

China Court Documents

17 full editorial English translations

Editorial English translation of the complete substantive body available in the collected Chinese court-text copy. This is not an official or certified translation, and the collected text is not a court-issued original PDF. Source masking, differing figures and apparent transcription errors are preserved and explained.

Documents are dated records of the named parties and proceedings. Allegations, defenses, court reasoning and operative orders remain separate. Company obligations are not automatically personal obligations. Naming a person does not allege responsibility for a different party's conduct.

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01. Civil Ruling - Likameisen Health Industry Technology (Guangzhou) Co., Ltd. v. Hangzhou Hanyi E-Commerce Co., Ltd.; withdrawal permitted

(2020) 粤0106民初880号之一 | Tianhe District People's Court, Guangzhou, Guangdong Province | Decision: 2020-03-23

<https://yifengzhang.com/china-court-document-translations/2020-guangzhou-tianhe-civil-880-1/>

Document heading

Civil Ruling

Parties

Plaintiff: Likameisen Health Industry Technology (Guangzhou) Co., Ltd., domiciled at Rooms 1516-1520, No. 140 Zhongshan Avenue West, Tianhe District, Guangzhou.

Legal representative: Wang**.

Authorized litigation representatives: Zhang Chuangang and Xu Ruoyu, respectively a lawyer and a trainee lawyer at Guangdong Zhengnuo Law Firm.

Defendant: Hangzhou Hanyi E-Commerce Co., Ltd., domiciled at Room 1104, Building 2, Chuangzhi Lügu Development Center, Jianggan District, Hangzhou, Zhejiang Province.

Legal representative: Sun*.

Third party: He*, male, born on ****-**-**, Han ethnicity, residing at **.

Procedural history

In the service-contract dispute between the plaintiff, Likameisen Health Industry Technology (Guangzhou) Co., Ltd., the defendant, Hangzhou Hanyi E-Commerce Co., Ltd., and the third party, He*, this Court registered the case on 9 January 2020. On 20 March 2020, the plaintiff, Likameisen Health Industry Technology (Guangzhou) Co., Ltd., applied to this Court to withdraw the action.

Court's reasoning

This Court considers that the application by the plaintiff, Likameisen Health Industry Technology (Guangzhou) Co., Ltd., complies with the relevant legal provisions and should be allowed. Pursuant to Article 145, paragraph 1, and Article 154, paragraph 1, item (5), of the Civil Procedure Law of the People's Republic of China, this Court rules as follows:

Disposition

The plaintiff, Likameisen Health Industry Technology (Guangzhou) Co., Ltd., is permitted to withdraw the action.

The case acceptance fee of RMB 41,687 is reduced by half to RMB 20,844 and shall be borne by the plaintiff, Likameisen Health Industry Technology (Guangzhou) Co., Ltd.

Decision date

23 March 2020

Translation and source notes

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The ruling permits withdrawal and does not determine the merits of the service-contract dispute.

The original fee is RMB 41,687; the source expressly states the reduced fee as RMB 20,844. The stated figure is retained rather than recalculated.

Corporate English names are transliterations or descriptive translations of the Chinese names; the collected text does not establish registered English names.

02. Administrative Judgment - Udz Technology (Beijing) Co., Ltd.; review of trademark-application refusal

(2016) 京73行初1926号 | Beijing Intellectual Property Court | Decision: 2016-05-30

<https://yifengzhang.com/china-court-document-translations/2016-beijing-ip-administrative-1926/>

Document heading

Administrative Judgment

Parties

Plaintiff: Udz Technology (Beijing) Co., Ltd., domiciled at Room 2953, 29th Floor, Block C, No. Jia 6 Jianguomenwai Avenue, Chaoyang District, Beijing.

Legal representative: Yifeng Zhang, manager. (Did not attend the hearing.)

Authorized representative: Liu*, lawyer at Hebei Shengyu Law Firm. (Attended the hearing.)

Defendant: Trademark Review and Adjudication Board of the State Administration for Industry and Commerce, domiciled at No. 1 Chama South Street, Xicheng District, Beijing.

Legal representative: Zhao Gang, director. (Did not attend the hearing.)

Authorized representative: Tian**, examiner of the Trademark Review and Adjudication Board of the State Administration for Industry and Commerce. (Attended the hearing.)

Cause of action: administrative dispute over review of the refusal of a trademark application.

Challenged decision: Shang Ping Zi [2016] No. 12873, Decision on Review of Refusal of Trademark No. 15757806, “优定制及图” (“优定制” and device).

Date of the challenged decision: 17 February 2016.

Procedural history

Date of hearing: 19 May 2016.

The defendant issued the challenged decision on the ground that trademark No. 15757806, “优定制及图” (“优定制” and device), applied for by the plaintiff (the “disputed trademark”), lacked the distinctive characteristics a trademark should possess and therefore fell within Article 11, paragraph 1, item (2), of the Trademark Law of the People’s Republic of China (the “Trademark Law”). It refused the registration application for the disputed trademark in respect of the goods under review.

Plaintiff’s claims

The plaintiff alleged: First, the disputed trademark, “优定制及图,” has a special meaning, expressing the concept of the plaintiff’s Udz.COM business. Second, through use, the disputed trademark has acquired recognition and a particular meaning in the market, becoming a sign by which the relevant consumers identify Udz.COM, and it may therefore be registered as a trademark. On these grounds, the plaintiff requested revocation of the challenged decision.

Defendant's response

The defendant argued that the challenged decision clearly established the facts, correctly applied the law, and followed lawful procedure, and asked the Court to dismiss the plaintiff's claims.

Facts found by the court

Having heard the case, this Court finds as follows:

I.

The disputed trademark

1. Applicant: the plaintiff.

2. Application No.: 15757806. 3. Application date: 21 November 2014.

4. Sign

5.

Designated goods (Class 25, Groups 2501-2505 and 2507-2512): work clothes; ready-made clothing; clothing; baby trousers (clothing); shoes (footwear); hats; socks; gloves (clothing); neckties; scarves; suit pocket squares; belts.

II. Other facts

During these proceedings, the plaintiff submitted three items of evidence to the Court, primarily to establish that the disputed trademark had acquired a degree of recognition through use and possessed the distinctiveness required for trademark registration.

The foregoing facts are supported in the record by the file for the disputed trademark, the notice of trademark refusal, the application for review of refusal, the evidence submitted by the parties, the hearing record, and other materials.

Court's reasoning

This Court considers as follows:

The issue in this case is whether the disputed trademark contravenes Article 11, paragraph 1, item (2), of the Trademark Law.

Article 11, paragraph 1, item (2), of the Trademark Law provides that signs which merely directly indicate the quality, principal raw materials, function, purpose, weight, quantity, or other characteristics of goods shall not be registered as trademarks.

The disputed trademark consists of the Chinese characters “优定制.” “定制” means “making a particular thing according to a customer's specific requirements” and, in relation to goods such as “clothing,” has the meaning “tailoring for an individual customer.” Thus, “定制” directly indicates a characteristic of the manufacture of “clothing.” The Chinese character “优” means “fine” or “outstanding”; combining it with “定制” to form the trademark does not confer the distinctiveness required for registration. Accordingly, the disputed trademark, “优定制,” directly indicates a characteristic of the manufacture of “clothing,” lacks distinctiveness, and is a sign that may not be registered as a trademark under Article 11, paragraph 1, item (2), of the Trademark Law.

The plaintiff contends that the disputed trademark has attained a high level of recognition through use and has acquired distinctiveness through use. However, the evidence it submitted is insufficient to show that, through use in relation to the designated goods, the disputed trademark has acquired the distinctiveness required for registration. The plaintiff's contention cannot be sustained, and this Court does not uphold it.

In conclusion, neither the plaintiff's claims nor its grounds can be sustained, and this Court does not uphold them. The challenged decision clearly establishes the facts and correctly applies the law. Pursuant to Article 69 of the Administrative Litigation Law of the People's Republic of China, this Court gives judgment as follows:

Disposition

The claims of the plaintiff, UDZ Technology (Beijing) Co., Ltd., are dismissed.

The case acceptance fee of RMB 50 shall be borne by the plaintiff, UDZ Technology (Beijing) Co., Ltd. (Already paid.)

If either party is dissatisfied with this judgment, it may, within fifteen days from the date of service of this judgment, submit a notice of appeal and copies to this Court and pay an appeal case acceptance fee of RMB 100, appealing to the Beijing High People's Court.

Decision date

30 May 2016

Translation and source notes

This is an editorial English translation of the complete collected Chinese court-text copy, not an official or certified translation and not a court-issued original PDF.

Personal-name masks, birth-date masks and anonymized addresses appearing in the collected text are retained. Unmasked names are transliterated; no masked identity is reconstructed.

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This is an administrative trademark-registration case. It does not make a finding of debt nonpayment, trademark infringement, fraud or misconduct.

The source formats the application-number and date items together as “157578063、申请日期”; the translation separates application No. 15757806 and item 3. The appeal text independently states application No. 15757806.

The source includes headings for the trademark sign but no reproduced trademark image.

The characters “优定制” are retained where the court discusses their meaning. UDZ is used for the corporate name; the translation does not substitute an invented English trademark.

This first-instance text states a case acceptance fee of RMB 50. The collected appeal judgment separately states fees of RMB 100 at each instance; both sources are retained without harmonizing this discrepancy.

03. Final Administrative Judgment - UDZ Technology (Beijing) Co., Ltd.; trademark-refusal appeal dismissed

(2016) 京行终4532号 | Beijing High People's Court | Decision: 2016-11-22

<https://yifengzhang.com/china-court-document-translations/2016-beijing-administrative-appeal-4532/>

Document heading

Administrative Judgment

Parties

Appellant (plaintiff at first instance): UDZ Technology (Beijing) Co., Ltd., domiciled at Room 2953, 29th Floor, Block C, No. Jia 6 Jianguomenwai Avenue, Chaoyang District, Beijing.

Legal representative: Zhang**, manager.

Authorized representative: Liu Fan, lawyer at Hebei Shengyu Law Firm.

Respondent (defendant at first instance): Trademark Review and Adjudication Board of the State Administration for Industry and Commerce, domiciled at No. 1 Chama South Street, Xicheng District, Beijing.

Legal representative: Zhao Gang, director.

Authorized representative: Tian**, examiner of the Trademark Review and Adjudication Board of the State Administration for Industry and Commerce.

Procedural history

The appellant, UDZ Technology (Beijing) Co., Ltd. (the "UDZ Company"), appealed to this Court against Administrative Judgment (2016) Jing 73 Xing Chu No. 1926 of the Beijing Intellectual Property Court in an administrative dispute over review of the refusal of a trademark application. After accepting the case on 8 September 2016, this Court constituted a collegiate panel in accordance with the law and heard the case. The proceedings have now concluded.

The Beijing Intellectual Property Court considered that the disputed trademark consists of the Chinese characters "优定制." "定制" means "making a particular thing according to a customer's specific requirements" and, in relation to goods such as "clothing," has the meaning "tailoring for an individual customer." Thus, "定制" directly indicates a characteristic of the manufacture of "clothing." The Chinese character "优" means "fine" or "outstanding"; combining it with "定制" to form the trademark does not confer the distinctiveness required for registration. Accordingly, the disputed trademark, "优定制," directly indicates a characteristic of the manufacture of "clothing," lacks distinctiveness, and is a sign that may not be registered as a trademark under Article 11, paragraph 1, item (2), of the Trademark Law of the People's Republic of China (the "Trademark Law"). The evidence submitted by the UDZ Company is insufficient to show that, through use in relation to the designated goods, the disputed trademark has acquired the distinctiveness required for registration. Accordingly, pursuant to Article 69 of the Administrative Litigation Law of the People's Republic of China, the court gave judgment dismissing the UDZ Company's claims.

Plaintiff's claims

The UDZ Company, dissatisfied with the first-instance judgment, appealed to this Court and requested revocation of both that judgment and the challenged decision. Its principal ground of appeal was that the disputed trademark possesses distinctiveness and should be approved for registration.

Facts found by the court

Having heard the case, the Court finds as follows:

I. The disputed trademark

1. Applicant: the UDZ Company.
2. Application No.: 15757806.
3. Application date: 21 November 2014.
4. Sign:

Designated goods (Class 25, Groups 2501-2505 and 2507-2512): work clothes; ready-made clothing; clothing; baby trousers (clothing); shoes (footwear); hats; socks; gloves (clothing); neckties; scarves; suit pocket squares; belts.

