

The Expansion of China's Exclusive Jurisdiction in International Civil Procedure: Legal Transplant or False Analogies?

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Abstract

This paper explores the exclusive jurisdiction rule in Article 279 of the *Civil Procedure Law (CPL) 2023* of the People's Republic of China (PRC), which introduces two newly covered types of disputes: those involving the establishment, dissolution, liquidation, and validity of resolutions of legal persons or other organizations, and those concerning the validity of intellectual property rights (IPRs). Through a comparative analysis with Article 24 of *Brussels I Recast 2012*, the study highlights key differences—the Chinese exclusive jurisdiction rule for legal persons or other organizations adopts a hybrid approach combining enumeration and generalization, while Brussels 2012 follows a strictly enumerative method. In addition, the exclusive jurisdiction rule for IPRs adopts the broad term “Intellectual Property” instead of specifying categories like patents or trademarks, as seen in Brussels 2012, and restricts its application to disputes over the validity of intellectual property, explicitly excluding registration disputes. An analysis of nine rulings from 2024 shows that Chinese courts strictly adhere to the scope of this exclusive jurisdiction rule. However, challenges remain in accurately identifying foreign elements and consistently citing Article 279. The findings suggest that China's two new categories of exclusive jurisdiction in international civil procedure are legal transplants rather than flawed analogies. Consequently, concerns that the expansion of China's exclusive jurisdiction is unfriendly to foreign companies or parties may be overstated. The article concludes with two recommendations: (1) Chinese courts should enhance their identification of foreign elements in cases before applying the exclusive jurisdiction rule; and (2) Chinese courts should explicitly clarify their obligation to apply the exclusive jurisdiction rule in judicial reasoning and cite Article 279 in the judgment's result section.

Keywords: exclusive jurisdiction, China, legal person, intellectual property rights (IPRs), CPL 2023, Civil Code, civil disputes

1. Introduction

The expansion of China's exclusive jurisdiction in international civil procedure is evident in the *Civil Procedure Law of the People's Republic of China (CPL) 2023*. Article 279, which outlines the rule of exclusive jurisdiction, in Part 4, titled “Special Provisions on Civil Actions Involving Foreign Parties,” has undergone significant revisions. Compared with the exclusive jurisdiction rule in the previous five versions of the *CPL*,¹ which only concerned disputes of three joint venture contracts (remaining as Article 279(3) of the *CPL 2023*), the revised rule of exclusive jurisdiction in the *CPL 2023* has introduced two new categories of civil disputes. One pertains to the establishment, dissolution, liquidation, and the validity of resolutions of legal persons or other organizations, while the other concerns the validity of intellectual property.

The revised rule of exclusive jurisdiction in the *CPL 2023* also modifies the terminology regarding territorial limitations to address the nuances of territorial extension. Specifically, the term used to define territorial restrictions in exclusive jurisdiction has shifted from “in the PRC (zai Zhonghua Renmin Gonghe Guo),” as seen in the previous five versions of the *CPL*, to “within the territory of the PRC (zai Zhonghua Renmin Gongheguo lingyu nei)” for the first time in the exclusive jurisdiction rule of the *CPL 2023*. In the Chinese civil law system, the former term

¹ Article 246 of the *CPL 1991*, Article 244 of the *CPL 2007*, Article 266 of the *CPL 2012*, Article 266 of the *CPL 2017*, and Article 273 of the *CPL 2021*.

typically refers to areas where the PRC exercises sovereignty, while the latter has a broader scope, encompassing not only territorial land but also territorial waters, airspace, Chinese ships, aircraft, and other vessels (such as those sailing or berthed outside the PRC's territory), as well as Chinese embassies and consulates abroad (Yuxing Tang, 2024). The broader term reflects the legislative intent to clarify jurisdictional boundaries and address complex issues in international contexts.

Considering the changes to the rules governing exclusive jurisdiction in international civil procedure, some foreign scholars have expressed concerns that broadening China's exclusive jurisdiction may not be favourable to foreign companies or parties. As a result, foreign entities conducting business within China or engaging in transactions with Chinese counterparts abroad should carefully consider the implications of the 2023 Amendment for their litigation risks (Gareth Hughes et al., 2024). This is because there is a greater likelihood that foreign businesses will face lawsuits in China, which would have a significant impact on intellectual property disputes (Covington Alert, 2023). Therefore, some foreign scholars have warned that foreign companies and their legal teams should familiarize themselves with the legislation related to their industry or sector that falls under the exclusive jurisdiction of Chinese courts under *the CPL 2023* to ensure compliance (Arendse Huld, 2023). To address whether the newly revised rule of exclusive jurisdiction is unfriendly to foreign companies or parties, we first illustrate what the rule of exclusive jurisdiction should entail from the perspective of Chinese legislators and compare it with the exclusive jurisdiction rule in the EU legal system. Subsequently, we examine cases to analyze how Chinese courts applied Article 279 of the Civil Procedure Law (*CPL*) in 2024. Finally, we refute that expanding Chinese exclusive jurisdiction under *the CPL 2023* is unfriendly to foreign companies or parties. Additionally, this article presents two suggestions for Chinese courts to apply the exclusive jurisdiction rule in international civil proceedings correctly.

The structure of the article is as follows. First, it examines the legislative revision of the exclusive jurisdiction rule for legal persons and other organizations in Article 279(1) of *the CPL 2023*. This rule is compared with *Brussels I Recast 2012*, Article 24(2) (Section 2). Second, the article looks into the legislative revision of the exclusive jurisdiction rule concerning the validity of IPRs in Article 279(2) of *the CPL 2023*. This rule is compared with *Brussels I Recast 2012*, Article 24(4) (Section 3). Third, the article illustrates how the revised exclusive jurisdiction rule in *the CPL 2023* was applied in Chinese judicial practice in 2024 (Section 4). Lastly, the article refutes the view that expanding Chinese exclusive jurisdiction in *the CPL 2023* would be unfriendly to foreign companies or parties. It suggests that Chinese courts correctly apply the exclusive jurisdiction rule in international civil proceedings in two aspects (Section 5).

Regarding the case studies in Section 4, we have compiled nine cases from China Judgements Online,² Alpha Lawyer,³ and PKU Law databases.⁴ We have conducted a systematic retrieval process: inserting the cited article as "Article 279 in *the CPL 2023*" and limiting the search timeframe to January 1, 2024, through December 31, 2024. We have searched three databases, retrieving five cases from the China Judgments Online database, six from the Alpha Lawyer database, and three from the PKU Law databases. After reading the texts of these fourteen cases, we find nine cases that applied the newly revised Article 279 of *the CPL 2023* by Chinese courts.

