



# Research on the Value Protection Mechanism of Corporate Goodwill Assets under the Background of Digital Transformation

**Lan Ding**

University of Chinese Academy of Social Sciences, Beijing 100005, China

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**Abstract:** In the context of digital transformation, the value of corporate goodwill assets has received more and more attention. Goodwill is the goodwill and goodwill value enjoyed by an enterprise in the market, and is the basis for the long-term development of an enterprise. Therefore, it is of great value to study the value protection mechanism of corporate goodwill assets for the development of enterprises. This paper expounds the relevant content of corporate goodwill and discusses the value protection mechanism of corporate goodwill assets in the context of digital transformation.

**Keywords:** digital transformation, corporate goodwill, the value of the asset, protection mechanisms

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## 1. Introduction

In the online environment, goodwill infringement is becoming more and more complex, and its manifestations are characterized by the industrialization of slander and the specialization of means. At present, there are many legal issues in the protection of goodwill in China, such as the confusion of the basis for rights protection and the unclear authority of the authorities. In order to effectively solve these problems, it is necessary to clarify the system of the crime of infringing on goodwill, and improve the administrative supervision system and related supporting measures. At the same time, in order to ensure that victims receive fair compensation, it is necessary to carry out judicial unity in the conduct of civil violations.

## 2. Overview of corporate goodwill

Goodwill is as important to a business as it is to having a healthy body. Goodwill is the core asset of an enterprise, which is gradually accumulated by an enterprise in economic activities such as production and circulation. It is a positive evaluation of an enterprise's products, sales, services, etc., and is essentially an intangible asset that can generate excess returns. In China, due to the rapid development of the market economy and the intensification of market competition, the problem of goodwill between enterprises is becoming more and more prominent. However, with the increase in corporate goodwill infringement incidents, such as malicious infringement of well-known trademark goodwill, smearing the goodwill of competitors, and short videos damaging corporate reputation, etc., are also occurring. This not only has an irreparable negative impact on the goodwill of the enterprise, but also constantly challenges the bottom line of the law and tests people's wisdom. Therefore, how to effectively regulate it and build a relatively complete and systematic mechanism for protecting the value of corporate goodwill assets has become a common concern in the legal and economic circles. In order to better protect the goodwill of enterprises, maintain the order of the market economy, and ensure the market competitiveness of enterprises, it is necessary to study the value protection mechanism of goodwill assets from civil, administrative and criminal aspects[1].

## 3. The value protection mechanism of corporate goodwill assets in the context of digital transformation

In the context of digital transformation, the corporate goodwill infringement industry is characterized by fast dissemination, strong concealment, wide range of influence, low infringement cost, and high cost of rights protection. If not remedied in a timely manner, the consequences of the damage will be dramatically magnified, resulting in irreparable losses. However, due to the imperfect protection mechanism for goodwill in China, most enterprises do not rely on legal means to protect their legitimate rights and interests. Companies often respond by means of media cooperation, commercial confrontation, etc., or carry out goodwill repair, but this is time-consuming, laborious, and ineffective. Therefore, it is necessary to make a comprehensive analysis of the goodwill infringement in China's current legal system and put forward corresponding countermeasures. In order to strengthen the protection of the goodwill of enterprises, it is necessary to start

with the legal and administrative aspects and intensify the crackdown on the goodwill of enterprises. Improve the corporate goodwill protection mechanism to deepen the society's understanding and trust in corporate goodwill. Only by taking comprehensive countermeasures can we effectively deal with the impact caused by goodwill infringement and ensure that enterprises gain a competitive advantage in the increasingly fierce market competition.

