

The Regulations on Hearing Divisions of IP Administrative Lawsuits Involving the Grant and Confirmation of Patents and Trademark

(*Legally Issued* (2009) No. 39, adopted at the 1469th meeting of the Judicial Committee through discussion on June 22, 2009.)

In order to implement the *Outline of National Intellectual Property Strategy*, perfect the trial system for intellectual property and unify judicial standards, hereby we promulgate Regulations on the division of hearings of administrative lawsuits concerning intellectual property involving the grant and confirmation of patents, trademarks, and etc. as follows:

Rule 1. The following lawsuits of first and second instance should be heard by the Intellectual Property Tribunal under Beijing Intermediate People's Court, Beijing Higher People's Court and Supreme People's Court.

- a. an appeal of a ruling by the Patent Reexamination Board of the Patent Administrative Department under the State Council regarding patent reexamination and invalidation;
- b. an appeal of a ruling by the Patent Administrative Department under the State Council regarding the grant of a compulsory license for exploitation of patent or with regard to the royalty due on a compulsory license for exploitation of patent;
- c. an appeal of a ruling by the Trademark Review and Adjudication Board of Administrative Department in charge of Industry and Commerce under the State Council with regard to trademark reexamination;
- d. an appeal of a ruling by the Intellectual Property Administrative Department under the State Council with regard to the reexamination and revocation of layout designs of integrated circuits;
- e. an appeal of a ruling by the Intellectual Property Administrative Department under the State Council with regard to the grant of an involuntary license of layout designs of integrated circuits and rulings on royalties due on account of such a grant;
- f. an appeal of a ruling by the Reexamination Board in charge of new species' of plant of Administrative Department of Agriculture and Forest under the State Council with regard to the reexamination, invalidation, and name change of new species' of plants;
- g. an appeal of a ruling by the Administrative Department in charge of Agriculture and Forests under the State Council with regard to a compulsory license for the exploitation of new species' of plant and rulings on royalties due on account of a compulsory license for exploitation of new species' of plant;

Rule 2. If the plaintiff or the defendant can not accept the effective judgment or ruling made by People's Court with regard to the lawsuits in Rule 1 and petitions a higher level of the People's Court for appellate review, such review should be heard by the Intellectual

Property Tribunal under the higher People's Court.

Rule 3. When filing the above-mentioned lawsuits in the Intellectual Property Tribunal of the Supreme People's Court, Beijing Higher People's Court or Beijing Intermediate People's Courts, they should be given a serial number containing "Zhi Xing (IP Administration)".

Rule 4. The Regulations come into effect on July 1, 2009, and at the same time the *Comment on the Memo of the Division of Hearings of Administrative Lawsuits concerning Intellectual Property involving Patent and Trademark after the Patent Law and Trademark Law Were Revised* (Law (2002) No. 117) put forward by the Supreme People's Court on May 21, 2002 is annulled.