II. Challenged decision: Shang Ping Zi [2016] No. 12873, Decision on Review of Refusal of Trademark No. 15757806, “优定制及图” (“优定制” and device).

Date of the challenged decision: 17 February 2016.

The Trademark Review and Adjudication Board of the State Administration for Industry and Commerce issued the challenged decision, refusing the registration application for the disputed trademark, on the ground that it fell within Article 11, paragraph 1, item (3), of the Trademark Law.

III. Other facts

During these proceedings, the UDZ Company submitted three items of evidence, primarily to establish that the disputed trademark had acquired a degree of recognition through use and possessed the distinctiveness required for trademark registration.

The foregoing facts are supported in the record by the file for the disputed trademark, the challenged decision, the evidence submitted by the parties, and other materials.

Court's reasoning

This Court considers as follows: Article 11, paragraph 1, item (2), of the Trademark Law provides that signs which merely directly indicate the quality, principal raw materials, function, purpose, weight, quantity, or other characteristics of goods shall not be registered as trademarks. Item (3) provides that signs lacking distinctive characteristics shall not be registered as trademarks. A trademark is a sign used to identify and distinguish the source of goods and services. Whether a sign may be registered as a trademark depends on whether it performs the identifying function of distinguishing the source of goods or services. If the relevant public would not recognize a sign as one that distinguishes the source of goods or services, then, in principle, the sign lacks distinctive characteristics and cannot be registered as a trademark. In terms of a trademark's identifying and distinguishing functions, a sign will distinguish between different providers of identical or similar goods and services only if the relevant public first recognizes and treats it as a sign indicating the source of goods or services. The identifying function in trademark distinctiveness precedes the distinguishing function. In this case, the sign of the disputed trademark consists of

“优定制及图” (“优定制” and device). “定制” is an established expression, and “优” means “fine” or “excellent.” When “优” and “定制” are combined and used for clothing and other goods in Class 25, the relevant public is unlikely to recognize the sign as a trademark that distinguishes the source of goods. Accordingly, the disputed sign itself lacks the distinctive characteristics a trademark should possess. The first-instance judgment's application of Article 11, paragraph 1, item (2), of the Trademark Law to this case was an error of law, which this Court corrects.

Article 11, paragraph 2, of the Trademark Law provides that signs listed in the preceding paragraph may be registered as trademarks if they have acquired distinctive characteristics through use and are readily identifiable. In this case, the evidence submitted by the UDZ Company is insufficient to establish that the disputed trademark has acquired distinctiveness through use. The challenged decision correctly concluded that the trademark applied for lacked distinctiveness, and this Court upholds that conclusion. The UDZ Company's related grounds of appeal cannot be sustained, and this Court does not uphold them.

In conclusion, although the first-instance judgment erred in its application of the law, its conclusion was correct, and this Court upholds it. The UDZ Company's grounds of appeal lack a factual and legal basis, and this Court does not uphold its appeal requests. Pursuant to Article 89, paragraph 1, item (1), of the Administrative Litigation Law of the People's Republic of China, this Court gives judgment as follows:

Disposition

The appeal is dismissed, and the first-instance judgment is upheld.

The case acceptance fees at first and second instance, each RMB 100, shall both be borne by UDZ Technology (Beijing) Co., Ltd. (Both already paid.)

This judgment is final.

Decision date

22 November 2016

Translation and source notes

This is an editorial English translation of the complete collected Chinese court-text copy, not an official or certified translation and not a court-issued original PDF.

Personal-name masks, birth-date masks and anonymized addresses appearing in the collected text are retained. Unmasked names are transliterated; no masked identity is reconstructed.

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This appeal concerns refusal of trademark registration for lack of distinctiveness. It does not make a finding of trademark infringement, nonpayment, fraud or misconduct.

The appeal corrects the first-instance court's application of Article 11, paragraph 1, item (2), while upholding the result under the lack-of-distinctiveness reasoning. The different statutory references are preserved.

This appeal text states first- and second-instance case acceptance fees of RMB 100 each. The collected first-instance text states RMB 50 for its case acceptance fee; neither figure is silently changed.

The source breaks the court's trademark-analysis sentence before “优定制及图”; the paragraph break is retained in the paired translation.

No trademark image appears after the “Sign” heading.

04. Enforcement Ruling - China Mobile Group Beijing Co., Ltd. v. Panke (Beijing) Technology Co., Ltd.; this round of enforcement concluded

(2016) 京0101执4924号 | Dongcheng District People's Court, Beijing | Decision: 2016-10-24

<https://yifengzhang.com/china-court-document-translations/2016-beijing-dongcheng-enforcement-4924/>

Document heading

Enforcement Ruling - China Mobile Group Beijing Co., Ltd. and Panke (Beijing) Technology Co., Ltd.
Publication date: 27 October 2016.

Parties

Applicant for enforcement: China Mobile Group Beijing Co., Ltd.

Legal representative: Zhou*, chairman and general manager.

Authorized representative: Li Zhiguang, lawyer at Beijing Zhongyin Law Firm.

Judgment debtor: Panke (Beijing) Technology Co., Ltd.

Legal representative: Zhang**.

Procedural history

In the telecommunications-service-contract dispute between the applicant for enforcement, China Mobile Group Beijing Co., Ltd., and the judgment debtor, Panke (Beijing) Technology Co., Ltd., Civil Judgment (2015) Dong Min Chu Zi No. 07113, issued by the Dongcheng District People's Court, Beijing, has become legally effective. On 18 August 2016, the applicant for enforcement, China Mobile Group Beijing Co., Ltd., applied to this Court for enforcement, seeking payment by the judgment debtor, Panke (Beijing) Technology Co., Ltd., of RMB 214,808 awarded in the case, together with the corresponding interest.

During enforcement, this Court issued an enforcement notice to the judgment debtor, directing it to perform the obligations established by the effective legal document, but the judgment debtor has not performed them to date. Investigation found no bank deposits belonging to the judgment debtor available for enforcement, no registered real estate, and no registered vehicles. This Court has placed the judgment debtor on the China Dishonest Debtor Record list. The applicant for enforcement has not been able to provide this Court with the judgment debtor's whereabouts or leads concerning its property available for enforcement. This Court has also been unable, through the prescribed legal procedures, to locate property belonging to the judgment debtor available for enforcement. Accordingly, pursuant to Article 154, paragraph 1, item (11), of the Civil Procedure Law of the People's Republic of China and Article 519 of the Supreme People's Court's Interpretation on the Application of the Civil Procedure Law of the People's Republic of China, this Court rules as follows:

Disposition

This round of enforcement of Civil Judgment (2015) Dong Min Chu Zi No. 07113, issued by this Court, is concluded.

After this round of enforcement is concluded, if the applicant for enforcement discovers that the judgment debtor has the ability to perform its obligations, it may apply for enforcement to resume, without being subject to the limitation period for applying for enforcement. The judgment debtor remains obligated to continue performing its debt obligations.

This ruling takes legal effect upon service.

Decision date

24 October 2016

Translation and source notes

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“To date” reports the court’s position at the time of the ruling, not an independently verified present balance or present court-list status.

Concluding this round of enforcement is not a discharge of the debt: the source expressly preserves the continuing obligation and the ability to seek resumed enforcement.

Corporate English names are transliterations or descriptive translations; registered English names are not established by this collected text.

05. Enforcement Ruling - China Mobile Group Beijing Co., Ltd. v. Panke (Beijing) Technology Co., Ltd.; this round of enforcement concluded

(2016) 京0101执4926号 | Dongcheng District People's Court, Beijing | Decision: 2016-10-24

<https://yifengzhang.com/china-court-document-translations/2016-beijing-dongcheng-enforcement-4926/>

Document heading

Enforcement Ruling - China Mobile Group Beijing Co., Ltd. and Panke (Beijing) Technology Co., Ltd.
Publication date: 27 October 2016.

Parties

Applicant for enforcement: China Mobile Group Beijing Co., Ltd.

Legal representative: Zhou*, chairman and general manager.

Authorized representative: Li Zhiguang, lawyer at Beijing Zhongyin Law Firm.

Judgment debtor: Panke (Beijing) Technology Co., Ltd.

Legal representative: Zhang**.

Procedural history

In the telecommunications-service-contract dispute between the applicant for enforcement, China Mobile Group Beijing Co., Ltd., and the judgment debtor, Panke (Beijing) Technology Co., Ltd., Civil Judgment (2015) Dong Min Chu Zi No. 07114, issued by the Dongcheng District People's Court, Beijing, has become legally effective. On 18 August 2016, the applicant for enforcement, China Mobile Group Beijing Co., Ltd., applied to this Court for enforcement, seeking payment by the judgment debtor, Panke (Beijing) Technology Co., Ltd., of RMB 4,327.33 awarded in the case, together with the corresponding interest.

During enforcement, this Court issued an enforcement notice to the judgment debtor, directing it to perform the obligations established by the effective legal document, but the judgment debtor has not performed them to date. Investigation found no bank deposits belonging to the judgment debtor available for enforcement, no registered real estate, and no registered vehicles. This Court has placed the judgment debtor on the China Dishonest Debtor Record list. The applicant for enforcement has not been able to provide this Court with the judgment debtor's whereabouts or leads concerning its property available for enforcement. This Court has also been unable, through the prescribed legal procedures, to locate property belonging to the judgment debtor available for enforcement. Accordingly, pursuant to Article 154, paragraph 1, item (11), of the Civil Procedure Law of the People's Republic of China and Article 519 of the Supreme People's Court's Interpretation on the Application of the Civil Procedure Law of the People's Republic of China, this Court rules as follows:

Disposition

This round of enforcement of Civil Judgment (2015) Dong Min Chu Zi No. 07114, issued by this Court, is concluded.

After this round of enforcement is concluded, if the applicant for enforcement discovers that the judgment debtor has the ability to perform its obligations, it may apply for enforcement to resume, without being subject to the limitation period for applying for enforcement. The judgment debtor remains obligated to continue performing its debt obligations.

This ruling takes legal effect upon service.

Decision date

24 October 2016

Translation and source notes

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“To date” reports the court’s position at the time of the ruling, not an independently verified present balance or present court-list status.

Concluding this round of enforcement is not a discharge of the debt: the source expressly preserves the continuing obligation and the ability to seek resumed enforcement.

Corporate English names are transliterations or descriptive translations; registered English names are not established by this collected text.

06. Panke Health Technology (Beijing) Co., Ltd. v. Wang*: Employment dispute - appellate civil judgment

(2014) 三中民终字第15918号 | Beijing No. 3 Intermediate People's Court | Decision: 2014-12-18

<https://yifengzhang.com/china-court-document-translations/2014-beijing-third-civil-appeal-15918/>

Document type / title

Civil Judgment

Parties

Appellant (defendant at first instance): Panke Health Technology (Beijing) Co., Ltd., domiciled at Rooms 305-306, Building 1, No. 16 Chaowai Dajie, Chaoyang District, Beijing.

Legal representative: Yifeng Zhang, chairman of the board.

Authorized representative: Fan Zhiqiang, lawyer at Beijing Zhongyou Law Firm.

Respondent (plaintiff at first instance): Wang*, male, born on ****年**月**日 [date masked in the source].

Procedural history

In this employment dispute between appellant Panke Health Technology (Beijing) Co., Ltd. (hereinafter "Panke Company") and respondent Wang*, the appellant appealed to this Court against Civil Judgment (2014) Chao Min Chu Zi No. 30341 of the Beijing Chaoyang District People's Court. After accepting the appeal, this Court duly constituted a collegiate bench comprising Judge Jiang Wei as presiding judge and Judges Li Ran and Huo Siyu. The proceedings have now concluded.

First-instance proceedings: plaintiff's claims

Wang* stated at first instance: Wang* had been employed by Panke Company as design director, and the parties had entered into an employment contract. They later terminated the employment relationship and signed a departure agreement. Panke Company undertook to pay Wang* wages and expense reimbursements totaling CNY 124,058.90 by 30 September 2013, but thereafter refused to pay those amounts. Wang* then applied for arbitration to the Beijing Chaoyang District Labor and Personnel Dispute Arbitration Commission (hereinafter the "Chaoyang Arbitration Commission"), which declined to accept the application. Wang* therefore brought proceedings in the first-instance court, seeking an order that Panke Company pay wages of CNY 95,318.30 and reimbursements of CNY 28,740.60, totaling CNY 124,058.90.

