fairness and effectiveness of the qualification, this paper suggests the establishment of a set of open, transparent and fair qualification procedures to ensure that all eligible candidates are given equal opportunities for assessment. At the same time, a regular review mechanism should be set up to dynamically adjust the list of inheritors to maintain the vitality and professionalism of the inheritance team.

6.1.2 Recognition Procedures for ICH Bearers

At the present stage, China's widely implemented heritage recognition system is mainly a national recognition system in the name of the government, on the basis of which with the implementation of the application filing system and the mass recommendation system, through the self-declaration of the inheritors and the mass of the public recommendation, the competent government departments for the record review, the government's final endorsement and other procedures, to maximise the protection of non-genetic inheritance of the basic rights and interests of the inheritors.

With regard to the procedure for recognising ICH inheritors, a number of scholars have put forward their own views, which contain both positive evaluations and point out the existence of negative problems. Some scholars believe that these three types of systems work together in order to stimulate the enthusiasm of the inheritors to inherit, and to crack the dilemma of no one to succeed the outstanding ICH.[33] Some scholars believe that these three types of systems can work together to stimulate the enthusiasm of the inheritors and solve the dilemma of having no successor of outstanding NLCs [33]. However, several scholars have raised their own concerns. Song Zhaolin pointed out that the long declaration cycle may trigger the risk of a break in the generation of the inheritors of an NLC, or even disappearance.[34] Lu Chunxiao believes that the current declaration mechanism may lead to the formation of a monopoly by the representative inheritor, a situation that not only harms the interests of other people working on NHs, but also poses a threat to the healthy development of NH projects.[35] At the same time, some scholars have also focused on the negative impacts of official involvement in the process of identifying heirs. Liu Xiaochun has raised the issues of the asymmetry between the inheritors and the cultural space, the destruction of the inheritance ecosystem, and the frustration of the enthusiasm of the unofficial inheritors to "pass on" the legacy.[38] Lin Jifu points out that over-protection by the government may lead to the "blurring of cultural identities" of inheritors and the "tarnishing of the heritage".[36] Lv Jing questions the legitimacy of government officials' involvement in the evaluation of NHM skills.[37]

All along, China's recognition of non-genetic heritage bearers has adopted a government-led "list" system, the procedure of which is mainly as follows: application by the parties concerned → approval by the government → publication by the government. Throughout the entire procedural design, it is not difficult to find that the application of the parties is the logical starting point of this procedure is also the most important link, because without the application of the parties, it will not be able to carry out the next review, approval and other procedures. At present, this recognition process is functioning normally and has achieved certain results, but in the long run, the recognition process is unscientific and unreasonable, is not conducive to the vigorous development of China's non-genetic heritage bearers. Because, at present, the non-genetic inheritors are generally recommended or apply on their own, and these inheritors are living in the private sector, and have little understanding of the relevant application system. Therefore, the current application-driven procedure for the recognition of intangible heritage bearers is not conducive to absorbing the vast number of rural intangible heritage bearers into the ranks of the bearers, weakening the momentum for the continued development of intangible cultural heritage, and seriously hampering the sustained development of intangible cultural heritage.

For this reason, this paper puts forward the following suggestions: on the basis of the existing recognition procedure, fully explore the potential of the relevant departments of the local people's

governments at all levels, change the working idea, change "waiting for people" to "looking for people"; change the working method, take the initiative to go to the villages, townships and townships under their jurisdiction to collect information about the NGT bearers. Change the working method, take the initiative to go to the villages, townships, towns and other areas under their jurisdiction to collect information on non-genetic heritage bearers, publicise the laws and regulations on non-genetic heritage, and help those who have the conditions for filing to apply to start the process of identifying non-genetic heritage bearers, and, if necessary, also apply to start the process as the person to whom the application is made. At the same time, it is also necessary to increase the rewards and commendations for those who perform well in their work, so as to encourage more people to actively carry out their work. In addition, with regard to the approval process of the recognition procedure, it is recommended that the relevant government officials, experts and scholars should strengthen the field survey (physical review) on the basis of the original written review, so as to make the approval process of the NGT bearers more scientific and standardised, thus further improving the NGT bearer recognition process and system, and including more NGT bearers into the recognition system of the government at all levels and providing them with effective protection.

Therefore, we can conclude that the identity of non-genetic heritage bearer has important evidential value in non-legacy trademark infringement cases, which can significantly improve the probability of winning the case. This finding has important guiding significance for the legal practice of ICH protection, reminding us that we should pay full attention to the evidentiary value of the identity of the inheritor when dealing with relevant cases. The results of this study not only verify the importance of the identity of the inheritor in the protection of ICH, but also provide a useful reference for the relevant legislation and judicial practice, thus enriching the theoretical system of ICH protection.

Contrary to what is hypothesised, our analysis suggests that some factors, such as popularity, do not have a significant impact on the likelihood of winning. This may be due to the specificity of the sample, differences in the research environment, or limitations in the research methodology. Trademark popularity is usually regarded as an important manifestation of goodwill and is one of the factors of great concern in the trademark system. The importance of the likelihood of confusion criterion in the determination of trademark infringement is self-evident, while popularity is considered an important reference factor in determining whether a likelihood of confusion exists. However, in this study, popularity may indirectly affect the probability of winning the case through other ways, and therefore is not fully reflected in this study. Although trade mark popularity did not show a significant impact in this case, this does not mean that they are not important in NRM protection. On the contrary, it reminds us that we should consider the role of multiple factors more comprehensively in future studies in order to form a better protection mechanism.

In summary, this study reveals the evidentiary value and influence mechanism of non-genetic inheritor status in trademark infringement cases through empirical analyses. We found that the identity of the inheritor can significantly contribute to the probability of winning the case, and explored the role of other relevant factors. These findings not only deepen our knowledge and understanding of NHM protection, but also provide useful references and lessons for relevant legislation and judicial practice. At the same time, we also note some unexpected findings and extended findings, which provide new directions and ideas for our future research.

6.2 Differences in Heirship and Legal Status Impact on Trademark Infringement Types

6.2.1 Criteria for Distinguishing Trademarks and Service Marks

Trade marks are mainly used to distinguish the goods of different producers or distributors, which are attached to tangible goods and displayed through printing, pasting and other means, and have the function of linking the goods to their sources and indicating the quality and characteristics of the goods. Service marks, on the other hand, are used to distinguish the services of different service providers[39], it is more often embodied in intangible service processes, such as signboards, tools and advertising in service establishments, emphasising the provenance, quality and distinctiveness of

the services. This distinction was already formed in the early trademark legal system, and the first law protecting trade marks in China was the Trademark Registration Trial Regulations promulgated by the Qing government in 1904 [40]. [40] The first law protecting trade marks in China was the Trial Regulations on Trademark Registration issued by the Qing government in 1904 [40], while service marks were not formally included in the scope of protection until the amended Trademark Law in 1993. [41] In conclusion, both trade marks and service marks have been protected by the law. In summary, trade marks and service marks are used to distinguish tangible goods and their producers from intangible services and their providers, and trade marks and the laws protecting them were enacted earlier than service marks. There are differences in the standards and infringement of trade marks and service marks.

