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Brand Owners' Response Measures in Hotel Tort Cases: From the Perspective of Two Exoneration Cases Involving Brand Owners

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The author has recently represented the brand owner as a co-defendant in two hotel tort cases. In both matters, the author acted for the brand owner. One case arose from an unlawful entry and assault on a guest by a third party using the hotel's master access card. The other involved a guest who suffered injuries after a freestanding bathtub inside the guest room tipped over because it was not secured. Through trial or mediation, both cases achieved the intended litigation outcome: the brand owner was not held liable for substantive compensatory damages. Drawing on these two cases, this article sorts out the scope of liability for brand owners, the reasons why they are drawn into litigation, and judicial considerations in hotel tort disputes, and puts forward corresponding response strategies.

I. Case Overview

In the first case, the plaintiff was assaulted after an intruder gained unlawful entry to the guest room using a master access card while the plaintiff was staying at the hotel. The plaintiff sued the direct tortfeasor, the hotel operator and the brand owner jointly, seeking joint or supplementary compensation as well as a public apology from the brand owner. The core issue was whether the brand owner owed a supervisory duty over the hotel's internal master card management and staff conduct. Upon hearing, the court found that the standards supplied by the brand owner covered only hardware, design and system specifications, and did not extend to internal operational matters such as master card administration. In addition, the hotel operator had incorporated the brand name into its business name without authorization, and the brand owner reserved its rights to pursue trademark infringement. The case was finally resolved by mediation. The direct tortfeasor paid compensation to the plaintiff and issued a separate letter of apology, and the brand owner bore no compensation liability whatsoever.

In the second case, the plaintiff was injured when an unsecured freestanding bathtub in the guest room tipped over during the stay. The plaintiff claimed joint damages against the hotel operator and the brand owner. The key dispute was whether the brand owner qualified as an "operator" or "manager" under Article 1198 of the *Civil Code of the People's Republic of China* (hereinafter the *Civil Code*), and whether the brand licensing arrangement had a causal link to the harm sustained. The court held that the brand owner had not participated in the procurement, installation or day-to-day maintenance of the bathtub and was therefore not a safety guarantor. Moreover, prior to the accident, the brand owner had issued a breach notice to the hotel operator, pointing out that the hotel failed to satisfy opening requirements and ordering it to cease operations. The brand owner had thus performed reasonable notification and oversight obligations, breaking the causal chain between the brand licence and the injury. The court ultimately dismissed all claims against the brand owner.

II. Definition and Typical Scenarios of Hotel Tort Cases

Hotel tort cases generally refer to civil compensation claims brought by guests, visitors or third parties who suffer personal injury or property loss on hotel premises due to defective facilities, employee misconduct, management lapses or public safety incidents, against the hotel operator and other potentially liable parties. Under a franchise or brand licensing model, plaintiffs often join the brand owner as a defendant based on brand reliance and apparent association. Primary statutory authorities for such claims include Article 1198 of the *Civil Code* (safety guarantee obligation), Article 1165 (fault liability principle), Article 1191 (employer liability) and Article 1168 (joint tort).

Based on the two cases above and practical experience, typical hotel tort scenarios fall into five categories: personal injury caused by defective hotel facilities or hardware (e.g. unsecured bathtubs or shower fixtures, inadequate anti-slip measures, toppling furniture, elevator malfunctions); torts committed by hotel employees or managers (e.g. assault, indecent assault, theft of guests' property); food safety or public health incidents (e.g. food poisoning from hotel catering, allergic reactions caused by linen sanitation); public safety incidents involving fire control or public security (e.g. fires, theft, violent harm by third parties); and non-compliant or high-risk operations by franchisees (e.g. commencing business before meeting opening conditions, unapproved change of operator, failure to procure required insurance).

III. Reasons for Joinder of Brand Owners and Judicial Considerations

(A) Main Reasons Why Brand Owners Are Drawn into Litigation

Brand owners may be sued even where they do not operate the hotel directly. This usually results from a confluence of factors: blurred outward appearance of legal relationships, liability premised on consumer reliance, a tendency to impose liability where profit is received, overbroad interpretation of supervisory duties, and improper use of the brand by franchisees. The principal factors are as follows:

1. Confused outward appearance of legal relationships. Franchisees use the brand name and logo extensively in business registration, marketing, OTA platforms and hotel signage. Consumers struggle to distinguish the brand owner from the actual operator, creating an impression of apparent operation.

2. Liability based on consumer reliance. Guests choose the hotel because they trust the brand, and naturally hold the brand owner accountable as an endorser once harm occurs.

3. Profit-based attribution of liability. Plaintiffs frequently argue that the brand owner receives franchise fees, brand royalties and management charges, so reciprocity of rights and obligations requires the brand owner to share liability.

4. Overgeneralized supervisory duties. Some judicial interpretations treat the brand owner's standard-setting, quality oversight and annual audits as a comprehensive duty to control specific operational acts and staff conduct.

5. Improper brand use by franchisees. Certain franchisees register the brand name as their enterprise name without consent, or use descriptions such as "directly operated" or "group-managed" in promotions, further reinforcing the apparent connection between the brand owner and the actual operator.

(B) Core Judicial Considerations

When hearing tort claims involving hotel brand owners, courts typically examine the following core questions:

1. Whether the brand owner is a safety guarantor. Under Article 1198 of the *Civil Code*,

safety guarantee obligations rest on operators, managers or organizers of mass activities. A brand owner will generally not be treated as a safety guarantor if it does not participate in day-to-day hotel operations, personnel management, or facility procurement and maintenance.

2. Whether there is a causal link between the brand owner's conduct and the harm. Courts assess whether the brand owner's standard-setting and inspection activities are legally causative of the loss. Where the brand owner previously sent a rectification or shutdown notice, it may be found to have discharged reasonable notification obligations, severing the causal chain.

3. Whether the brand owner actually participates in operation or exercises substantive control. If the brand owner exercises substantive control over staffing, finance, procurement and daily operations, it may be deemed a co-operator and subject to joint liability.

4. Whether the brand owner derives benefits from the operation and the alignment between benefit and liability. Receipt of franchise fees alone does not automatically trigger liability, but courts may treat it as one factor for assessing the economic relationship between the parties.

5. Whether there is concerted intent or conduct amounting to joint tort. If the brand owner shares a joint tortious intent with the hotel, or its conduct directly contributes to the injury, it may be held liable under joint tort principles.

As demonstrated by the outcomes of the two cases above, courts assess brand owner liability by examining contractual arrangements, the degree of actual involvement, causation, and whether the brand owner performed reasonable notification and oversight duties. A brand owner who adduces satisfactory evidence on these points stands a good chance of being dismissed from the specific tort claim.

IV. Conclusion

Brand expansion by hotel groups must go hand in hand with compliance governance. While benefiting from the scale advantages of franchising and brand licensing, brand owners must pay close attention to liability boundaries in tort litigation. Through carefully drafted

contracts, clear brand standards, complete compliance documentation and timely enforcement actions, brand owners can isolate risks in advance and mount defensible arguments when disputes arise. The core of the response framework summarized in this article lies in strictly separating **brand licensing** from **actual operation**, and presenting systematic evidence in litigation around party status, causation and performance of supervisory obligations, so as to protect the legitimate rights and interests of the brand owner.

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