2. New Category I: Civil Disputes of Legal Persons or Any Other Organizations

Article 279(1) of *the CPL 2023* confers exclusive jurisdiction over matters about civil disputes involving the establishment, dissolution, or liquidation of legal persons or other organizations within the territory of the PRC, as well as civil disputes concerning the validity of resolutions made by such legal persons or organizations. The legal entities encompassed by this jurisdictional extension include legal persons and other organizations as defined in the *Civil Code of the PRC 2020*. Legal persons are organizations capable of enjoying civil rights and engaging in civil juristic acts while also independently bearing civil liability as stipulated by law.⁵ Other organizations refer to entities lawfully established with specific organizational structures and property, yet do not possess legal person status. It includes sole proprietorships, partnerships, and professional service organizations without legal personality, among others.⁶

These four actions must fall under the exclusive jurisdiction of Chinese courts, partly due to the increasingly active foreign interactions of business entities in China (Hongyu Shen & Zaiyu Guo, 2023, pp.70, 74). Partly, the artificial

² *China Judgements Online*. Retrieved January 31, 2025, from <https://wenshu.court.gov.cn>.

³ *Alpha Lawyer*. Retrieved January 31, 2025, from <https://alphalawyer.cn/#/app/work-plat>.

⁴ *PKU Law*. Retrieved January 31, 2025, from <https://www.pkulaw.com>.

⁵ Article 57 of *the Civil Code of the PRC 2020*.

⁶ Article 102 of *the Civil Code of the PRC 2020*.

personality of legal entities and other organizations is derived from the recognition by national public authority and is closely related to the law of the place of registration, namely, the laws of China (Guan Feng et al., 2023). This expansion reflects the legislative intent to ensure that matters critical to the legal status and governance of entities registered in China fall exclusively under the jurisdiction of Chinese courts, thereby safeguarding the PRC's legal certainty and regulatory authority. It is considered an efficient and effective mechanism to protect the rights and interests of Chinese overseas corporations, compared with past Chinese legislative practices that did not provide such protection for Chinese overseas corporations. However, EU member states have widely adopted such protection for legal persons or other organizations by the rule of exclusive jurisdiction, influenced by Article 24(2) in *Brussels I Recast 2012*.

2.1 Four Actions

The first action under the expanded exclusive jurisdiction pertains to civil disputes over the establishment of a legal person or other organizations. In the context of Chinese law systems, the establishment of a legal person or an organization refers to the process of initiating a legal entity or organization and conferring upon its civil entity status (Liming Wang, 2023). This process involves a series of continuous preparatory acts, constituting the preparatory phase for its legal establishment (Liyan Hou, 2012).

Establishing a legal person shall be done by law. Where laws or administrative regulations stipulate that the establishment of a legal person requires approval from a relevant authority, these provisions must be adhered to.⁷ Using companies as an example, within the Chinese legal system, disputes regarding the establishment of a company often stem from both subjective and objective factors. Subjectively, initiators, such as company shareholders, may fail to meet their obligations, making the establishment of the legal entity unfeasible. In the case of a limited liability company, the shareholder is expected to take responsibility for the establishment being unfeasible.⁸ Objectively, actions taken during the establishment phase may violate the mandatory rules of the PRC, resulting in invalidity. For example, disputes may arise when shareholders fail to fulfil their commitments, undermining the legitimacy of the company's formation or when its establishment breaches legal requirements (Shuguan Zheng, 2011). By tackling these issues, *the CPL 2023* reinforces the regulatory framework for disputes related to the establishment of legal entities, reflecting legislative intent to ensure procedural fairness and uphold the integrity of the legal system.

As for other organizations, their establishment shall be registered under the law.⁹ There are two reasons for registration. On the one hand, with the numerous categories of different organizations, it is more efficient for the Chinese government to govern these entities. On the other hand, it becomes more convenient for third parties to ascertain the trading capacity, thereby protecting the security of transactions (Liming Wang, 2021, bk1). Thus, we concur with Professor Huang's perspective that the term 'establishment' should be interpreted as 'establishing a principal office' or, alternatively, 'registration' in China (Jie Huang, 2023).

The second action under the expanded exclusive jurisdiction pertains to disputes concerning the dissolution of a legal person or other organizations. By encompassing disputes over dissolution within exclusive jurisdiction, *the CPL 2023* ensures that disputes arising from the cessation of legal entities' operations are comprehensively addressed within the PRC's legal framework, safeguarding the orderly termination of organizational obligations and maintaining legal consistency.

The grounds for dissolution vary between a legal person and other organizations. For a legal person, at least four conditions can lead to dissolution: the term specified in the legal person's articles of association has expired, or a dissolution condition outlined in the articles has occurred; when the legal person's governing body passes a resolution to dissolve; the legal person must dissolve due to a merger or division; the legal person's business license or registration certificate has been legally revoked, or the legal person has been ordered to close or dissolve.¹⁰ Moreover, a company is considered a legal person, and the reasons for its dissolution in Article 229(1) of *the Company Law of the PRC 2024* are also stipulated by Article 69 of the *Civil Code of the PRC 2020*. Besides, regarding the amendment of *the Company Law of the PRC 2024*, the second paragraph of Article 229, which pertains to the publicity of the company's dissolution, has been added. For other organizations, the dissolution can occur under three specific conditions: upon the expiration of the term specified in its articles of association, or when any other cause for dissolution outlined in the articles arises; when the capital contributors or promoters

⁷ Article 58 of *the CPL 2023*.

⁸ Article 44(2) of *the Company Law of the PRC 2024*.

⁹ Article 103 of *the CPL 2023*.

¹⁰ Article 69 of *the Civil Code of the PRC 2020*.

decide to dissolve it; or when other legal circumstances mandate dissolution.¹¹

The third action pertains to disputes over the liquidation of a legal person or other organizations. In the Chinese legal system, liquidation is the process and procedure that occurs after the dissolution of a legal person or other organizations, involving the disposal of assets, the termination of various existing legal relationships, and the cessation of the legal personality of a legal person or other organizations (Tiantao Shi, 2018). The liquidation of legal persons includes post-dissolution liquidation,¹² liquidation procedures, the functions and responsibilities of the liquidation group,¹³ and the legal effects of liquidation.¹⁴ During the liquidation process, the rights of legal entities are restricted by laws and regulations to prevent interference with the interests of relevant creditors (Dexin Wang, 2022). Specifically, a legal person undergoing liquidation must not engage in any activities unrelated to the liquidation process.¹⁵ Thus, the liquidation group assumes the civil activity and civil litigation capacity of legal persons.¹⁶ Additionally, the liquidation of unincorporated organizations shall adhere to Chinese law.¹⁷

Whereas in the context of the *CPL 2021*, disputes arising from joint venture agreements do not prevent the parties from agreeing to submit such disputes to arbitration. Historically, before 2024, the Chinese courts have repeatedly rejected arguments that arbitral tribunals cannot decide on the distribution of liquidation assets.¹⁸ Therefore, in *the CPL 2023*, there is a question of whether disputes concerning the liquidation of PRC companies exclude party autonomy to refer such disputes to arbitration. We believe such disputes can be resolved through arbitration to respect party autonomy, like disputes arising from joint venture agreements.