1. Recognition Criteria

The criteria for the recognition of service marks in the law are mainly based on the Nice Agreement and the Trademark Law and its regulations. According to the relevant provisions of the Nice Agreement, a trade mark is considered a service mark only if it has not been treated or processed, otherwise it is considered a trade mark. [44] [44] Article 4 of the current Trademark Law and Article 2 of the Regulations for the Implementation of the Trademark Law clearly state that "the provisions relating to trade marks shall apply to service marks." These statements establish the basic principle that service marks should be recognised with reference to trade marks, but they do not mean that they are completely equivalent in terms of recognition criteria. Specifically, a trade mark needs to have the following characteristics: firstly, it is distinctive and easy to identify; secondly, it does not conflict with the prior rights of others; and thirdly, it is able to clearly indicate the source and quality of the goods. [49] These criteria are clearly reflected in Articles 8 and 9(1) of the Trademark Law. As for service marks, due to their special characteristics of targeting intangible services and diverse usage scenarios, there are many differences in the recognition criteria for both trade marks and service marks due to the significant differences in their nature, objects and forms of expression. [50] [51] [52] [53] The two are also different in terms of recognition criteria [50] [51] [52] [53]. The determination of trade marks is mainly based on their distinctiveness, unique character, and connection with the source of goods. However, due to the special characteristics of service marks for intangible services and diversified use scenarios, service marks are faced with the challenges of judging distinctiveness, guaranteeing uniqueness, defining the scope of protection, etc., and how to solve these problems in light of the special characteristics of service marks has become the focus of research in the field of academia.

On the one hand, service marks have the special characteristic of targeting intangible services. The object of service marks is intangible services, and this characteristic makes them show very different characteristics from trade marks in terms of recognition criteria. Service marks cannot be "attached" to the relevant services like trade marks, but can only be attached to the advertising media or other articles related to the services. This lack of physical "attachment" makes the user of a service mark seek "attachment" in the minds of consumers in order to fulfil the function of the mark. However, the ability of consumers to associate a service mark with the services behind it is not entirely within the control of the registrant or the user of the mark, unlike the directionality of a trade mark, which is perceivable by consumers. [42] This characteristic raises a number of issues. On the one hand, as the service itself does not have a material form, the judgement of distinctiveness of service marks becomes particularly complicated. How to ensure that service marks can be clearly recognised by consumers in the process of service has become an urgent problem. On the other hand, service marks not only need to be visually distinctive and unique, but also need to be effectively communicated to consumers during the service process, so as to establish a close connection between the service and the provider. However, the diversity of service industries makes it difficult to ensure the distinctiveness of service marks. Different service providers may provide similar or identical services, making it difficult to distinguish service marks effectively in terms of distinctiveness. In this regard, Li Xiaowu [42] Li Xiaowu [42] argues that in the protection of service marks, avoiding consumer confusion is the key. The traditional practice is to distinguish an enterprise's trade name by the name

of the region in order to reduce the likelihood of confusion. This practice is reflected in China's Administrative Provisions on the Registration of Enterprise Names, which require the inclusion of geographical names at all levels in the name of an enterprise as a way of distinguishing between different enterprise trade names (service marks). However, the traditional approach it proposes - prefixing the name of a region to a business name to reduce the likelihood of confusion - is effective to a certain extent, but has its limitations. In practice, the distinction of regional names alone is often insufficient to cope with the complex and changing market environment and the growing demand for trade marks. For example, enterprises with the same name may exist in different regions, and with the popularity of the Internet, the scope of services of enterprises has long crossed the geographical boundaries, and it is difficult to fully prevent confusion by purely geographical distinction. In addition, as the trend of brand globalisation intensifies, some internationally renowned brands may not contain a clear geographical name, but still maintain a high degree of recognition and uniqueness on a global scale. In this regard, Yuan Tian et al.[48] argued that service marks can be effectively distinguished in terms of distinctiveness by clarifying the contexts, vehicles and behavioural patterns of service marks, taking into account the popularity and history of the contested marks, and carefully handling the overlap of the boundaries with trade marks.

On the other hand, service marks have a diversity of usage scenarios. Compared with trade marks, service marks are more widely and flexibly used. Trade marks are usually conspicuously displayed on the goods or their packaging, and consumers can easily obtain the required information and identify the preferred brand of goods through simple observation. Service marks, on the other hand, show more diversified ways of application, such as being directly used in the decoration of service places, or being printed in the files and documents related to the provision of services, and even being widely displayed in a variety of communication media such as television, the Internet and other publicly published books and journals. While this diversity gives service marks rich expressive power, it also brings a real problem to its recognition standard, i.e. the definition of the scope of protection becomes extremely difficult. As service marks may appear in various forms in different scenarios, their protection boundaries are often ambiguous, which may easily lead to conflict of rights in practice and increase the risk of legal disputes. To address this problem, Li Xiaowu[42] found that in cyberspace, the use of identical or similar trade names (service marks) may lead to confusion as advertisements disregard geographical restrictions and businesses expand across geographical boundaries. In this case, infringing parties can distinguish their services by adding auxiliary descriptions (e.g., corporate logos, slogans, etc.) to avoid directly infringing on the trademark owner's rights. Huang Yazhu[43] It is proposed that under the trend of "integration of services and goods", service marks and trade marks tend to be the same in essence, both indicating comprehensive and systematic brand goods and services. Therefore, in view of the insufficient protection of service marks under the current criminal law, service marks should be equally protected, so as to resolve the systematic conflicts and meet the practical needs.

2. Determination of Infringement

With regard to the differences between service marks and trade marks in the determination of infringement standards and their judicial application, the controversy in this regard mainly focuses on the subjective elements, objective elements, and the reasonable use of the defence determination standard.

In terms of subjective elements, the difference between service marks and trade marks in the determination of infringement is mainly reflected in the determination of the infringer's intent or negligence. Service marks are used in a variety of ways in different scenarios, making it a challenging task to determine whether they are infringed. How to accurately identify and define infringement becomes an important part of safeguarding the rights and interests of service marks. As service marks are more dependent on indirect ways of displaying them, such as service venues and advertisements, it is easier for infringers to misuse others' registered marks due to inadvertence or failure to conduct sufficient market research, thus constituting negligent infringement.[45] In trade mark infringement, it is usually easier for an infringer to know or should know that a trade mark is a registered trade mark

and use it intentionally. In addition, the standard for determining subjective good faith also differs between service mark and trade mark infringement [8], as it is more difficult to prove the infringer's subjective good faith due to the manner of use and the higher cost of publicity of service marks.

