

# **Regulations on the Implementation of the Trademark Law of the People's Republic of China (as revised for the second time by the State Council on July 15, 1993)**

## **CHAPTER I: GENERAL PROVISIONS**

**Article 1:** These Rules are formulated in accordance with the provisions of Article 42 of the Trademark Law of the People's Republic of China (hereinafter referred to as the "Trademark Law").

**Article 2:** Applicants for trademark registration must be enterprises, institutions, social organizations, individual industrialists or businessmen or partnerships of individuals that are formed in accordance with the law, or foreign nationals or foreign enterprises that conform to the provisions of Article 9 of the Trademark Law.

The provisions of these Rules about trademarks of goods are applicable to trademarks of services.

**Article 3:** In applying for trademark registration, registration of assignments, registration of renewals, the change of name or address of a registrant, the replacement of a Trademark Registration Certificate or other related matters, the applicants may entrust a trademark agency authorized by the State Administration for Industry and Commerce to represent them, and may also perform the application formalities directly by themselves.

When foreign nationals or foreign enterprises wish to apply in China for trademark registration and the handling of other trademark matters, they shall entrust a trademark agency appointed by the State Administration for Industry and Commerce to represent them.

The international registration of trademarks shall be done in accordance with the Madrid Agreement for International Registration of Trademarks.

**Article 4:** Applicants for trademark registration, registration of assignments, registration of renewals, the change of name or address of a registrant, the replacement of a certificate, trademark review and adjudication or other related matters must pay the prescribed fees in accordance with relevant provisions.

**Article 5:** The Trademark Office of the State Administration for Industry and Commerce (hereafter referred to as the "Trademark Office") shall establish and maintain a Trademark Register in which shall be entered registered trademarks and relevant registration matters.

The Trademark Office shall compile and publish an Announcement of Trademarks in which shall be printed the trademarks registered and other related matters.

**Article 6:** Collective trademarks and certification trademarks that have been approved and registered by the Trademark Office shall be protected by the law in accordance with the provisions of Article 3 of the Trademark Law.

Provisions for the registration and administration of collective trademarks and certification trademarks shall be formulated separately by the State Administration for Industry and Commerce in cooperation with other departments concerned of the State Council.

**Article 7:** Registered trademarks must be used on the pharmaceuticals for human use and tobacco products prescribed by the State and announced by the State Administration for Industry and Commerce.

Other goods that the State has designated as requiring the use of a registered trademark shall be announced by the State Administration for Industry and Commerce.

**Article 8:** The State Administration for Industry and Commerce shall establish a Trademark Review and Adjudication Board, the responsibility of which is to make final decisions or rulings on matters submitted for review and adjudication in accordance with the Trademark Law and these Rules.

## **CHAPTER II: APPLICATION FOR TRADEMARK REGISTRATION**

**Article 9:** In applying for trademark registration, separate applications shall be filed in accordance with the respective classes of goods as specified in the table for the classification of goods that has been published.

For the registration of each trademark applied for, one Application for Trademark Registration shall be filed with the Trademark Office, accompanied by 10 samples of the trademark (when specific colors are designated for a trademark in color, the samples filed shall be in color), plus one black-and-white draft.

The samples of the trademarks must be clear, easy to paste, printed on durable paper with a smooth finish or, instead of being printed, photographed; they shall not be larger than ten centimeters or less than five centimeters in length and width.

**Article 10:** The application for trademark registration and related forms and attachments shall be filled in or written neatly and clearly with a pen, writing brush or typewriter.

The name and seal of the applicant for trademark registration shall be identical with those that have been approved or registered. The goods listed in the application must not overstep the approved or registered scope of business. The names of the goods shall be filled in or written as specified in the table for the classification of goods; for goods that are not listed in the said table, goods directions shall be attached to the application.

**Article 11:** In applying for trademark registration on pharmaceuticals for human use, certification documents from the administrative department of public health shall be attached to the application.

In applying for trademark registration on cigarettes, cigars or packaged cut tobacco, documentation concerning production approval from the government agency in charge of tobacco shall be attached to the application.

