

**Regulations for the Implementation of the Trademark Law of the People's  
Republic of China**

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China on August 3, 2002, revised and promulgated by Decree No. 651 of the State  
Council of the People's Republic of China on April 29, 2014, and effective as of May  
1, 2014)

**Chapter I General Provisions**

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

**Article 2** Provisions concerning the trademarks in these Regulations shall apply to service marks.

**Article 3** Where a trademark holder requests the protection of his trademark as a well-known trademark in accordance with Article 13 of the Trademark Law, he shall submit evidence to prove that his trademark constitutes a well-known trademark. The Trademark Office and the Trademark Review and Adjudication Board shall, based on the needs of case examination or investigation, as well as the evidence submitted by the party, make a determination as to whether his trademark is well-known in accordance with Article 14 of the Trademark Law.

**Article 4** For geographical indications prescribed in Article 16 of the Trademark Law, applications may be filed to register them as certification marks or collective marks in accordance with the provisions of the Trademark Law and these Regulations.

Where a geographical indication is registered as a certification mark, any natural person, legal person or other organization whose goods satisfy the conditions under which the geographical indication is used may request the use of the certification mark, and the organization in control of such certification mark shall permit such use.

Where a geographical indication is registered as a collective mark, any natural person, legal person or other organization whose goods satisfy the conditions under which the geographical indication is used may request the membership of the society, association or any other organization that registered the geographical indication as a collective mark, and the society, association or any other organization shall accept the membership in accordance with its articles of association; those who do not request the membership of the society, association or any other organization that registered the geographical indication as a collective mark may legitimately use the geographical indication, and the society, association or any other organization is not entitled to prohibit such use.

**Article 5** Where a party entrusts a trademark agency with the application for trademark registration or other trademark matters, a Power of Attorney shall be submitted. A Power of Attorney shall state the contents and the scope of competence; a Power of Attorney issued by a foreigner or a foreign enterprise shall also state his or its nationality.

Procedures for notarizing and authenticating a Power of Attorney and certifying documents relating to a foreigner or a foreign enterprise shall be undertaken in line with the principle of reciprocity.

In applying for trademark registration or trademark assignment, the applicant or the assignee that is a foreigner or a foreign enterprise shall appoint in the application a recipient within Chinese territory to be responsible for receiving subsequent legal documents issued by the Trademark Office or the Trademark Review and Adjudication Board. Subsequent legal documents issued by the Trademark Office or the Trademark Review and Adjudication Board shall be served on the recipient within Chinese territory.

A foreigner or a foreign enterprise in Article 18 of the Trademark Law means a foreigner or a foreign enterprise having no habitual residence or establishment in China.

**Article 6** The Chinese language shall be used in the application for trademark registration or other trademark matters.

Where any certificate, certifying document or evidence submitted in accordance with the provisions of the Trademark Law and these Regulations is in a foreign language, a Chinese translation shall be attached; where no Chinese translation is attached, it shall be considered that the certificate, certifying document or evidence has not been submitted.

**Article 7** Under any of the following circumstances, a staff member of the Trademark Office or the Trademark Review and Adjudication Board shall recuse himself from the case, and a party or an interested party may request his recusal:

- (1) where he is a party, or a close relative of a party or the agent;
- (2) where he has any other relationship with a party or the agent that may affect impartiality; or
- (3) where he has an interest in the application for trademark registration or other trademark matters.

**Article 8** Applications for trademark registration and other related documents submitted in electronic form as specified in Article 22 of the Trademark Law, shall be submitted through the Internet as prescribed by the Trademark Office or the Trademark Review and Adjudication Board.

**Article 9** Except as otherwise provided in Article 18 of these Regulations, the date on which a party submits documents or materials to the Trademark Office or the Trademark Review and Adjudication Board shall be the date of delivery when the documents or materials are submitted in person, or the date of mailing indicated by the postmark when they are sent by mail, or the actual date on which the documents or materials are received by the Trademark Office or the Trademark Review and Adjudication Board when the date of mailing indicated by the postmark is illegible or where there is no postmark, with the exception that the party can provide evidence of the actual date as indicated by the postmark. Where the documents or materials are submitted by express enterprises other than the postal services, the date shall be the receiving date of the express enterprises, or the actual date on which the documents or materials are received by the Trademark Office or the Trademark Review and Adjudication Board when the receiving date is uncertain, with the exception that the

party can provide evidence of the actual receiving date of the express enterprises. Where the documents or materials are submitted in electronic form, the date shall be the entry date of the documents or materials into the electronic system of the Trademark Office or the Trademark Review and Adjudication Board.

Where a party mails documents to the Trademark Office or the Trademark Review and Adjudication Board, he shall choose to use mail that has receipts.

Where a party submits documents to the Trademark Office or the Trademark Review and Adjudication Board, and the documents are submitted in paper, the records archived by the Trademark Office or the Trademark Review and Adjudication Board shall prevail; where the documents are submitted in electronic form, the records in the database of the Trademark Office or the Trademark Review and Adjudication Board shall prevail, with the exception that the party can provide evidence for the error in the archives or databases of the Trademark Office or the Trademark Review and Adjudication Board.

**Article 10** The documents of the Trademark Office or the Trademark Review and Adjudication Board may be served on a party by mail, in person, in electronic form, or by other means; service of the documents in electronic form shall be subject to the consent of the party. Where a trademark agency is entrusted by the party, the documents shall be considered served once they are served on the trademark agency.

The date of service of any document on a party by the Trademark Office or the Trademark Review and Adjudication Board shall be the date on which the party receives the document as indicated by the postmark when the document is sent by mail; when the date indicated by the postmark is illegible or where there is no postmark, the document shall be considered served 15 days after the date on which the document is sent out, with the exception that the party can provide evidence of the actual receiving date; when the document is delivered in person, the date of service shall be the date on which the document is delivered; when the document is sent in electronic form, the document shall be considered served 15 days after the date on which the document is sent out, with the exception that the party can provide evidence of the entry date of the document into his electronic system. When the document is

unable to be served by the abovementioned means, it may be served by means of publication, and the document shall be considered served 30 days after the date on which its publication is made.