The fourth action pertains to civil disputes regarding the validity of a resolution enacted by a legal entity or other organizations established within the territory of the PRC. A resolution by a legal person or an unincorporated association is considered valid if it adheres to the discussion methods and voting procedures prescribed by law or its articles of association.¹⁹ A resolution reflects the collective intent of a legal person or an organization, binding the entity and its shareholders while sometimes indirectly impacting creditors, workers, and other third parties (Feng Deng et al., 2018). Consequently, the validity of these resolutions holds significant implications for the stakeholders involved.

In the *Company Law of the PRC 2024*, the validity of resolutions is categorized into three types. The first type is the action to determine the invalidity of the resolution.²⁰ This category pertains to defects in the content of resolutions. Resolutions from shareholders' meetings or the board of directors shall be null and void if their content violates the laws or administrative regulations of the PRC. The second category is the action for determining the avoidance of resolutions.²¹ This type of resolution addresses defects in the procedures used to adopt it. However, there is one new exception. It pertains to situations where there are only minor defects in the procedures for convening meetings of the shareholders or the board of directors or in the manner of voting, which do not materially affect the resolution. In other words, Chinese courts do not have exclusive jurisdiction over disputes concerning minor defects that do not materially affect the validity of the resolution. The last type involves specific circumstances where a resolution is considered unestablished.²² For instance, the Company has not convened a meeting; the meeting does not vote on the matter of the resolution; the participants at the meeting or the voting rights held by the shareholders are not as per Company Law or Company bylaws; the voting result of the meeting does not reach the passing ratio stipulated in the Company Law or Company bylaws.

2.2 Comparative Study

In *Brussels I Recast 2012*, Article 24(2) established three types of exclusive jurisdiction: the validity of the

¹¹ Article 106 of the *Civil Code of the PRC 2020*.

¹² Article 70 of the *Civil Code of the PRC 2020*.

¹³ Article 71 of the *Civil Code of the PRC 2020*.

¹⁴ Article 72 of the *Civil Code of the PRC 2020*.

¹⁵ Article 72(1) of the *Civil Code of the PRC 2020*.

¹⁶ Article 234, Article 235 and Article 236 of the *Company Law of the PRC 2024*.

¹⁷ Article 107 of the *Civil Code of the PRC 2020*.

¹⁸ Shenzhen Intermediate People's Court, (2013) *shen zhong fa she wai zhong zi* No. 29. The Court declined to annul an arbitral award that issued directives concerning the liquidation process. Shanghai Second Intermediate People's Court, (2011) *hu er zhong min si (shang) che zi* No. s18. The Court held an award stipulating that the claimant in the arbitration was entitled to 35 percent of the residual assets of the joint venture company following its liquidation.

¹⁹ Article 134(2) of the *Civil Code of the PRC 2020*.

²⁰ Article 25 of the *Company Law of the PRC 2024*.

²¹ Article 26 of the *Company Law of the PRC 2024*.

²² Article 5 of the *Judicial Interpretation of Company Law (IV) 2017*.

constitution, the nullity or dissolution of companies or other legal entities or associations of natural or legal persons, and the validity of decisions made by their organs. The specific purpose of the rule is to prevent conflicting judgments concerning a company's existence or the validity of decisions made by its governing bodies.²³ Thus, they are interpreted strictly because they deprive the parties' ability to choose their preferred forum and, in some cases, compel them to appear before a court they did not select. Regarding *the CPL 2023*, Article 279(1) outlines four scenarios: the establishment, dissolution, liquidation, and validity of resolutions made by legal persons or other organizations. In this article, 'dissolution' and 'liquidation' are distinct terms. Dissolution and liquidation are two closely related legal concepts within Chinese law (Zhizhou Dai & Zhixing Liu, 2024).

Comparatively, Article 24(2) of *Brussels I Recast 2012* does not provide exclusive jurisdiction over the liquidation of legal persons or other organizations. However, in the context of the Brussels Regulation, the term 'dissolution' refers to the liquidation of a company. Nevertheless, Article 24(2) of *Brussels I Recast 2012* applies only if the company undergoing liquidation is solvent. If the company is insolvent, the provisions of *Brussels I Recast 2012* do not apply (Trevor C. Hartley, 2023, p.226, para 12.25). This dissolution initiates the process of terminating the company's existence, with its primary effect being the commencement of liquidation operations (Ana-Maria Lupulescu, 2019). Thus, the three types of exclusive jurisdiction (establishment, dissolution, and the validity of resolutions of legal persons or any other organizations), as stipulated in the Brussels 2012, Article 24(2), are equivalent to those in *the CPL 2023*, Article 279(1), which includes four types of exclusive jurisdiction (establishment, dissolution, liquidation, and the validity of resolutions of legal persons or any other organizations).

However, there is a significant difference. Article 279(1) of *the CPL 2023* adopts a combined legislative approach that includes enumeration and generalization. On the one hand, it explicitly enumerates four categories of disputes concerning the legal personality of legal persons and other organizations, with a particular focus on substantial state-owned enterprises in key industries and critical sectors such as military, energy, and infrastructure (Qisheng He, 2024). On the other hand, it employs the term 'etc.' to encompass analogous situations similar to those listed, granting Chinese courts the discretion to interpret and apply the provision to various disputes not explicitly enumerated. This approach balances precision with flexibility, ensuring clear legislative guidance while allowing for adaptability to novel or unforeseen circumstances. In contrast, *Brussels I Recast 2012*, Article 24(2), utilizes a legislative enumeration method. It includes a limited set of situations, specifically the validity of the constitution, the nullity or dissolution of companies or other legal entities or associations of natural or legal persons, or the validity of decisions made by their governing bodies.

3. New Category II: Civil Disputes over the Validity of IPRs

Article 279(2) of *the CPL 2023* confers exclusive jurisdiction over matters regarding the validity of IPRs granted within the territory of the PRC. Reviewing the complex three-step process for interpreting the exclusive jurisdiction of Chinese courts in past judicial practice is essential to grasp the simplification and convenience of this newly revised rule. A notable example is the case of *LG Display Co., Ltd. v. Tanaka Rong et al.*,²⁴ which illustrates the three-step approach taken by the Beijing Intellectual Property Court to interpret its jurisdiction. Firstly, the patent assignment contract dispute revolves around the patent rights attribution. The transfer of patent rights becomes effective only upon registration with the patent administration department under the State Council. Secondly, the choice-of-court agreement was considered partially invalid concerning Chinese patents. Consequently, the courts could not sufficiently protect the legitimate rights and interests of the parties involved. This invalidity arose from the lack of a mutual recognition and enforcement agreement between the PRC and South Korea. Since neither country has entered into such agreements nor established reciprocal recognition arrangements, South Korean judgments cannot be recognized by the courts of the PRC. Thirdly, the Court has jurisdiction over this dispute under Article 265 of the *CPL 2017* (now Article 276 of *the CPL 2023*), which governs special jurisdiction.