In applying for trademark registration on other goods that the State has designated as requiring the use of a registered trademark, the approval documentation from the competent authorities shall be attached to the application.

**Article 12:** The date of application for registration of a trademark shall be the date the application form for the same is received by the Trademark Office.

If the applicant has gone through all the necessary application procedures and the application form is filled in as prescribed, an application number shall be compiled and a Notice of Cognizance issued to the applicant;

if the applicant has not gone through all the necessary application procedures or the application form is not filled in as prescribed, the application shall be returned to the applicant, and the date of application shall not be maintained.

If the applicant has in the main gone through the necessary application procedures or the application form is in the main filled in as prescribed, but some addition or correction is required, the Trademark Office shall notify the applicant of the requirement and ask the latter to make the required addition or correction and return the application form to the Trademark Bureau within 15 days, starting from the day the notice is received.

If the addition or correction is made and the application form returned to the Trademark Bureau within the time limit, the date of application shall be maintained;

in cases of failure to make the addition or correction or to do so within the time limit, the application shall be returned to the applicant, and the date of application shall not be maintained.

**Article 13:** If two or more applicants apply on the same day for registration of identical or similar trademarks for the same kind of goods or similar goods, each applicant shall submit, within 30 days and as notified by the Trademark Office, proof of the date of the first use of its trademark.

In case the trademarks were first used on the same day, or neither is yet in use, the applicants shall settle the matter by consultation.

If agreement is reached through consultation, they shall submit their written agreement to the Trademark Office within 30 days;

if no agreement is reached within 30 days, the applicants shall settle the matter by drawing lots under the auspices of the Trademark Office, or the matter shall be determined by the Trademark Office.

**Article 14:** Applicants that entrust trademark agencies to apply for trademark registration or handle other trademark matters on their behalf should submit powers of attorney for their agents, which shall state the matters to be handled by the agents and the scope of the agents' powers;

a power of attorney issued by a foreign national or foreign enterprise shall, in addition, state the nationality of the principal.

The Chinese language should be used in the application from a foreign national or foreign enterprise for trademark registration or the handling of other trademark matters.

The formalities for the notarization or certification of a power of attorney and related proof shall be performed in accordance with the principle of reciprocity.

Chinese translations shall be attached to the documents and forms done in foreign languages.

**Article 15:** The Trademark Office is the agency to take cognizance of matters relating to the application for priority in trademark registration.

The specific procedures shall follow the provisions published by the State Administration for Industry and Commerce.

### **CHAPTER III: EXAMINATION OF TRADEMARK REGISTRATIONS**

**Article 16:** The Trademark Office shall, in accordance with the Trademark Law, examine an application of which it has taken cognizance.

It shall give preliminary approval to and publish any trademark that conforms to the relevant provisions of the Trademark Law and has distinctive characteristics;

in case an application is rejected, the Trademark Office shall issue to the applicant a Notice of Rejection.

If the Trademark Office holds that an application for trademark registration can be revised, it shall issue a Notice of Examination Suggestions to the applicant and request the latter to make the revision within 15 days from the day the notice is received.

In case the application is not revised or not revised within the time limit or, though revised, still not conformable to the relevant provisions of the Trademark Law, it shall be rejected and a Notice of Rejection issued to the applicant.

**Article 17:** In requesting reexamination of a trademark that has been rejected, the applicant shall file an Application for Reexamination of a Rejected Trademark with the Trademark Review and Adjudication Board within 15 days from the day the Notice of Rejection is received. The original Application for Trademark Registration, the original ten samples and black-and-white draft of the trademark as well as the Notice of Rejection shall be appended to that application.

The Trademark Review and Adjudication Board shall make a final decision and so notify the applicant in writing. If the final decision is that the trademark shall be approved preliminarily, the matter shall be transferred to and dealt with by the Trademark Office.

