

Interpretations of the Supreme People's Court on Issues Concerning the Jurisdiction and Application of Law for Trademark Cases after the Implementation of the Decision on Amending the Trademark Law

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The Interpretations of the Supreme People's Court on Relevant Issues Concerning the Jurisdiction and Application of Law for Trademark Cases after the Implementation of the Decision on Amending the Trademark Law (hereinafter referred to as the "Interpretations"), which were adopted at the 1606th meeting of the Judicial Committee of the Supreme People's Court on February 10, 2014, are hereby promulgated for implementation as of May 1, 2014.

In order to correctly hear trademark cases, the Interpretations with respect to the jurisdiction and application of law for people's courts when hearing trademark cases are hereby enacted in accordance with the Decisions Concerning Alternations to the Trademark Law of the People's Republic of China made at Fourth Meeting of the Standing Committee of the 12th National People's Congress on August 30, 2013 and the newly promulgated Trademark Law of the People's Republic of China, Civil Procedure Law of the People's Republic of China, the Law of the People's Republic of China on Administrative Proceedings and other laws.

Article 1 The people's courts may accept the following trademark cases:

1. administrative cases against the review decision or ruling made by the Trademark Review and Adjudication Board of the administrative department for industry and commerce under the State Council (hereinafter referred to as the "Board");
2. cases against other specific administrative acts in connection with trademark made by the administrative department for industry and commerce;
3. cases on the ownership of the right to the exclusive use of a trademark;
4. cases on disputes over infringement upon the right to the exclusive use of a trademark;
5. cases on disputes over confirmation of no infringement upon the right to the exclusive use of a trademark;
6. cases on disputes over contracts on assignment of the right to a trademark
7. cases on disputes over contracts on the license for use of a trademark;
8. cases on disputes over trademark agency contracts;
9. cases on application for suspension of infringement upon the right to the exclusive use of a trademark before litigation;
10. cases on damages liability due to the application for ceasing infringement upon the right to the exclusive use of a trademark;
11. cases on application for property preservation before litigation due to trademark disputes;
12. cases on applications for evidence preservation before litigation due to trademark disputes; and
13. other trademark cases.

Article 2 Those cases dissatisfied with decisions made by the Committee or specific administrative cases in connection with trademark decided by the Trademark Office of the State Administration for Industry and Commerce (hereinafter referred to as the "Trademark Office") fall under the jurisdiction of the competent intermediate people's courts in Beijing Municipality.

Article 3 The first trial of trademarks civil cases fall under the jurisdiction of basic people's courts designated by the people's courts over intermediate level and the Supreme People's Court. Those civil and administrative cases that involve well-known trademark protection shall fall under the jurisdiction of other intermediate people's courts designated by the intermediate people's courts and the Supreme People's Court in prefecture-level cities, cities specifically designated in the state plan and the municipalities directly under the Central Government where the people's governments of provinces and autonomous regions locate.

Article 4 In the process of investigating the trademark infringement conducted by the industrial and commercial administrative departments, the people's court shall accept the civil lawsuit that is filed by the parties concerned with respect to the trademark ownership or the infringement upon the exclusive right to a trademark.

Article 5 Where the Trademark Office, after the implementation of the decision to modify the Trademark Law, refuses to accept the trademark registration or refuses to renew the trademark that were applied prior to the implementation of the decision to modify the Trademark Law, and the parties concerned file an administrative litigation, the people's courts shall apply the revised Trademark Law in review.

Where the Trademark Office, after the implementation of the decision to modify the Trademark Law, refuses to accept the trademark objection applied prior to the implementation of the decision to modify the Trademark Law, and the parties concerned file an administrative litigation, the people's courts shall apply the unrevised Trademark Law in review.

Article 6 Where the Trademark Office, after the implementation of the decision to modify the Trademark Law, makes review decision or rulings for the review for unapproved trademark that was applied by the parties concerned prior to the implementation of the decision to modify the Trademark Law, the people's courts shall apply the revised Trademark Law in review.

For the application for trademark review prior to the implementation of the decision to amend the Trademark Law, that the Board made an approval decision after the implementation of the same, the people's courts shall not accept the administrative litigation filed by the parties, if any. If the Board decides not to approve the registration after the implementation of the decision to amend the Trademark Law and the parties concerned file an administrative litigation, the people's courts shall apply the unrevised Trademark Law during investigating the matters concerning the right of action and right as principal.

Article 7 For trademark registration that has been approved prior to the implementation of the decision to amend the Trademark Law and that the Board accepts before the implementation of the same and makes review decision or rulings after the implementation of the same, the people's courts shall apply the revised Trademark Law to review the relevant procedures and the unrevised Trademark Law to review substantive issues in case of any administrative litigation filed by any parties concerned.

Article 8 For Trademark cases that are accepted prior to the implementation of the decision to amend the Trademark Law and that the Trademark Office and the Board make review decision or rulings after the implementation of the same, the people's court shall calculate the review time limit as of the implementation of the decision to revise the Trademark Law when deciding whether such decision or rulings comply with the relevant provisions on the time limit of the Trademark Law, in case of any administrative litigation filed by any parties concerned.

Article 9 Unless otherwise provided for in the Interpretations, for the trademark civil cases that are accepted by the people's courts after the implementation of the decision to modify

the Trademark Law and involve acts occurred before the same, the unrevised Trademark Law shall apply or the revised one shall apply in case that the cases involve acts that occurred before the implementation of the decision to modify the Trademark Law and lasts after the same.