**Article 11** The following periods shall not be included into the trademark examination or review time limits:

(1) the period when documents of the Trademark Office or the Trademark Review and Adjudication Board are served by means of publication;

(2) the period when a party furnishes supplementary evidence or makes supplements or amendments to the documents, or the period when new responses are to be submitted due to change of a party;

(3) the period required for providing proof of use, negotiating or drawing lots where the trademark applications are filed on the same day;

(4) the period required for the confirmation of the right of priority; or

(5) the period required for the decision of other cases involving a prior right, upon the request of the applicant during the process of examination or review.

**Article 12** Except as otherwise provided in the second paragraph of this Article, the first day of the various time limits prescribed by the Trademark Law and these Regulations shall not be included in the time limit. Where the time limit is counted by year or month, the corresponding day of the last month of the time limit shall be the expiration day of the time limit; if there is no corresponding day in that month, the last day of that month shall be the expiration day of the time limit; when the expiration day of the time limit falls on a public holiday, the first working day following the public holiday shall be the expiration day of the time limit.

The period of validity of a registered trademark prescribed in Articles 39 and 40 of the Trademark Law commences from the statutory date, and expires on the day preceding the corresponding day of the last month of the time limit, and when there is no corresponding day in that month, the last day of that month shall be the expiration day of the time limit.

**Article 13** In applying for registration of a trademark, an application shall be prepared and submitted based on the published Classification of Goods and Services. For each application for trademark registration, one copy of the Application for Trademark Registration and one copy of the reproduction of the trademark shall be submitted to the Trademark Office; where the trademark is a combination of colors or of colored pattern, one copy of the colored reproduction of the trademark and one in black and white shall be submitted; where the trademark is of no colors, a reproduction of the trademark in black and white shall be submitted.

The reproduction of a trademark shall be clear, easy to paste, and printed on smooth and durable paper or be replaced by photographs, and the length and width of the reproduction shall be not more than 10 centimeters and not less than 5 centimeters respectively.

Where an application is filed for registration of a three-dimensional sign as a trademark, a statement shall be made in the application, the method of use of the trademark shall be indicated, a reproduction that can establish the three-dimensional shape shall be submitted, and the reproduction submitted shall include at least a three-view drawing.

Where an application is filed for registration of a combination of colors as a trademark, a statement shall be made in the application, and the method of use of the trademark shall be indicated.

Where an application is filed for registration of sound as a trademark, a statement shall be made in the application, a qualified sound sample and a description of the sound for registration as the trademark shall be submitted, and the method of use of the trademark shall be indicated. The description of the sound trademark shall use stave or numbered musical notations of the sound in combination with notes in words; where the sound is unable to be described by stave or numbered musical notations, it shall be described in words; the description of the trademark shall be in conformity with the sound sample.

Where an application is filed for registration of a collective mark or a

certification mark, a statement shall be made in the application, and documents certifying the qualifications of the applicants and the rules on the administration of use of the trademark shall be submitted.

Where a trademark is in a foreign language, or consists of foreign words, the meaning shall be explained in Chinese.

**Article 14** Where an application is filed for registration of a trademark, the applicant shall submit documents certifying his identity. The name of the trademark applicant shall be in conformity with what is shown in the documents submitted.

The provisions of the preceding paragraph on submitting documents certifying the identity of the applicant shall apply to applications to the Trademark Office for handling other trademark matters, such as modification, assignment, renewal, opposition, or cancellation of trademarks.

**Article 15** The indications of goods or services shall be given in accordance with the class numbers and terms listed in the Classification of Goods and Services; where any indication of goods or services is not listed in the Classification of Goods and Services, a description of the goods or services in question shall be attached thereto.

Where applications for trademark registration and other related documents are submitted in paper form, they shall be typewritten or printed.

The second paragraph of this Article shall apply to other trademark matters.

**Article 16** Where an application is jointly filed for registration of a trademark, or when proceeding to other matters concerning a jointly owned trademark, a representative shall be designated in the application; where no representative is designated, the person named first in the application shall be taken as the representative.

The documents of the Trademark Office or the Trademark Review and Adjudication Board shall be served on the representative.

**Article 17** Where an applicant modifies his name, address, agent or recipient or deletes any of the designated goods, he shall go through modification formalities with the Trademark Office.

Where an applicant assigns his application for trademark registration, he shall go through assignment formalities with the Trademark Office.

**Article 18** The filing date of an application for trademark registration shall be the date on which the application documents are received by the Trademark Office.

Where the application formalities for trademark registration are completed, the application documents are filled in as required, and the fees are paid, the Trademark Office shall accept the application and notify the applicant in writing; where the application formalities are not completed, the application documents are not filled in as required or the fees are not paid, the Trademark Office shall not accept the application and shall notify the applicant in writing and give the reasons. Where the application formalities are basically completed or the application documents are basically in compliance with the provisions, but supplements or amendments are necessary, the Trademark Office shall notify the applicant of the supplements or amendments to be made, requiring him to make supplements or amendments to the specified items and send them back to the Trademark Office within 30 days from the date of receipt of the notification. Where the supplements or amendments are made and sent back to the Trademark Office within the specified time limit, the filing date shall be reserved; where no supplements or amendments are made at the expiration of the specified time limit, or the supplements or amendments are not made as required, the Trademark Office shall not accept such application and shall notify the applicant in writing.

The provisions on requirements for acceptance in the second paragraph of this Article shall apply to other trademark matters.

**Article 19** Where two or more applicants apply respectively on the same day for the registration of an identical or similar trademark in respect of the same or similar goods, both or all of the applicants shall, within 30 days from the date of receipt of the notification of the Trademark Office, submit evidence of prior use of such trademark before the application is filed. Where the use of the trademark was on the same day or no one has put it into use, both or all of the applicants may, within 30 days from the date of receipt of the notification of the Trademark Office, negotiate on

their own and submit a written agreement to the Trademark Office; where the applicants are reluctant to negotiate or fail to reach an agreement through negotiation, the Trademark Office shall notify both or all of the applicants that there will be a lot drawing to determine one of them as the applicant, and the applications filed by others shall be refused. Where any applicant notified by the Trademark Office fails to participate in the lot drawing, the application filed by such applicant shall be considered abandoned, and the Trademark Office shall notify in writing the applicant who fails to participate in the lot drawing.