3.1 Legislative Intent and Provisions

This new provision effectively safeguards Chinese intellectual property amidst intense global competition in the dispute resolution market, fostering a development-friendly environment (Zihao Fan, 2023). Specifically, a Chinese plaintiff can initiate a civil lawsuit regarding the validity of IPRs granted within the territory of the PRC in Chinese courts with exclusive jurisdiction, irrespective of where the dispute arises or persists. Legal rules are believed to reflect a society's cultural preferences (Ralf Michaels, 2006). This new provision reflects the Chinese Government's attitude, enhancing the judicial protection system for IPRs to be fairer and more efficient,

²³ Jenard Report, [1979] OJ C59/29. 35

²⁴ Civil Judgment of Beijing Intellectual Property Court, (2016) *jing min chu* No. 1155.

particularly in jurisdictions with a scientific nature.²⁵ For instance, intellectual property judges in China's current system, particularly those serving in intellectual property divisions of various courts or in the recently established intellectual property courts, possess a high level of expertise and frequently have a technical background (Christopher Health et al., 2021). Moreover, this new provision is justified because the country's physically proximate courts are the most suitable venues to decide on the validity of IPRs, as this issue is legally most closely connected to their granting (Paul L.C. Torremans, 2024). Generally, registered IPRs are based on a grant from the sovereign state, which justifies the state of registration's assertion of exclusive jurisdiction over proceedings concerning their validity (Trevor C. Hartley, 2023, pp.228-229).

This new provision only pertains to civil disputes regarding the validity of IPRs granted within the territory of the PRC. It should be examined from three perspectives.

First, it pertains solely to civil disputes. It does not encompass administrative decisions made by relevant authorities concerning examining the validity of IPRs granted or remedies against such administrative decisions through administrative intellectual property litigation (Hongyu Shen & Zaiyu Guo, 2023, pp.73-74). For instance, patent invalidation, administrative disputes concerning the establishment of patent grants, and administrative disputes regarding the invalidity of trademarks in the context of trademark licensing and confirmation (Su Wang, 2023). All administrative appeals concerning the validity of IPRs are governed by Article 14 of *the Administrative Procedure Law of the PRC 2022*.

Secondly, disputes regarding the validity of IPRs granted outside the territory of the PRC should not be subject to exclusive jurisdiction as per Article 279(2). This aligns with the general principle of comity among courts. The refusal to exercise jurisdiction over the validity of IPRs granted without domestic government authorization is not due to any general obligation under public international law but rather represents a discretionary act of self-restraint, based on domestic rules of international procedural law. This is grounded in considering comity to the courts and the act of State doctrine (Ubertazzi Benedetta, 2011). Specifically, the granting, approval, or invalidation of registered intellectual property is considered an act of public authority, and only the state that granted the IPRs has the jurisdiction to adjudicate its validity. This approach aligns with the principle that only a decision in the country of registration will have an *erga omnes* effect, meaning it is binding on all parties (Ubertazzi Benedetta, 2012). In the PRC, public authorities play a significant role in examining and approving intellectual property applications. For instance, *the Patent Administration Department under the State Council* oversees the entire process for patents, including preliminary examination, publication of applications, substantive examination, and issuance of authorization.

Third, a civil dispute concerning the infringement of IPRs does not fall within the scope of exclusive jurisdiction. However, if the foreign defendant is domiciled within the territory of the PRC, the dispute may be brought before the court in the defendant's place of domicile.²⁶ Where the defendant does not have a domicile within the territory of the PRC, disputes concerning the infringement of IPRs may be brought before the courts of the location where the infringement occurred, per the rule of special jurisdiction in international civil procedure.²⁷ Since infringement and validity disputes are closely intertwined, treating them separately may lead to inconsistent outcomes, complicating the recognition and enforcement of judgments (Thalia Kruger, 2008). In the past, foreign courts could have jurisdiction over infringement and validity disputes. However, under revised Article 279(2) of *the CPL 2023*, foreign courts handling infringement proceedings must stay proceedings to allow the Chinese court to exercise exclusive jurisdiction over the validity issue.

3.2 Comparative Study

This new form of exclusive jurisdiction, adopted from the exclusive jurisdiction provisions in *Brussels I Recast 2012*, pertains to intellectual property under Article 24(4).²⁸ After conducting a comparative analysis, we identify two main differences between provisions. First, the scope of disputes covered differs. Under *the*

²⁵ Article 8 of *CPC Central Committee and State Council Issues Outline for Building a Strong Intellectual Property State (2021-2035)*. Retrieved January 6, 2025, from https://www.gov.cn/zhengce/2021-09/22/content_5638714.htm.

²⁶ Article 22 of *the CPL 2023*.

²⁷ Article 276(1) of *the CPL 2023* provides that "Where an action is instituted against a defendant without a domicile within the territory of the PRC concerning civil disputes except personal status relationship,, where the tort occurs may have jurisdiction over the action."

²⁸ Article 22(4) of *the Brussels Recast I (2012)* provides that "the following courts shall have exclusive jurisdiction, regardless of domicile: . . . (4) in proceedings concerned with the registration or validity of patents, trademarks, designs, or other similar rights required to be deposited or registered, irrespective of whether the issue is raised by way of an action or as a defence, the courts of the State bound by this Convention in which the deposit or registration has been applied for, has taken place or is, under the terms of a Community instrument or an international convention, deemed to have taken place."

CPL 2023, Article 279(2), exclusive jurisdiction is limited to civil disputes concerning the validity of IPRs. In contrast, *Brussels I Recast 2012*, Article 24(4), also regulates civil disputes related to the registration of intellectual property. Therefore, can we conclude that the exclusive jurisdiction of Chinese courts over intellectual property is narrower than that of EU courts? The answer is yes. In the Chinese legal system, while the registration of IPRs reflects the PRC government's role in overseeing changes to IPRs (Ping Su, 2011), it does not mean that the government determines the validity of all IPRs. The reason is that the registration system of IPRs in China mainly contains the transfer of intellectual property, licensing of intellectual property, and the pledging of property rights in intellectual property. However, the doctrine of 'taking effect upon registration' applies only to the transfer of patents and trademarks, and the pledging of property rights. Moreover, in Article 123 of *the Civil Code of the PRC 2020*, challenges to the validity of patents must, in the first instance, be submitted to *the Re-examination and Invalidation Department of the China National Intellectual Property Administration* (Christopher Health et al., 2021).