**Article 18:** In bringing an opposition to a trademark that has been preliminarily approved and published by the Trademark Office, the opposer shall file a Trademark Opposition, one original and one duplicate copy, with the Trademark Office; the Trademark Opposition shall specify the numbers of the issue and the page of the Announcement of Trademarks on which the opposed trademark is published, and the serial number of preliminary examination and approval. The Trademark Office shall send the Trademark Opposition to the opposed party and request the latter to file its defense within 30 days from the day the notice is received; it shall make a ruling on the basis of the facts and reasons stated by the parties. In case no defense is filed within the time limit, the Trademark Office shall make a ruling and notify the parties concerned of this.

If the registration of an opposed trademark has been announced before the ruling on the opposition becomes effective, the announcement of registration of that trademark is void.

**Article 19:** A party that disagrees with the ruling made by the Trademark Office on the opposition may apply for a reexamination by filing an Application for Reexamination of Trademark Opposition, one original and one duplicate copy, with the Trademark Review and Adjudication Board within 15 days from the day the notice of the ruling on trademark opposition is received.

The Trademark Review and Adjudication Board shall make a final ruling and so notify the parties concerned in writing; it shall then transfer the matter to the Trademark Office to be handled by the latter.

A trademark to which the opposition is found to be not justified shall be approved and registered by the Trademark Office after the ruling on trademark opposition comes into effect.

#### **CHAPTER IV: CHANGE, ASSIGNMENT, RENEWAL, AND DETERMINATION OF DISPUTES OVER REGISTERED TRADEMARKS**

**Article 20:** In applying for a change in the name of a trademark registrant, with respect to each trademark there shall be filed with the Trademark Office one Application for the Change of a Trademark Registrant's Name and one certificate for the change.

After examination and approval by the Trademark Office, a corresponding certificate shall be issued to the registrant and the change shall be published.

In applying for a change in the address of a trademark registrant or in other registration matters, with respect to each change there shall be filed with the Trademark Office one Application for the Change of a Trademark Registrant's Address or Application for a Change in Other Registration Matters of a Trademark and one corresponding certificate for the change.

After examination and approval by the Trademark Office, a corresponding certificate shall be issued to the registrant and the change shall be published.

In changing the name or address of a trademark registrant, the trademark registrant must perform the procedures for all its trademarks at the same time.

**Article 21:** In applying for the assignment of a registered trademark, the assignor and the assignee shall file one Application for Assignment of a Registered Trademark with the Trademark Office.

The application procedures for assignment of a registered trademark shall be performed by the assignee, which must conform to the provisions of Article 2 of these Rules.

After examination and approval by the Trademark Office, a corresponding certificate shall be issued to the assignee, and the assignment shall be published.

In assigning a registered trademark, the trademark registrant must perform the procedures for all its identical or similar trademarks registered for the same kind of goods or similar goods.

In the assignment of a trademark for goods prescribed in Article 7 of these Rules, the assignee shall present certification documents from the departments concerned in accordance with Article 11 of these Rules.

The Trademark Office shall reject and not approve any application for the assignment of a registered trademark that may cause misidentification, confusion or other harmful effects.

**Article 22:** In applying for a renewal of trademark registration, with respect to each trademark applied for there shall be filed with the Trademark Office one Application for Renewal of Trademark Registration, accompanied by five samples of the trademark, and the original Trademark Registration Certificate shall be turned back in.

After examination and approval by the Trademark Office, the original Trademark Registration Certificate shall be returned with the necessary notation, and the renewal shall be published.

The Trademark Office shall reject and not approve any application that is not conformable to the relevant provisions of the Trademark Law.

The effective period for each renewal of a registered trademark shall be calculated from the next day after the expiry of the previous effective period of that trademark.

**Article 23:** An applicant that disagrees with the decision of the Trademark Office to reject its application for assignment or renewal of trademark registration may apply for reexamination by filing one Application for Reexamination of Assignment Rejection or Application for Reexamination of Renewal Rejection with the Trademark Review and Adjudication Board within 15 days from the day the notice of rejection is received.

The application shall be accompanied by the original Application for Assignment of a Registered Trademark or Application for Renewal of Trademark Registration as well as the Notice of Rejection.

The Trademark Review and Adjudication Board shall make a final decision and so notify the applicant in writing.