In terms of objective elements, the determination of likelihood of confusion is the core of the determination of trademark infringement. For service marks, the determination of likelihood of confusion is more complicated due to its intangible nature and the regularity of cross-class use.[46] The likelihood of confusion is more complicated for service marks [46]. Between a service mark and a trade mark, even if they are not visually similar, if the services represented by the service mark and the goods represented by the trade mark are related or complementary in terms of function and use, consumers may still be confused. Therefore, the factor of likelihood of confusion needs to be considered more carefully when determining infringement of a service mark.

There are also differences between service marks and trade marks in terms of the criteria for determining fair use as a defence. As service marks are used in a more costly manner and publicised, the scope and standard of fair use is more stringent. For example, in a service mark, the use of another's registered trademark for the purpose of describing the characteristics, use or source of the service may be more rare and needs to be more strictly limited to the extent necessary. In addition, where a service mark has become a generic name or a descriptive term, the scope and criteria for the use of that term by others will also need to be more carefully defined.[47]

Through the above comparative analysis of trade marks and service marks, we can clearly understand that the difference between the two is not only limited to the basic definition of tangible and intangible, but also reflected in the strictness of the identification criteria and the complexity of the infringement. Since a trade mark is directly attached to tangible goods, its distinctiveness and source identification are particularly intuitive and clear, which provides a relatively direct and clear basis for recognition and protection in legal practice. In contrast, service marks, due to their inherent intangibility and the wide variety of usage scenarios, have encountered more legal and practical difficulties in recognition and protection. The special characteristics of service marks, such as the difficulty of forming a solid "psychological attachment effect" in the minds of consumers, the complexity of the criteria for judging distinctiveness, the difficulty of fully guaranteeing uniqueness, and the ambiguity of the definition of the scope of protection, etc., all constitute a serious challenge to the current legal system, and prompt the legal academia and the legal practice to re-examine and improve the relevant legal provisions. Against this background, scholars have put forward a number of insightful suggestions on the protection of service marks, which are of profound significance to the understanding of and response to the different impact of the legal status of NGTs on the final outcome of infringement cases of different types of trade marks and service marks.

Next, this paper extends the comparative discussion of trade marks and service marks to the field of intangible cultural heritage, exploring the special characteristics of intangible cultural heritage trade marks and service marks, especially the important role of service marks in the protection and inheritance of intangible cultural heritage and the challenges they face. As intangible cultural heritage, there is a growing trend towards the commodification and servicisation of ICH, and the specificity and importance of service marks is particularly prominent in this process. Among the ICH trademark infringement cases counted in this paper, service marks account for as much as 40%. These service marks not only have the special characteristics of service marks, but also carry the unique value of ICH, and their protection is facing heavy challenges due to the non-materiality of ICH itself, the special value, the high dependence on presence and the public welfare attribute. Therefore, an in-depth analysis of the differences between ICH commodity trademarks and service trademarks, especially the specificity of service trademarks in the protection and inheritance of ICH and the problems they bring, is of great significance to the construction of a perfect ICH protection system and the promotion of the sustainable development of ICH culture. On this basis, this paper will put forward targeted recommendations, with a view to providing useful reference for the protection of ICH trademark rights.

6.2.2 Challenges for ICH Trademarks (NGTs) and Service Marks

1. The specificity of the intangible cultural heritage and the protection of its trademarks

Intangible cultural heritage means the social practices, representations, expressions, expressions, knowledge, skills and associated tools, objects, artefacts and cultural spaces that communities, groups and, in some cases, individuals recognise as part of their cultural heritage.[54] . The specificity of ICH, including its intangibility, the specificity of its values and its reliance on presence, not only determines the unique needs of ICH in terms of its safeguarding, transmission and presentation, but also profoundly affects the legal practice of ICH trademark protection.

One is the difficulty of defining trademark rights as a result of intangibility. Although the definition of intangible heritage in the Convention for the Safeguarding of the Intangible Cultural Heritage includes descriptions of materiality, such as "tools, objects, artefacts and cultural spaces." [54] , the core of intangible heritage - natural scientific knowledge and craft techniques, etc. - are intangible elements. The way it is presented also tends to favour what Yan Jianqiang describes as "exhibitions dominated by phenomenal exhibits" [55]. [55] The mode of expression also tends to be what Yan Jianqiang describes as "phenomenal exhibit-based" [55]. Therefore, the primary characteristic of NRLs is their immateriality. This intangibility makes the definition and protection of the ICH trademark more complicated. In contrast to tangible cultural heritage, which can be trademarked through concrete objects, ICH trademarks often rely on abstract concepts, symbols or stories. Therefore, in cases of infringement of ICH trade mark rights, it has become an important challenge to accurately define the scope of protection of the trade mark and avoid overly broad or narrow scope.

Secondly, the specificity of the value intensifies the covertness of the infringement Compared with the material cultural heritage, the audience's awareness of the value of ICH is low, which leads to the specificity of the value of ICH. There are three main reasons for this: firstly, it is difficult to fit the value content embedded in ICH with the value meaning understood by the audience. NRLs have multiple values such as history, culture, spirituality, science, art and economy, but the audience tends to pay more attention to intuitive information such as the material, shape and rarity of the exhibits. Scientific and technological ICH exhibits are mostly folk culture products, closely connected with contemporary civilisation products and lacking in rarity, so it is difficult for the audience to intuitively feel their value. This difference in value perception may lead to ambiguous trial standards in ICH trademark infringement cases. On the one hand, infringers take advantage of the public's ignorance or misunderstanding of the value of ICH to infringe in bad faith; on the other hand, the court needs to deeply understand and assess the diversified value of ICH when judging the infringement, which undoubtedly increases the complexity and professionalism of the trial. Secondly, NRLs have been incorporated into the protection system at a late stage. Due to their immateriality and commonality among cultural groups, NRHs have not historically been regarded as objects of collection and entered the civil protection system in the same way as tangible cultural heritage. In recent times, the long-term absence of NRLs from official publicity and traditional cultural heritage awareness has also made it difficult for their value to be recognised by the public. When hearing cases of ICH trade mark infringement, courts need to fully consider the cultural background and historical inheritance of ICH, as well as its value and significance in contemporary society. This requires the court to have not only solid legal knowledge, but also an in-depth understanding of and respect for ICH in the process of trial. At the same time, as the pluralistic value of ICH is difficult to measure in monetary terms, the courts also need to make comprehensive considerations when determining compensation standards to ensure that the judgements are fair and reasonable. Thirdly, the cultural divide has hindered some viewers from recognising ICH. Audiences, when confronted with the tangible cultural heritage of a deceased culture, tend to accept more readily the content behind it that is contrary to the values of contemporary society. However, as a cultural product of a certain group of people at the present time, viewers are more likely to question the parts that do not fit with their own cultural perceptions, leading to the cultural disconnection of NRH being highlighted in the exhibition. This cultural disconnect not only affects the public's perception and acceptance of NRLs, but also makes NRL trademark infringement more insidious and difficult to detect. Infringers circumvent legal sanctions by adapting,

interpreting or repackaging elements of NRLs to make them formally different from the original NRLs. This covertness creates additional difficulties in the investigation and trial of ICH trademark infringement cases.