Second, the legislative technicalities differ. In *the CPL 2023*, Article 279(2), the term 'Intellectual Property' is used as a broad legal concept, unlike the specific categories—such as 'patents, trademarks, designs, or other similar rights'—outlined in *Brussels I Recast 2012*, Article 24(4). As a result, it is necessary to clarify the scope of 'Intellectual Property' within the Chinese legal system. In the PRC, intellectual property includes works, patents (inventions, utility models, and design patents), trademarks, geographical indications, trade secrets, layout designs of integrated circuits, new plant varieties, and other subject matters as provided by law (Liming Wang, 2021, bk2). However, disputes over the validity of IPRs primarily concern patents and trademarks, as these rights undergo substantive examination by the PRC's intellectual property administrative departments during the application process (Qian Wang, 2021). In other words, this provision does not apply to claims involving unregistered IPRs, such as copyrights or passing off. This approach aligns with the lack of exclusive jurisdiction rules for unregistered IPRs in jurisdictions like the EU Member States, the USA, Australia, South Korea, and Japan (Ubertazzi Benedetta, 2012, pp.62-68).

4. Judicial Application Cases in 2024

This article examines nine cases that applied Article 279 on exclusive jurisdiction under *the CPL 2023*. However, this section will focus on seven of these cases. The reason is that in the cases of *Da Co. v. Shun Co.*,²⁹ and *Rong Co. v. Mao Co.*,³⁰ the Chinese courts intended to apply Article 289 of *the CPL 2023*, but in *the CPL 2021*, the corresponding provision was Article 279, which pertains to the application for preservation to an arbitration institution in the PRC. The court did not update the provision number in the judgments, resulting in a miscitation of Article 279 under *the CPL 2023*. For example, in the case of *Da Co. v. Shun Co.*, the applicant, Shanghai Da Co., applied to a Shanghai Arbitration Commission for property preservation, requesting the freezing of the respondent Wuxi Shun Co.'s bank deposits or the seizure of equivalent property. After examination, the court provided the required guarantee. Consequently, under Article 279 of *the CPL 2021*, the court ruled: freeze the respondent Wuxi Shun Co.'s bank deposits or seize other property of equivalent value.³¹

In two of the seven cases, the courts applied Article 279 of *the CPL 2023* to affirm their exclusive jurisdiction over the disputes. As Table 1 shows, two cases pertain to disputes over legal persons (4.1): one concerns the dissolution of a legal entity and the other its liquidation.

Table 1. The case that Chinese courts have exclusive jurisdiction

Categories of exclusive jurisdiction	Cases' name	The disputes in the cases	The court of exclusive jurisdiction
Civil disputes of legal persons (4.1)	<i>Nanchang Co. v. Ruixi Co.</i>	The dissolution of the legal person	The Jiangxi Province Nanchang Intermediate People's Court
	<i>Pan v. X Labor Co.</i>	The liquidation of the legal person	The Shanghai Third Intermediate People's Court

²⁹ A non-suit Property Preservation Review Decision, Civil Ruling of Wuxi Huishan Primary People's Court, Jiangsu, (2024) *su* 0206 *cai bao* No. 2009.

³⁰ A lawsuit on the objection to enforcement raised by a person not involved. Civil Ruling of Daqing Intermediate People's Court, Heilongjiang, (2024) *hei* 06 *min zhong* No. 691.

³¹ Civil Ruling of Wuxi Huishan Primary People's Court, Jiangsu, (2024) *su* 0206 *cai bao* No. 2009.

Nevertheless, in five cases, the judicial authorities determined they lacked the authority to exercise exclusive jurisdiction. As illustrated in Table 2, there are three distinct criteria for their dismissal.

Table 2. The case that Chinese courts lacked exclusive jurisdiction

Rejected grounds of Chinese courts	Cases' name	Issues of cases
Civil disputes are excluded from the exclusive jurisdiction rule (4.2)	<i>Longhao Co. v. Changyue Co.</i>	A civil loan
	<i>Wei v. Lv</i>	Commission agreements
	<i>M Co. v. Yantai Hong Co</i>	Trade secrets
The priority of a valid arbitration agreement over the exclusive jurisdiction rule (4.3)	<i>X Gongmao Co. v. Hong Kong Y Fazhan Co</i>	A confirmation of the validity of the arbitration agreement
The civil dispute lacks foreign elements (4.4)	<i>Xiangyin Du Street Office v. Shun Pawnbrokers Co.</i>	A private lending

4.1 Civil Disputes Over the New Category of Legal Persons

In two cases, the Chinese courts asserted exclusive jurisdiction under Article 279 of *the CPL 2023*. In *Nanchang Co. v. Ruixi Co.*, the dispute involved the dissolution of a legal person, while in *Pan v. X Labor Co.*, the dispute concerned the liquidation of a legal person.

4.1.1 The Dissolution of a Company

The case of *Nanchang Co. v. Ruixi Co.* involves the exclusive jurisdiction of the Chinese court over a company's dissolution. In this case, the plaintiff, Nanchang Co., sought to dissolve Ruixi Co. of the PRC, which was jointly established with the third-party SRL of Italy. Nanchang Co. held 44% of the shares, while SRL held 56%. Since 2020, Nanchang Co. has been unable to contact SRL or its staff, preventing Ruixi Co. from making valid resolutions at the board of directors' and shareholders' meetings. As a result, Ruixi Co. ceased operations, and its business license was revoked on June 28, 2022. The dissolution of Ruixi Co. is based on the revocation of its business license in 2022, which aligns with the fourth ground for dissolution outlined in Article 229 of *the Company Law of the PRC 2024*: 'its business license has been revoked, or it is ordered to close down or be revoked according to the law.'

Undoubtedly, the Nanchang Intermediate People's Court, Jiangxi, had exclusive jurisdiction over this case. However, the issue in this case is that the court did not explicitly mention its exclusive jurisdiction over the dispute concerning the company's dissolution in the judicial reasoning section. Instead, it only listed Article 279 of *the CPL 2023*, regarding exclusive jurisdiction, in the judicial basis section.³² Fortunately, in this case, there was no dispute between the parties regarding the Court's exclusive jurisdiction. However, suppose a jurisdictional disagreement arises over the court's exclusive jurisdiction in the future. The court must explicitly declare its exclusive jurisdiction in the judicial reasoning section, by Article 279 of *the CPL 2023*. Furthermore, in the result of the judgment, the court should also reference 'Article 279 of *the CPL 2023*.'