If the final decision is that the assignment or renewal of trademark registration shall be approved, the matter shall be transferred to and dealt with by the Trademark Office.

**Article 24:** A trademark registrant that disputes a trademark already registered by another person should, within one year from the day the said trademark is published in the Announcement of Trademarks, apply for a ruling by filing an Application for Determination of a Trademark Dispute, one original and one duplicate copy, with the Trademark Review and Adjudication Board.

The Trademark Review and Adjudication Board shall make a final ruling on whether to uphold or revoke the registered trademark in dispute and so notify the parties concerned in writing, and the matter shall be transferred to and dealt with by the Trademark Office.

A part of the registered trademark shall be revoked, if the reason for revoking involves only that part.

In case the ruling is to revoke a trademark registration, the original trademark registrant shall return the Trademark Registration Certificate to the Trademark Office within 15 days from the day the notice of that ruling is received.

**Article 25:** The obtainment of registration by deception or other improper means referred to in Paragraph 1, Article 27, of the Trademark Law means one of the following acts:

(1) Obtaining registration by making up or holding back the truth of the matter or by faking application forms, attachments or other related documents;

(2) Using another person's trademark that is already well-known to the public for registration by means of duplication, imitation, translation or by other means against the principle of honesty and good faith;

(3) An attorney using its principal's trademark for registration in its own name without authorization;

(4) Registering in violation of the lawful priority right of others; and

(5) Obtaining registration by other improper means.

A trademark registrant that disagrees with the decision made by the Trademark Office to revoke its registered trademark in accordance with the provisions of Paragraph 1, Article 27, of the Trademark Law may apply for reexamination by filing one Application for Reexamination of the Revocation of an Improperly Registered Trademark with the Trademark Review and Adjudication Board within 15 days from the day the notice of the decision is received.

The Trademark Review and Adjudication Board shall make a final decision and so notify the applicant in writing, and the matter shall be transferred to and dealt with by the Trademark Office.

Any unit or individual that regards a trademark as having been improperly registered may apply for a ruling by filing an Application for the Revocation of an Improperly Registered Trademark, one original and one duplicate copy, with the Trademark Review and Adjudication Board.

The Trademark Review and Adjudication Board shall make a final ruling and so notify the parties concerned in writing; it shall transfer the matter to the Trademark Office to be handled by the latter.

The improperly registered trademark that has been revoked shall be published by the Trademark Office.

The original trademark registrant shall return the Trademark Registration Certificate to the Trademark Office within 15 days from the day the notice of decision or ruling is received.

When a registered trademark is revoked in accordance with the provisions of Paragraphs 1 and 2, Article 27, of the Trademark Law, the right to exclusive use of that trademark shall be regarded as nonexistent from the very beginning.

A decision or ruling to revoke a registered trademark does not apply retrospectively to the judgments or rulings on trademark right infringement cases made by a people's court that have already been enforced, the decisions made by an administrative department for industry and commerce in handling trademark right infringement cases that have already been executed, or the trademark assignment or licensing contracts that have already been fulfilled prior to the revocation of the said trademark.

But compensation shall be made for malicious damage caused to another person by a trademark registrant.

## **CHAPTER V: ADMINISTRATION OF TRADEMARK USE**



**Article 26:** If a trademark is used, the four Chinese characters " " (Registered Trademark) or the symbol " " or " " shall be displayed.

In case the said characters or symbol cannot be displayed conveniently on goods, they shall be displayed on the packages or directions of the goods and on other accessories of the goods.

**Article 27:** Application must be filed for the replacement of a Trademark Registration Certificate that has been lost or damaged. In doing so, the trademark registrant shall file with the Trademark Office one Application for Replacement of Trademark Registration Certificate, accompanied by five samples of the trademark.

In case the Trademark Registration Certificate has been lost, an announcement of the loss shall be published in the Announcement of Trademarks.

A Trademark Registration Certificate that has been damaged shall be returned to the Trademark Office.

