

Measures for the Implementation of International Registration of Marks under Madrid Agreement
(Issued by the State Administration for Industry and Commerce on 17 April 2003)

Article 1 These Measures are hereby formulated in accordance with the provision of Article 12 of the Implementing Regulations of the Trademark Law of the People's Republic of China (hereinafter referred to as the Implementing Regulation).

The international registration of marks provided in Article 12 of the Implementing regulations refers to international registration of marks under the Madrid Agreement Concerning the International Registration of marks (hereinafter referred to as the Madrid Agreement), the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as the Madrid Protocol) and the Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol relating to that Agreement (hereinafter referred to as the Common Regulations).

Article 2 These Measures shall apply to applications for international registration of marks with China being the country of origin, and applications designating territorial extension to China and other relevant applications.

These Measures do not apply to the registration of trademarks in a foreign country through a route other than the Madrid System. The applicant may entrust a trademark agency, a foreign representative, a law firm or its branch in a foreign country to deal with the registration matter.

Article 3 Any party applying for international registration of a mark with china being the country of origin shall have real and effective industrial or commercial establishments in China, or be domiciled in China, or be a Chinese national.

Article 4 Where any party is eligible for the international registration of a mark as provided under Article 3 of these Measures and his or its mark has been registered in the Trademark Office of the administrative authority for industry and commerce under the State Council (hereinafter referred to as the Trademark Office), he or it may apply for international registration of the mark under the Madrid agreement.

Where any party is eligible for the international registration of a mark as provided under Article 3 of these Measures and his or its mark has been registered in the trademark Office or an application has been filed with the Trademark Office for the registration of the mark, he or it may apply for international registration of the mark under the Madrid Protocol.

Article 5 Any party applying for international registration of a mark shall deal with the matter through the Trademark Office.

An applicant or an authorized trademark agency thereby may directly file an application in person at, or post the application to , the Trademark Office.

Article 6 Any party filing an application in respect of matters such as subsequent designation, renunciation or cancellation of the international registration of a mark under the Madrid Agreement shall deal with the matter through the trademark Office. Any party filing an application in respect of such matters as assignment, reduction of goods or services, modification of the name or address of the registrant, modification on the name or address of an agent or renewal of the international registration of the mark under the Madrid Agreement may deal with the matter through the Trademark office or directly at the International Bureau of the World Intellectual Property Office (hereinafter referred to as the International Bureau).

Any party filing an application in respect of subsequent designation, assignment, reduction of goods or services, abandonment or cancellation of the mark, modification of the name or address of the registrant, modification of the name or address of the agent, or renewal of, the international registration of the mark under the Madrid Protocol may deal with the matter through the Trademark Office or directly at the International Bureau.

Dealing with the matter through the trademark Office, the applicant or the authorized trademark agency thereby may directly file an application at, or post the application to, the Trademark Office.

Dealing with the matter at the International Bureau, the applicant or the authorized trademark agency thereby may file the application with, or post the application to, the International Bureau.

Article 7 Any party applying for international registration of a mark or dealing with other relevant matters through the Trademark Office may fill out the English or French forms prepared by the International Bureau, or fill out the Chinese forms prepared by the Trademark Office, but it or he shall pay the Trademark Office the translation fee.

In addition to the fees provided in the Common Regulations, any party applying for international registration of a mark or dealing with other relevant matters shall pay the Trademark Office the procedural fee.

Article 8 If the applicant for international registration of a mark is a natural person, he shall indicate his Chinese name. If the applicant is a legal person or any other organization, it shall indicate its Chinese name in full.

If the natural person, legal person or any other organization has an equivalent translation of his or its name in a foreign language, he or it may indicate the name in the foreign language. If he or it does not have a translation of his or its name in a foreign language, he or it shall indicate his or its name in the Chinese phonetic alphabet.

Article 9 An applicant shall indicate his or its address in full (including the address and

postal code) in the application for international registration of a mark, telephone number and facsimile number.

Article 10 An application for international registration of a mark may designate one class of goods or service, or two or more classes of goods or service.

Article 11 Applying for international registration of a mark, the applicant shall furnish:
(i) a copy of the Certificate of Trademark Registration in China or a copy of the Notification on the Acceptance of Application for Trademark Registration issued by the Trademark Office;

(ii) a Certificate of Priority if the right of priority is claimed;

(iii) a Certificate of Qualification of the Applicant, such as copies of Business License, Certification of Residence or the Identification Card;

(iv) a Power of Attorney if an agency is appointed;

(v) two copies of the reproduction of the mark, the size of which shall be less than 80mm x 80mm but more than 20mm x 20mm.

Article 12 The date on which the Trademark Office receives an application for international registration of a mark shall be the filing date.

Any application for international registration of a mark which has not been filled as prescribed shall be returned and the filing date thereof shall not be retained.

