

**Implementation Regulations for the Trademark Law
of the People's Republic of China
(Amended in 2014)**

(Adopted by the Decree of the State Council of the People's Republic of China No. 358 on 3 August 2002, and amended by the Decree of State Council of the People's Republic of China No. 651)

Chapter 1 General Principles

Article 1 These Regulations are formulated pursuant to the Trademark Law of the People's Republic of China (hereinafter referred to as the "Trademark Law").

Article 2 The provisions of these Regulations on trademarks shall apply to service marks.

Article 3 A trademark holder requesting for protection of famous trademark pursuant to the provisions of Article 13 of the Trademark Law shall submit evidential materials to prove that the said trademark is a famous trademark. The Trademark Bureau and the Trademark Review and Adjudication Board shall determine, pursuant to the provisions of Article 14 of the Trademark Law, the status of fame of the said trademark in accordance with the needs for review and handling of cases and the evidential materials submitted by the party concerned.

Article 4 A geographical indication stipulated in Article 16 of the Trademark Law may, pursuant to the provisions of the Trademark Law and these Regulations, be registered as a certification mark or a collective mark.

Where a geographical indication is registered as a certification mark,

a natural person, a legal person or any other organization whose commodities satisfy the criteria for use of the said geographical indication may request to use the said certification mark, and the organization which controls the said certification mark shall consent to the request. Where a geographical indication is registered as a collective trademark, a natural person, a legal person or any other organization whose commodities satisfy the criteria for use of the said geographical indication may request to join the group, association or organization which registers the geographical indication as a collective trademark, and the group, association or organization shall accept as its member pursuant to its articles of association; a natural person, a legal person or any other organization which does not request to become a member of the group, association or organization which registers the said geographical indication as a collective trademark may use the said geographical indication through proper means, and the group, association or organization has to allow.

Article 5 A party concerned who entrusts a trademark agency to apply for trademark registration or handle other trademark matters shall submit a power of attorney. The power

of attorney shall state the contents and authority of the agency; and a power of attorney executed by a foreigner or a foreign enterprise shall also state the nationality of the principal.

The notarization and authentication formalities for the power of attorney executed by a foreigner or a foreign enterprise for an agent and the related proof documents shall be handled in accordance with the principle of reciprocity.

In the event of an application for trademark registration or transfer of trademark, where the applicant of the trademark registration or the transferee for the trademark is a foreigner or a foreign enterprise, a recipient in China for receipt of subsequent legal documents for trademark matters from the Trademark Bureau and/or the Trademark Review and Adjudication Board shall be designated in the application form. The subsequent legal documents for trademark matters from the Trademark Bureau and/or the Trademark Review and Adjudication Board shall be served on the recipient in China.

A foreigner or a foreign enterprise referred to in Article 18 of the Trademark Law shall mean a foreigner or a foreign enterprise without a usual domicile or business premise in China.

Article 6 Chinese language shall be the working language for application for trademark registration or handling of other trademark matters.

Where any certificate, proof document and evidential material stipulated pursuant to the Trademark Law and these Regulations is written in a foreign language, a Chinese translation shall be attached; where a Chinese translation is not attached, the said certificate, proof document or evidential material shall be deemed not submitted.

Article 7 An officer of the Trademark Bureau or the Trademark Review and Adjudication Board shall abstain from handling a case under any of the following circumstances, and the party concerned or a stakeholder may request for his/her abstention:

- (1) he/she is the party concerned, or a close relative of a party concerned or the agent;
- (2) he/she is otherwise related to a party concerned or the agent, and the relationship may compromise impartiality; or
- (3) he/she is a stakeholder in the application for trademark registration or handling of trademark matter(s).

Article 8 An electronic version of document(s) relevant to application for trademark registration etc. as stipulated in Article 22 of the Trademark Law shall be submitted through the Internet pursuant to the provisions of the Trademark Bureau or the Trademark Review and Adjudication Board.

Article 9 Except for circumstances stipulated in Article 18, the date on which a party concerned submits documents or materials personally to the Trademark Bureau or the Trademark Review and Adjudication Board shall be treated as the date of submission; where

the documents or materials are mailed, the postmark date shall be treated as the date of submission; where the postmark date is unclear or in the absence of a postmark, the date of submission shall be the actual date of receipt by the Trademark Bureau or the Trademark Review and Adjudication Board, except where a party concerned is able to provide evidence of the actual postmark date. Where the documents or materials are submitted through a courier enterprise other than a postal enterprise, the date of submission shall be the date of acceptance by the courier enterprise; where the date of acceptance is not specific, the date of submission shall be the actual date of receipt by the Trademark Bureau or the Trademark Review and Adjudication Board, except where a party concerned is able to provide evidence of the actual date of acceptance. Where the documents or materials are submitted electronically, the date of submission shall be the date of upload into the electronic system of the Trademark Bureau or the Trademark Review and Adjudication Board.