Thirdly, the reliance on presence increases the complexity of finding infringement. Presence is the reproduction of the cultural heritage's original cultural scene when interpreting its value, and this reproduction includes the reproduction of time and space and associated characters.[56] In the case of ICH, the degree of reliance on presence in the process of value interpretation is higher than in the case of tangible cultural heritage. ICH relies more on presence in the process of value interpretation than tangible cultural heritage. This is because the value of ICH is not as visible as that of some tangible cultural heritage, and its interpretation needs to be carried out in a specific context. Therefore, the value interpretation of ICH relies more strongly on the presence of time, space and people. This requirement of presence makes it necessary for more contextual analysis and cultural interpretation in the determination of infringement of ICH trademarks. In determining infringement, the court not only has to consider the similarity of the trademark itself, but also has to make a comprehensive assessment by taking into account the cultural background, historical inheritance and context of use of the ICH. This complexity increases the difficulty and time cost of handling ICH trade mark infringement cases.

The fourth is that public interest affects the determination of infringement. ICH consists of two parts: culture and heritage (non-material as a modification of culture), with cultural attributes and heritage. As an important part of the cultural diversity of mankind, it carries rich historical memory and national emotions, and has significant public welfare attributes.[57] This attribute stems from its nature as the common spiritual wealth of mankind. NRL is not just the private property of a particular group or individual, but the common cultural heritage of all mankind. It transcends the limits of time and space and exists in a variety of forms such as oral traditions, performing arts, social practices, rituals and festivals, knowledge and practices relating to nature and the universe, and traditional craftsmanship, and is perpetuated through generations. This mode of transmission makes NHM a public and shared cultural resource, and anyone has the right to access, understand and learn about NHM, thereby enriching their spiritual world and enhancing their sense of national identity and cohesion. Because of the public attribute of ICH with public welfare, the subject of the rights of ICH is relatively vague. When the non-legacy enters the field of private rights, it is easy to cause disputes over the ownership of trademarks, and the emergence of infringement disputes may cause derogation to the cultural connotation of non-legacy. One of the non-legacy owners outside the market will be the non-legacy symbols of the trademark, this kind of registration may be non-legacy of the cultural connotation of the distortion, insult, dilution, such as the United States once appeared in the case of the "Washington Redskins" case and the "Zia sun symbols" case, the Indians For example, in the case of "Washington Redskins" and "Zia Sun Symbol" in the United States, the Indians thought that registering their tribal symbols as trademarks was a derogation of their culture. Secondly, although some trademark registrations do not distort the connotation of ICH, such as the registration of "Ashima" on cigarettes, according to the "association theory" of trademark law [58], the registration of "Ashima" as a trademark does not distort the connotation of ICH.[58] The registration of a trade mark may cause consumers to associate "Asima" with cigarettes and dilute its cultural connotations after a long period of use.[59] It also infringes on ICH. Therefore, in trademark infringement cases, courts need to take into account the public interest nature, cultural heritage and social impact of the NRL to ensure that the judgement not only protects the public interest of the NRL, but also respects the legitimate rights and interests of the relevant right holders. The existence of such complexity requires the courts to adopt a more cautious and meticulous attitude when hearing cases of trademark infringement of ICH, and to probe deeply into the cultural connotation and historical background of ICH, so as to ensure that the judgement is fair and reasonable.

2. Comparative analysis of ICH trade marks and service marks

Under the framework of intellectual property law, as the two basic classifications of trademark rights, trade mark and service mark carry specific legal connotations and commercial functions.

According to the Trademark Law[60] According to the relevant provisions of the Trademark Law [60], a trade mark is a sign used by the producer or operator of goods to distinguish the goods produced or operated by the producer or operator of goods from those produced or operated by others. Such trademarks are usually directly associated with specific goods, and help consumers to identify and distinguish goods of different origins by means of distinctive symbols, patterns or combinations of words. In the field of non-legacy, non-legacy trade marks refer specifically to those used for specific goods made with non-legacy skills, such as non-legacy handicrafts and non-legacy food, etc., which not only carry the basic information of the goods, but also contain rich non-legacy cultural connotations. Compared with a trade mark, a service mark is a sign used by a service provider to distinguish the services it provides from similar services provided by others. The characteristic of service mark lies in its close connection with the service behaviour, which does not directly point to the specific goods, but identifies the intangible services provided by the service provider. In the field of ICH, ICH service marks, on the other hand, are mainly associated with those services provided by ICH skills, such as ICH performances and the transmission of ICH skills. Such trademarks help consumers to identify and distinguish the ICH services of different service providers through a unique combination of symbols, patterns or words, thus safeguarding the distinctiveness and cultural value of the ICH services.

(1) Distinctiveness Determination Difficulties for Service Marks

Service marks are special in that they do not directly refer to specific goods, but rather are associated with specific acts of service. This characteristic is particularly significant in the case of ICH service marks. Because as the cultural deposits formed by the working people through long-term practice in history, ICH has, to some extent, both public cultural attributes and private rights attributes. At the same time, ICH services often involve traditional skills, performing arts and other intangible forms, which face many challenges when converted into trademarks. The determination of distinctiveness of a service mark needs to take into account the characteristics, reputation and influence of the service act itself, as well as the degree of association between the service mark and the service act. However, ICH services often have deep historical and cultural heritage and regional characteristics, and their distinctiveness is not entirely based on the uniqueness of the service act, but more on the cultural value and historical inheritance behind it. This complexity makes it even more difficult to determine the distinctiveness of ICH service marks, which requires balancing their public attributes and private rights attributes, as well as considering their historical, cultural and social values. Specifically, on the one hand, ICHs are usually traditional cultures that have been repeatedly practiced and passed down from generation to generation by people of all races among specific communities or groups, and reflect the living customs and spiritual beliefs of specific groups, such as folk tales, sacrificial ceremonies, festive customs, and handicrafts, etc., which all belong to the category of cultural heritage, and have the essential characteristic of public cultural attributes.[61] On the other hand, ICHs are presented to people through either abstract or concrete forms, and their special manifestations tend to seek protection through private rights. Some ICHs have been passed down from generation to generation and widely used by specific families, and the trademark system provides a more appropriate path for their private protection. However, limited by the ICH has public cultural attributes, easy to be used as a common name of goods and other characteristics, ICH symbols as trademarks face the difficulty of determining the significance of the dilemma. For example, in the case of "eight diagnostic bottles", the court of first and second instance held that the trademark in question describes a diagnostic and treatment method with Muslim characteristics, and in the form of expression, the more common font and font size as the constituent elements, and does not belong to the "unique way of expression", and the trademark in question is not a "unique way of expression", and the trademark in question is not a "unique way". ", and that the trade mark in question lacked distinctive character as it was used for services such as massage (medical) and could not serve to distinguish and identify the source of the services.[62] In summary, the registration and protection of ICH trademarks are in a difficult situation, the source group or the right holder to seek private remedies face obstacles, there is an urgent need to construct the ICH trademark registration of the

recognition of the distinctive rules, in order to balance the ICH of the public cultural protection and the protection of private rights.

