

Regulations on the Administration of Special Signs
(Promulgated by Decree No.202 of the State Council of the People's Republic of
China on July 13, 1996)

Chapter I General Provisions

Article 1 □ These Regulations are formulated for the purposes of strengthening the administration of special signs, promoting the development of culture, physical culture, scientific research and other non-profit social activities and protecting the lawful rights of customers and the owners and users of special signs.

Article 2 □ Special signs referred to in these Regulations mean such signs as titles and their abbreviations, emblems and mascots composed of words and designs and used for national or international cultural, physical cultural, scientific research or other non-profit social activities held with the approval of the State Council.

Article 3 □ Special signs approved and registered by the administrative department for industry and commerce under the State Council shall be protected by these Regulations.

Article 4 □ Special signs composed of words and designs containing any of the following contents shall not be registered:

- (1) those detrimental to the dignity or image of the country or any international organization;
- (2) those harmful to benign social customs and public order;
- (3) those with national discrimination and detrimental to the unity of nationalities;
- (4) those lacking distinctiveness and not easy to identify; and
- (5) other contents forbidden by laws or regulations.

Article 5 □ Funds raised by owners of special signs through using or licensing others to use the special signs must be used for the non-profit social undertakings which the special signs serve and shall be subject to supervision by the departments of finance and auditing under the State Council.

Chapter II Registration of Special Signs

Article 6 □ Organizers or those in charge of the preparatory work of non-profit social activities shall submit an application for registration to the administrative department for industry and commerce under the State Council with respect to such special signs as titles, emblems or mascots they use for the aforesaid activities and require to be protected.

The application for registration can be filed directly or by an entrusted agent.

Article 7 □ An application form for registration of special signs shall be filled in and the following documents be presented while filing an application for registration of a special sign:

- (1) the State Council's document approving such non-profit social activities;
- (2) conditions and control measures for permitting others to use the special sign;
- (3) five prototypes of the special sign and one copy of the design in black and white. The prototypes should be clear and easy to stick and made of durable glossy paper or be photographs as substitute, with its length and width no more than ten centimeters and no less than five centimeters;
- (4) a letter of authorization with clear indication of matters entrusted and the scope of the power of agency, if the application is entrusted to an agent; and
- (5) other documents which the administrative department for industry and commerce under the State Council requires to be presented.

Article 8 □ On receipt of an application, the administrative department for industry and commerce under the State Council shall handle things in accordance with the following provisions:

- (1) Where the application conforms to the relevant provisions of these Regulations and the application papers are considered complete and correct, issue a notice of acceptance of the application for the registration of special signs within fifteen days from the date of receipt of the application and, within two months from the date of the issuance of the notice, make an entry in the register of special signs of matters related to the special sign, the prototype of the special sign and commodities and services examined and approved for use of the special sign, and issue a certificate of registration of special signs.

An announcement shall be made by the administrative department for industry and commerce under the State Council upon registration of the special sign after examination and approval.

- (2) In cases where the application papers are found to be incomplete or incorrect, issue a notice of making supplementation or correction for the application for registration of special signs within ten days from the date of receipt of the application and meanwhile require the applicant to make supplementation or correction within fifteen days from the date of receipt of the notice and, when no supplement or correction has been made within the time limit or the application papers remain incomplete or incorrect after the supplementation or correction, issue a notice of non-acceptance of the application for registration of special signs.

(3) In cases where the application is found to be in contravention of the provisions stipulated in Article 4 of these Regulations, issue a notice of rejection of the application for registration of special signs within fifteen days from the date of receipt of the application. Applicant who calls in question the notice of rejection may, within fifteen days from the date of receipt of the notice of rejection, apply to the administrative department for industry and commerce under the State Council for reconsideration.

Notices mentioned in the preceding paragraph shall be served to the applicants or their agents by the administrative department for industry and commerce under the State Council. In case of failure of direct service due to unforeseen reasons, the date twenty days after the date of announcement or sending by post by the administrative department for industry and commerce under the State Council shall be construed as the date of service.

Article 9 □ The validity of special signs shall be four years, counting from the date of registration after examination and approval.

Owners of special signs may apply for extension within three months before the expiry of validity. The duration of extension shall be determined by the administrative department for industry and commerce under the State Council in the light of actual needs and conditions.

Changes of addresses of the owners of special signs shall be reported to the administrative department for industry and commerce under the State Council for record within one month from the date of the change.