4.1.2 The Liquidation of a Company

The case of *Pan v. X Labor Co.* involves the exclusive jurisdiction of the Chinese court over the liquidation of a legal person. This case arose from a dispute over a decoration contract between the plaintiff, Pan, a Chinese dispatched laborer, and the defendant, X Labor Co., a Chinese dispatching agency, along with Y Decoration Co., a foreign user enterprise. Labour dispatch involves three parties: dispatched work agencies, end users, and labourers. This form of atypical employment is extremely popular in China. The workers sign employment

³² In a Chinese civil judgment or ruling, the Chinese court will write in five necessary sections: the beginning part of the parties' information; the second part of the facts and evidence in the cases; the third part of the judicial reasoning; the fourth part of the result of the judgment; the final part of the judge's signature, the date and the seal of the court. All articles of laws and regulations will be cited in the part of judicial reasoning and the result of the judgment. As for the former part of judicial reasoning, the Chinese court will cite the laws and regulations to solve the disputes based on the facts and the evidence of the case. As for the later part of the result of the judgment, the Chinese court lists the laws and regulations used in the part of judicial reasoning to decision.

contracts with the Dispatched work agency (Antoine Boquen, 2024). In *the Pan v. X Labor Co. case*, the plaintiff, Pan, filed a lawsuit over a decoration contract dispute, requesting that the defendants pay his wages for the decoration work. However, Y Decoration Co. submitted a written opinion to the court, arguing that the Shanghai Third Intermediate People's Court had issued a ruling which accepted the case for the bankruptcy and liquidation of Y Decoration Co.

Huairou Primary People's Court, Beijing, accepted the case. It ruled that the case should be transferred to the Shanghai Third Intermediate People's Court, which held exclusive jurisdiction.³³ The court held that:

“According to Article 21 of the *Enterprise Bankruptcy Law of the PRC* (2006), 'After the people's court accepts an application for bankruptcy, a civil action against the debtor can only be filed with the said people's court.' Additionally, Article 47(1) of the *Provisions of the Supreme People's Court on Several Issues Concerning the Application of the Enterprise Bankruptcy Law of the PRC* (II) states: 'After the people's court accepts the bankruptcy application, civil litigation cases concerning the debtor brought by the parties shall be subject to the jurisdiction of the people's court accepting the bankruptcy application, per Article 21 of the *Enterprise Bankruptcy Law* (2006).' In this case, the Shanghai Third Intermediate People's Court ruled on April 4, 2023, to accept the bankruptcy liquidation application of Z Building Materials Co. against X Decoration Co. Therefore, this case falls under the jurisdiction of the Shanghai Third Intermediate People's Court.”

According to the four Articles, the Shanghai Third Intermediate People's Court has exclusive jurisdiction over the case. However, based solely on Article 279 of *the CPL 2023*, it is not immediately clear which Chinese court has jurisdiction. The feature of exclusive jurisdiction in Article 279 of *the CPL 2023* has one key aspect: it grants jurisdiction to Chinese courts while depriving foreign courts of jurisdiction they might otherwise have had. In other words, in a foreign civil dispute related to the liquidation of a legal person, Chinese courts have exclusive jurisdiction under Article 279(1) of *the CPL 2023*. As for which specific Chinese court has jurisdiction, this must be determined by other domestic jurisdictional rules.

4.2 Civil Disputes Excluded from the Exclusive Jurisdiction Rule

4.2.1 Civil Disputes of a Contractual Nature

In the *Longhao Co. v. Changyue Co.* case,³⁴ the Chinese court noted that in a civil dispute of a contractual nature, jurisdiction should not be determined based on the provisions of foreign-related exclusive jurisdiction. However, Longhao Co. maintained that the trial court had exclusive jurisdiction. The case of *Longhao Co. v. Changyue Co.* involved a civil loan dispute between a Chinese company, a Hong Kong company, and a British Virgin Islands company. One of the key issues was whether the trial court had exclusive jurisdiction. In the initial ruling, Yueyang Intermediate People's Court, Hunan, dismissed the suit due to a lack of jurisdiction.³⁵ The court stated that:

“The claim to confirm the shareholder qualification of Changyue Company falls under special rather than exclusive jurisdiction. Additionally, the parties may select a court connected to the place of the dispute through a choice-of-court agreement.”

In the second instance, the appellant, Longhao Co., maintained that the Yueyang Intermediate People's Court, Hunan, had exclusive jurisdiction over the case, arguing that the relevant facts occurred in Yueyang. Additionally, the disputed project involved the construction of a highway, which, according to Longhao Co., affected the sovereign security of the PRC and the public interest of the PRC's society. However, although the Hunan High People's Court overturned the trial court's ruling, it directed another intermediate court to hear the case.³⁶ The court stated the following:

“The dispute between Longhao Co. and Poly Co. is a civil dispute of a contractual nature, arising from the performance of the agreement rather than corporate actions. Therefore, jurisdiction should be determined based on the rules governing contract disputes. Additionally, the trial court was not designated as the choice of court by agreement, meaning it lacks jurisdiction over the cooperation dispute between Longhao Co. and Poly Co. However, from the logical reasoning of the judgment, the cooperation dispute between the two parties serves as a prerequisite for the trial court to hear the shareholder qualification confirmation dispute. ... Therefore, dismissing the action is disproportionate.”

³³ Civil Ruling of Huairou Primary People's Court, Beijing, (2024) *jing* 0116 *min chu* No. 5479.

³⁴ Civil Ruling of Hunan High People's Court, (2024) *xiang min zhong* No. 166.

³⁵ Civil Ruling of Yueyang Intermediate People's Court, Hunan, (2023) *xiang* 06 *min chu* No 18.

³⁶ Civil Ruling of Hunan High People's Court, (2024) *xiang min zhong* No. 166.

After analyzation, we can conclude that although Chinese legislators use a combined legislative approach—incorporating enumeration and generalization—to expand exclusive jurisdiction over legal persons and other organizations, in judicial practice, Article 279(1) of *the CPL 2023* was not applied to disputes concerning the performance of agreements between two companies when such disputes did not involve the actions of companies established within the territory of the PRC. Meanwhile, the exclusive jurisdiction of Chinese courts over corporate matters remains limited to four specific areas: the establishment, dissolution, liquidation, and validity of resolutions made by such legal persons or organizations.