First-instance proceedings: defendant's response

Panke Company responded at first instance: It did not agree to Wang*'s claims. Wang* had indeed been its employee, and the relevant agreement had been signed, but the company's business was currently performing poorly and it was unable to pay the arrears.

First-instance proceedings: findings of fact

The first-instance court found after hearing the case: Wang* joined Panke Company on 1 March 2013 as design director, at a monthly wage of CNY 17,950.75. On 1 March 2013, the parties entered into an employment contract for the period from 1 March 2013 to 29 February 2016. Wang* last worked on 31 August 2013, and the employment relationship ended that day.

Wang* further contended that the parties had mutually agreed to terminate the employment relationship, completed the handover on 11 September 2013, and signed a departure agreement providing that Panke Company would pay his wages and reimbursements by 30 September 2013. In support, Wang* submitted: (1) a departure handover form showing completion of the handover between Wang* and Panke Company, bearing the company's official seal; (2) a departure agreement stating that Wang*'s last actual working day at Panke Company was 31 August 2013 and that, after Wang* completed all handover tasks, Panke Company would pay him wages and other expenses of CNY 124,058.90 before 30 September 2013; and (3) a wage breakdown showing total wages payable of CNY 115,314.07, total wages paid of CNY 19,995.77, unpaid wages of CNY 95,318.30, reimbursements of CNY 28,740.60, and a total unpaid amount of CNY 124,058.90, bearing Panke Company's official seal. Panke Company acknowledged that the parties had mutually agreed to terminate the employment relationship and had signed the departure agreement, but said that business difficulties had prevented it from paying the amounts stipulated in that agreement. Its comments on the evidence were: (1) it accepted the authenticity of the seal on the departure handover form but said the company had not affixed it and disputed the form's contents; (2) it accepted the authenticity of the departure agreement but said the agreed amounts had not been paid because of business difficulties; and (3) it accepted the authenticity of the seal on the wage breakdown but said the company had not affixed it and disputed its contents.

The first-instance court also found that, on 20 June 2014, Wang* applied to the Chaoyang Arbitration Commission for employment arbitration of the parties' dispute, requesting payment of wages, reimbursements, and other amounts. The commission subsequently issued Notice of Non-Acceptance Jing Chao Lao Zhong Bu Zi (2014) No. 01174, deciding not to accept the application. Wang* disagreed and brought these proceedings.

First-instance proceedings: reasoning

The first-instance court held: In an employment dispute, each party bears responsibility for producing evidence supporting its own assertions. Where evidence relating to the disputed matter is held and managed by the employer, the employer must produce it; failure to do so entails adverse consequences. In this case, both parties acknowledged that the employment relationship had ended and that they had signed a departure agreement. Panke Company also accepted the authenticity of the departure agreement submitted by Wang*, so the first-instance court accepted that agreement as evidence. It provided that Panke Company was to pay Wang* wages and other expenses of CNY 124,058.90 by 30 September 2013, but the company had not paid. Considering the parties' statements together with Wang*'s evidence, the first-instance court accepted Wang*'s claim and held that Panke Company was required to pay the wages and other expenses stipulated in the departure agreement, totaling CNY 124,058.90. Accordingly, pursuant to Article 6 of the Labor Dispute Mediation and Arbitration Law of the People's Republic of China, the first-instance court ordered Panke Company to pay Wang* the wages and other expenses stipulated in the departure agreement, totaling CNY 124,058.90, within ten days after the judgment became effective. If the monetary obligation was not performed within the period specified in the judgment, debt interest for the period of delayed performance was to be paid at the doubled rate in accordance with Article 253 of the Civil Procedure Law of the People's Republic of China.

Claims / appellate submissions

Panke Company appealed to this Court against the above first-instance civil judgment. Its principal grounds were that Wang* had indeed been a company employee, the parties had mutually agreed to terminate the employment relationship and signed a departure agreement, but the company's business was currently performing poorly and it could not pay the arrears. It requested: (1) amendment of the judgment so that Panke Company would not have to pay Wang* the wages and other expenses stipulated in the departure agreement, totaling CNY 124,058.90; and (2) an order that Wang* bear all litigation costs in the case.

Panke Company submitted new evidence to this Court: Exhibit 1, one printed electronic transfer receipt, intended to prove that in July 2014 its legal representative Yifeng Zhang had transferred a total of CNY 24,500 to Wang*. It sought deduction of that sum from the amount payable under the first-instance judgment.

Wang* neither appealed against the first-instance judgment nor submitted new evidence. In a written request for determination on the papers, he stated that he accepted the first-instance judgment and did not agree to Panke Company's appellate requests.

On review, this Court held that Panke Company's submission was not "new evidence" within Article 41 of the Supreme People's Court's Several Provisions on Evidence in Civil Proceedings. Its evidentiary form also did not comply with legal requirements, and it was insufficient to achieve the intended purpose of proof. This Court therefore did not accept it.

Findings of fact

The facts found by this Court following its hearing are consistent with those found by the first-instance court.

Those facts are supported by the corresponding evidence and the parties' statements in the case record.

Court's reasoning

This Court holds: Where evidence relating to the disputed matter is held and managed by the employer, the employer must produce it; failure to do so entails adverse consequences. Panke Company's defense and appeal now concern only its ability to pay. The parties' departure agreement does not violate mandatory provisions of laws or administrative regulations and must be recognized as lawful and valid. It was not improper for the first-instance court to require Panke Company to pay the wages and other expenses stipulated in that agreement. In conclusion, the first-instance judgment made clear factual findings, correctly applied the law, and reached a proper result, and should be upheld. Pursuant to Article 170(1)(1) of the Civil Procedure Law of the People's Republic of China, the Court renders judgment as follows:

Disposition

The appeal is dismissed, and the original judgment is upheld.

The first-instance case acceptance fee of CNY 10 shall be borne by Panke Health Technology (Beijing) Co., Ltd. and paid to the original trial court within seven days after this judgment becomes effective.

The second-instance case acceptance fee of CNY 10 shall be borne by Panke Health Technology (Beijing) Co., Ltd.; it has already been paid.

This judgment is final.

Decision date

18 December 2014.

Translation and source notes

1. This is a complete translation of the substantive text in the collected court-text copy. It is not a certified translation or a substitute for the court original. No judge or clerk signature block appears in the supplied copy; the bench members are named in its procedural history.

2. Wang* and the masked birth date are retained as shown. The masked party is not expanded to a full name. Panke Health Technology (Beijing) Co., Ltd. is a different named entity from Panke (Beijing) Technology Co., Ltd.

3. The CNY 24,500 transfer was the appellant's evidentiary assertion; the appellate court did not accept the submitted evidence. This translation does not treat that asserted transfer as an independently established payment.

4. CNY 115,314.07 minus CNY 19,995.77 equals CNY 95,318.30; adding CNY 28,740.60 yields the adjudicated CNY 124,058.90. The quoted statutes and article numbers are those in the decision, not a statement of present law.

The source includes the duplicated negative expression 并不不妥. Its contextual conclusion is rendered as "was not improper"; the source wording remains visible alongside the translation.

07. Wang* v. Panke Health Technology (Beijing) Co., Ltd.: Employment dispute - first-instance civil judgment

(2014) 朝民初字第30341号 | Beijing Chaoyang District People's Court | Decision: 2014-10-23

<https://yifengzhang.com/china-court-document-translations/2014-beijing-chaoyang-civil-30341/>

Document type / title

Civil Judgment

Parties

Plaintiff: Wang*, male, born on ****年**月**日 [date masked in the source].

Defendant: Panke Health Technology (Beijing) Co., Ltd., domiciled at Rooms 305-306, Building 1, No. 16 Chaowai Dajie, Chaoyang District, Beijing.

Legal representative: Yifeng Zhang, chairman of the board.

Authorized representative: Li Xiaoxia, lawyer at Beijing Zhongyou Law Firm.

Procedural history

After accepting the employment dispute between plaintiff Wang* (hereinafter the “plaintiff”) and defendant Panke Health Technology (Beijing) Co., Ltd. (hereinafter the “defendant”), this Court duly constituted a collegiate bench and held a public hearing. The plaintiff and the defendant’s authorized representative Li Xiaoxia appeared and participated in the proceedings. The proceedings have now concluded.

Claims / appellate submissions

The plaintiff stated: “I was formerly employed by the defendant as design director, and we entered into an employment contract. We later terminated the employment relationship and signed a departure agreement. The defendant promised to pay me wages and reimbursements totaling CNY 124,058.90 by 30 September 2013, but thereafter refused to pay those amounts. I then applied for arbitration to the Beijing Chaoyang District Labor and Personnel Dispute Arbitration Commission (hereinafter the ‘Chaoyang Arbitration Commission’), which declined to accept the application. I therefore brought proceedings in court, seeking an order that the defendant pay me wages of CNY 95,318.30 and reimbursements of CNY 28,740.60, totaling CNY 124,058.90.”

Defendant’s response / respondent’s submissions

The defendant responded: “We do not agree to the plaintiff’s claims. The plaintiff was indeed an employee of our company, and the relevant agreement was signed, but our company’s business is currently performing poorly and we are unable to pay the arrears.”

Findings of fact

The Court found after hearing the case: The plaintiff joined the defendant on 1 March 2013 as design director, at a monthly wage of CNY 17,950.75. On 1 March 2013, the parties entered into an employment contract for the period from 1 March 2013 to 29 February 2016. The plaintiff last worked on 31 August 2013, and the employment relationship ended that day.

The plaintiff further contended that the parties had mutually agreed to terminate the employment relationship, completed the handover on 11 September 2013, and signed a departure agreement providing that the defendant would pay his wages and reimbursements by 30 September 2013. In support, the plaintiff submitted: (1) a departure handover form showing completion of the handover between him and the defendant, bearing the defendant's official seal; (2) a departure agreement stating that his last actual working day with the defendant was 31 August 2013 and that, after he completed all handover tasks, the defendant would pay him wages and other expenses of CNY 124,058.90 before 30 September 2013; and (3) a wage breakdown showing total wages payable of CNY 115,314.07, total wages paid of CNY 19,995.77, unpaid wages of CNY 95,318.30, reimbursements of CNY 28,740.60, and a total unpaid amount of CNY 124,058.90, bearing the defendant's official seal. The defendant acknowledged that the parties had mutually agreed to terminate the employment relationship and had signed the departure agreement, but said that business difficulties had prevented payment of the sums stipulated in the agreement. Its comments on the evidence were: (1) it accepted the authenticity of the seal on the departure handover form but said the company had not affixed it and disputed the form's contents; (2) it accepted the authenticity of the departure agreement but said the agreed amounts had not been paid because of business difficulties; and (3) it accepted the authenticity of the seal on the wage breakdown but said the company had not affixed it and disputed its contents.

The Court further found that, on 20 June 2014, the plaintiff applied to the Chaoyang Arbitration Commission for employment arbitration of the parties' dispute, requesting payment of wages, reimbursements, and other amounts. The commission subsequently issued Notice of Non-Acceptance Jing Chao Lao Zhong Bu Zi (2014) No. 01174, deciding not to accept the application. The plaintiff disagreed and brought these proceedings.

The foregoing facts are supported by the parties' statements, the notice of non-acceptance, the departure agreement, the wage breakdown, the departure handover form, and other material in the record.

Court's reasoning

This Court holds: In an employment dispute, each party bears responsibility for producing evidence supporting its own assertions. Where evidence relating to the disputed matter is held and managed by the employer, the employer must produce it; failure to do so entails adverse consequences. In this case, both parties acknowledged that the employment relationship had ended and that they had signed a departure agreement. The defendant also accepted the authenticity of the departure agreement submitted by the plaintiff, so this Court accepts that agreement as evidence. It provided that the defendant was to pay the defendant [sic; see translation note 2] wages and other expenses of CNY 124,058.90 by 30 September 2013, but the defendant has not paid. Considering the parties' statements together with the plaintiff's evidence, this Court accepts the plaintiff's claim and holds that the defendant must pay the plaintiff the wages and other expenses stipulated in the departure agreement, totaling CNY 124,058.90.

Accordingly, pursuant to Article 6 of the Labor Dispute Mediation and Arbitration Law of the People's Republic of China, the Court renders judgment as follows:

Disposition

Defendant Panke Health Technology (Beijing) Co., Ltd. shall pay plaintiff Wang* the wages and other expenses stipulated in the departure agreement, totaling CNY 124,058.90, within ten days after this judgment becomes effective.