### **3.1 Clarify the criminal charge system for the crime of infringing on goodwill**

In order to adapt to the characteristics of corporate goodwill infringement in the information environment, the criminal charge system of goodwill infringement in China needs to be further clarified and refined. For the crime of "harming commercial goodwill and commodity reputation", the applicable standards should be clarified and the standards for evidence should be lowered. In terms of behavior patterns, "fabrication and dissemination" is changed to "fabrication or dissemination", focusing on distinguishing and examining the two behaviors of "fabrication" and "dissemination", and carrying out targeted crackdowns on these dissemination and diffusion industries. At the same time, the type of information covered by the crime is changed from "false facts" to "false information or misleading information", the conviction standard of "significant loss" is determined, the loss of goodwill is taken into account, and the elements of the crime are adjusted according to the accounting standards and the judgment of the value of goodwill. Since "significant loss" is a concept that is difficult to prove directly, it can be inferred on a case-by-case basis and a comprehensive assessment of the severity of the act can be made. The deletion of misleading or false information and conduct for compensation in accordance with law should not be included in the scope of the crime of "illegal business operations". The legality of the deletion of misleading, false or other illegal information for compensation, such as investigation costs, procedural fees, and labor fees, shall be recognized. Enterprises should regard the cost of handling false information as a reasonable cost, and if the paid deletion is to be done through legal means, if it is not harmful, it cannot be found to be the crime of illegal business operation. The connotation of the concept of "picking quarrels and provoking troubles" is also defined. If the dissemination of false information about enterprises exceeds the protection of personal interests, it will have a great impact on the economic and social order, which is a more serious social harm. When determining the "consequences of serious confusion", the standard for convicting the crime of defamation can be used as a reference, and the state of confusion of the public's perception of the crime can be considered, and evidence such as online and offline public questionnaires can be comprehensively used to determine the disorderly state in the Internet environment[2].

### **3.2 Improve administrative supervision rules and supporting measures**

On the basis of improving administrative supervision rules and related measures, the CAC has issued detailed rules for the governance of the online ecosystem, focusing on regulating commercial speech. Specifically, in terms of procedures, enterprises should establish formal reporting channels to achieve rapid handling of information on media platforms, and provide them with a standardized false information disposal mechanism to meet the needs of enterprises for self-relief of public opinion, and cannot identify paid deletion of posts as illegal and criminal. The "Provisions on the Governance of the Online Ecosystem" have been drafted to clarify the implementation rules, expand the scope of application of negative speech and infringement, clarify the boundaries of the comments of reviewers, and impose corresponding penalties on those netizens who follow the trend and spread rumors without fulfilling their verification obligations. Improve the management system of the online public relations market, standardize the business activities of public relations enterprises, strengthen industry self-discipline and supervision, establish a business license management and review system, and standardize public relations behavior. Strengthen the supervision of core KOL writers, content creators, agency companies and other content providers, and supervise their immediate deletion and material review. Employ punitive measures such as account bans against rumor-mongers, and periodically update the list of untrustworthy persons. The use of improper technical methods to carry out traffic fraud, malicious hype, and other such conduct shall be governed. At the same time, it is necessary to strengthen the supervision responsibility of media platforms, strictly supervise their illegal acts, and evaluate them. The Cyberspace Administration of China, the Cyber Police, and other departments should work together to formulate a set of special standards for the order of the online economy, so as to promote the healthy development of the commercial speech ecology on the Internet, and allow all legal entities to play an active role on the Internet[3].

### **3.3 Unify the civil judicial rules for goodwill infringement**

The civil judicial rules for the protection of goodwill are an evolving process, and in the context of digital transformation, there is a need for more detailed and clear provisions. China should revise the provisions on goodwill in the Anti-Monopoly Law as soon as possible and issue corresponding judicial interpretations to better meet the needs of China's development. The subject of goodwill infringement should be extended to general subjects, not just competitors. For example, malicious comments made by consumers on online shopping platforms can cause damage to a company's reputation. Therefore, it is

necessary to broaden the understanding of the concept of competitors and to include the misconduct of ordinary subjects in the scope of commercial defamation. At the same time, the criteria for judging false information should be further refined. Even if the information is correct, it can be misleading to consumers in terms of how and when it is presented. The burden of proof for the loss of goodwill should also be clarified, and a professional appraisal agency should be established to evaluate and appraise it to determine the amount of compensation. At the same time, the Civil Code should also improve the protection of the personality rights of legal persons, and the judicial interpretation of infringement of the right to reputation should also be discussed in more detail. In particular, the litigation claims for infringement of the goodwill of the enterprise are distinguished from the aspects of the litigation claim, the direction of proof and the means of relief. The nature of the damage to the goodwill of enterprises caused by inappropriate remarks should also be defined, and one-sided statements and malicious evaluations should be included in the scope of infringement of the right to reputation. The liability for infringement between the communicator and the platform should be determined in accordance with the provisions of the Intellectual Property Law, and the collaborative relationship between the two parties should be determined, so as to provide judicial protection for the protection of the goodwill of the enterprise[4].

#### 4. Conclusion

In short, it is necessary to conduct in-depth research on the protection mechanism of corporate goodwill asset value in the context of digital transformation. The civil judicial rules for goodwill infringement should be unified, the administrative supervision rules and supporting measures should be improved, and the criminal charge system for the crime of goodwill infringement should be clarified, so as to promote the sustainable development of enterprises.

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