(2) Application Challenges of 'Inherent Distinctiveness' Rule

"Inherent distinctiveness" means the inherent distinctiveness of a sign. Theoretically, according to the degree of inherent distinctiveness, signs are classified as "imaginative signs", "arbitrary signs" and "suggestive signs".[63] According to the current rules, an application for registration of a trademark for an NRL symbol can be granted as long as the symbol meets the minimum level of distinctiveness (suggestive sign) required by the Trademark Law, regardless of whether the NRL symbol has actually been used in commercial activities. Unlike trade marks, the value of service marks is often more abstract and difficult to quantify. Under the "inherent distinctiveness" rule, NRL symbols may be registered for a large number of unrelated services. Even if NRL bearers or related groups have applied for registration of NRL symbols as trademarks, as long as the NRL trademarks do not reach the level of famous or well-known trademarks, according to the current trademark law, "the exclusive right to use a registered trademark shall be granted to the registered trademark owner, and the registered trademark shall be registered on the basis of the exclusive right to use the registered trademark. According to the current Trademark Law, "the exclusive right of a registered trademark shall be limited to the approved registered trademark and the goods for which it is authorised to be used", others can still register the ICH symbol on goods or services that are not similar to the category for which registration has been applied for, without proving that the ICH trademark has been actually used in the market. According to some data, tens of thousands of 728 NRMs have been used in trademark applications, and famous folklore elements such as "Liang Zhu" and "Asima" have long been applied for registration for a wide range of unrelated classes of goods or services. Once such trademarks are successfully registered, their long-term use will lead to the formation of fixed links and associations between non-legacy symbols and unrelated goods or services, which will inevitably dilute the original cultural connotation of non-legacy. Such registration will not only fail to effectively protect the rights and interests of the ICH, but may also lead to the dilution or distortion of the cultural connotations of the ICH. For service marks, the acquisition of distinctiveness often needs to be reflected through actual use, because service marks are closely connected with specific service behaviours, and only through actual use in the market can they form stable consumer recognition and association. Therefore, the abstract value of service marks requires that more attention should be paid to the actual market impact in the registration of non-legacy service marks, so as to avoid the drawbacks brought by the "inherent distinctiveness" rule.

(3) Hidden Risks of Long-term Improper Use of Service Marks

As service marks are associated with specific service acts, their improper use often has a more far-reaching impact on the transmission and development of ICH culture. Long-term improper use of service marks may be even more insidious and difficult to detect, as the service behaviour itself is intangible and diverse, making it difficult to compare and assess intuitively like commodities. As the state pays attention to and focuses on ICH, the phenomenon of maliciously grabbing ICH trademarks and improper registration and use of ICH trademarks leading to dilution and distortion of the cultural connotation of ICH has gradually come to the forefront in commercial activities.

In terms of maliciously grabbing NRMs, the same specific NRM may extract a variety of elements with directionality, such as inheritors, NRM products, NRM characters, etc., and there may be overlapping rights in the same specific NRM.[64] In practice, the names of public figures with certain commercial value are very easy to become the object of trademark snatching, and the name of the representative inheritor of the national-level representative non-legacy project is no exception. Some enterprises or individuals, after contacting the representative bearer of ICH due to business co-operation or other channels, register the trademark of the name of the representative bearer of ICH and use it on the relevant goods or services, which will form a competitive relationship with the real ICH bearer in a certain area or industry field. Although this kind of behaviour may not directly affect the ICH itself, the long-term use may easily lead to confusion and misidentification among consumers, making the relevant public mistakenly believe that the source of the goods or services attached to the

trademark has a specific connection with the inheritor, and may also lead to the damage of the reputation of the ICH inheritor or other adverse social impacts. For example, the names of Wei Jiequn, the representative inheritor of the fifth batch of national ICH representative projects [black tea production techniques (six fortresses tea production techniques)], and Fu Zhonglai, the representative inheritor of Miao medicine ICH in Xiangxi Prefecture, have been registered as trademarks, and the disputes arising from this have not been resolved to date.

With regard to the improper registration and use of ICH trademarks, when examining an application for registration of an ordinary trademark, it is usually possible to make a comprehensive judgement as to whether or not it has an adverse effect through such elements as the general knowledge of the public, the category of registration, and whether or not there is any undesirable meaning in the trademark itself. As for NRL trademarks, there are mainly two forms of adverse effects: one is the direct registration of NRL symbols in special categories of goods or services (such as sexual aids, urns, coffins and toilets, etc.), at which time it will directly have an adverse effect of distorting and degrading the NRL. The other is to register the ICH symbols on unrelated goods or services, after long-term use in the minds of consumers to form fixed associations, indirectly resulting in the dilution of the adverse impact of ICH cultural connotation. For example, Mrs Xian's beliefs is a national ICH representative project with rich historical connotation and high impact, but "Mrs Xian" was registered and used in the category of "catering services". After repeated representations by the People's Government of Dianbai County to the Trademark Review and Adjudication Board of the former State Administration for Industry and Commerce, the Court finally concluded that the trademark would damage the "spirit of Madam Xian", a common cultural property of the Chinese nation, and should be given special protection, and made the decision that the disputed trademark was invalid.[65] For the first form of adverse effects, most of them can be blocked at the time of registration. However, there are difficulties in examining the second form of adverse effect. Such trademarks do not produce any adverse effects at the time of registration, and the key lies in the subsequent use behaviour, i.e., the examination of the adverse effects of the non-legacy trademarks after registration and in the process of use. For example, in the process of operation, some representative bearers of representative items of ICH with the help of their own existing influence and the inherent value of ICH symbols, excessive pursuit of commercial interests, non-refinement, batch commercial production, undoubtedly, is a direct depreciation of the cultural value of ICH, but also contrary to the goal of ICH cultural inheritance. In the protection of ICH service marks, more attention should be paid to the review and supervision of long-term improper use, in order to prevent the dilution and distortion of ICH cultural connotations.[66]

6.3 Suggestions for ICH Trademark Protection

6.3.1 Rights Subject Aspects

1. Defining Rights Subjects

The protection of intangible cultural heritage through the trademark right system can fully explore and make use of the commercial value of these traditional handicrafts. According to China's current Trademark Law, natural persons, legal persons or other organisations have the right to apply for registered trademarks.[67] However, as NRLs have been passed down through centuries of cultural inheritance, they belong to the common property of the whole nation, and it is impossible to attribute the relevant rights to a specific individual, so natural persons cannot apply for registration of trademarks for them alone. Therefore, it is first necessary to identify the right holders of traditional handicrafts, i.e., who can exercise the rights over these skills on behalf of the nation.

