

Jaguar Land Rover

JLR's Chinese 'copycat' claim hit by patent cancellation

Authorities in China declare patent 'invalid' after carmaker sues

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JUNE 20, 2016 9:40 PM

by: **Christian Shepherd** in Beijing

Jaguar Land Rover's chances of winning a lawsuit against a Chinese carmaker over patent infringement have been undermined by the country's decision to cancel both companies' patents.

Earlier this month, JLR told Reuters it had begun legal action in Beijing against Jiangling Motors over its Landwind X7 SUV, which the UK-based company claims [infringes the patented external designs \(http://next.ft.com/content/8cc4815c-70d4-11e4-8113-00144feabdco\)](http://next.ft.com/content/8cc4815c-70d4-11e4-8113-00144feabdco) of its Range Rover Evoque.

But the Chinese patents for both models' exterior designs were designated "invalid" by the State Intellectual Property Office at the beginning of this month, according to notices on the office's website, on grounds that the Evoque design was put on public display a year before the patent was filed.

This filing was central to JLR's lawsuit against Jiangling for copyright infringement and unfair competition, which experts say is now likely to be thrown out.

A spokesperson for JLR said the company was unable to comment on the ongoing case.

JLR's chief executive Ralf Speth had previously expressed hope that, this year, China would once again become the group's [top country for sales](http://next.ft.com/content/5f5025ea-0af3-11e6-9456-444ab5211a2f) (<http://next.ft.com/content/5f5025ea-0af3-11e6-9456-444ab5211a2f>), after a slowdown in 2015 [hit profits](http://next.ft.com/content/7feb9048-860d-11e5-9f8c-a8d619fa707c) (<http://next.ft.com/content/7feb9048-860d-11e5-9f8c-a8d619fa707c>) for the Tata Motors-owned business.

Now, the patent cancellation puts JLR on a difficult legal footing. Once patents are invalidated, lawsuits based on external design often come down to a question of “consumer confusion”, said Matthew Murphy, a partner at law firm MMLC Group. “It starts to get very subjective,” he explained.

JLR and Jiangling's SUV models look almost identical from a distance but are priced very differently, with the Range Rover Evoque selling for about three times the price of the Landwind.

Mark Bishop, head of JLR's China sales, acknowledged this [legal difficulty](http://next.ft.com/content/533012c6-e74e-11e4-8e3f-00144feab7de) (<http://next.ft.com/content/533012c6-e74e-11e4-8e3f-00144feab7de>) when discussing the Landwind model at the Beijing Auto Show in April: “People are not walking into a showroom and saying ‘Should I buy a Landwind or should I buy an Evoque?’”

But, post purchase, some Landwind buyers have taken to “upgrading” their models by fitting them with Land Rover logos and grilles from online suppliers on Taobao, an Alibaba online shopping platform similar to Ebay.

Complaints by foreign companies about intellectual property theft are commonplace in China, and automakers have often lost such cases in the past. In 2008, Fiat Chrysler lost a case against Great Wall Motors when it was unable to prove the Chinese company had copied the external design of its Panda model.

“There's no way to totally avoid these kinds of copies in China,” Mr Speth admitted just over a month ago at the Beijing Auto Show. “The laws are not even defined in a way so that we can do anything against it. We just have to take it as it is.”

Allegations of copycatting in China's auto industry also add to concerns about the country's ability to [spur innovation](http://next.ft.com/content/51718dd6-3138-11e6-bdao-04585c31b153) (<http://next.ft.com/content/51718dd6-3138-11e6-bdao-04585c31b153>), rather than merely tweaking foreign designs.

“It’s a little bit sad, because you go outside and you see there is a booming economy,” said Mr Speth in April. “They don’t have to rely on these kinds of things; they can find their own China way.

“I don’t know why they go back to the time when China always copied. I was of the opinion that this time is over now.”

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