A party concerned mailing documents to the Trademark Bureau or the Trademark Review and Adjudication Board shall use registered mail.

Where a party concerned has submitted written documents to the Trademark Bureau or the Trademark Review and Adjudication Board in hard copies, the filing record of the Trademark Bureau or the Trademark Review and Adjudication Board shall prevail; where the documents are submitted electronically, the database record of the Trademark Bureau or the Trademark Review and Adjudication Board shall prevail, except where a party concerned has evidence to prove that there is an error in the filing record or database record of the Trademark Bureau or the Trademark Review and Adjudication Board.

Article 10 All documents from the Trademark Bureau or the Trademark Review and Adjudication Board may be served on a party concerned by way of mailing, hand delivery, electronic means or any other means; consent of the party concerned shall be obtained for electronic service of documents on the party concerned. Where a party concerned has entrusted a trademark agency, service of documents on the trademark agency shall be deemed of service of documents on the party concerned.

The date of service of documents by the Trademark Bureau or the Trademark Review and Adjudication Board on a party concerned shall be the postmark date on receipt if the documents are mailed to the party concerned; where the postmark date is unclear or missing, the documents shall be deemed served on the party concerned after 15 days from dispatch of the documents, except where the party concerned is able to prove the actual date of receipt; the date of service shall be the date of delivery if the document(s) is submitted personally; a document served electronically on a party concerned shall be deemed served on the party concerned after 15 days from dispatch of the documents, except where the party concerned is able to prove the date of entry of the documents into its electronic system. Where it is impossible to serve a document through the aforesaid means, the documents may be served by way of announcement, and the documents shall be deemed served on the party concerned 30 days after the date of announcement.

Article 11 The following period shall be excluded from the trademark examination and trial period:

(1) the period of announcement and service of documents by the Trademark Bureau or the Trademark Review and Adjudication Board;

(2) the period for supplementation of evidence or supplementation or correction of documents required by a party concerned, and the period for new defence due to change of the party concerned;

(3) the period for submission of evidence of use for same-day applications, and the period required for negotiation and drawing of lots;

(4) the period pending determination of pre-emptive rights; and

(5) during the course of examination and trial, the period pending trial outcome of a pre-emptive rights case based on the request of the applicant.

Article 12 Except for the circumstances stipulated in the second paragraph of this Article, the date of commencement of the respective periods stipulated in the Trademark Law and these Regulations shall be excluded from the said period. Where a period is computed in terms of years or months, the corresponding date in the last month of the said period shall be the date of expiry of the said period; where there is no corresponding date in the said month, the last day of the said month shall be the date of expiry of the said period; where the date of expiry of a period falls on a public holiday, the date of expiry of the said period shall be the first working day following the public holiday..

The validity period of a registered trademark stipulated in Article 39 and Article 40 of the Trademark Law shall commence from the stipulated date, and the day before the corresponding date in the last month of the said period shall be the date of expiry of the said period; where there is no corresponding date in the said month, the last day of the said month shall be the date of expiry of the said period.

Chapter 2 Application for Trademark Registration

Article 13 An application for trademark registration shall be filled in based on the published classification of commodities and services. To apply for registration of each trademark, the applicant shall submit one copy of the "Application Form for Trademark Registration" and one copy of the trademark drawing to the Trademark Bureau; to apply for registration of a trademark using a colour combination or colour pattern, a colour drawing shall be submitted together with a black and white draft; where colours are not designated, a black and white drawing shall be submitted.

A trademark drawing shall be clear, and can be pasted easily, printed on a smooth and durable paper or substituted using a photograph; the length and width shall not exceed 10 cm and shall not be less than 5cm.

In the case of an application for registration of a three-dimensional mark as a trademark, it shall be stated in the application form, and the method of use of the trademark shall be stated; a drawing for which the three-dimensional shape is distinguishable shall be submitted, and the trademark drawing submitted shall at least include a three-dimension view.

In the case of an application for registration of a colour combination as a trademark, it shall be stated in the application form, and the method of use of the trademark shall be stated.

In the case of application for registration of a sound trademark, it shall be stated in the application form; a sound sample which satisfies the requirements shall be submitted; a description of the sound trademark proposed to be registered shall be provided; the method of use of trademark shall be stated. The description of a sound trademark shall be made using a stave or notation for the sound proposed to be registered as a trademark, and a text description shall be attached; where it is impossible to use a stave or notation for the description, a text description shall be provided; the trademark description and the sound sample shall match.

In the case of application for registration of a collective mark or a certification mark, it shall be stated in the application form, and the entity status proof document and management rules for use shall be submitted.

Where a trademark is in a foreign language or includes foreign language, the meaning shall be stated.

Article 14 An applicant for trademark registration shall submit its identity document. The name of the applicant for trademark registration shall match the proof document provided by the applicant.

