

Measures for Administration of Trademark Agency

**Decree of State Administration for Industry and Commerce of the People's Republic of China No. 46**

**Measures for Administration of Trademark Agency, adopted at the executive meeting of the State Administration for Industry and Commerce, is hereby promulgated, and shall into force as of the date of promulgation.**

**General Director Zhou Bohua**

**November 11, 2009**

**Measures for Administration of Trademark Agency**

**Article 1** For the purpose of maintaining the order of trademark agency and protecting the legitimate rights and interests of clients and trademark agency organizations, the Measures is hereby formulated in accordance with the Trademark Law of People's Republic of China and the Implementing Regulations of Trademark Law of People's Republic of China.

**Article 2** The trademark agency herein refers to the handling of applications for registration of trademarks and other matters related to trademarks by trademark agency organizations in the name of the clients after they accept the clients' commission.

Trademark agency organizations herein refer to the legal service agencies that accept the clients' commission and transact the application for the registration of trademarks or other matters related to trademarks in the name of the clients.

Trademark agents herein refer to the practicing staff in trademark agency organizations.

**Article 3** The Administrative department for industry & commerce of the State Council shall supervise and regulate the agency behavior of trademark agency organizations and trademark agents throughout the country by law.

Administrative departments for industry & commerce above county level shall supervise and regulate the agency behavior of trademark agency organizations and trademark agents under their jurisdiction by law.

**Article 4** An applicant for establishing a trademark agency organization shall apply for registration in the industrial and commercial administrative departments above county level in his or her locus and collect the Business License for an Enterprise as a Legal Person or Business License.

**Article 5** A trademark agency organization shall not entrust other units and individuals with trademark agency activities and shall not provide any facility for such activities.

**Article 6** A trademark agency organization can accept the clients' commission and designate a trademark agent to transact the following agency matters:

- (1) Relevant matters about application of registration, change, renewal, assignment, opposition, withdrawal, review & adjudication and tort complaint of agent trademark;
- (2) To provide trademark legal consultation and act as trademark counselor; and
- (3) Other relevant trademark issues.

The documents such as application for trademark registration handled by the trademark agent shall be signed by the trademark agent and stamped with the seal of the trademark agency organization.

**Article 7** The trademark agency organization shall not accept the commission of both parties of the same trademark case.

**Article 8** A trademark agent shall abide by law, professional ethics and practicing disciplines, carry out trademark agency business according to law, timely and accurately provide good trademark agency services for the clients, and carefully maintain the clients' legal rights.

**Article 9** A trademark agent shall meet the following requirements:

- (1) With full civil act capacity;
- (2) Familiar with trademark law and relevant laws and regulations and have trademark agency expertise; and
- (3) Practicing in trademark agency organization.

**Article 10** A trademark agent shall not practice in two or more trademark agency organizations simultaneously.

**Article 11** A trademark agent shall keep the clients' commercial secret, and shall not disclose the concealed agency matters to other institutions and individuals without the clients' consent.

**Article 12** A trademark agent shall refuse to accept the commission when he or she is fully aware that the clients' commission is out of malevolence, in violation of national laws or with deceptive intention.

**Article 13** Where a trademark agency organization has one of the following actions, the industrial and commercial administrative departments above county level in its locus shall give a warning or imposed a fine below RMB10, 000; where there are illegal

incomes, a fine less than three times the illegal incomes, but with maximum of no more than RMB30, 000, shall be imposed:

(1) Where the third party is colluded with and the legitimate rights and interests of the clients is damage;

(2) Where any provision of Article 5 and Article 7 of the Measures is violated;

(3) Where the public interests of the country and society or the legitimate rights and interests of other agency organizations are damaged; and

(4) Where other illegal activities are engaged in.

**Article 14** Where a trademark agent has one of the following actions, the industrial and commercial administrative departments above county level in his or her locus shall give a warning or imposed a fine below RMB10, 000:

(1) Where commission is accepted without permission, with fees and property collected from the clients;

(2) Where the fact is concealed, the false evidence is provided, or others are threatened or induced to conceal the fact and provide the false evidence;

(3) Where any provision of Article 10, Article 11 and Article 12 of the Measures is violated; and

(4) Where there are other illegal acts.

**Article 15** Any organization engaging in trademark agency activities without registration of the industrial and commercial administrative departments or acquiring registration by deception shall be punished by the industrial and commercial administrative departments above county level in its locus by relevant laws and regulations of enterprise registration and management.

**Article 16** Any punished trademark agency organization or trademark agent who is not satisfied with the punishment by the industrial and commercial administrative departments may apply for review in accordance with Administrative Reconsideration Law or institute legal proceedings in the People's Court.

**Article 17** The State Administration for Industry & Commerce is responsible for interpreting the Measures.

**Article 18** The Measures shall enter into force as of the date of promulgation.