If the monetary obligation is not performed within the period specified in this judgment, debt interest for the period of delayed performance shall be paid at the doubled rate in accordance with Article 253 of the Civil Procedure Law of the People's Republic of China.

The case acceptance fee of CNY 10 shall be borne by defendant Panke Health Technology (Beijing) Co., Ltd. and paid within seven days after this judgment becomes effective.

A party dissatisfied with this judgment may, within fifteen days after service of the judgment, submit a notice of appeal to this Court with copies corresponding to the number of opposing parties, appealing to the Beijing No. 3 Intermediate People's Court.

Decision date

23 October 2014.

Translation and source notes

1. This translates all substantive court text in the collected copy; the non-court platform disclaimer and duplicate contents list following the decision date are omitted. This is not a certified translation or a substitute for the court original. No judge or clerk signature block is supplied.
2. One reasoning sentence says payment should be made "to the defendant" (向被告). This apparent source-copy error is retained with [sic]. The remainder of the reasoning and the operative order identify the plaintiff as the recipient; the source has not been silently corrected.
3. Wang* and the masked birth date are preserved without identifying the party beyond the copy. Panke Health Technology (Beijing) Co., Ltd. is distinct from Panke (Beijing) Technology Co., Ltd.
4. The displayed wage arithmetic is internally consistent: CNY 115,314.07 – CNY 19,995.77 = CNY 95,318.30; plus CNY 28,740.60 = CNY 124,058.90. The quoted statutes are those applied in this 2014 decision.

08. Enforcement Ruling - China Mobile v. Panke Technology - 25,982.26 CNY and corresponding interest

(2016) 京0101执4928号 | Beijing Dongcheng District People's Court | Decision: 2016-10-24

<https://yifengzhang.com/china-court-document-translations/2016-beijing-dongcheng-enforcement-4928/>

Document type

Enforcement Ruling

Parties

Applicant for enforcement: China Mobile Communications Group Beijing Co., Ltd.

Legal representative: Zhou*, chairman and general manager.

Authorized representative: Li Zhiguang, lawyer at Beijing Zhongyin Law Firm.

Party subject to enforcement: Panke (Beijing) Technology Co., Ltd.

Legal representative: Zhang**.

Procedural history

In the telecommunications service contract dispute between the applicant for enforcement, China Mobile Communications Group Beijing Co., Ltd., and the party subject to enforcement, Panke (Beijing) Technology Co., Ltd., Civil Judgment (2015) Dong Min Chu Zi No. 07112, issued by Beijing Dongcheng District People's Court, has taken legal effect. On 18 August 2016, the applicant for enforcement, China Mobile Communications Group Beijing Co., Ltd., applied to this Court for enforcement, requesting that Panke (Beijing) Technology Co., Ltd. pay the amount awarded in the case of CNY 25,982.26, together with the corresponding interest.

During enforcement, this Court issued an enforcement notice to the party subject to enforcement, ordering it to fulfill the obligations determined by the effective legal instrument, but it has not fulfilled them to date. Investigation revealed no bank deposits in its name available for enforcement, no registered real estate information, and no registered vehicle information. This Court has included the party subject to enforcement in the China Dishonest Debtor Record list. The applicant for enforcement has not been able to provide this Court with the whereabouts of the party subject to enforcement or leads to its assets available for enforcement. This Court, following the procedures prescribed by law, has also been unable to locate assets of the party subject to enforcement available for enforcement. Accordingly, pursuant to Article 154, paragraph 1, item (11), of the Civil Procedure Law of the People's Republic of China and Article 519 of the Supreme People's Court's Interpretation on the Application of the Civil Procedure Law of the People's Republic of China, this Court rules as follows:

Disposition

The present enforcement proceeding in respect of Civil Judgment (2015) Dong Min Chu Zi No. 07112, issued by this Court, is concluded.

After the present enforcement proceeding is concluded, if the applicant for enforcement discovers that the party subject to enforcement has the capacity to perform its obligations, it may apply for resumption of enforcement without being subject to the limitation period for an enforcement application. The party

subject to enforcement remains under an obligation to continue fulfilling the debt.

This ruling takes legal effect upon service.

Decision date

24 October 2016

Translation and source notes

This is a full English translation of the substantive body of a collected public court-text copy, not a certified translation of a court-issued original PDF. Section headings and the document type are retained. Asterisks preserve the source's masking; masked names are not expanded.

Corporate English names are descriptive translations. Panke (Beijing) Technology Co., Ltd. is distinct from Panke Health Technology (Beijing) Co., Ltd.; the latter is not a party in this document.

Statutes and article numbers are translated as cited in this dated document, without replacing them with later legislative numbering. The supplied text does not include judge or clerk signatures; none are supplied in translation.

The court's statements about nonperformance, the asset search and inclusion in the China Dishonest Debtor Record list are dated findings in this 2016 ruling. They are not a new certification of current list status.

Concluding the present enforcement proceeding does not discharge the debt; the source expressly preserves the continuing payment obligation and the possibility of resuming enforcement.

Arithmetic cross-check against the corresponding 18 September 2015 civil judgment: $11,506.95 + 13,491.31 + 424 + 560 = 25,982.26$ (service charges + accrued contractual penalties + case acceptance fee + public-notice fee). The 2016 ruling states an enforcement application amount and corresponding interest; this arithmetic check does not determine a present balance or additional accrued interest.

A non-court informational notice appearing after the decision date in the collected copy is excluded; it is not part of the ruling. All substantive court text is translated.

09. Yifeng Zhang: Bank-deposit freezing and transfer - enforcement ruling

(2021) 京02执874号 | Beijing No. 2 Intermediate People's Court | Decision: 2021-06-30

<https://yifengzhang.com/china-court-document-translations/2021-beijing-second-enforcement-874/>

Document type / title

Enforcement Ruling

Disposition

1. Freeze and transfer the corresponding bank deposits of judgment debtor Yifeng Zhang to cover investment returns of USD 610,406; interest of USD 21,968.59 for the period from 24 January 2020 through 16 April 2020; further interest from 17 April 2020 until actual payment in full, calculated on USD 610,406 at three ten-thousandths per day; attorneys' fees of CNY 50,000; arbitration fees of CNY 71,553.14; and debt interest for the period of delayed performance.
2. Freeze and transfer the corresponding bank deposits of judgment debtor Yifeng Zhang to cover the application fee for enforcement and expenses actually incurred in enforcement.
3. If the foregoing measures remain insufficient to perform the obligations established by the effective legal instrument, seal up, seize, auction, or sell other property of judgment debtor Yifeng Zhang, in accordance with law, to the extent necessary to satisfy the obligations he is required to perform.

This ruling shall be enforced immediately.

Decision date

30 June 2021.

Translation and source notes

1. This is the complete supplied collected court-text body: document type, four disposition lines, and date. It contains no party-information section, originating decision, reasons, creditor name, or judge/clerk signature block. None is reconstructed.
2. "Investment returns" translates 投资收益; USD 610,406 is not relabeled as a principal loan. The separate further-interest calculation uses that amount as its stated base at 0.03% per day.
3. The ruling directs bank-deposit and other-property enforcement. It does not itself show deposits actually recovered, execution of those measures, the present balance, or repayment. The court name and case number come from the collected record's metadata.
4. Dollar and renminbi amounts remain in separate currencies; no conversion or combined debt total is inferred. This is not a certified translation or a substitute for the court original.

10. Enforcement Ruling - China Mobile v. Panke Technology - 22,991.64 CNY and corresponding interest

(2016) 京0101执4925号 | Beijing Dongcheng District People's Court | Decision: 2016-10-24

<https://yifengzhang.com/china-court-document-translations/2016-beijing-dongcheng-enforcement-4925/>

Document type

Enforcement Ruling

Parties

Applicant for enforcement: China Mobile Communications Group Beijing Co., Ltd.

Legal representative: Zhou*, chairman and general manager.

Authorized representative: Li Zhiguang, lawyer at Beijing Zhongyin Law Firm.

Party subject to enforcement: Panke (Beijing) Technology Co., Ltd.

Legal representative: Zhang**.

Procedural history

In the telecommunications service contract dispute between the applicant for enforcement, China Mobile Communications Group Beijing Co., Ltd., and the party subject to enforcement, Panke (Beijing) Technology Co., Ltd., Civil Judgment (2015) Dong Min Chu Zi No. 07111, issued by Beijing Dongcheng District People's Court, has taken legal effect. On 18 August 2016, the applicant for enforcement, China Mobile Communications Group Beijing Co., Ltd., applied to this Court for enforcement, requesting that Panke (Beijing) Technology Co., Ltd. pay the amount awarded in the case of CNY 22,991.64, together with the corresponding interest.

During enforcement, this Court issued an enforcement notice to the party subject to enforcement, ordering it to fulfill the obligations determined by the effective legal instrument, but it has not fulfilled them to date. Investigation revealed no bank deposits in its name available for enforcement, no registered real estate information, and no registered vehicle information. This Court has included the party subject to enforcement in the China Dishonest Debtor Record list. The applicant for enforcement has not been able to provide this Court with the whereabouts of the party subject to enforcement or leads to its assets available for enforcement. This Court, following the procedures prescribed by law, has also been unable to locate assets of the party subject to enforcement available for enforcement. Accordingly, pursuant to Article 154, paragraph 1, item (11), of the Civil Procedure Law of the People's Republic of China and Article 519 of the Supreme People's Court's Interpretation on the Application of the Civil Procedure Law of the People's Republic of China, this Court rules as follows:

Disposition

The present enforcement proceeding in respect of Civil Judgment (2015) Dong Min Chu Zi No. 07111, issued by this Court, is concluded.

After the present enforcement proceeding is concluded, if the applicant for enforcement discovers that the party subject to enforcement has the capacity to perform its obligations, it may apply for resumption of enforcement without being subject to the limitation period for an enforcement application. The party

subject to enforcement remains under an obligation to continue fulfilling the debt.

This ruling takes legal effect upon service.

Decision date

24 October 2016

Translation and source notes

This is a full English translation of the substantive body of a collected public court-text copy, not a certified translation of a court-issued original PDF. Section headings and the document type are retained. Asterisks preserve the source's masking; masked names are not expanded.

Corporate English names are descriptive translations. Panke (Beijing) Technology Co., Ltd. is distinct from Panke Health Technology (Beijing) Co., Ltd.; the latter is not a party in this document.

Statutes and article numbers are translated as cited in this dated document, without replacing them with later legislative numbering. The supplied text does not include judge or clerk signatures; none are supplied in translation.

The court's statements about nonperformance, the asset search and inclusion in the China Dishonest Debtor Record list are dated findings in this 2016 ruling. They are not a new certification of current list status.

Concluding the present enforcement proceeding does not discharge the debt; the source expressly preserves the continuing payment obligation and the possibility of resuming enforcement.

Arithmetic cross-check against the corresponding 18 September 2015 civil judgment: $10,163.48 + 11,916.16 + 352 + 560 = 22,991.64$ (service charges + accrued contractual penalties + case acceptance fee + public-notice fee). The 2016 ruling states an enforcement application amount and corresponding interest; this arithmetic check does not determine a present balance or additional accrued interest.

11. Civil Judgment - China Mobile v. Panke Technology - Mobile 400 Services

(2015) 东民初字第07113号 | Beijing Dongcheng District People's Court | Decision: 2015-09-18

<https://yifengzhang.com/china-court-document-translations/2015-beijing-dongcheng-civil-07113/>

Document type

Civil Judgment

Parties

Plaintiff: China Mobile Communications Group Beijing Co., Ltd., with its registered address at No. 7 Dongzhimen South Street, Dongcheng District, Beijing; organization code: 72261170-0.

Legal representative: Zhou*, chairman and general manager.

Authorized representative: Cao Huanhuan, lawyer at Beijing Zhongyin Law Firm.

Defendant: Panke (Beijing) Technology Co., Ltd., with its registered address at Room 806, Floor 8, Building 1, No. 16 Chaowai Street, Chaoyang District, Beijing; registration number: 110105014037164.

Legal representative: Zhang**.

Procedural history

This Court accepted the telecommunications service contract dispute between the plaintiff, China Mobile Communications Group Beijing Co., Ltd. (hereinafter "China Mobile"), and the defendant, Panke (Beijing) Technology Co., Ltd. (hereinafter "Panke"), on 13 May 2015. A collegial panel was constituted in accordance with law and held a public hearing. Cao Huanhuan, the plaintiff China Mobile's authorized representative, appeared at the hearing. The defendant Panke did not appear despite having been lawfully summoned. The hearing of this case has now concluded.