The mode of creation and transmission of intangible cultural heritage (ICH) demonstrates the uniqueness of the dichotomous subject structure of the collective and the individual[68] This characteristic makes it necessary to structure the intellectual property system in such a way as to strike a balance between the interests of the collective and those of the individual. The activities of bearers, such as reproduction, imitation, performance, adaptation and collection, are key to the transmission and development of ICH. In view of this characteristic, the recognition of the status of bearers and

communities as subjects of rights under the intellectual property system for intangible cultural heritage is of great significance in promoting the creation of a new type of intellectual property system, namely the law on the protection of intellectual property rights of intangible cultural heritage. The construction of such a system aims to protect the uniqueness and diversity of intangible cultural heritage, while at the same time stimulating the creative vigour of the inheritors and communities and ensuring the sustainable transmission and development of intangible cultural heritage.

In order to effectively protect the rights and interests of the bearers of the intangible cultural heritage, the construction of legislative protection is crucial. This includes the establishment of the right to recognition of achievements and reward mechanisms, whereby the name, content, forms of expression and ownership of the intangible cultural heritage are recognised through specific procedures, and corresponding rewards are given to the bearers to encourage them to continue to transmit and develop the intangible cultural heritage. At the same time, the recognition of the right to safeguard originality is an important manifestation of respect for the spiritual rights of the intangible cultural heritage, requiring that the name of the original group or place of origin be indicated at the time of use, and prohibiting the distortion, misuse, or commission of other acts of improper use and infringement of the intangible cultural heritage. In addition, the granting of the right of indefinite protection and the right of possession and use ensures the continuity and exclusivity of the intangible cultural heritage in time, providing legal safeguards for transmission.

The legislative protection of the source groups of the intangible cultural heritage, as creators and bearers of the intangible cultural heritage, is equally important. The recognition of the right of attribution not only safeguards the rights and interests of the group as a whole, but also enhances national pride and cultural identity. Internally, autographs can be flexibly signed according to different circumstances, such as the name of a place, an exclusively local popular tune or an original person. The granting of the right of adaptation allows for innovative adaptations of intangible cultural heritage, provided that the copyright of the original work is not infringed upon, and that the source of the adaptation is acknowledged and the lawful rights and interests of the adaptor are respected. The protection of the right of performance and neighbouring rights ensures the purity of the intangible cultural heritage by granting the right of performance to the peoples or groups to which it belongs, and by guaranteeing the singers the right of ownership of the reproduction, sound recording and video recording of their repertoire, as well as the right to remuneration. The recognition of the right of transmission and the right to recover and share economic benefits regulates the transmission and use of the intangible cultural heritage and ensures the legitimate rights and interests of communities in commercial exploitation.

By building an intellectual property rights system for the intangible cultural heritage, in particular legislative protection for bearers and source groups, we can better safeguard and transmit the intangible cultural heritage and ensure that it continues to contribute to the cultural diversity of humankind. At the same time, such a system would also help to stimulate innovation and promote the sustainable development of the intangible cultural heritage.

2. Establishing Benefit-Sharing Mechanisms

The central purpose of intellectual property law is to maintain a balance of interests.[69] The principle of balance of interests, as the key to the benefit-sharing mechanism, effectively harmonises and balances the interests of the individual with the public interest, particularly in intellectual property law, which focuses on reconciling the interests of the inheritor with the public interest of society. The principle aims to achieve a balanced development of the two, ensuring the rights and interests of the inheritors while paying attention to the rights and interests of other subjects of interest. The principle of balancing interests not only protects the private right of the inheritor's intellectual achievements, but also promotes the application of intellectual achievements in order to safeguard the public interest. It requires that the distribution of rights and obligations between right holders and other subjects be in accordance with fairness and justice, and seeks to strike a balance between different legislative purposes in order to meet the needs of social and economic development.

The Philippines has enacted the Indigenous Peoples' Rights Act (IPRA), which focuses on the protection of the rights of indigenous peoples of local cultural communities and covers the following aspects: (1) It establishes that indigenous communities have permanent intellectual property rights over the cultural products (such as folklore, music, paintings, and so on) that they produce. (2) It clarifies the role of indigenous communities as the subject of ownership of folklore, genetic resources and other knowledge, and realises the transition from individual private property ownership to community ownership. (3) Guarantees the right of indigenous communities and indigenous people to cultural integration, including intellectual property rights, the right to protection of indigenous knowledge systems and management, and cultures and traditions. (4) Provides for the right of indigenous communities to benefit-sharing, i.e., in the case of commercial exploitation of traditional knowledge, the communities concerned have the right to a reasonable proportion of the benefits received over a period of 10 years, to be managed by organisations or the State that effectively represent the interests of the communities. (5) Establishes the National Commission for Indigenous Peoples to promote the protection of the rights of local cultural communities and indigenous peoples and to establish effective mechanisms to safeguard their intellectual property rights and interests.

Following the principle of balancing interests is a core requirement to ensure that the interests of inheritors are effectively protected. In the practice of protection, inheritors often face conflicts of interest with communicators, the public, source groups and ordinary inheritors. Inheritors enrich cultural diversity through technological innovation and cultural reinvention. The key to balancing these conflicting interests lies in the implementation of the principle of balancing interests, which can be modelled on the Philippine Indigenous Peoples' Bill of Rights, which clarifies the status of the relevant subjects and grants them the right to benefit-sharing, so as to reconcile the personal interests of the inheritors with the interests of the traditional community, the source group and other subjects. Under the perspective of balancing interests, the personal interests of the inheritor and the interests of the society are both opposing and united, and the balance between them should be maintained. If the inheritor abuses the intellectual property rights and destroys the balance, measures should be taken to restrict his/her rights, but excessive restriction should be avoided so as not to affect the public interest of the society. In case of conflict, it is necessary to appropriately restrict the interests of the inheritor in order to safeguard the public interest, but it is necessary to prevent excessive restriction of the rights and interests of the inheritor. On the premise of not harming the interests of the inheritor, it is permissible for members of the society and groups to make reasonable use of the ICH for study, research and reference. Restrictions on the rights of the inheritors need to follow the principle of balance of interests and reasonable design of rights in the legal protection system.