**Article 20** Where a right of priority is claimed in accordance with the provisions of Article 25 of the Trademark Law, the duplicate copies of the application documents submitted by the applicant for the first time for trademark registration shall be certified by the competent trademark authority which has accepted the application, and the filing date and number of the application shall be indicated.

### **Chapter III Examination of Application for Trademark Registration**

**Article 21** The Trademark Office shall, in accordance with the relevant provisions of the Trademark Law and these Regulations, examine the applications for trademark registration which have been accepted, preliminarily approve those applications that are in compliance with the provisions in respect of registration of a trademark either on all goods or on certain designated goods, and make a publication to that effect; where an application is not in compliance with the provisions in respect of registration of a trademark on all goods or on certain designated goods, the Trademark Office shall refuse the application for registration of the trademark on all goods or on certain designated goods, notify the applicant in writing and give the reasons.

**Article 22** Where the Trademark Office refuses an application for registration of a trademark on certain designated goods, the applicant may divide the application and make the part of the application for which the preliminary approval has been granted another application. For the divided application, the filing date of the original

application shall be reserved.

Where an applicant applies to divide an application, he shall file an application for division to the Trademark Office within 15 days from the date of receipt of the Notification of Partial Refusal to an Application for Trademark Registration issued by the Trademark Office.

Upon receipt of the application for division, the Trademark Office shall divide the original application into two separate applications, give a new application number to the divided application for which preliminary approval has been granted and make a publication.

**Article 23** Where the Trademark Office deems that the content of an application for trademark registration needs explanation or correction in accordance with the provisions of Article 29 of the Trademark Law, the applicant shall provide explanation or make correction within 15 days from the date of receipt of the notification of the Trademark Office.

**Article 24** Where filing an opposition against a trademark which has been preliminarily approved and published by the Trademark Office, the opponent shall submit in duplicate the following opposition materials to the Trademark Office, and shall make an indication of the original copy and the duplicate copy:

- (1) an Application for Trademark Opposition;
- (2) documents that certify the identity of the opponent; and
- (3) documents certifying that the opponent is a holder of the prior right or an interested party, where the opposition is filed on the grounds of violation of the second or third paragraph of Article 13, Article 15, the first paragraph of Article 16, Article 30, Article 31 or Article 32 of the Trademark Law.

An Application for Trademark Opposition shall indicate explicit requests and factual basis, with the relevant evidence attached.

**Article 25** Upon receipt of an Application for Trademark Opposition, the Trademark Office shall, after examination, accept it if it satisfies the conditions for acceptance, and issue a Notification of Acceptance to the applicant.

**Article 26** Where an Application for Trademark Opposition falls within any of

the following circumstances, the Trademark Office shall not accept the application and shall notify the applicant in writing and give the reasons:

- (1) the application is not filed within the statutory time limit;
- (2) the qualification of the applicant or the grounds of the opposition are not in compliance with Article 33 of the Trademark Law;
- (3) the grounds, facts and legal basis of the opposition are not explicit; or
- (4) the application for opposition is filed by the same opponent once again against the same trademark on the same grounds, facts and legal basis.

**Article 27** The Trademark Office shall promptly send the duplicate copy of the opposition materials to the opposed party, who shall be required to respond within 30 days from the date of receipt of the duplicate copy of the opposition materials. Where the opposed party fails to make a response, the making of a decision by the Trademark Office shall not be affected.

Where a party needs to supplement related evidence after filing an application for opposition or after making a response, a statement shall be made in the Application for Trademark Opposition or in the response, and the evidence shall be submitted within 3 months from the date on which the application is filed or the response is made; where no evidence is submitted at the expiration of the time limit, the party shall be considered giving up making supplements to related evidence. However, where evidence accrued after the expiration of the time limit or a party failed to submit the evidence within the time limit for other justifiable reasons, and when such evidence is submitted after the expiration of the time limit, the Trademark Office shall send the evidence to the other party and may accept it after cross-examination.

**Article 28** A decision to disapprove the registration of a trademark provided in the third paragraph of Article 35 and the first paragraph of Article 36 of the Trademark Law shall include a decision to disapprove the registration of a trademark on certain designated goods.

Where a trademark is under opposition but a publication of its registration has already been made prior to the decision of the Trademark Office to approve or

disapprove its registration, the publication of registration shall be cancelled. Where the opposition is not justified after examination and the registration of the trademark has been approved, the trademark shall be republished after the entry into force of the decision to approve its registration.

**Article 29** Where a trademark applicant or a trademark registrant applies for correction in accordance with Article 38 of the Trademark Law, an Application for Correction shall be filed with the Trademark Office. Where the application satisfies the conditions as required, the Trademark Office shall approve the application and correct the corresponding content; where the application fails to satisfy the conditions as required, the Trademark Office shall not approve the application, and shall notify the applicant in writing and give the reasons.

Where there is any correction in respect of a trademark after a publication of preliminary approval granted to the trademark or a publication of its registration has already been made, a publication of the correction shall be made.

#### **Chapter IV Modification, Assignment and Renewal of Registered Trademarks**

**Article 30** Where the name or address of a trademark registrant or any other registration item is modified, an Application for Modification shall be filed with the Trademark Office. Where the name of a trademark registrant is modified, the modification certification document issued by the relevant registration authority shall be also submitted. The Trademark Office shall, upon approval, issue a corresponding certification to the trademark registrant and publish the modification; where the application is not approved, the Trademark Office shall notify the applicant for modification in writing and give the reasons.

Where the name or address of a trademark registrant is modified, the trademark registrant shall make the modification in respect of all his registered trademarks in a lump; where the modification is not made in a lump, the Trademark Office shall notify the trademark registrant to make corrections within a specified time limit; where no corrections are made at the expiration of the time limit, the application for

modification shall be considered abandoned, and the Trademark Office shall notify the applicant for modification in writing.