Any forgery or alteration of a Trademark Registration Certificate shall be penalized with a fine of not more than RMB 0,000 on the merits of each case by the administrative department for industry and commerce of the place where the forgery or alteration takes place; the forged or altered Trademark Registration Certificate shall be confiscated.

**Article 28:** In the event of any one of the acts specified in Paragraphs (1), (2) and (3) of Article 30 of the Trademark Law, the administrative department for industry and commerce shall order the trademark registrant to correct the situation within a specified period;

if the trademark registrant refuses to comply, the administrative department for industry and commerce of the place where the trademark registrant is located shall request the Trademark Office to revoke its registered trademark.

**Article 29:** In the event of the acts specified in Paragraph (4) of Article 30 of the Trademark Law, any one may apply to the Trademark Office for the revocation of the registered trademark concerned and explain the matter to the said office.

The Trademark Office shall notify the trademark registrant and order it to submit, within three months from the day the notice is received, proof of the use of that trademark or proper reasons for ceasing to use the trademark.

In case of failure to submit the said proof within the time limit or if the proof is void, the Trademark Office shall revoke the said registered trademark.

The use of trademark referred to in the foregoing paragraph includes its use on goods, the packages or containers of goods, and documentation of business transactions, and its use for publicity by advertisements, on display or in other business activities.

**Article 30:** An application to register a trademark that is identical with or similar to the trademark revoked in accordance with the provisions of Article 29 of these Rules and that is to be used on the same kind of goods or similar goods is free from the restrictions prescribed in Article 32 of the Trademark Law.

**Article 31:** In the event of any one of the acts specified in Article 31 and Paragraph (3) of Article 34 of the Trademark Law, the administrative department for industry and commerce shall order the party in question to correct the act within a specified period;

in serious cases, it shall order a self-criticism by that party, circulate a notice on the matter, and impose a fine of not more than 20% of the sum of illegal business transactions or not more than three times the illegally obtained profit;

the goods in question that are poisonous, harmful or of no use value shall be destroyed;

if a registered trademark is used in the case, it shall be revoked in accordance with the provisions of the Trademark Law.

**Article 32:** In the event of any one of the acts specified in Paragraphs (1) and (2), Article 34, of the Trademark Law, the administrative department for industry and commerce shall impose a ban on advertising publicity by the party in question, seize or take over any representations of the trademark of that party and order that party to correct the situation within a specified time limit.

It may also, on the merits of the case, circulate a notice on the matter and impose a fine of not more than 20% of the sum of illegal business transactions.

**Article 33:** In case of violation of the provisions of Article 5 of the Trademark Law, the administrative department for industry and commerce shall ban the sales and advertising publicity of the goods in question, and seize or take over any representations of the trademark in question; it may also, on the merits of the case, impose a fine of not more than 10% of the sum of illegal business transactions.

**Article 34:** No one may manufacture or market representations of trademarks illegally.

In case of violation of the provisions of the foregoing paragraph, the administrative department for industry and commerce shall stop the acts, take over the trademark representations in question and, on the merits of the case, also impose a fine of not more than 20% of the sum of illegal business transactions.

In addition, in case of a person selling representations of its own registered trademark, the Trademark Office may revoke that registered trademark;

but, if the case is one of infringement on the right to exclusive use of a registered trademark, it shall be dealt with in accordance with the provisions of Article 43 of these Rules.

**Article 35:** A trademark registrant that licenses another person to use its registered trademark must enter into a trademark licensing contract with the latter.

Within three months from the day the licensing contract is signed, the licensor and licensee shall submit a copy of the licensing contract to a local county-level administrative department for industry and commerce for the record; the matter shall be reported by the licensor to the Trademark Office for the record and to be published by the latter.

In the event of violation of the provisions of the foregoing paragraph, the administrative department for industry and commerce of the place where the licensor or licensee is located shall order the party in question to correct the situation within a specified period;

if there is a refusal to correct the situation, a fine of not more than RMB 0,000 shall be imposed and the matter may be reported to the Trademark Office for the revocation of the registered trademark in question.