Within the framework of constructing the Law on the Protection of Inheritors of Intangible Cultural Heritage, ensuring that inheritors receive property benefits is the key to safeguarding their right to development. In the process of utilising the intangible cultural heritage, the bearer shall enjoy property interests in two major aspects: on the one hand, the bearer shall be entitled to the protection of economic gains based on the benefit-sharing mechanism. This mechanism aims to ensure that the inheritors have a fair share of the resulting economic benefits in the commercial exploitation, dissemination and safeguarding of ICH. On the other hand, when an inheritor participates in a project of commercial exploitation of ICH, he/she is equally entitled to a share of the corresponding benefits. For example, when a commercial entity makes use of the title of representative inheritor for the development and excavation of local tourism projects, the economic benefits generated shall be distributed to the representative inheritor according to a reasonable proportion, so as to maintain the balance of interests. As the representative inheritors play a pivotal role in their source group, there is a sufficient rational basis for them to obtain benefit sharing.

6.3.2 Trademark Right Object Aspects

1. Rules for Determining Non-Heritage Service Mark Distinctiveness

The scientific classification of non-legacy is a complex and systematic project, which is not only the basis for understanding the distribution and inheritance of non-legacy, but also a prerequisite for

ensuring the effective protection of non-legacy. Based on this, scholars have put forward a variety of classification methods, such as the "seven-division method" of NRLs [70]. [70] Some scholars have also proposed to increase the number of integrated types of cultural space and artistic townships [71]. [71] Internationally, UNESCO's 1989 report on NRM is an example of this. Internationally, the UNESCO Recommendation on the Safeguarding of Folklore adopted in 1989 classifies NHs into ten categories, while the Convention for the Safeguarding of the Intangible Cultural Heritage categorises them into five main types. The United States, on the other hand, has adopted a more detailed categorisation, dividing ICH into twelve major categories including folklore, language, literature, etc. [72] The United States has adopted a more detailed classification of NRM into twelve categories including folklore, language and literature [72]. In China, the classification of ICH is also diversified, with the 2005 Interim Measures for the Declaration and Evaluation of Representative Works of Intangible Cultural Heritage at the National Level classifying ICH into two categories: "traditional cultural expressions" and "cultural spaces", and further subdividing them into six subcategories. It is further subdivided into six subcategories. The lists displayed on the China ICH website are categorised into ten categories. The Intangible Cultural Heritage Law, on the other hand, categorises ICH into six categories. Although each of these classification standards and systems has its own focus, none of them has been able to form a unified standard. [73] In the context of digitisation, the scientific classification of ICH needs to take into account not only its cultural attributes, but also the convenience of managing and using the huge amount of data and information after digitisation. The name of NHs is closely related to its scientific classification, which is composed of various ways, such as "place name + NH core", "NH object or completed form + inheritor", and "summary of complex behaviours", etc. [74] In addition to its cultural attributes, it also needs to take into account the convenience of management and use of massive data information after digitisation. ", etc. [74] These names not only reflect the dual public-private attributes of the NRH, but also its potential subjects of rights. According to the definition in the Convention for the Safeguarding of the Intangible Cultural Heritage, some scholars have classified NRM into three types, namely, state-owned, individually-owned, and enjoyed by a specific ethnic group or region, from the perspective of potential right subjects of NRM trademarks. On this basis, this paper combines the public cultural attributes and private rights attributes of NRLs, and further classifies NRL symbols into three categories: first, NRL symbols with strong public cultural attributes, which belong to the public domain and are generally not allowed to apply for registration as trademarks; second, NRL symbols with strong private rights, which can be categorised in the private domain, and can be applied for ordinary trademarks by family representatives, enterprises or individuals; and third, NRL symbols reflecting the characteristic culture, customs, habits, traditions and practices, as well as the rights of particular communities or regions. Thirdly, ICH symbols embodying the characteristic culture, customs and spiritual beliefs of a certain community or region should be jointly enjoyed by members of the local community or relevant groups or associations due to the uncertainty of the subject of the rights and should be applied for registration as a collective trademark or certification mark. Such classification helps to understand more clearly the ownership relationship of NRMs, and provides strong support for the protection and inheritance of NRMs.

In the process of registering a trade mark, whether it is a general, collective or certification mark, the basic requirement of "distinctiveness" must be met. It has been pointed out that, according to the principle of "inherent distinctiveness", NRL symbols may be subject to the risk of being registered for a large number of goods or services that are not related to the original culture, which may have an adverse effect on the NRL, such as derogation and dilution. In contrast, under the principle of "acquired distinctiveness", the successful registration of an NRS as a trade mark depends on its performance in actual use. This principle effectively prevents applications that are made without the intention of actual use, but only for the purpose of registration for unrelated goods or services. In commercial activities, the use of a sign is the link between it and the goods or services. It is only when a sign is used repeatedly in commercial activities that it can attract the attention of consumers and thus become a reference for them in choosing goods or services. Therefore, if the NCS symbol wants

to obtain trade mark registration, the applicant must provide proof that the symbol has been actually used in commercial activities and serves to identify and distinguish the source of the goods or services. However, judging from the types of signs listed in Article 11 of the Trademark Law that lack "inherent distinctiveness" and the "other lack of distinctive features" provision, it seems that NRM symbols are not easy to be directly categorised as such. In order to protect ICH culture and prevent it from being abused by registering on goods or services not related to the original culture, the future amendment of the Trademark Law should explicitly list "symbols identical or similar to the name of the outstanding traditional Chinese culture" as a sign that lacks "inherent distinctiveness". The future revision of the Trademark Law should explicitly classify "symbols identical or similar to the names of outstanding traditional Chinese culture" as signs lacking "inherent distinctiveness". For an application for registration of a trademark based on a non-legacy symbol, the applicant needs to prove that the non-legacy symbol has the characteristics of a particular community or region, has been formed through the long-term historical practice of the community and passed down from generation to generation, and can reflect the characteristic culture and spiritual customs of the community. At the same time, the applicant is also required to provide sufficient evidence to prove that the ICH symbol has been actually used in commerce, and by citing the time, extent and geographical scope of the use, the strength of the publicity, the degree of consumer awareness of the symbol, whether a stable link has been established between the symbol and the goods or services, and whether the consumers have used the symbol as a basis for identifying the source of the goods or services.[75] The examining authority should evaluate this evidence together in order to determine whether the NRM has "acquired distinctiveness". Within the framework of the typology of NRMs, the determination of the distinctiveness of a trade mark requires a categorical approach. Specifically:

(1) Regarding the trademark registration application for the "public domain category" of ICH, in view of its profound public cultural attributes and the fact that it has become an indispensable part of the daily life of the people, applications filed by both groups and individuals should be regarded as "common names" and, accordingly, their requests for registration should be rejected. The request for registration should be rejected in order to prevent the misuse of public resources.