**Article 31** Where a registered trademark is assigned, both the assignor and the assignee shall jointly file an Application for Assignment of the Registered Trademark to the Trademark Office. The assignor and the assignee shall jointly go through the formalities for the application for assignment of the registered trademark. The Trademark Office shall, upon approval of the application for assignment of the registered trademark, issue a corresponding certification to the assignee and publish the assignment.

Where a registered trademark is assigned and the trademark registrant does not assign in a lump all his trademarks that are identical or similar to each other in respect of the same or similar goods, the Trademark Office shall notify the trademark registrant to make corrections within a specified time limit; where no corrections are made at the expiration of the time limit, the application for assignment of the registered trademark shall be considered abandoned, and the Trademark Office shall notify the applicants for assignment in writing.

**Article 32** Where the exclusive right to use a registered trademark is transferred due to inheritance or reasons other than assignment, the party who accepts the exclusive right to use the registered trademark shall, by virtue of the relevant certification documents or legal instruments, go through the formalities for the transfer of the exclusive right to use the registered trademark with the Trademark Office.

Where the exclusive right to use a registered trademark is transferred, all of the right holder's trademarks that are identical or similar to each other in respect of the same or similar goods shall be transferred in a lump; where all the trademarks are not transferred in a lump, the Trademark Office shall notify the transferee to make corrections within a specified time limit; where no corrections are made at the expiration of the time limit, the application for transfer of the registered trademark shall be considered abandoned, and the Trademark Office shall notify the applicant for the transfer in writing.

The transfer of a trademark shall be published upon the approval of the application for the transfer. The party who accepts the transfer of the exclusive right to use the registered trademark shall enjoy the exclusive right to use the trademark from the date of publication.

**Article 33** Where a registered trademark needs to be renewed, an Application for Renewal of the Registered Trademark shall be filed with the Trademark Office. The Trademark Office shall, upon approval of the application for renewal of the registered trademark, issue a corresponding certification and publish the renewal.

## **Chapter V International Registration of Trademarks**

**Article 34** The international registration of trademarks in Article 21 of the Trademark Law means the Madrid international registration of trademarks filed under the provisions of 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.

Applications for the Madrid international registration of trademarks include the applications for international registration of trademarks with the People's Republic of China being the country of origin, the applications designating territorial extensions to the People's Republic of China, and other relevant applications.

**Article 35** Where an international registration of a trademark with the People's Republic of China being the country of origin is applied for, the applicant shall have a real and effective industrial or commercial establishment in the People's Republic of China, or be domiciled in the People's Republic of China, or be a Chinese national.

**Article 36** Where an applicant eligible as prescribed in Article 35 of these Regulations has registered his trademark in the Trademark Office, he may apply for international registration of the trademark under the Madrid Agreement.

Where an applicant eligible as prescribed in Article 35 of these Regulations has registered his trademark in the Trademark Office, or has already filed an application for trademark registration which is accepted by the Trademark Office, he may apply for international registration of the trademark under the Madrid Protocol.

**Article 37** Where an international registration of a trademark with the People's Republic of China being the country of origin is applied for, the application shall be filed through the intermediary of the Trademark Office to the International Bureau of the World Intellectual Property Organization (hereinafter referred to as the International Bureau).

An application with the People's Republic of China being the country of origin in respect of subsequent designation, renunciation, or cancellation of the international registration of a trademark under the Madrid Agreement shall be filed through the intermediary of the Trademark Office to the International Bureau; where any assignment, limitation, modification or renewal of a registered international trademark under the Madrid Agreement is applied for, the application may be filed through the intermediary of the Trademark Office to the International Bureau or directly to the International Bureau.

An application with the People's Republic of China being the country of origin in respect of subsequent designation, assignment, limitation, renunciation, cancellation, modification or renewal of the international registration of a trademark under the Madrid Protocol may be filed through the intermediary of the Trademark Office to the International Bureau or directly to the International Bureau.

**Article 38** Where a party files an application for international registration of a trademark or other relevant applications through the intermediary of the Trademark Office to the International Bureau, he shall submit application forms and relevant materials in compliance with the requirements of both the International Bureau and the Trademark Office.

**Article 39** The goods or services designated in an application for international registration of a trademark shall not go beyond the scope of the goods or services as covered in its national basic application or basic registration.

**Article 40** Where the application formalities for international registration of a trademark are not completed, or the application documents are not filled in as required, the Trademark Office shall not accept it and its filing date shall not be reserved.

Where the application formalities are basically completed or the application documents are basically in compliance with the provisions, but supplements or amendments are necessary, the applicant shall make supplements or amendments within 30 days from the date of receipt of the Notification of Supplements or Amendments. Where no supplements or amendments are made at the expiration of the specified time limit, the Trademark Office shall not accept it and shall notify the applicant in writing.

**Article 41** Where a party files an application for international registration of a trademark or other relevant applications through the intermediary of the Trademark Office to the International Bureau, he shall pay fees in accordance with the provisions.

The applicant shall pay fees to the Trademark Office within 15 days from the date of receipt of the Notification of Payment of Fees issued by the Trademark Office. Where no fees are paid at the expiration of the time limit, the Trademark Office shall not accept the application and shall notify the applicant in writing.

**Article 42** The Trademark Office shall, within the period of refusal prescribed by the Madrid Agreement and the Madrid Protocol (hereinafter referred to as the period of refusal), make a decision after examining an application designating territorial extension to the People's Republic of China in accordance with the relevant provisions of the Trademark Law and these Regulations, and notify the International Bureau of the decision. Where neither refusal nor partial refusal is notified by the Trademark Office within the period of refusal, the application designating territorial extension shall be considered as approved.

**Article 43** When applying for a territorial extension to the People's Republic of China and requesting the protection of a three-dimensional sign, a combination of colors or sound as a trademark, or the protection of a collective mark or a certification mark, the applicant shall submit the materials required by Article 13 of these Regulations through a trademark agency established in accordance with law to the

Trademark Office, within 3 months from the date on which the trademark is recorded in the International Register at the International Bureau. Where no relevant materials are submitted within the said time limit, the Trademark Office shall refuse the application for territorial extension.