Plaintiff's allegations and claims

The plaintiff China Mobile alleged as follows: On 21 January 2013, the plaintiff and defendant entered into the China Mobile Communications Group Beijing Co., Ltd. Mobile 400 Business Service Agreement, under which the plaintiff agreed to provide Mobile 400 services to the defendant. The agreement provided that the defendant should settle the relevant charges for the preceding month with the plaintiff between the fifth day of each month and the fourth day of the following month. If the defendant failed to pay on time, the plaintiff was entitled to suspend services and to impose additional contractual penalties at 0.3% per day (three per thousand per day) on the unpaid amount until the defendant settled the arrears. If charges for any month remained unpaid three months after the end of that month, the plaintiff was entitled to terminate performance of the agreement, cancel Mobile 400 services, and continue pursuing all unpaid charges and contractual penalties. The defendant failed to pay the service charges and contractual penalties due for January through May 2014 and still did not pay after repeated demands by the plaintiff. The plaintiff therefore brought this action seeking: (1) termination of the China Mobile Communications Group Beijing Co., Ltd. Mobile 400 Business Service Agreement entered into by the parties; (2) payment by the defendant of CNY 100,000 in outstanding Mobile 400 service charges; and (3) payment by the defendant of CNY 109,800 in contractual penalties for the period before 4 May 2015, together with contractual penalties from 5 May 2015 until the date of actual payment, calculated on the outstanding service charges at 0.3% per day (three per thousand per day). The plaintiff also sought to have the defendant bear the litigation fees and public-notice fee.

Defendant's response

The defendant Panke submitted no response.

Facts found by the court

Upon hearing the case, the Court found as follows: On 21 January 2013, the plaintiff and defendant entered into the China Mobile Communications Group Beijing Co., Ltd. Mobile 400 Business Service Agreement, under which the plaintiff agreed to provide Mobile 400 services to the defendant. The parties agreed that the agreement would take effect on the date both parties affixed their seals. If neither party gave written notice of termination upon expiry thirty days before the expiry of the agreement, the agreement would automatically be extended for one year after its term expired, and the same would apply upon expiry of each extension. If either party proposed termination upon expiry, it should notify the other party in writing thirty days before expiry, and the agreement would then terminate upon expiry. The service package chosen by the defendant cost CNY 20,000 per month. The defendant should settle the relevant charges for the preceding month with the plaintiff between the fifth day of each month and the fourth day of the following month. If the defendant failed to pay on time, the plaintiff was entitled to suspend Mobile 400 services and to impose additional contractual penalties on the unpaid amount at 0.3% per day (three per thousand per day), from the date the charges became overdue until the date all arrears were paid. If any month's Mobile 400 charges remained unpaid three months after the end of that month, the plaintiff was entitled to terminate the contract, cancel the Mobile 400 services activated for the defendant, and continue pursuing all unpaid charges and contractual penalties. The defendant failed to pay Mobile 400 service charges for January through May 2014, totaling CNY 100,000. The plaintiff ceased providing services to the defendant starting in June 2015.

The foregoing facts are corroborated by evidence in the case file, including the parties' statements, the China Mobile Communications Group Beijing Co., Ltd. Mobile 400 Business Service Agreement, the Mobile 400 Business Supplementary Agreement, and the service registration form.

Court's reasoning

This Court considers as follows: Under China's Civil Procedure Law, parties have the right to respond and to challenge the evidence submitted by the opposing party. In this case, the defendant Panke, having been lawfully summoned by this Court, refused without a legitimate reason to appear and defend the action; it is deemed to have waived its rights to respond and to challenge the evidence. Parties shall fully perform their obligations as agreed. In this case, the defendant failed to pay the relevant charges to the plaintiff on time as required by the contract, and the plaintiff has ceased providing services in accordance with the contract. This Court therefore grants the plaintiff's claim to terminate the contract. The plaintiff now seeks payment by the defendant, in accordance with the contract, of outstanding Mobile 400 service charges of CNY 100,000, contractual penalties of CNY 109,800, and further contractual penalties. The amounts are reasonable and the grounds are sufficient, and this Court grants those claims. In summary, pursuant to Articles 60, 93 and 113 of the Contract Law of the People's Republic of China and Article 144 of the Civil Procedure Law of the People's Republic of China, this Court enters judgment as follows:

Disposition

- I. It is confirmed that the China Mobile Communications Group Beijing Co., Ltd. Mobile 400 Business Service Agreement entered into by the plaintiff, China Mobile Communications Group Beijing Co., Ltd., and the defendant, Panke (Beijing) Technology Co., Ltd., is terminated.
- II. Within seven days after this judgment takes legal effect, the defendant, Panke (Beijing) Technology Co., Ltd., shall pay the plaintiff, China Mobile Communications Group Beijing Co., Ltd., Mobile 400 service charges of CNY 100,000.
- III. Within seven days after this judgment takes legal effect, the defendant, Panke (Beijing) Technology Co., Ltd., shall pay the plaintiff, China Mobile Communications Group Beijing Co., Ltd., contractual penalties for the period before 4 May 2015 of CNY 109,800, and shall pay contractual penalties for the period from 5 May 2015 until the date of actual payment, calculated on the outstanding Mobile 400 service charges at 0.3% per day (three per thousand per day).

If the monetary payment obligations are not performed within the period specified in this judgment, double interest on the debt for the period of delayed performance shall be paid in accordance with Article 253 of the Civil Procedure Law of the People's Republic of China.

The case acceptance fee of CNY 4,448 and the public-notice fee of CNY 560 shall be borne by the defendant, Panke (Beijing) Technology Co., Ltd., and shall be paid within seven days after this judgment takes legal effect.

A party dissatisfied with this judgment may submit a notice of appeal to this Court within fifteen days of service of the judgment, provide copies according to the number of opposing parties, and pay the case acceptance fee for the appeal, to appeal to Beijing No. 2 Intermediate People's Court. If the case acceptance fee for the appeal is not paid within seven days after the appeal period expires, the appeal shall be treated as automatically withdrawn.

Decision date

18 September 2015

Translation and source notes

This is a full English translation of the substantive body of a collected public court-text copy, not a certified translation of a court-issued original PDF. Section headings and the document type are retained. Asterisks preserve the source's masking; masked names are not expanded.

Corporate English names are descriptive translations. Panke (Beijing) Technology Co., Ltd. is distinct from Panke Health Technology (Beijing) Co., Ltd.; the latter is not a party in this document.

Statutes and article numbers are translated as cited in this dated document, without replacing them with later legislative numbering. The supplied text does not include judge or clerk signatures; none are supplied in translation.

The source alternates between "400" and the mixed-script "四00" in the operative agreement/service name. Both refer to the Mobile 400 service; the translation consistently renders it "Mobile 400" without changing the legal service category.

The copied fee sentence reads "案件受理费四千四百四十八元", omitting the character 费 after 受理. It is rendered as the case acceptance fee of CNY 4,448; the amount is preserved.

The agreement charged CNY 20,000 per month, and five unpaid months (January-May 2014) total CNY 100,000. The CNY 109,800 figure is the source's accrued contractual penalty figure, not a second service-fee amount. Later penalties run from 5 May 2015 until actual payment at 0.3% per day on the outstanding service charges. No current total is calculated.

The source says penalties "before 4 May 2015"; that wording is retained and is not silently changed to "through and including 4 May".

12. Civil Judgment - China Mobile v. Panke Technology - Dedicated Digital Transmission Line

(2015) 东民初字第07111号 | Beijing Dongcheng District People's Court | Decision: 2015-09-18

<https://yifengzhang.com/china-court-document-translations/2015-beijing-dongcheng-civil-07111/>

Document type

Civil Judgment

Parties

Plaintiff: China Mobile Communications Group Beijing Co., Ltd., with its registered address at No. 7 Dongzhimen South Street, Dongcheng District, Beijing; organization code: 72261170-0.

Legal representative: Zhou*, chairman and general manager.

Authorized representative: Cao Huanhuan, lawyer at Beijing Zhongyin Law Firm.

Defendant: Panke (Beijing) Technology Co., Ltd., with its registered address at Room 806, Floor 8, Building 1, No. 16 Chaowai Street, Chaoyang District, Beijing; registration number: 110105014037164.

Legal representative: Zhang**.

Procedural history

This Court accepted the telecommunications service contract dispute between the plaintiff, China Mobile Communications Group Beijing Co., Ltd. (hereinafter "China Mobile"), and the defendant, Panke (Beijing) Technology Co., Ltd. (hereinafter "Panke"), on 13 May 2015. A collegial panel was constituted in accordance with law and held a public hearing. Cao Huanhuan, the plaintiff China Mobile's authorized representative, appeared at the hearing. The defendant Panke did not appear despite having been lawfully summoned. The hearing of this case has now concluded.

Plaintiff's allegations and claims

The plaintiff China Mobile alleged as follows: On 18 February 2013, the plaintiff and defendant entered into the China Mobile Communications Group Beijing Co., Ltd. Dedicated Digital Transmission Line Service Agreement, under which the plaintiff agreed to provide dedicated digital transmission line services to the defendant. The agreement provided that the defendant should settle the bandwidth rental charges for the preceding month's dedicated digital transmission line services with the plaintiff between the fifth day of each month and the fourth day of the following month. If the defendant failed to pay on time, the plaintiff was entitled to suspend services and to impose additional contractual penalties at 0.3% per day (three per thousand per day) on the unpaid amount until the defendant settled the arrears. If charges for any month remained unpaid three months after the end of that month, the plaintiff was entitled to terminate performance of the agreement, cancel the dedicated digital transmission line services, and continue pursuing all unpaid charges and contractual penalties. The defendant failed to pay the dedicated digital transmission line charges and contractual penalties due for January through March 2014 and still did not pay after repeated demands by the plaintiff. The plaintiff therefore brought this action seeking: (1) termination of the China Mobile Communications Group Beijing Co., Ltd. Dedicated Digital Transmission Line Service Agreement entered into by the parties; (2) payment by the defendant of CNY 10,163.48 in outstanding dedicated digital transmission line charges; and (3) payment by the defendant of CNY 11,916.16 in contractual penalties for the period before 4 May 2015, together with contractual penalties from 5 May 2015 until the date of actual payment, calculated on the outstanding service charges at 0.3% per day (three per thousand per day). The plaintiff also sought to have the defendant bear the litigation fees and public-notice fee.

Defendant's response

The defendant Panke submitted no response.

Facts found by the court

Upon hearing the case, the Court found as follows: On 18 February 2013, the plaintiff and defendant entered into the China Mobile Communications Group Beijing Co., Ltd. Dedicated Digital Transmission Line Service Agreement, under which the plaintiff would use its transmission network to provide fixed-bandwidth data transmission channels to the defendant. Dedicated digital transmission lines included point-to-point, point-to-multipoint, and point-to-network dedicated lines. The parties agreed that the agreement would take effect on the date both parties affixed their seals and would remain valid for one year. If neither party objected when the term expired, the term would be extended for one year, and so on. A party wishing not to renew the lease after its term expired, or having an objection, was required to notify the other party in writing of cancellation and related matters thirty days in advance. Dedicated digital transmission line charges were CNY 3,480 per month. The monthly billing period ran from the first to the last day of each month, that is, one calendar month. Bandwidth rental charges were collected monthly. If services covered less than a full month in the month in which the lease began or ended, that month's bandwidth rental charge was calculated as the number of days actually used $\times$ the basic monthly rental fee $\times$ 12 months $\div$ 365 days, to two decimal places, rounding based on the third decimal place. The defendant should settle the bandwidth rental charges for the preceding month's dedicated digital transmission line services with the plaintiff between the fifth day of each month and the fourth day of the following month. If the defendant failed to pay on time, the plaintiff was entitled to suspend circuit rental services and to impose additional contractual penalties on the unpaid amount at 0.3% per day (three per thousand per day), from the date the charges became overdue until the date all arrears were paid. If any month's dedicated digital transmission line charges remained unpaid three months after the end of that month, the plaintiff was entitled to terminate performance of the agreement, cancel the dedicated digital transmission line services activated for the defendant, and continue pursuing all unpaid charges and contractual penalties. The defendant failed to pay dedicated digital transmission line charges for January through March 2014, totaling CNY 10,163.48. The plaintiff ceased providing services to the defendant starting in April 2015.

The foregoing facts are corroborated by evidence in the case file, including the parties' statements, the China Mobile Communications Group Beijing Co., Ltd. Dedicated Digital Transmission Line Service Agreement, the dedicated digital transmission line service charge schedule, and the service registration form.