In the event of violation of the provisions of Paragraph 2, Article 26, of the Trademark Law, the administrative department for industry and commerce of the place where the licensee is located may order the party in question to correct the situation within a specified period, take over the trademark representations in question and, on the merits of the case, also impose a fine of not more than RMB 0,000.

**Article 36:** When a trademark registrant licenses another person to use its registered trademark, the licensee must be one that conforms to the provisions of Article 2 of these Rules.

When a trademark registrant licenses another person to use its trademark for goods specified in Article 7 of these Rules, the licensee shall, in accordance with the provisions of Article 11 of these Rules, attach certification documents from the competent authorities to the copy of licensing contract submitted for the record.

**Article 37:** When the Trademark Office decides to revoke a registered trademark in accordance with the provisions of Articles 30 and 31 of the Trademark Law and those of Articles 28, 29, 31, 34 and 35 of these Rules, it shall notify, in writing, the trademark registrant and the administrative department for industry and commerce of the place where the trademark registrant is located.

A trademark registrant that disagrees with the decision of the Trademark Office to revoke its registered trademark may apply for reexamination by filing an Application for Reexamination of Trademark Revocation with the Trademark Review and Adjudication Board with 15 days the notice of decision is received.

The Trademark Review and Adjudication Board shall make a final decision, so notify, in writing, the trademark registrant and the administrative department for industry and commerce of the place where the trademark registrant is located, and transfer the matter to the Trademark Office to be dealt with by the latter.

**Article 38:** A trademark registrant that applies for the cancellation of its registered trademark shall file an Application for Trademark Cancellation with the Trademark Office and return the original Trademark Registration Certificate.

**Article 39:** The revocation or cancellation of a registered trademark shall be published by the Trademark Office;

the right to exclusive use of that trademark is lost from the day the revocation or cancellation is published.

When a registered trademark is revoked, the administrative department for industry and commerce of the place where the original trademark registrant is located shall take back the Trademark Registration Certificate and return it to the Trademark Office.

**Article 40:** A party that disagrees with a decision made by an administrative department for industry and commerce in accordance with the provisions of Chapter VI of the Trademark Law and Chapter V of these Rules may apply for reexamination to the next higher administrative department for industry and commerce within 15 days from the day the notice of the decision is received;

the next higher administrative department for industry and commerce shall make a reexamination decision within two months from the day the application for reexamination is received.

If the party disagrees with the reexamination decision, it may bring suit in a people's court within 15 days from the day the notice of the reexamination decision is received.

In the event of a failure to apply for reexamination, bring a suit in court or carry out the decision within the time limit, the administrative department for industry and commerce shall apply to a people's court to compel enforcement.

## **CHAPTER VI: PROTECTION OF THE RIGHT TO EXCLUSIVE USE OF REGISTERED TRADEMARKS**

**Article 41:** Any one of the following acts shall be an infringement of the right to exclusive use of a registered trademark referred to in Paragraph (4), Article 38, of the Trademark Law:

(1) Selling goods which, as the seller knows or should know, have infringed on another person's right to exclusive use of a registered trademark;

(2) Using words or designs that are identical with or similar to another person's registered trademark on the same kind of goods or similar goods as the name or decoration of the goods to an extent that is sufficient to cause misidentification; and

(3) Deliberately providing convenient conditions in warehousing, transportation, mailing, concealing, etc. for any act that infringes on another person's right to exclusive use of a registered trademark.

**Article 42:** In the case of an infringement of the right to exclusive use of a registered trademark, any one may file a charge against it or report it to an administrative department for industry and commerce at or above the county level at the place where the infringer is located or where the infringement occurs.

The person whose right has been infringed may directly bring suit in a people's court as well.

When the administrative department for industry and commerce holds there is an infringement on the right to exclusive use of a registered trademark, it may exercise the following functions and powers in investigating for evidence:

- (1) Questioning the parties concerned;
- (2) Examining articles relating to infringement activities and, if necessary, ordering the sealing up of these articles;
- (3) Investigating into acts relating to infringement activities; and
- (4) Looking up and duplicating the contract, account books and other business data relating to infringement activities.