**Article 44** The World Intellectual Property Organization publishes any information in relation to the international registration of trademarks, and the Trademark Office shall make no other publication.

**Article 45** An opponent who is in compliance with Article 33 of the Trademark Law may file an opposition to the Trademark Office against an application designating territorial extension to the People's Republic of China within 3 months from the first day of the next month following the publication of the Gazette of International Marks by the World Intellectual Property Organization.

The Trademark Office shall notify the International Bureau of the opposition in the form of provisional refusal within the period of refusal.

The opposed party may respond within 30 days from the date of receipt of the Notification of Provisional Refusal transmitted by the International Bureau, and the response and related evidence shall be submitted to the Trademark Office through a trademark agency established in accordance with law.

**Article 46** The period of validity of an international registration of a trademark protected in the People's Republic of China shall be counted from the date of international registration or the date of subsequent designation. The registrant may file an application for renewal to the International Bureau before the expiration of the period of validity. Where an application for renewal is not filed within the period of validity, a grace period of 6 months may be granted. The Trademark Office shall make an examination in accordance with law upon receipt of the Notification of Renewal from the International Bureau. The international registration of the trademark shall be cancelled where the Notification of Non-renewal is issued by the International Bureau.

**Article 47** Where an application designating territorial extension to the People's Republic of China is assigned, the assignee shall have a real and effective

industrial or commercial establishment, or be domiciled, in the territory of a contracting party, or be a national of a contracting party.

Where the assignor does not assign in a lump all his trademarks that are identical or similar to each other in respect of the same or similar goods or services, the Trademark Office shall notify the registrant to make corrections within 3 months from the date of the sending out of the notification; where no corrections are made at the expiration of the time limit, or where the assignment is liable to cause confusion or have other adverse effects, the Trademark Office shall decide that the assignment has no effect in the People's Republic of China and shall make a declaration to the International Bureau.

**Article 48** Where an application designating territorial extension to the People's Republic of China is filed for a limitation of the list of goods and/or services, and the goods or services after the limitation are not in compliance with the requirements of the classification of goods and services in the People's Republic of China, or exceed the original scope of designated goods or services, the Trademark Office shall decide that the limitation has no effect in the People's Republic of China and shall make a declaration to the International Bureau.

**Article 49** An application to cancel an international registration of a trademark as prescribed in the second paragraph of Article 49 of the Trademark Law shall be filed with the Trademark Office 3 years after the date of expiration of the period of refusal of the application for international registration of the trademark; where the international registration of the trademark is still under review against a refusal or under opposition at the expiration of the period of refusal, the application for cancellation shall be filed with the Trademark Office 3 years after the date of the entry into force of the decision to approve the registration made by the Trademark Office or the Trademark Review and Adjudication Board.

An application to declare the invalidation of an international registration of a trademark as prescribed in the first paragraph of Article 44 of the Trademark Law shall be filed with the Trademark Review and Adjudication Board at the expiration of the period of refusal of the application for international registration of the trademark;

where the international registration of the trademark is still under review against a refusal or under opposition at the expiration of the period of refusal, the application to declare the invalidation shall be filed with the Trademark Review and Adjudication Board after the entry into force of the decision to approve the registration made by the Trademark Office or the Trademark Review and Adjudication Board.

An application to declare the invalidation of an international registration of a trademark as prescribed in the first paragraph of Article 45 of the Trademark Law shall be filed with the Trademark Review and Adjudication Board within 5 years from the date of expiration of the period of refusal of the application for international registration of the trademark; where the international registration of the trademark is still under review against a refusal or under opposition at the expiration of the period of refusal, the application to declare the invalidation shall be filed with the Trademark Review and Adjudication Board within 5 years from the date of the entry into force of the decision to approve the registration made by the Trademark Office or the Trademark Review and Adjudication Board. Where a registration is obtained in bad faith, the owner of a well-known trademark shall not be bound by this 5-year time limit.

**Article 50** The following provisions of the Trademark Law and these Regulations shall not apply to matters concerning international registration of trademarks:

(1) the provisions on the time limit for examination and review in Article 28 and the first paragraph of Article 35 of the Trademark Law;

(2) Article 22 and the second paragraph of Article 30 of these Regulations; and

(3) the provisions that the assignor and the assignee shall jointly file an application and go through the formalities for assignment of a trademark, as prescribed in Article 42 of the Trademark Law and Article 31 of these Regulations.

## **Chapter VI Review and Adjudication of Trademarks**

**Article 51** Trademark review and adjudication means that the Trademark

Review and Adjudication Board reviews relevant trademark dispute cases in accordance with the provisions of Articles 34, 35, 44, 45 and 54 of the Trademark Law. Where a party files an application for trademark review to the Trademark Review and Adjudication Board, he shall indicate explicit requests, facts, grounds and legal basis, and shall submit relevant evidence.

The Trademark Review and Adjudication Board shall, on the basis of facts, conduct review in accordance with law.

**Article 52** When reviewing a case filed against a decision made by the Trademark Office to refuse an application for trademark registration, the Trademark Review and Adjudication Board shall review the refusal decision made by the Trademark Office, as well as the facts, grounds and requests filed by the applicant in the review application and the factual status when the review is conducted.

Where, in reviewing a case filed against a decision made by the Trademark Office to refuse an application for trademark registration, the Trademark Review and Adjudication Board finds that the trademark which is the subject of the application for trademark registration is in violation of the provisions of Article 10, Article 11, Article 12, or the first paragraph of Article 16 of the Trademark Law, and that the Trademark Office has not made the refusal decision in accordance with such provisions, the Trademark Review and Adjudication Board may make a decision after review to refuse the application in accordance with such provisions. The Trademark Review and Adjudication Board shall invite the opinions of the trademark applicant prior to making the review decision.

**Article 53** When reviewing a case filed against a decision made by the Trademark Office to disapprove the registration of a trademark, the Trademark Review and Adjudication Board shall review the decision made by the Trademark Office to disapprove registration, as well as the facts, grounds and requests filed by the applicant in the review application and the opinions raised by the opponent.