Article 10 □ Where any special sign already approved for registration falls under any of the following circumstances, any unit or individual may, during the period from the date of the announcement of the special sign to the expiry of its validity, request the administrative department for industry and commerce under the State Council to declare the registration of the special sign to be null and void by stating reasons and providing corresponding evidences:

- (1) It is identical with or similar to any special sign the application of which precedes;
- (2) It is identical with or similar to any trademark the application of which for registration precedes or any of those already registered;
- (3) It is identical with or similar to any design the application of which for patent precedes or any of those which have already acquired the patent according to law; or
- (4) It results in infringement upon other person's copyright.

Article 11 □ The administrative department for industry and commerce under the State Council shall, within ten days from the date of receipt of the application for nullifying the registration of special signs, notify the respondent thereof and require him to give reply

within fifteen days from the date of receipt of the notice.

The respondent's refusal to give reply or failure to give reply within the time period set for the reply without justifiable reasons shall be deemed as abandonment of the right to make reply.

Article 12 □ The administrative department for industry and commerce under the State Council shall make a decision and notify it to the parties concerned within three months from the date of receipt of the application for nullifying the registration of special signs; the party refusing to accept the decision may, within fifteen days from the date of receipt of the notice, apply to the administrative department for industry and commerce under the State Council for reconsideration.

Chapter III Use and Protection of Special Signs

Article 13 □ Owners of special signs may use the signs on advertisements, souvenirs and other items related to the non-profit activities and license others to use the signs on commodities and services as examined and approved by the administrative department for industry and commerce under the State Council.

Article 14 □ Users of special signs shall be enterprises, institutions, social organizations and individual businesses established in accordance with the law.

Users of special signs shall conclude a written licensing contract with the owners.

Users of special signs shall, within one month from the date of the signing of the contract, submit one copy of the contract to the administrative department for industry and commerce under the State Council for filing and submit another copy of the same to the administrative department for industry and commerce of the people's government at or above the county level of the place where the user is located for reference.

Article 15 □ If any owner or user of a special sign has committed any of the following acts, the administrative department for industry and commerce of the people's government at or above the county level of the place where the owner or user is located or where the act has taken place shall order a correction and may impose a fine up to 50,000 Yuan; if the circumstances are serious, the administrative department for industry and commerce of the people's government at or above the county level shall order the user to stop the use of the special sign, and the administrative department for industry and commerce under the State Council shall cancel the owner's registration of the special sign:

(1) alter the words or designs of the special sign without authorization;

(2) license other persons to use the special sign without conclusion of a licensing contract, or users fail to submit the contract, within the time period prescribed, to the administrative department for industry and commerce under the State Council for filing or to the administrative department for industry and commerce of the local people's

government at or above the county level for reference; or

(3) use the special sign for commodities or services other than those registered with the approval for the use.

Article 16 □ In case of any of the following acts, the administrative department for industry and commerce of the people's government at or above the county level shall order the infringer to stop immediately the act of infringement, confiscate the commodities involved in the infringement as well as the illegal earnings and impose a fine not exceeding five times the illegal earnings, or not exceeding 10,000 Yuan when there is no illegal earnings:

(1) use, without authorization, words or designs or combinations thereof identical with or similar to any special signs owned by other persons;

(2) produce or sell special signs or use them in commercial activities without licensed by the owner; or

(3) other acts which cause economic loss to the owners of special signs.

Article 17 □ Owners and users of special signs may, on discovery of infringement upon the ownership of or the right to use the special signs, lodge a complaint with the administrative department for industry and commerce of the people's government at or above the county level of the place where the infringer is located or where the act of infringement has taken place, or directly file a lawsuit with the people's court.

The administrative department for industry and commerce which accepts the complaint of special sign infringement shall, at the request of the owner of the special sign, conduct mediation with respect to civil compensation for the infringement; the owner of the special sign may file a lawsuit with the people's court upon failure of the mediation.

Article 18 □ The administrative department for industry and commerce which accepts the case of special sign infringement may, in the investigation and evidence-gathering, exercise the following powers, and the persons concerned must provide assistance:

(1) question the parties concerned;

(2) inspect the articles related to the infringement activities;

(3) investigate the acts related to the infringement activities; and

(4) consult or make copies of contracts, accounting books or other business records.

Chapter IV Supplementary Provisions

Article 19 □ The schedule of fees for application, announcement and registration of special signs shall be formulated by the departments of finance and price control under the State Council in conjunction with the administrative department for industry and commerce under the State Council.

Article 20 □ The forms of the documents of application for registration of special signs shall be formulated by the administrative department for industry and commerce under the State Council.

Article 21 □ Reference shall be made to the provisions of these Regulations in the implementation of protection of such signs as the titles, emblems and mascots used by organizations which are permitted by the State Council to represent China in international cultural, physical cultural and scientific research activities.

Article 22 □ These Regulations shall enter into force as of the date of promulgation.