4.2.2 Civil Disputes over Commission Agreements

In the case of *Wei v. Lv*,³⁷ the plaintiff, Wei, a director of Nanqu Dental Hospital, filed a lawsuit in Haidian Primary People's Court, Beijing, seeking payment of entrusted management remuneration and other fees from the defendant, Lv, a Grenadian national and an employee of a dental vendor. The defendant, Lv, raised a jurisdictional objection based on the doctrine of *forum non conveniens*, arguing that the Chinese court was not the appropriate forum. In his defense, Lv asserted that the case does not fall within the scope of Article 279 on exclusive jurisdiction under *the CPL 2023* and does not involve the PRC's sovereignty, security, or public interests. Haidian Primary People's Court, Beijing, upheld Lv's jurisdictional objection based on *forum non conveniens*, advising Wei to pursue the lawsuit in a more appropriate foreign court. The court stated the following:

“In this case, there was no choice-of-court agreement between the plaintiff, Wei, and the defendant, Lv. The dispute does not fall within China's exclusive jurisdiction rule. The commission agreement between Wei and Lv did not involve the interests of the PRC, its citizens, legal persons, or other organizations. Additionally, the key facts of the case did not occur within the territory of the PRC, and the primary evidence supporting Wei's claims was obtained outside China. Moreover, the original evidence and its physical carrier are outside the PRC. As a result, the Chinese court would face significant challenges in hearing the case, determining the facts, and applying the relevant law. Given that a foreign court has jurisdiction and provides a more suitable forum, it is more convenient for the case to be heard there.”

In the case of *Wei v. Lv*, both the defendant and Haidian Primary People's Court, Beijing, correctly applied Article 279 of *the CPL 2023*, emphasizing its legislative intent: to protect the PRC's sovereignty, security, and public interest. However, it is important to note that the application of the exclusive jurisdiction rule is strictly limited to the three types of disputes explicitly regulated under Article 279 of *the CPL 2023*. Even if other civil disputes genuinely involve the interests of the PRC's sovereignty, security, or public welfare, Chinese courts cannot automatically assert exclusive jurisdiction unless the dispute falls within the specific three categories outlined in the provision.

Taking *Wei v. Lv* as an example, if the commission agreement between the parties involved issues related to the PRC's sovereignty, security, or public interest, would the Chinese court have exclusive jurisdiction under Article 279 of *the CPL 2023*? The answer is no. The fundamental purpose of exclusive jurisdiction is to safeguard state interests, not to serve as a mechanism for individual protection. Therefore, the types of civil disputes subject to exclusive jurisdiction must be explicitly defined within the rule to ensure clarity and proper legal application (Trevor C. Hartley, 2023, p.220, para.12.06).

4.2.3 Civil Disputes over Trade Secrets

*M Co. v. Yantai Hong Co.*³⁸ is similar to the above-discussed *Wei v. Lv* for applying Article 279 of *the CPL 2023*. Specifically, in both cases, the parties raised a jurisdictional objection, arguing that the Chinese court was a *forum non conveniens*. The exclusive jurisdiction rule serves as the third requirement for determining *forum non conveniens*, as Article 282 of *the CPL 2023* explicitly states that 'cases not under the exclusive jurisdiction of the people's courts' may be considered for dismissal on this ground.

M Co. v. Yantai Hong Co. involves a dispute concerning business defamation. The appellant, M Co. (the defendant in the first instance), domiciled in California, USA, filed a jurisdictional objection with the Shandong High People's Court to overturn the initial civil ruling.³⁹ Subsequently, the appellant, M Co., sought to have the lawsuit brought by the appellee (the plaintiff in the first instance), Yantai Hong Co., dismissed. M Co. argued that the case should be decided under Article 282 of *the CPL 2023*, applying the doctrine of *forum non conveniens*. According to M Co., the case met all five requirements in Article 282. Regarding the third requirement, M Co. specifically asserted that the dispute did not fall within China's exclusive jurisdiction. However, the appellee, Yantai Hong Co.,

³⁷ Civil Ruling of Haidian Primary People's Court, Beijing, (2023) *jing* 0108 *min chu* No. 44612.

³⁸ Civil Ruling of Shandong High People's Court, (2024) *lu min xia zhong* No. 73.

³⁹ Civil Ruling of Yantai Intermediate People's Court, Shandong, (2023) *lu* 06 *min chu* No. 170.

countered that the first-instance court had jurisdiction over the case as it was the court where the alleged infringement occurred.

In its final ruling, Shandong High People's Court dismissed the jurisdictional objection raised by the appellant, M Co., and affirmed that the first-instance court had jurisdiction over the case.⁴⁰ Based on the facts of the case, this decision is justified.⁴¹ However, there is a critical error in applying the domestic jurisdiction rules for torts under Article 29 of *the CPL 2023*, and in interpreting four other related laws, in determining the jurisdiction over a foreign-related tort dispute. The appellant, M Co., is domiciled in California, so this case is foreign-related. Therefore, the Court should apply Article 276(1) of *the CPL 2023*, which addresses the special jurisdiction for foreign-related torts, rather than the domestic jurisdiction rules for torts outlined in Article 29 of *the CPL 2023*.

4.3 *The Priority of Valid Arbitration Agreement over the Exclusive Jurisdiction Rule*

The case of *X Gongmao Co. v. Hong Kong Y Fazhan Co.* concerns the exclusive jurisdiction of the Chinese court over civil disputes involving joint venture contracts. In 1992, the applicant, X Gongmao Co., and the respondent, Hong Kong Y Fazhan Co., agreed to establish Z Wenhua Co., a Sino-foreign joint venture. In 2022, the Chinese D Primary Court accepted the case for the compulsory liquidation of Z Wenhua Co. and appointed a liquidation service company to handle the process. In 2024, the China International Economic and Trade Arbitration Commission (CIETAC) accepted a dispute arising from the Sino-foreign equity joint venture contract.

In June 2024, X Gongmao Co. applied to Beijing No. 4 Intermediate People's Court to confirm the invalidity of the arbitration agreement in the Sino-foreign equity joint venture contract signed with Hong Kong Y Fazhan Co. X Gongmao Co. argued that Chinese courts have exclusive jurisdiction over disputes related to the Sino-foreign equity joint venture contract, based on Article 246 of *the CPL 2021* (now Article 279(3) of *the CPL 2023*). Furthermore, since Z Wenhua Co. is still in the liquidation period, the Chinese D Primary Court, which is handling the liquidation of Z Wenhua Co., should have jurisdiction over the disputes arising from this Sino-foreign joint venture contract. Therefore, the arbitration clause in the contract should be deemed invalid.

However, the respondent, Hong Kong Y Fazhan Co., argued that the arbitration clause in the Sino-foreign joint venture contract was valid. The Beijing No. 4 Intermediate People's Court ultimately dismissed X Gongmao Co.'s application to invalidate the arbitration clause in the Sino-foreign joint venture contract.⁴² The court held that:

“Firstly, Article 279(3) of *the CPL 2023* stipulates that disputes involving Sino-foreign equity joint venture contracts fall under the exclusive jurisdiction of Chinese courts, which limits the jurisdiction of foreign courts. However, arbitration and litigation are parallel means of dispute resolution, and as such, the exclusive jurisdiction rule does not preclude the parties from agreeing to arbitration to resolve disputes. Therefore, the arbitration clause in the Sino-foreign joint venture contract did not violate any mandatory legal provisions.