When reviewing a case filed against a decision made by the Trademark Office to disapprove the registration of a trademark, the Trademark Review and Adjudication Board shall notify the opponent to participate in the review of the case and raise his

opinions. Where the opinions of the opponent have a substantive impact on the result of the case, such opinions may be admitted as bases for the decision of the review; where the opponent fails to participate in the review of the case or raise his opinions, the review of the case shall not be affected.

**Article 54** When reviewing a case filed to declare the invalidation of a registered trademark in accordance with the provisions of Article 44 or 45 of the Trademark Law, the Trademark Review and Adjudication Board shall review the facts, grounds and requests filed or responded by the parties.

**Article 55** When reviewing a case filed against a decision made by the Trademark Office to declare the invalidation of a registered trademark in accordance with the provisions of the first paragraph of Article 44 of the Trademark Law, the Trademark Review and Adjudication Board shall review the decision made by the Trademark Office and the facts, grounds and requests filed by the applicant in the review application.

**Article 56** When reviewing a case filed against a decision made by the Trademark Office to cancel or maintain the registration of a trademark in accordance with the provisions of Article 49 of the Trademark Law, the Trademark Review and Adjudication Board shall review the decision made by the Trademark Office to cancel or maintain the registration of the trademark and the facts, grounds and requests filed by the party in the review application.

**Article 57** When applying for trademark review, the applicant shall file an application to the Trademark Review and Adjudication Board, and submit duplicate copies of the application according to the number of persons in the other party; where an application for review is filed on the basis of a decision made by the Trademark Office, the duplicate copies of the decision shall also be attached.

Where, after receipt of an application, the Trademark Review and Adjudication Board, after examination, finds that the application meets the requirements for acceptance, it shall accept the application; where the application fails to meet the requirements for acceptance, it shall not accept the application, and shall notify the applicant in writing and give the reasons; where supplements or amendments are

necessary for the application, the applicant shall be notified of the supplements or amendments to be made within 30 days from the date of receipt of the notification. Where the application still fails to comply with the provisions after supplements or amendments, the Trademark Review and Adjudication Board shall not accept the application, and shall notify the applicant in writing and give the reasons; where no supplements or amendments are made at the expiration of the specified time limit, the application shall be considered withdrawn and the Trademark Review and Adjudication Board shall notify the applicant in writing.

Where, after an application for review is accepted, the Trademark Review and Adjudication Board finds that the application does not satisfy the requirements for acceptance, it shall refuse the application, notify the applicant in writing and give the reasons.

**Article 58** The Trademark Review and Adjudication Board shall, upon acceptance of an application for trademark review, send promptly a duplicate copy of the application to the other party, requiring him to respond within 30 days from the date of receipt of such copy; where no response is made at the expiration of the time limit, the review of the case by the Trademark Review and Adjudication Board shall not be affected.

**Article 59** Where a party needs to supplement related evidence after filing an application for review or after making a response, a statement shall be made in the application or in the response, and the evidence shall be submitted within 3 months from the date on which the application is filed or the response is made; where no evidence is submitted at the expiration of the time limit, the party shall be considered giving up making supplements to related evidence. However, where evidence accrued after the expiration of the time limit or a party failed to submit the evidence within the time limit for other justifiable reasons, and when such evidence is submitted after the expiration of the time limit, the Trademark Review and Adjudication Board shall send the evidence to the other party and may accept it after cross-examination.

**Article 60** The Trademark Review and Adjudication Board may, at the request of a party or on the basis of practical needs, decide to hold an oral hearing in respect

of an application for review.

Where the Trademark Review and Adjudication Board decides to hold an oral hearing in respect of an application for review, it shall notify in writing, 15 days prior to the oral hearing, the parties of the date, place and review officers of the oral hearing to be held. The parties shall respond within the time limit specified in the notification.

Where the applicant for review neither responds nor participates in the oral hearing, his application for review shall be considered withdrawn, and the Trademark Review and Adjudication Board shall notify the applicant for review in writing; where the other party neither responds nor participates in the oral hearing, the Trademark Review and Adjudication Board may review the application by default.

**Article 61** An applicant may, before the Trademark Review and Adjudication Board makes a decision or ruling, request the withdrawal of his application for review in writing to the Trademark Review and Adjudication Board and state the reasons. Where the Trademark Review and Adjudication Board deems that the application may be withdrawn, the review proceedings shall be terminated.

**Article 62** Where an application for trademark review is withdrawn, the applicant shall not file an application for review of the trademark again on the basis of the same facts and grounds. Where the Trademark Review and Adjudication Board has already made a ruling or decision on an application for trademark review, no person shall file an application for review again on the basis of the same facts and grounds, with the exception of an application filed with the Trademark Review and Adjudication Board to declare the invalidation of a registered trademark, the registration of which has been approved in the review proceedings against a decision to disapprove its registration.

## **Chapter VII Administration of Use of Trademarks**

**Article 63** When putting a registered trademark in use, such words as “registered trademark” or a registration logo may be indicated on the goods, packages, manuals or other attachments.

The registration logos include ® and ®, which shall be indicated on the upper or lower right-hand corner of the trademark when used.

**Article 64** Where a Trademark Registration Certificate is lost or damaged, an application for reissuance of the Trademark Registration Certificate shall be filed with the Trademark Office. Where a Trademark Registration Certificate is lost, a statement of loss shall be published in the Trademark Gazette. A damaged Trademark Registration Certificate shall be returned to the Trademark Office when the application for reissuance is filed.

Where a trademark registrant needs the reissuance of a certification on modification, assignment or renewal of a trademark, or the issuance of a certification on the registration of a trademark, or where a trademark applicant needs the issuance of documents verifying a right of priority by the Trademark Office, he shall file a corresponding application with the Trademark Office. Where the application is in compliance with the requirements, the Trademark Office shall issue corresponding certifications; otherwise, the Trademark Office shall not process the application, and shall notify the applicant, stating the reasons.

Whoever forges or alters a Trademark Registration Certificate or other trademark certifications shall be investigated for criminal liability in accordance with the provisions of the Criminal Law on the crime of forging or altering certificates of State organs or on other crimes.