Where an application has substantially met the requirements for formality, but yet amendment is needed, the Trademark Office shall notify the applicant or the agent thereof to make an amendment within 15 days from the date of receipt of the notification. The date of service of the Trademark Office's Notification of Amendment on an interested party shall, if the Notification is posted, be the date indicated by the postmark on which the interested party receives it. Where the receiving date indicated by the postmark is illegible or there is no postmark, the Notification shall be considered served on the party 15 days after the date on which the document is sent. Failure to make amendment shall be deemed abandonment of the application, and the Trademark Office shall notify the applicant in writing.

Where fees are required for the application for international registration of a mark or any other application dealt with through the Trademark Office, payment of the relevant fees shall be made to the Trademark Office within 15 days after the date of receipt of the Notification from the Trademark Office on the payment of the fee. The date of service of the Trademark Office's Notification of Payment on an interested party shall, if the Notification is posted, be the date indicated by the postmark on which the interested party receives the notification. Failure to make the payment shall be deemed abandonment of the application, and the Trademark Office shall notify the applicant in writing.

Article 13 Where the Trademark Office notifies the International Bureau to reject, ex officio, an application requesting for territorial extension to China, the Trademark Office shall not confirm the rejection with the International Bureau any longer.

Article 14 Within 3 months after the first day of the month following the publication of the International Mark by the World Intellectual Property Organization, any party may file an opposition with the Trademark Office against an application requesting for territorial extension to China published in the said Gazette.

An application for opposition may involve one class of goods or service, or two or more classes of goods or services.

Where an opponent withdraws his or its application for opposition, the Trademark Office shall terminate the opposition proceeding and notify the interested party in writing.

Article 15 An applicant requesting for territorial extension of a collective mark or certification mark to China shall submit, through a trademark agency and according to the relevant provisions, to the Trademark Office the certificate of the qualification of the subject, the regulation governing the use of the mark and any other documents of certification within three months from the date of the entry of the mark in the International Register of the International Bureau of the World Intellectual Property Organization.

If the certificate of the qualification of the subject and the regulation governing the use of the mark and any other documents of certification are not submitted within three months, the Trademark Office shall reject the application of the collective or certification mark requesting for the territorial extension.

Article 16 Where an assignor fails to apply, according to law, for assignment in a lump of all his or its identical or similar marks in respects of the same or similar goods, the Trademark Office shall notify the registrant for international registration of a mark to rectify the situation within 30 days from the date of receipt of the notification; if the situation is not rectified at the expiration of the time limit, the Trademark Office shall decide that the said assignment is not valid in China, and declare it to the International Bureau. Any interested party who is not satisfied with the declaration by the Trademark Office may institute legal proceedings with the people's court within 30 days from the date of receipt of the declaration by the Trademark Office. Where no legal proceedings is instituted at the expiration of the time limit, the decision of the Trademark Office shall come into effect, and the date for the decision to come into effect is the date on which the decision is made.

If any deletion or reduction does not comply with the requirements on the classification of goods or services enforced in China, the Trademark Office shall decide that the deletion reduction is not valid in China, and declare it to the International Bureau. Any interested party who is not satisfied with the declaration by the Trademark Office may

institute legal proceedings with the people's court within 30 days from the date of receipt of the declaration by the Trademark Office. Where the legal proceedings are not instituted at the expiration of the time limit, the decision of the Trademark Office shall come into effect, and the date for the decision to come into effect is the date on which the decision is made.

Article 17 Any party licensing another party to use his or its trademark of international registration in the territory of China shall deal with the matter in accordance with the Trademark Law and the Implementing Regulations thereof.

Article 18 Where an applicant requesting for territorial extension to China substitutes his or its trademark of international registration for a trademark registered in China, the mark's international registration shall not affect the right of the mark's registration obtained in China.

Any party requesting for substitution of the international registration having entered in the Trademark Registration Register of the Trademark Office for an earlier national registration shall do so through a trademark agency and pay the required fees.

Article 19 Where a trademark of international registration under protection in China falls within the circumstances provided in Article 41 of the Trademark Law, the owner of the trademark or an interested party or any other party may, depending on the circumstances, apply to the Trademark Review and Adjudication Board for adjudication of a dispute or for adjudication on the cancellation of the said mark under protection in China. The application for adjudication shall be filed after the expiration of the time limit for rejection of the trademark in China.

Article 20 Any party who designates protection of international registration of a mark in China may, from the date of expiration of the time limit for rejection of the mark, appoint a trademark agency to apply to the Trademark Office for issuance of a certificate that his or its mark is under protection in China.

Article 21 These Measures shall enter into force on June 1, 2003, and the Measures for the Implementation of International Registration of Marks under Madrid Agreement issued by the State Administration for Industry and Commerce on May 24, 1996 shall be simultaneously abrogated.