Court's reasoning

This Court considers as follows: Under China's Civil Procedure Law, parties have the right to respond and to challenge the evidence submitted by the opposing party. In this case, the defendant Panke, having been lawfully summoned by this Court, refused without a legitimate reason to appear and defend the action; it is deemed to have waived its rights to respond and to challenge the evidence. Parties shall fully perform their obligations as agreed. In this case, the defendant failed to pay the relevant charges to the plaintiff on time as required by the contract, and the plaintiff has ceased providing services in accordance with the contract. This Court therefore grants the plaintiff's claim to terminate the contract. The plaintiff now seeks payment by the defendant, in accordance with the contract, of outstanding dedicated digital transmission line service charges of CNY 10,163.48, contractual penalties of CNY 11,916.16, and further contractual penalties. The amounts are reasonable and the grounds are sufficient, and this Court grants those claims. In summary, pursuant to Articles 60, 93 and 113 of the Contract Law of the People's Republic of China and Article 144 of the Civil Procedure Law of the People's Republic of China, this Court enters judgment as follows:

Disposition

I. It is confirmed that the China Mobile Communications Group Beijing Co., Ltd. Dedicated Digital Transmission Line Service Agreement entered into by the plaintiff, China Mobile Communications Group Beijing Co., Ltd., and the defendant, Panke (Beijing) Technology Co., Ltd., is terminated.

II. Within seven days after this judgment takes legal effect, the defendant, Panke (Beijing) Technology Co., Ltd., shall pay the plaintiff, China Mobile Communications Group Beijing Co., Ltd., dedicated digital transmission line service charges of CNY 10,163.48.

III. Within seven days after this judgment takes legal effect, the defendant, Panke (Beijing) Technology Co., Ltd., shall pay the plaintiff, China Mobile Communications Group Beijing Co., Ltd., contractual penalties for the period before 4 May 2015 of CNY 11,916.16, and shall pay contractual penalties for the period from 5 May 2015 until the date of actual payment, calculated on the outstanding dedicated digital transmission line service charges at 0.3% per day (three per thousand per day).

If the monetary payment obligations are not performed within the period specified in this judgment, double interest on the debt for the period of delayed performance shall be paid in accordance with Article 253 of the Civil Procedure Law of the People's Republic of China.

The case acceptance fee of CNY 352 and the public-notice fee of CNY 560 shall be borne by the defendant, Panke (Beijing) Technology Co., Ltd., and shall be paid within seven days after this judgment takes legal effect.

A party dissatisfied with this judgment may submit a notice of appeal to this Court within fifteen days of service of the judgment, provide copies according to the number of opposing parties, and pay the case acceptance fee for the appeal, to appeal to Beijing No. 2 Intermediate People's Court. If the case acceptance fee for the appeal is not paid within seven days after the appeal period expires, the appeal shall be treated as automatically withdrawn.

Decision date

18 September 2015

Translation and source notes

This is a full English translation of the substantive body of a collected public court-text copy, not a certified translation of a court-issued original PDF. Section headings and the document type are retained. Asterisks preserve the source's masking; masked names are not expanded.

Corporate English names are descriptive translations. Panke (Beijing) Technology Co., Ltd. is distinct from Panke Health Technology (Beijing) Co., Ltd.; the latter is not a party in this document.

Statutes and article numbers are translated as cited in this dated document, without replacing them with later legislative numbering. The supplied text does not include judge or clerk signatures; none are supplied in translation.

The collected text states that services ceased in April 2005, although the agreement date is 18 February 2013 and the unpaid period is January-March 2014. This apparent chronological inconsistency is preserved verbatim as "April 2005"; the translation does not guess a corrected year.

The stated arrears of CNY 10,163.48 are retained rather than replaced by three times the nominal monthly fee of CNY 3,480. The source provides a partial-month proration formula, but does not provide the underlying day-by-day calculation needed to independently reconstruct the arrears.

The source says penalties "before 4 May 2015"; that wording is retained and is not silently changed to "through and including 4 May". Later penalties run from 5 May 2015 until actual payment at 0.3% per day on outstanding service charges. The source does not supply all individual overdue dates needed to recalculate the accrued CNY 11,916.16.

13. Civil Judgment - China Mobile v. Panke Technology - Dedicated Internet Line

(2015) 东民初字第07112号 | Beijing Dongcheng District People's Court | Decision: 2015-09-18

<https://yifengzhang.com/china-court-document-translations/2015-beijing-dongcheng-civil-07112/>

Document type

Civil Judgment

Parties

Plaintiff: China Mobile Communications Group Beijing Co., Ltd., with its registered address at No. 7 Dongzhimen South Street, Dongcheng District, Beijing; organization code: 72261170-0.

Legal representative: Zhou*, chairman and general manager.

Authorized representative: Cao Huanhuan, lawyer at Beijing Zhongyin Law Firm.

Defendant: Panke (Beijing) Technology Co., Ltd., with its registered address at Room 806, Floor 8, Building 1, No. 16 Chaowai Street, Chaoyang District, Beijing; registration number: 110105014037164.

Legal representative: Zhang**.

Procedural history

This Court accepted the telecommunications service contract dispute between the plaintiff, China Mobile Communications Group Beijing Co., Ltd. (hereinafter "China Mobile"), and the defendant, Panke (Beijing) Technology Co., Ltd. (hereinafter "Panke"), on 13 May 2015. A collegial panel was constituted in accordance with law and held a public hearing. Cao Huanhuan, the plaintiff China Mobile's authorized representative, appeared at the hearing. The defendant Panke did not appear despite having been lawfully summoned. The hearing of this case has now concluded.

Plaintiff's allegations and claims

The plaintiff China Mobile alleged as follows: On 1 February 2013, the plaintiff and defendant entered into the China Mobile Communications Group Beijing Co., Ltd. Dedicated Internet Line Service Agreement, under which the plaintiff agreed to provide dedicated internet line services to the defendant. The agreement provided that the defendant should settle the relevant charges for the preceding month with the plaintiff between the fifth day of each month and the fourth day of the following month. If the defendant failed to pay on time, the plaintiff was entitled to suspend services and to impose additional contractual penalties at 0.3% per day (three per thousand per day) on the unpaid amount until the defendant settled the arrears. If charges for any month remained unpaid three months after the end of that month, the plaintiff was entitled to terminate performance of the agreement, cancel the dedicated internet line services, and continue pursuing all unpaid charges and contractual penalties. The defendant failed to pay the service charges and contractual penalties due for January through March 2014 and still did not pay after repeated demands by the plaintiff. The plaintiff therefore brought this action seeking: (1) termination of the China Mobile Communications Group Beijing Co., Ltd. Dedicated Internet Line Service Agreement entered into by the parties; (2) payment by the defendant of CNY 11,506.95 in outstanding dedicated internet line service charges; and (3) payment by the defendant of CNY 13,491.31 in contractual penalties for the period before 4 May 2015, together with contractual penalties from 5 May 2015 until the date of actual payment, calculated on the outstanding service charges at 0.3% per day (three per thousand per day). The plaintiff also sought to have the defendant bear the litigation fees and public-notice fee.

Defendant's response

The defendant Panke submitted no response.

Facts found by the court

Upon hearing the case, the Court found as follows: On 1 February 2013, the plaintiff and defendant entered into the China Mobile Communications Group Beijing Co., Ltd. Dedicated Internet Line Service Agreement, under which the plaintiff would use its transmission network and IP data network to provide internet access services to the defendant. The parties agreed that the agreement would take effect on the date both parties affixed their seals and would remain valid for one year. If neither party objected when the term expired, the term would be extended for one year, and so on. A party wishing not to renew the lease after its term expired, or having an objection, was required to notify the other party in writing of cancellation and related matters thirty days in advance. Dedicated internet line service charges were CNY 3,940 per month. The monthly billing period ran from the first to the last day of each month, that is, one calendar month. These charges were collected monthly. If services covered less than a full month in the month in which the lease began or ended, that month's network usage charge was calculated as the number of days actually used $\times$ the basic monthly rental fee $\times$ 12 months $\div$ 365 days, to two decimal places, rounding based on the third decimal place. The defendant should settle the relevant charges for the preceding month with the plaintiff between the fifth day of each month and the fourth day of the following month. If the defendant failed to pay on time, the plaintiff was entitled to suspend dedicated internet line services and to impose additional contractual penalties on the unpaid amount at 0.3% per day (three per thousand per day), from the date the charges became overdue until the date all arrears were paid. If any month's dedicated internet line charges remained unpaid three months after the end of that month, the plaintiff was entitled to terminate performance of the agreement, cancel the dedicated internet line services activated for the defendant, and continue pursuing all unpaid charges and contractual penalties. The defendant failed to pay dedicated internet line charges for January through March 2014, totaling CNY 11,506.95. The plaintiff ceased providing services to the defendant starting in April 2005.

The foregoing facts are corroborated by evidence in the case file, including the parties' statements, the China Mobile Communications Group Beijing Co., Ltd. Dedicated Internet Line Service Agreement, the dedicated internet line service charge schedule, and the service registration form.

Court's reasoning

This Court considers as follows: Under China's Civil Procedure Law, parties have the right to respond and to challenge the evidence submitted by the opposing party. In this case, the defendant Panke, having been lawfully summoned by this Court, refused without a legitimate reason to appear and defend the action; it is deemed to have waived its rights to respond and to challenge the evidence. Parties shall fully perform their obligations as agreed. In this case, the defendant failed to pay the relevant charges to the plaintiff on time as required by the contract, and the plaintiff has ceased providing services in accordance with the contract. This Court therefore grants the plaintiff's claim to terminate the contract. The plaintiff now seeks payment by the defendant, in accordance with the contract, of outstanding dedicated internet line service charges of CNY 11,506.95, contractual penalties of CNY 13,491.31, and further contractual penalties. The amounts are reasonable and the grounds are sufficient, and this Court grants those claims. In summary, pursuant to Articles 60, 93 and 113 of the Contract Law of the People's Republic of China and Article 144 of the Civil Procedure Law of the People's Republic of China, this Court enters judgment as follows:

Disposition

I. It is confirmed that the China Mobile Communications Group Beijing Co., Ltd. Dedicated Internet Line Service Agreement entered into by the plaintiff, China Mobile Communications Group Beijing Co., Ltd., and the defendant, Panke (Beijing) Technology Co., Ltd., is terminated.

II. Within seven days after this judgment takes legal effect, the defendant, Panke (Beijing) Technology Co., Ltd., shall pay the plaintiff, China Mobile Communications Group Beijing Co., Ltd., dedicated internet line service charges of CNY 11,506.95.

III. Within seven days after this judgment takes legal effect, the defendant, Panke (Beijing) Technology Co., Ltd., shall pay the plaintiff, China Mobile Communications Group Beijing Co., Ltd., contractual penalties for the period before 4 May 2015 of CNY 13,491.31, and shall pay contractual penalties for the period from 5 May 2015 until the date of actual payment, calculated on the outstanding dedicated internet line service charges at 0.3% per day (three per thousand per day).

If the monetary payment obligations are not performed within the period specified in this judgment, double interest on the debt for the period of delayed performance shall be paid in accordance with Article 253 of the Civil Procedure Law of the People's Republic of China.

The case acceptance fee of CNY 424 and the public-notice fee of CNY 560 shall be borne by the defendant, Panke (Beijing) Technology Co., Ltd., and shall be paid within seven days after this judgment takes legal effect.

A party dissatisfied with this judgment may submit a notice of appeal to this Court within fifteen days of service of the judgment, provide copies according to the number of opposing parties, and pay the case acceptance fee for the appeal, to appeal to Beijing No. 2 Intermediate People's Court. If the case acceptance fee for the appeal is not paid within seven days after the appeal period expires, the appeal shall be treated as automatically withdrawn.

Decision date

18 September 2015

Translation and source notes

This is a full English translation of the substantive body of a collected public court-text copy, not a certified translation of a court-issued original PDF. Section headings and the document type are retained. Asterisks preserve the source's masking; masked names are not expanded.

Corporate English names are descriptive translations. Panke (Beijing) Technology Co., Ltd. is distinct from Panke Health Technology (Beijing) Co., Ltd.; the latter is not a party in this document.

Statutes and article numbers are translated as cited in this dated document, without replacing them with later legislative numbering. The supplied text does not include judge or clerk signatures; none are supplied in translation.