(2) For the "private domain" category of NRMs, which are characterised by significant private rights, often inherited in family units and traceable to specific rights holders. For this type of NRM, if it has been registered as a trademark or has not been registered but has been used in commercial activities for a long time and enjoys prior rights, such as becoming a well-known trademark or trade name, measures should be taken to avoid overlapping trademark rights. When a particular NRM has been registered, the uniqueness of the subject of the trademark right can be safeguarded by restricting the entry of other pointing elements. For NRMs that have not yet been registered due to low commercial exploitation benefits, or where the applicant is not a family representative, a representative bearer of the NRM, or an associated person, the examination should be based on the rule of acquisition of distinctiveness. The key lies in the fact that the certification mark has acquired the function of distinction and identification through long-term use, and the applicant is required to provide evidence to prove that the relevant public can form a unique correspondence between the specific goods or services and the specific producer or service provider through the symbol of the ICH. In the examination, the administrative organ shall take into account factors such as the public awareness of the ICH symbol, the time and manner of its use, the volume of sales of goods, the turnover, the market share, as well as the time, degree and regional scope of the trademark's publicity, and shall focus on the continued inheritance and use of the ICH trademark. If the ICH symbol is used in most parts of the country and is well known to consumers, it may reach the level of a well-known trademark, which shall be recognised in the context of individual cases and relevant provisions of the Trademark Law. All applications shall be rejected except where it can be demonstrated that there is acquired distinctiveness.

(3) With regard to trademark applications for NRMs reflecting "the characteristics of a particular community or territory", it is necessary to discuss the issue in a different context. On the one hand, for NRMs reflecting the cultural characteristics of a community or region, especially those carried by

specific products, such as traditional arts, fine arts, medicine, etc., their symbols are often registered as geographical indications. As they have been used for a long time in the locality and are well known to the members of the community, they already have the ability to acquire distinctiveness. The examination should focus on the geographical and human factors embodied in the ICH and, based on the objectives of the inheritance and protection of the ICH and the special characteristics of the subject of the geographical indication application, adopt the principle of tolerance and focus on the qualifications and capabilities of the subject of the application. If the main body of the application is a local group association, cultural authority, etc., which has the conditions to co-ordinate the management and maintenance of the cultural connotations of the ICH, it shall be registered, and the application for registration of trademarks for other directional elements shall be rejected. On the other hand, for applications for the registration of such ICH signs as ordinary trademarks in the name of individuals or enterprises, the applicant shall be required to prove that a unique correspondence has been established between the goods or services and the sign, and to examine whether the subject of the application is a member of the region represented by the ICH. Taking into account the fact that the group from which the heritage originates has been producing and living in the relevant region for a long time, and has a better understanding of the customs, habits and spiritual beliefs related to the ICH, a comprehensive consideration of the identity of the subject of the application and the acquisition of distinctiveness will help to strictly safeguard and pass on the ICH.

2. Strengthening Review and Regulation of NRM Service Mark Misuse

The objects protected by China's current intellectual property system are clear and specific, such as the Patent Law protecting inventions and creations and the Trademark Law protecting trademarks, which are all property-based. And the ICH resources emphasise more on cultural attributes. Under the current trademark right system, the registration of intangible cultural heritage and other handicrafts as trademarks can only play a formal protection, and its cultural connotation is difficult to be effectively maintained. Therefore, in the future legislation, the limitations on the recognition of ICH trademark rights can be increased to include the cultural values embedded in ICH in the scope of protection. That is to say, the application for registration of a trademark of ICH in the category of handicrafts should be directed at ICH from a specific region and with certain cultural connotations, and the trademark should represent the ICH and protect its cultural value, as well as the expression of its economic value.

In order to avoid the trademark rights of intangible cultural heritage from being seized and abused, it should also be protected through two forms of protection: defensive and positive. Defensive protection refers to the use of prohibitions in the existing trademark law to prevent third parties other than the right holder from infringing on their rights. For example, if a trade mark lacks distinctive features, is prone to misidentification or is deceptive in nature, it cannot be registered and improperly exploited. However, if a third party is from the region to which the NRM belongs and has prior rights to the art, it may reasonably use the NRM's trademark rights. For positive protection, it refers to proactive measures such as online publication of the trademark in order to prevent improper use of the trademark right of the ICH. In the event that a third party improperly registers or uses a ICH trade mark, the management will be able to find out whether the other party has infringed on the trade mark through systematic enquiry, and will proactively refuse to register the trade mark and notify the infringing act accordingly.

7. Conclusion and Future Research

This study provides a comprehensive empirical analysis of the evidentiary value and influence mechanism of the identity of the inheritor in intangible cultural heritage (ICH) trademark infringement cases. By examining 113 judgement documents, it highlights the significance of the inheritor's legal status in shaping the outcomes of such cases. The findings underscore the crucial role of inheritors in safeguarding ICH through legal means, particularly in trademark infringement disputes. The use of multiple linear regression analysis enables a robust understanding of the factors

affecting case outcomes, revealing the importance of inheritor status alongside other variables such as geographical distribution and legal provisions cited.

At the theoretical level, the study extends existing theories on intellectual property protection, particularly in the context of ICH. It validates the significance of the inheritor's identity in legal disputes, contributing to the debate on the appropriate legal frameworks for safeguarding ICH. Furthermore, by differentiating between commodity trademarks and service marks, the research offers new insights into the varied impact of inheritor status on case outcomes, thus enriching the theoretical landscape of ICH trademark law.

The findings have practical implications for policymakers and managers tasked with protecting ICH. The study underscores the need for clear legal recognition and support for ICH inheritors, who play a pivotal role in transmitting and safeguarding ICH. Additionally, it highlights the importance of reviewing and regulating the use of ICH-related service marks to prevent misuse and ensure cultural integrity. These insights can inform the development of more effective policies and management strategies for ICH protection.

While the study provides valuable insights, it is limited by the sample size of 113 judgement documents, potentially affecting the generalizability of the findings. Future research could expand the dataset to include a larger number of cases from diverse geographical and cultural contexts, enhancing the robustness of the conclusions. The study focuses primarily on the evidentiary value of the inheritor's identity, without delving deeply into the cultural and social factors that may influence court decisions. Future research could adopt qualitative methods such as case studies and interviews to gain a more holistic understanding of the complex interplay between legal, cultural, and social factors in ICH trademark infringement cases. The rapid advancements in technology, particularly in the fields of artificial intelligence and blockchain, present new opportunities for ICH protection. Future research could explore how these technologies can be harnessed to enhance the security, transparency, and accessibility of ICH-related trademarks, thereby contributing to more effective ICH preservation and transmission. Additionally, studies from the perspectives of various stakeholders, including inheritors, businesses, and consumers, could provide valuable insights for developing balanced and equitable ICH protection mechanisms.

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