Moreover, Article 21 of the *Enterprise Bankruptcy Law of the PRC 2021* specifies that 'after the People's Court accepts an application for bankruptcy, a civil action against the debtor can only be filed with the said People's Court,' establishing centralized jurisdiction over civil cases related to bankruptcy enterprises.⁴³ However, this centralized jurisdiction does not extend to arbitration cases related to bankruptcy enterprises. Additionally, Z Wenhua Co. was not a party to the case involving the arbitration agreement.

In conclusion, it was insufficient to invalidate the arbitration clause at this stage based on the reasons mentioned above.”

In this case, Beijing No. 4 Intermediate People's Court rightly held that the exclusive jurisdiction provision over

⁴⁰ Civil Ruling of Shandong High People's Court, (2024) *lu min xia zhong* No. 73.

⁴¹ In this case, the infringement claimed by Yantai H Co. that M Co., S Co, Xue Mou, Wang Mou, etc. have commercially defamed it through official websites, WeChat, etc. Yantai Hong Co. submitted relevant evidence, including the translated and disseminated contents of M Co's announcement in China, thereby spreading damage to the goodwill of Yantai Hong Co. This case involves an act of information network infringement. The underlying facts of the dispute occurred within the territory of the PRC. In addition, the results of this infringement occurred within the territory of the PRC. Yantai Hong Co., as an infringer, has its domicile in Yantai City, Shandong Province, which is the place where the results of the infringement occurred. Based on the amount of the proceeding in this case, the factual and legal basis for Yantai Hong Co. to file a lawsuit in the court of first instance in the place where the results of the infringement occurred.

⁴² Civil Ruling of Beijing No. 4 Intermediate People's Court, (2024) *jing 04 min te* No 758.

⁴³ In Chinese civil procedure law, 'centralized jurisdiction' (*jizhong guanxia*) refers to a collection of provisions and principles regarding jurisdiction, as outlined in Article 4 of the Supreme People's Court Provisions on Several Issues Concerning the Jurisdiction of Foreign-Related Civil and Commercial Cases 2022. This allows higher courts to designate certain courts to exercise cross-regional jurisdiction over foreign-related civil and commercial cases.

Sino-foreign joint venture contracts does not preclude the parties from choosing arbitration to resolve their disputes. There are two main reasons for this. First, in the Chinese civil law system, arbitration and litigation are parallel dispute resolution methods, as reflected in the provisions of *the Civil Code of the PRC 2020*.⁴⁴ For example, Article 147 of *the Civil Code* states: 'For a civil juristic act performed based on a substantial misunderstanding, the actor has the right to request a people's court or an arbitral institution to revoke such an act.' Furthermore, in civil disputes involving foreign parties who have agreed to an arbitration clause, submitting the matter to arbitration takes precedence over initiating court proceedings.⁴⁵

4.4 The Requirement of Foreign Elements in the Exclusive Jurisdiction Rule

In *Xiangyin Du Street Office v. Shun Pawnbrokers Co.*,⁴⁶ the appellant challenged the trial court's jurisdiction, arguing that it had exclusive jurisdiction over the case. However, the appellate court rejected this claim. This case involved a dispute over private lending. The appellant (the defendant in the first instance), Xiangyin Du Street Office, argued that the lawsuit filed by the plaintiff, Shun Pawnbrokers Co., in the first instance concerned the liquidation of a legal person and the validity of a legal person's resolution. Therefore, according to Article 279 of *the CPL 2023*, the trial court lacked jurisdiction over the case.

At first glance, the appellant's argument appeared well-founded. However, it overlooked a crucial requirement for exclusive jurisdiction—civil disputes must involve foreign elements. In its ruling, Hengyang Intermediate People's Court, Hunan, dismissed Xiangyin Du Street Office's appeal on the grounds that the civil dispute lacked foreign factors. The court stated as follows:

"Article 279 of *the CPL 2023* applies to foreign-related civil proceedings. However, since this case lacks any foreign-related elements, it does not fall under the scope of exclusive jurisdiction as stipulated in Article 279 of *the CPL 2023*."

In *the CPL 2023*, domestic exclusive jurisdiction is stipulated in Article 34, covering disputes over immovable property, disputes arising from port operations, and disputes over inheritances. Regarding the relationship between foreign-related exclusive jurisdiction and domestic exclusive jurisdiction, Professor Tang argues that these three kinds of domestic exclusive jurisdiction should also be included within the foreign-related exclusive jurisdiction, based on the principle that 'the general is contained within the particular' (Weijian Tang, 2022).

In this article, we slightly disagree with Professor Tang's view. The fundamental flaw in his argument lies in conflating the domestic venue rule with international exclusive jurisdiction. The functions of these two types of exclusive jurisdiction differ significantly. Under Article 279, which governs foreign-related exclusive jurisdiction, Chinese legislators granted Chinese courts exclusive jurisdiction over three kinds of foreign civil disputes but did not designate a particular Chinese court to hear them. In contrast, Article 34, which establishes domestic exclusive jurisdiction, explicitly assigns the responsibility to a specific Chinese court to adjudicate the case. This distinction underscores the difference in function between the two jurisdictional rules.

5. Conclusion and Recommendations

After analyzing the revised exclusive jurisdiction rule under Article 279 of *the CPL 2023*, comparing it with Article 24 of *Brussels I Recast 2012*, and reviewing nine cases from Chinese courts in 2024 that applied this rule, our study concludes that China's newly revised two categories of civil disputes in the exclusive jurisdiction rule are legal transplants rather than flawed analogies. Consequently, concerns that the expansion of China's exclusive jurisdiction is unfriendly to foreign companies or parties may be overstated.

In this article, we have demonstrated that not only does the Chinese legislation on exclusive jurisdiction draw inspiration from Article 24 of *Brussels I Recast 2012*, but Chinese courts also strictly interpret the civil disputes covered under exclusive jurisdiction. Nevertheless, we offer three suggestions for Chinese courts to apply Article 279 of *the CPL 2023* correctly. The first suggestion is that Chinese courts emphasize the foreign elements before applying exclusive or other jurisdiction rules in international civil proceedings. The second suggestion is that Chinese courts explain their obligation to exercise exclusive jurisdiction over disputes in the judicial reasoning section and explicitly cite Article 279 of *the CPL 2023* as part of the judgment's result.

⁴⁴ Article 147, Article 148, Article 149, Article 150, Article 151, Article 533, Article 565, Article 580, Article 585 of *the Civil Code of the PRC 2020*.

⁴⁵ Article 288(2) of *the CPL 2023*.

⁴⁶ Civil Ruling of Hengyang Intermediate People's Court, Hunan, (2024) *xiang* 04 *min xia zhong* No. 98.

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