The collected text states that services ceased in April 2005, although the agreement date is 1 February 2013 and the unpaid period is January-March 2014. This apparent chronological inconsistency is preserved verbatim as "April 2005"; the translation does not guess a corrected year.

The stated arrears of CNY 11,506.95 are retained rather than replaced by three times the nominal monthly fee of CNY 3,940. The source provides a partial-month proration formula, but does not provide the underlying day-by-day calculation needed to independently reconstruct the arrears.

The source says penalties "before 4 May 2015"; that wording is retained and is not silently changed to "through and including 4 May". Later penalties run from 5 May 2015 until actual payment at 0.3% per day on outstanding service charges. The source does not supply all individual overdue dates needed to recalculate the accrued CNY 13,491.31.

14. Panke (Beijing) Technology Co., Ltd. v. Xi**: Employment dispute - appellate civil judgment

(2014) 三中民终字第10304号 | Beijing No. 3 Intermediate People's Court | Decision: 2014-08-08

<https://yifengzhang.com/china-court-document-translations/2014-beijing-third-civil-appeal-10304/>

Document type / title

Panke (Beijing) Technology Co., Ltd. v. Xi**: Second-instance Civil Judgment in an Employment Dispute.
Publication date: 9 October 2014.

Parties

Appellant (defendant at first instance): Panke (Beijing) Technology Co., Ltd., domiciled at Room 806, Floor 8, Building 1, No. 16 Chaowai Dajie, Chaoyang District, Beijing.

Legal representative: Zhang**, general manager.

Authorized representative: Zhou Ruoqi, lawyer at Beijing Zhongyou Law Firm.

Authorized representative: Li Xiaoxia, lawyer at Beijing Zhongyou Law Firm.

Respondent (plaintiff at first instance): Xi**, female, born on ****年**月**日 [date masked in the source].

Authorized representative: Xi Dao***, female, born on ****年**月**日 [date masked in the source].

Procedural history

In this employment dispute with respondent Xi**, appellant Panke (Beijing) Technology Co., Ltd. (hereinafter “Panke Company”) appealed to this Court against Civil Judgment (2014) Chao Min Chu Zi No. 13226 of the Beijing Chaoyang District People’s Court. After accepting the appeal, this Court duly constituted a collegiate bench comprising Judge Jiang Hui as presiding judge and Judges Wang Ben and Huo Siyu. A public hearing was held on 7 August 2014. Panke Company’s authorized representative Li Xiaoxia and respondent Xi** appeared and participated in the proceedings. The proceedings have now concluded.

First-instance proceedings: plaintiff’s claims

Xi** stated in her first-instance complaint: She joined Panke Company in July 2012 as customer service director at an after-tax wage of CNY 20,000 per month. On 16 January 2013, Panke Company unilaterally notified her that her employment contract was being terminated. During her employment, the company arranged eight days of overtime in December 2012 and January 2013 but provided neither compensatory time off nor overtime pay. She therefore brought proceedings, requesting that Panke Company: (1) pay CNY 11,034.48 in wages for 1-16 January 2013; (2) pay CNY 14,712.64 in overtime wages for December 2012 and January 2013; (3) pay CNY 40,000 in economic compensation for terminating the employment relationship; (4) pay CNY 16,436.78 in compensation at 25% of the amounts unpaid from January 2013 to the present; and (5) make supplementary social insurance contributions for January and February 2013.

First-instance proceedings: defendant’s response

Panke Company did not appear at the first-instance hearing and did not submit a defense.

First-instance proceedings: findings of fact

The first-instance court found: On 9 July 2012, Xi** (Party B) and Panke Company (Party A) signed an Employment Contract providing that the contract would take effect on ****年**月**日 [date masked in the source] and end on 8 October 2013. Party B agreed to work as customer service director according to Party A's operational needs. Party A would apply the standard working-hours system and pay Party B the preceding month's wages in money before the eighth day of each month. The agreed after-tax monthly wage was CNY 20,000, including an 8% confidentiality allowance; the probationary wage was CNY 16,000.

On 20 November 2013, Panke Company issued a certificate stating: "On 16 January 2013, for unilateral reasons attributable to our company, we formally notified Xi** that her employment relationship would terminate on 17 January 2013. Xi** left the company on 17 January. A total of eight days of compensatory leave for overtime during her employment remained owed."

Xi**'s bank card transaction details showed wage payments of CNY 6,469.16 on 10 July 2012, CNY 17,038.95 on 8 August, CNY 17,215.73 on 11 September, CNY 20,000 on 9 October, CNY 20,000 on 7 December, and CNY 20,000 on 7 February 2013. As to overtime, Xi** said four days were weekend overtime and four days were accumulated extensions of ordinary working days.

The first-instance hearing was scheduled for 8:45 a.m. on 12 May 2014, but Panke Company did not appear on time. At 2 p.m. that day, its authorized representative Zhao× appeared. When questioned, Zhao× said: "The company president had intended to attend, but his flight was delayed by rain, so I was told to come to court. I was only just notified, which is why I arrived in the afternoon." Zhao× accepted the authenticity of the employment contract submitted by Xi** but said the certificate's authenticity needed verification. Zhao× said the company had terminated the employment relationship because there were issues with Xi**'s work capability, that the company owed Xi** wages of CNY 16,186.24 and compensation of CNY 10,000, and that it did not agree to pay other amounts. Panke Company did not respond within the period set by the first-instance court regarding Xi**'s wage rate, the certificate, or the other issues.

In March 2014, the Beijing Chaoyang District Labor and Personnel Dispute Arbitration Commission issued Xi** a notice declining to accept her application.

First-instance proceedings: reasoning

The first-instance court held: In an employment dispute, each party bears responsibility for producing evidence supporting its own assertions. Where evidence relating to the disputed matter is held and managed by the employer, the employer must produce it; failure to do so entails adverse consequences. Panke Company failed to respond within the period set by the first-instance court concerning its comments on the evidence and the related issues, and must bear the adverse consequences. The evidence submitted by Xi** established that Panke Company had not paid wages for 1-16 January 2013 and part of her overtime pay. The amounts Xi** claimed were erroneous, and the first-instance court corrected them. Panke Company terminated the employment relationship but failed to prove that the termination was lawful, and therefore had to pay the corresponding damages. Xi**'s fourth request lacked a legal basis, and her fifth request fell outside the scope of employment disputes accepted by the people's courts.

Accordingly, under Articles 47 and 87 of the Labor Contract Law of the People's Republic of China and Article 6 of the Labor Dispute Mediation and Arbitration Law of the People's Republic of China, the first-instance court ordered: (1) Panke (Beijing) Technology Co., Ltd. shall pay Xi** CNY 10,114.94 in wages for 1-16 January 2013 within seven days after the judgment becomes effective; (2) Panke (Beijing) Technology Co., Ltd. shall pay Xi** CNY 12,873.56 in overtime pay within seven days after the judgment

becomes effective; (3) Panke (Beijing) Technology Co., Ltd. shall pay Xi** CNY 40,000 in damages for terminating the employment relationship within seven days after the judgment becomes effective; and (4) Xi**'s other claims are dismissed. If the monetary obligations are not performed within the period specified in the judgment, debt interest for the period of delayed performance shall be paid at the doubled rate in accordance with Article 253 of the Civil Procedure Law of the People's Republic of China.

Claims / appellate submissions

Panke Company appealed to this Court against the above first-instance civil judgment. Its principal grounds were that the first-instance court's factual findings were incorrect: (1) Xi** attended work normally until 16 January 2013, but the court simply relied on her oral statement to order payment of wages for 1-16 January 2013, a finding lacking a factual basis. (2) Xi** submitted a certificate stating that she left the company on 17 January 2013 and was owed eight days of compensatory leave for overtime during her employment. The company did not accept the certificate's authenticity, so the overtime award clearly lacked a factual basis. (3) The employment relationship ended on 17 January 2013 because there were issues with Xi**'s work capability. Ordering economic damages based only on her certificate was clearly an erroneous finding of fact. (4) Xi** left for personal reasons on 16 January 2013 and applied to the Chaoyang District Labor Arbitration Commission in March 2014, exceeding the one-year limitation period. Wages were withheld because she had not completed departure handover procedures as agreed with the company. There had been no overtime, so the company did not owe overtime pay. The parties signed a notice terminating the employment contract when she left, and the termination was mutually agreed; there was no unlawful dismissal by the company. It therefore requested amendment of the judgment so that it would not have to pay: (1) wages of CNY 10,114.94 for 1-16 January 2013; (2) overtime pay of CNY 12,873.56; or (3) economic damages of CNY 40,000 for terminating the employment relationship. The source states that these items total CNY 62,988.51 [sic; see translation note 3].

Panke Company submitted the following evidence to this Court: a notice of termination of the employment relationship, intended to prove that the parties had mutually agreed to terminate that relationship.

Defendant's response / respondent's submissions

Xi** accepted the first-instance judgment. She did not submit a written response to this Court but stated orally at the hearing: She agreed with the first-instance judgment. Panke Company had dismissed her unlawfully. The company had no evidence that she failed to complete the departure handover, while she had evidence establishing overtime.

During examination of the evidence at this Court's hearing, Xi** accepted the authenticity of Panke Company's exhibit but disputed its intended purpose of proof. This Court held that the exhibit was not new evidence in the second-instance proceedings and was insufficient to prove mutual agreement to terminate the employment relationship. The Court therefore did not confirm that assertion.

Findings of fact

The facts found by this Court after its hearing are consistent with those found by the first-instance court.

Those facts are supported by the corresponding evidence and the parties' statements in the record.

Court's reasoning

This Court holds: In an employment dispute, each party bears responsibility for producing evidence supporting its own assertions. Where evidence relating to the disputed matter is held and managed by the employer, the employer must produce it; failure to do so entails adverse consequences. The evidence provided by Xi** establishes that Panke Company had not paid wages for 1-16 January 2013 and part of her overtime pay. It was not improper for the first-instance court to order payment. Regarding termination of the employment relationship, Panke Company contends that the parties mutually agreed to terminate it, which Xi** disputes. The existing evidence shows that Panke Company terminated the employment relationship but failed to prove that its termination was lawful. The termination was therefore unlawful, and the company must pay economic damages for unlawful termination. The first-instance court's calculation of those damages in accordance with law was proper, and this Court confirms it. As to the company's contention that Xi**'s claims exceeded the arbitration limitation period, it did not raise that contention at first instance, and this Court does not accept it. In conclusion, Panke Company's appellate requests lack sufficient grounds and are not supported. The first-instance judgment was proper and should be upheld. Pursuant to Article 170(1)(1) of the Civil Procedure Law of the People's Republic of China, the Court renders judgment as follows:

Disposition

The appeal is dismissed, and the original judgment is upheld.

The first-instance case acceptance fee of CNY 5 shall be borne by Panke (Beijing) Technology Co., Ltd. and paid within seven days after this judgment becomes effective.

The second-instance case acceptance fee of CNY 10 shall be borne by Panke (Beijing) Technology Co., Ltd.; it has already been paid.

This judgment is final.

Decision date

8 August 2014.

Translation and source notes

1. This translates the complete substantive text of a collected court-text copy, not a certified court original. The displayed publication date, 9 October 2014, differs from the decision date, 8 August 2014; both are preserved. No judge or clerk signature block appears in the supplied copy; the bench is named in the procedural history.
2. Zhang**, Xi**, Xi Dao***, Zhaox, and the masked dates remain masked exactly as displayed. No full identity is inferred from another record. Panke (Beijing) Technology Co., Ltd. is distinct from Panke Health Technology (Beijing) Co., Ltd.
3. The appeal paragraph states a total of CNY 62,988.51. Its three listed components-CNY 10,114.94, CNY 12,873.56, and CNY 40,000-sum to CNY 62,988.50, a CNY 0.01 discrepancy. The stated source total is preserved and flagged; it is not silently corrected.
4. Statements about the employee's capability, handover, lack of overtime, mutual agreement, and limitation period are the appellant's submissions. The Court's findings and its rejection of those grounds are separately translated. The first-instance findings also report a late appearance that afternoon despite the earlier statement that the company did not attend the hearing; both passages are retained.
5. The wage transactions, contractual rate, confidentiality allowance, claims, and awards are distinct figures. The early 10 July 2012 wage transaction is retained as the copy states. Statute references are historical article references quoted in the decision.