When the administrative department for industry and commerce exercises the functions and powers specified in the foregoing paragraphs, the parties concerned shall assist it and not refuse to comply.

**Article 43:** In the event of an infringement on the right to exclusive use of a registered trademark, the administrative department for industry and commerce may take the following measures to stop the infringement activities:

- (1) Ordering an immediate stop to the sales;
- (2) Confiscating and destroying representations of right-infringing trademarks;
- (3) Removing right-infringing trademarks from goods in stock;
- (4) Confiscating the molds, printing plates and other means used directly and specially for trademark infringement;

and (5) When the aforesaid four measures are not sufficient to stop the infringement activities, or when the right-infringing trademark can hardly be separated from the goods, ordering and supervising the destruction of the right-infringing articles.

In the event of an infringement on the right to exclusive use of a registered trademark that has not yet constituted a criminal offense, the administrative department for industry and commerce may impose a fine of not more than 50% of the sum of illegal business transactions or not more than six times the profit accruing from such infringement on the merits of each case.

In regard to the directly responsible person of the unit that has infringed on the right to exclusive use of a registered trademark, it may impose a fine of not more than RMB 0,000 on the merits of each case.

If the party whose right has been infringed claims compensation for losses, the administrative department for industry and commerce may order the infringer to make the compensation. The party concerned that disagrees to the order may bring suit in a people's court.

**Article 44:** A party that disagrees to a decision made by an administrative department for industry and commerce in accordance with the provisions of Paragraphs (1) and (2) of the foregoing Article may apply for reexamination to the next higher administrative department for industry and commerce within 15 days from the day the notice of decision is received;

the next higher administrative department for industry and commerce shall make a reexamination decision within two months from the day the application for reexamination is received.

If the party disagrees with the reexamination decision, it may bring suit in a people's court within 15 days from the day the notice of the reexamination decision is received.

If it fails to apply for reexamination, bring a suit in court or carry out the decision within the time limit, the administrative department for industry and commerce shall apply to a people's court to compel enforcement.

**Article 45:** In case of palming off another person's registered trademark, any person may bring a complaint against the offender or report the offense to an administrative department for industry and commerce or a procuratorate.

If the complaint or report is filed with the administrative department for industry and commerce, the said department shall deal with it in accordance with the provisions of Article 43 of these Rules;

if the case against which the complaint or report is filed is serious enough to constitute a criminal offense, the judicial department shall investigate the criminal liability of the offender.

## **CHAPTER VII: SUPPLEMENTARY PROVISIONS**

**Article 46:** A party that applies for reexamination in accordance with the provisions of Articles 21, 22 and 35 of the Trademark Law and those of Articles 23 and 25 of these Rules shall perform the formalities within the prescribed time limit.

Before expiry of the time limit, it may apply for a postponement of 30 days on account of force majeure or other justified reasons; whether or not the application shall be granted is up to the Trademark Review and Adjudication Board to decide.

If the papers are delivered or received by mail, the date on the postmark shall be taken as the date of delivery or receipt;

in case the postmark is unclear or in the absence of a postmark, the date 20 days after the papers are sent out by the Trademark Office or 20 days before the receipt of the papers by the Trademark Office shall be taken as the date the papers are received or sent out by the party concerned.

**Article 47:** The forms for applying for trademark registration or handling other trademark matters shall be designed and published by the State Administration for Industry and Commerce.

The standards for fees to be paid in applying for trademark registration or handling other trademark matters shall be formulated and published by the State Administration for Industry and Commerce in accordance with the relevant provisions of the State.

The table for the classification of goods for trademark registration shall be published by the State Administration for Industry and Commerce.

**Article 48:** Trademarks of services which had been used uninterruptedly till July 1, 1993, and which are identical with or similar to the trademarks of services already registered by other persons for the same kind of services or similar services (except those well known to the public) may continue to be used in accordance with the relevant provisions of the State Administration for Industry and Commerce.

**Article 49:** The right to interpret these Rules resides in the State Administration for Industry and Commerce.

**Article 50:** These rules shall come into effect from the day they are promulgated.