**Article 65** Where a registered trademark falls under the circumstances prescribed in Article 49 of the Trademark Law and has become the generic name of the goods on which its use is approved, any organization or individual may apply to the Trademark Office for cancellation of the registered trademark, and evidence shall be attached when the application is filed. Upon acceptance of the application, the Trademark Office shall notify the trademark registrant, requiring him to respond within 2 months from the date of receipt of the notification; where no response is made at the expiration of the time limit, the making of a decision by the Trademark Office shall not be affected.

**Article 66** Where a registered trademark falls under the circumstances

prescribed in Article 49 of the Trademark Law and has not been in use for 3 consecutive years without a justifiable reason, any organization or individual may apply to the Trademark Office for cancellation of the registered trademark, and the relevant facts shall be stated when the application is filed. Upon acceptance of the application, the Trademark Office shall notify the trademark registrant, requiring him to provide evidence proving the use of the trademark prior to the filing of the application for cancellation, or explain the justifiable reason for its non-use, within 2 months from the date of receipt of the notification; where no evidence of use is provided at the expiration of the time limit, or the evidence provided is invalid and there is no justifiable reason for its non-use, the Trademark Office shall cancel the registered trademark.

The evidence proving the use of a registered trademark referred to in the preceding paragraph includes that of use of the trademark by the trademark registrant and that of use of the trademark by others under the license of the trademark registrant.

For an application for cancellation of a registered trademark on the grounds of non-use for 3 consecutive years without a justifiable reason, it shall be filed 3 years after the date of the publication of the registration of the registered trademark.

**Article 67** The following circumstances shall be considered as justifiable reasons prescribed in Article 49 of the Trademark Law:

- (1) force majeure;
- (2) restrictions imposed by government policy;
- (3) bankruptcy liquidation; and
- (4) other justifiable reasons not attributable to the trademark registrant.

**Article 68** Where the Trademark Office or the Trademark Review and Adjudication Board is to cancel or declare invalid a registered trademark, and where the grounds for cancellation or declaration of invalidation involve only certain designated goods, the Trademark Office or the Trademark Review and Adjudication Board shall cancel or declare invalid the registration of the trademark used only on certain designated goods.

**Article 69** Where a licensor authorizes other persons to use his registered trademark, he shall, within the term of validity of the license contract, apply to the Trademark Office for recordation, with materials attached. The materials shall indicate the licensor and licensee of the registered trademark, the period of the license, and the scope of goods or services covered under the license.

**Article 70** Where the exclusive right to use a registered trademark is pledged, the pledgor and the pledgee shall sign a written pledge contract, and jointly apply for the recordation of the pledge to the Trademark Office, which shall make a publication of the pledge.

**Article 71** Where a person violates the second paragraph of Article 43 of the Trademark Law, the administrative department for industry and commerce shall order him to make corrections within a specified time limit; where no corrections are made within the time limit, the person shall be ordered to stop the sale, and where the person refuses to stop the sale, he shall be fined not more than 100,000 yuan.

**Article 72** Where a trademark holder requests the protection of his trademark as a well-known trademark in accordance with Article 13 of the Trademark Law, he may submit a request to the administrative department for industry and commerce. Once the trademark is determined as a well-known trademark by the Trademark Office in accordance with Article 14 of the Trademark Law, the administrative department for industry and commerce shall order the infringer to stop using the trademark in violation of Article 13 of the Trademark Law, and confiscate and destroy the trademark representations used illegally; where it is difficult to separate the trademark representations from the goods involved, they shall be confiscated and destroyed together.

**Article 73** Where a trademark registrant applies for the surrender of his registered trademark, or of his trademark registration on certain designated goods, he shall file an Application for the Surrender of the Trademark to the Trademark Office, and return the original Trademark Registration Certificate.

Where a trademark registrant applies for the surrender of his registered trademark, or of his trademark registration on certain designated goods, and where the

surrender is approved by the Trademark Office, the exclusive right to use the registered trademark or the effect of the exclusive right to use the registered trademark on the designated goods shall be terminated from the date on which the Trademark Office receives the application for surrender.

**Article 74** Where a registered trademark is cancelled, or is surrendered in accordance with Article 73 of these Regulations, the original Trademark Registration Certificate shall be nullified and a publication shall be made; where the registration of a trademark on certain designated goods is cancelled or a trademark registrant applies for the surrender of his trademark registration on certain designated goods, a new Trademark Registration Certificate shall be issued and a publication shall be made.

## **Chapter VIII Protection of the Exclusive Right to Use a Registered Trademark**

**Article 75** An act of providing such facilities as storage, transport, mailing, printing, concealing, business premises, or an online goods trading platform for infringing upon another person's exclusive right to use a registered trademark constitutes an act of providing convenience prescribed in subparagraph (6) of Article 57 of the Trademark Law.

**Article 76** The use of a sign which is identical or similar to another person's registered trademark on the same or similar goods as the name or decoration of the goods, thus misleading the public, constitutes an infringement upon the exclusive right to use a registered trademark prescribed in subparagraph (2) of Article 57 of the Trademark Law.

**Article 77** In the case of an infringement upon the exclusive right to use a registered trademark, any person may lodge a complaint with or report to the administrative department for industry and commerce.

**Article 78** The following factors may be taken into consideration when calculating the illegal business revenue prescribed in Article 60 of the Trademark Law:

- (1) the selling price of the infringing goods;

- (2) the marked price of the unsold infringing goods;
  - (3) the ascertained average price of the infringing goods already sold;
  - (4) the median market price of the infringed goods;
  - (5) the business income of the infringing party generated by the infringement;
- and
- (6) other factors that could reasonably serve to calculate the value of the infringing goods.

**Article 79** The following circumstances shall be considered as being able to prove that the goods are obtained by legitimate means prescribed in Article 60 of the Trademark Law:

- (1) having the supply list and payment receipt bearing the legitimate signature and seal of the supplier, which are verified as true or recognized by the supplier;
- (2) having the purchase contract signed by both the supplier and the seller, which is verified as having been truly implemented;
- (3) having the legitimate purchase invoice, on which the items indicated are corresponding to the goods in question; or
- (4) other circumstances which could prove that the goods have been legitimately obtained.