15. Shanghai Fuyute Image Technology Co., Ltd. v. Zhaoyaocai Technology (Tianjin) Co., Ltd.: Withdrawal permitted following reported settlement - civil ruling

(2021) 沪0104民初13558号 | Shanghai Xuhui District People's Court | Decision: 2021-06-29

<https://yifengzhang.com/china-court-document-translations/2021-shanghai-xuhui-civil-13558/>

Document type / title

Civil Ruling

Parties

Plaintiff: Shanghai Fuyute Image Technology Co., Ltd., domiciled in Changning District, Shanghai.

Legal representative: Lin Shiling, chairman of the board.

Authorized litigation representative: Lü Moumou, male.

Defendant: Zhaoyaocai Technology (Tianjin) Co., Ltd., domiciled in the Tianjin Economic-Technological Development Area.

Legal representative: Niu Zhengzhao.

Procedural history

After accepting on 12 May 2021 the dispute between plaintiff Shanghai Fuyute Image Technology Co., Ltd. and defendant Zhaoyaocai Technology (Tianjin) Co., Ltd. concerning infringement of the right to disseminate works through information networks, this Court duly applied the small-claims procedure.

Shanghai Fuyute Image Technology Co., Ltd. submitted an application to this Court to withdraw its action against Zhaoyaocai Technology (Tianjin) Co., Ltd., stating that the parties had reached a settlement.

Court's reasoning

This Court holds that Shanghai Fuyute Image Technology Co., Ltd.'s application to withdraw its action is not contrary to law and should be permitted.

Pursuant to Article 145(1) of the Civil Procedure Law of the People's Republic of China, the Court rules as follows:

Disposition

Shanghai Fuyute Image Technology Co., Ltd. is permitted to withdraw its action.

No case acceptance fee shall be charged.

Decision date

29 June 2021.

Translation and source notes

1. This translates all substantive text in the collected court-text copy. No judge or clerk signature block or settlement terms appear in the supplied copy. This is not a certified translation or a substitute for the court original.
2. Lü Moumou preserves the anonymized 吕某某; the given name has not been inferred. Company and personal names are rendered in pinyin, with English company descriptors; no official English corporate name is established by this copy.
3. The plaintiff reported a settlement and requested withdrawal; the Court permitted withdrawal. The ruling does not decide infringement liability, damages, nonpayment, or the settlement's performance. No connection of Yifeng Zhang to this company is asserted by this ruling.
4. Article 145(1) is the historical statutory reference quoted by the 2021 ruling.

16. Civil Judgment - Zhou** v. UDZ Technology (Beijing) Co., Ltd.; unpaid media-invitation service fee

(2018) 京0102民初20832号 | Xicheng District People's Court, Beijing | Decision: 2018-10-26

<https://yifengzhang.com/china-court-document-translations/2018-beijing-xicheng-civil-20832/>

Document heading

Civil Judgment

Parties

Plaintiff: Zhou**, female, born on ****-**-**, Manchu ethnicity, registered domicile at **.

Authorized representative: Zhou Qiang, lawyer at Beijing Yikai Law Firm.

Defendant: UDZ Technology (Beijing) Co., Ltd., domiciled in Chaoyang District, Beijing.

Legal representative: Zhang**.

Procedural history

After accepting the service-contract dispute between the plaintiff, Zhou**, and the defendant, UDZ Technology (Beijing) Co., Ltd. (the "UDZ Company"), this Court constituted a collegiate panel in accordance with the law and held a public hearing under ordinary procedure. Zhou Qiang, the authorized representative of the plaintiff, Zhou**, attended the hearing. The defendant, the UDZ Company, having been lawfully summoned by this Court, failed to appear without a valid reason, and this Court heard the case in its absence in accordance with the law. The proceedings have now concluded.

Plaintiff's claims

The plaintiff, Zhou**, alleged that on 1 November 2016 the plaintiff and defendant signed a Service Agreement, under which the defendant company engaged the plaintiff to provide media public-relations and communications services for one month, for a service fee of RMB 25,000. The plaintiff has provided the corresponding services in accordance with that agreement, but the defendant company has still not paid the service fee, despite repeated unsuccessful demands for payment. Accordingly, relying on the agreement's dispute-jurisdiction clause, the plaintiff brought proceedings in the court at her domicile and requested an order requiring the defendant company to pay her the RMB 25,000 service fee.

Facts found by the court

Having heard the case, the Court finds that on 1 November 2016 the plaintiff and defendant signed a Service Agreement. It stipulated that during November 2016 the defendant company would engage the plaintiff as a marketing consultant to provide consulting services to its marketing department, with the principal responsibility of providing services in the media public-relations and communications field described as "media invitations for the Huang Xiaoming UDZ brand launch," namely inviting media to attend the UDZ brand launch on 21 November 2016. The agreement further stipulated a service fee of RMB 25,000, payable by the defendant company before the tenth working day of December 2016. The dispute-resolution clause also stated: "If the parties are unable to resolve any dispute through consultation, either party is entitled to submit the dispute for adjudication to the people's court at the plaintiff's domicile."

During the proceedings, the plaintiff submitted several photographs taken at the UDZ brand launch. They show that a number of media organizations attended the defendant company's brand launch and interviewed relevant persons. The plaintiff relied on these photographs to establish that she had completed the services agreed in the service agreement.

The Court further finds that, after this Court lawfully served the defendant, the UDZ Company, with a copy of the complaint and the hearing summons by public notice, the defendant failed to appear without a valid reason, and this Court heard the case in its absence in accordance with the law.

The foregoing facts are supported in the record by the Service Agreement, photographs of the defendant company's brand launch, statements made by the party in court, and other evidence.

Court's reasoning

This Court considers that a lawfully formed contract is protected by law and legally binding on its parties. The parties shall fully perform their obligations as agreed. A party that fails to perform its contractual obligations, or performs them inconsistently with the agreement, shall bear liability for breach, including continued performance, remedial measures, or compensation for losses.

In this case, the Service Agreement entered into by the plaintiff and defendant expressly sets out their respective rights and obligations. The plaintiff has submitted photographs from the event as evidence that she performed her obligation to invite media to the defendant company's brand launch, and this Court confirms that performance. The defendant company's failure to pay the service fee to the plaintiff within the agreed time constitutes a breach of contract and must be remedied. This Court upholds the plaintiff's claim. By failing to appear without a valid reason, the defendant company voluntarily relinquished its right to present a defense. This Court gives judgment in its absence in accordance with the law, and the resulting adverse consequences shall be borne by the defendant itself.

In conclusion, pursuant to Article 144 of the Civil Procedure Law of the People's Republic of China and Articles 8, 60 and 107 of the Contract Law of the People's Republic of China, this Court gives judgment as follows:

Disposition

Within seven days after this judgment takes legal effect, the defendant, UDZ Technology (Beijing) Co., Ltd., shall pay the plaintiff, Zhou**, a service fee of RMB 25,000.

If the defendant, UDZ Technology (Beijing) Co., Ltd., does not perform its monetary payment obligation within the period specified in this judgment, it shall, pursuant to Article 253 of the Civil Procedure Law of the People's Republic of China, pay double interest on the debt for the period of delayed performance.

The case acceptance fee of RMB 425 and the public-notice fee of RMB 560 shall be borne by the defendant, UDZ Technology (Beijing) Co., Ltd. (Both to be paid within seven days after this judgment takes legal effect.)

If dissatisfied with this judgment, a party may, within fifteen days from the date of service of the judgment, submit a notice of appeal to this Court, provide copies according to the number of opposing parties, and pay the appeal case acceptance fee in advance, appealing to the Beijing Second Intermediate People's Court. If the appeal case acceptance fee remains unpaid seven days after expiry of the appeal period, the right to appeal shall be deemed waived.

Decision date

26 October 2018

Translation and source notes

This is an editorial English translation of the complete collected Chinese court-text copy, not an official or certified translation and not a court-issued original PDF.

Personal-name masks, birth-date masks and anonymized addresses appearing in the collected text are retained. Unmasked names are transliterated; no masked identity is reconstructed.

The collected text does not include judge or clerk signature lines. No missing signatures, images or original-document metadata have been reconstructed.

“劳动合同” here concerns contractual media-invitation services. It is translated as a service contract; this judgment is not relabeled as a labor-arbitration award.

The plaintiff's allegations are distinguished from the facts confirmed by the court and the operative payment order.

The mention of Huang Xiaoming is part of the court's description of the service assignment. This judgment does not accuse him or the media organizations of wrongdoing.

This judgment states a case acceptance fee of RMB 425. The collected 2019 enforcement ruling states RMB 213; both figures are preserved as stated in their respective texts.

The quoted jurisdiction clause is translated as written, including its reference to the plaintiff's domicile.

17. Enforcement Ruling - Zhou** v. UDZ Technology (Beijing) Co., Ltd.; this round of enforcement concluded

(2019) 京0102执6734号 | Xicheng District People's Court, Beijing | Decision: 2019-06-03

<https://yifengzhang.com/china-court-document-translations/2019-beijing-xicheng-enforcement-6734/>

Document heading

Enforcement Ruling

Parties

Applicant for enforcement: Zhou**, female, born on ****-**-**, Manchu ethnicity, registered domicile at **.

Judgment debtor: UDZ Technology (Beijing) Co., Ltd., domiciled at Room 2953, 29th Floor, Block C, No. Jia 6 Jianguomenwai Avenue, Chaoyang District, Beijing.

Legal representative: Zhang**.

Procedural history

In the service-contract dispute between the applicant, Zhou**, and the judgment debtor, UDZ Technology (Beijing) Co., Ltd., the legal document of the Xicheng District People's Court, Beijing, in case (2018) Jing 0102 Min Chu No. 20832 has become legally effective. The judgment debtor, UDZ Technology (Beijing) Co., Ltd., is to pay Zhou** a service fee of RMB 25,000, a case acceptance fee of RMB 213, a public-notice fee of RMB 560, interest on the debt for the period of delayed performance, and other expenses.

During enforcement: 1. This Court served the judgment debtor by special judicial mail with an enforcement notice and an order to report property. The judgment debtor did not actually perform its obligations.

2. This Court served the judgment debtor with a consumption-restriction order and applied measures restricting high consumption to it.

3. This Court placed the judgment debtor on the national court China Dishonest Debtor Record list and published that entry on the China Enforcement Information Disclosure website.

4. This Court searched for information concerning property belonging to the judgment debtor through the nationwide online asset inquiry and control system and the Beijing courts' enforcement case-handling system. It found only a small amount of bank deposits in the judgment debtor's name.

5. During enforcement, no vehicles or real estate were found in the judgment debtor's name.

6. No other property of the judgment debtor available for enforcement was found. Accordingly, the amount sought for enforcement in this case and the corresponding interest could not be recovered through enforcement.

7. This Court informed the applicant for enforcement of the foregoing enforcement circumstances and information, including the investigation's finding that the judgment debtor currently had no property available for enforcement, and requested property leads. The applicant for enforcement accepted the Court's investigation findings, was unable to provide property leads, and agreed to conclusion of this round of enforcement.

In conclusion, the property investigation in this case identified no property available for enforcement. Following examination and verification by the collegiate panel and approval by the president of the Court, pursuant to Article 519 of the Supreme People's Court's Interpretation on the Application of the Civil Procedure Law of the People's Republic of China, this Court rules as follows:

Disposition

This round of enforcement is concluded.

After this round of enforcement is concluded, the judgment debtor remains obligated to continue performing its debt obligations. If the applicant for enforcement discovers property belonging to the judgment debtor available for enforcement, or leads concerning such property, the applicant is entitled to apply to this Court for enforcement to resume.

This ruling takes legal effect upon service.

Decision date

3 June 2019

Translation and source notes

This is an editorial English translation of the complete collected Chinese court-text copy, not an official or certified translation and not a court-issued original PDF.

Personal-name masks, birth-date masks and anonymized addresses appearing in the collected text are retained. Unmasked names are transliterated; no masked identity is reconstructed.

The collected text does not include judge or clerk signature lines. No missing signatures, images or original-document metadata have been reconstructed.

The company is the judgment debtor in this ruling. Its recorded corporate designation is not automatically attributed to its masked legal representative as a personal listing.

The consumption restriction, list entry, asset findings and nonperformance are statements in the 2019 ruling. They do not independently establish the company's present registry status, present balance or current court-list status.

The judgment underlying this ruling states a case acceptance fee of RMB 425; this enforcement text states RMB 213. The difference is preserved without inferring its cause.

Concluding this round of enforcement is not a discharge of the debt; the source expressly retains the continuing obligation and the right to request resumed enforcement.