**Article 80** Where a person sells goods infringing upon the exclusive right to use a registered trademark without the knowledge of the infringing nature of such goods, and is able to prove that the goods are obtained by legitimate means and provide information on the supplier of the goods, the administrative department for industry and commerce shall order him to stop the sale, and shall notify the information of the case to the administrative department for industry and commerce of the place where the supplier of the infringing goods is located.

**Article 81** Where the ownership of a registered trademark in question is subject to the examination of the Trademark Office, or the review of the Trademark Review and Adjudication Board, or the trial of the people's court, and where the outcome arising therefrom may affect the determination of a case, it shall be considered as the ownership of a trademark in dispute prescribed in the third

paragraph of Article 62 of the Trademark Law.

**Article 82** During the investigation and handling of a trademark infringement case, the administrative department for industry and commerce may require the right owner to identify whether the goods involved in the case are produced by the right owner or under his licensing.

## **Chapter IX Trademark Agency**

**Article 83** Trademark agency services in the Trademark Law mean the handling of application for trademark registration, trademark review or other trademark matters entrusted by and in the name of a client.

**Article 84** Trademark agencies in the Trademark Law include agencies engaging in trademark agency services registered at the administrative department for industry and commerce and law firms engaging in trademark agency services.

For a trademark agency providing trademark agency services on trademark matters that are administered by the Trademark Office or the Trademark Review and Adjudication Board, it shall apply to the Trademark Office for recordation in accordance with the following provisions:

(1) submitting for verification the registration certification document issued by the administrative department for industry and commerce or the certification document proving approval of the establishment of the law firm issued by the administrative department of justice, with the photocopies of the documents kept for records;

(2) submitting the basic information of the trademark agency including the name, address, responsible person and contact information; and

(3) submitting the list of trademark agents and their contact information.

The administrative department for industry and commerce shall establish credit files for trademark agencies. Where an agency violates the provisions of the Trademark Law or these Regulations, the Trademark Office or the Trademark Review and Adjudication Board shall make the case known to the public, and keep a record in

its credit file.

**Article 85** Trademark agents in the Trademark Law mean the personnel engaging in trademark agency services in trademark agencies.

A trademark agent shall not accept the entrustment of a client in his own name.

**Article 86** The application documents submitted by a trademark agency to the Trademark Office or the Trademark Review and Adjudication Board shall be sealed by the trademark agency and signed by the relevant trademark agent.

**Article 87** Where a trademark agency applies for registration of a trademark, or for assignment of a trademark as the assignee, on goods or other services than its agency services, the Trademark Office shall not accept the application.

**Article 88** Any of the following acts constitutes an act of disturbing the order of the trademark agency market by other improper means prescribed in subparagraph (2) of the first paragraph of Article 68 of the Trademark Law:

(1) soliciting business by means of fraud, false advertising, misleading, or commercial bribery;

(2) concealing facts, providing false evidence, or threatening or inducing others to conceal facts or provide false evidence; or

(3) accepting the entrustments of both parties who have conflict of interests in the same trademark case.

**Article 89** Where a trademark agency commits an act prescribed in Article 68 of the Trademark Law, the administrative department for industry and commerce at or above the county level of a place where the agency is located or the illegal act happens shall investigate and handle the case and notify the Trademark Office of the result.

**Article 90** Where the Trademark Office or the Trademark Review and Adjudication Board stops the acceptance of the trademark matters submitted through a trademark agency as prescribed in Article 68 of the Trademark Law, it may make a decision to stop the acceptance of the trademark matters submitted through the trademark agency for at least 6 months and up to even perpetuity. Upon the expiration of the period of non-acceptance, the Trademark Office or the Trademark Review and

Adjudication Board shall resume the acceptance.

The decisions made by the Trademark Office or the Trademark Review and Adjudication Board to stop or resume the acceptance of the trademark matters submitted through an agency shall be published on its website.

**Article 91** The administrative department for industry and commerce shall provide strict supervision and guidance to trademark agency industry organizations.

## **Chapter X Supplementary Provisions**

**Article 92** A service mark continuously in use until July 1, 1993, which is identical or similar to any service mark registered by another person on the same or similar services, may continue to be used; however, if such use is suspended for a period of 3 years or more after July 1, 1993, it shall not be used any longer.

Where a trademark has been in continuous use until the date on which the goods or services are newly open for registration by the Trademark Office for the first time, and is identical or similar to any trademark registered by another person on the same or similar goods or services which are newly open for registration, it may continue to be used; however, if such use is suspended for a period of 3 years or more after the date on which it is accepted for the first time, it shall not be used any longer.

**Article 93** The Classification of Goods and Services for the registration of trademarks shall be formulated and promulgated by the Trademark Office.

The formats of the documents for applying for trademark registration or for other trademark matters shall be formulated and promulgated by the Trademark Office and the Trademark Review and Adjudication Board.

The review rules of the Trademark Review and Adjudication Board shall be formulated and promulgated by the administrative department for industry and commerce of the State Council.

**Article 94** The Trademark Office shall establish and keep a Trademark Register recording registered trademarks and relevant registration items.

**Article 95** The Trademark Registration Certificate and relevant certifications

are proofs that a right owner enjoys the exclusive right to use a registered trademark. The registration items recorded in the Trademark Registration Certificate shall be in conformity with those in the Trademark Register; where any discrepancy occurs, the Trademark Register shall prevail, unless there is clear evidence proving that the information recorded in the Trademark Register is in error.

**Article 96** The Trademark Office shall issue the Trademark Gazette publishing trademark registration and other relevant items.

The Trademark Gazette is published in paper or in electronic format.

Except for service by means of publication, the content of a publication shall be considered as already known or ought to be known by the public as of the date of the publication.

**Article 97** Fees shall be paid for applying for trademark registration or for other trademark matters. The items and standards for collecting the fees shall be respectively formulated by the finance department and the competent pricing department of the State Council.

**Article 98** These Regulations shall be effective as of May 1, 2014.