The provisions of the preceding paragraph on submission of identity document by an applicant shall apply to other trademark matters with the Trademark Bureau on change, transfer, renewal, opposition, and revocation etc.

Article 15 The description of commodities or services shall be filled in based on the class number and description in the classification of commodities and services; where the commodities or services are not listed in the classification of commodities and services, a statement on the commodities or services shall be attached.

Documents for an application for trademark registration that is submitted in hard copies shall be typewritten or printed.

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

Article 16 Where there are co-applicants for registration of a trademark or handling of other trademark matters, a representative shall be designated in the application form; where a representative is not designated, the first person listed in the application form shall be the representative.

Documents from the Trademark Bureau and the Trademark Review and Adjudication Board shall be served on the representative.

Article 17 In the event of change of name, address, agent, document recipient of the applicant or deletion of specific goods, the applicant shall be complete change formalities with the Trademark Bureau.

An applicant for transfer of trademark registration shall complete transfer formalities with the Trademark Bureau.

Article 18 The date of application of trademark registration shall be the date of receipt of the application documents by the Trademark Bureau.

Where the application formalities for trademark registration are complete, the application documents are filled in pursuant to the provisions, and the fees are paid, the Trademark Bureau shall accept the application and notify the applicant in writing; where the application formalities are incomplete, the application documents are not filled in pursuant to the provisions, or the fees are not paid, the Trademark Bureau shall not accept the application, and shall notify the applicant in writing and state the reason. Where the application formalities are basically complete or the application documents basically comply with the provisions but supplementation or correction is required, the Trademark Bureau shall notify the applicant to make supplementation or correction, and order the applicant to supplement or correct the contents as required within 30 days from receipt of the notice and return the supplemented or corrected contents to the Trademark Bureau. Where the contents are supplemented or corrected and returned to the Trademark Bureau within the stipulated period, the date of application shall be retained; where the contents are not supplemented or corrected within the stipulated period, or the contents are not supplemented or corrected as required, the Trademark Bureau shall not accept the application and shall notify the applicant in writing.

The provisions of the second paragraph of this Article on acceptance criteria shall apply to handling of other trademark matters.

Article 19 Where two or more applicants apply for registration of identical or similar trademarks on identical or similar goods on the same day, each applicant shall, within 30 days from receipt of notice from the Trademark Bureau, submit evidence that it has used the said trademark first prior to the application for registration. Where the trademark was used on the same day or has not been used, the applicants may negotiate among each other within 30 days from receipt of notice from the Trademark Bureau, and the written agreement shall be submitted to the Trademark Bureau; where the applicants are unwilling to negotiate, or the negotiation is unsuccessful, the Trademark Bureau shall notify the applicants to draw lots

to determine one applicant, and the applications of the other applicants shall be rejected. Where the Trademark Bureau has notified the applicants to draw lots, the applicants who do not participate in the drawing of lots shall be deemed to forfeit their applications, and the Trademark Bureau shall notify in writing applicants who do not participate in the drawing of lots.

Article 20 The duplicate of the first-time trademark registration application documents of an applicant asserting pre-emptive rights pursuant to the provisions of Article 25 of the Trademark Law shall be certified by the trademark authorities which have accepted the first application, and the date of application and application number shall be stated.

Chapter 3 Examination of Trademark Registration Applications

Article 21 The Trademark Bureau shall examine the accepted trademark registration applications pursuant to the relevant provisions of the Trademark Law and these Regulations; where an application for registration of trademark complies with the provisions or complies with the provisions for use on some designated goods, the application shall be granted preliminary validation and gazetted; where an application for registration of trademark does not comply with the provisions or does not comply with the provisions for use on some designated goods, the application shall be rejected or the application shall be rejected for use on some designated goods, and the applicant shall be notified in writing and the reason shall be stated.

Article 22 Where the Trademark Bureau has rejected an application for trademark registration for use on some designated goods, the applicant may split the part of the application which has been granted preliminary validation into another application, and the split application shall retain the date of original application.

Where there is a need to split an application, the applicant shall submit an application for splitting of application to the Trademark Bureau within 15 days from receipt of the "Notice on Rejection of Part of Application for Trademark Registration" from the Trademark Bureau.

Upon receipt of an application for splitting of application, the Trademark Bureau shall split the original application into two applications, and a new application number shall be generated for the preliminary validated split application and gazetted.

Article 23 Where the Trademark Bureau, pursuant to the provisions of Article 29 of the Trademark Law, deems that the contents of an application for

trademark registration requires clarification or correction, the applicant shall provide the clarification or correction within 15 days from receipt of notice from the Trademark Bureau.

Article 24 An opposer for a trademark preliminarily validated and gazetted by the Trademark Bureau shall submit the following trademark opposition materials in duplicate to the Trademark Bureau, and label the original copy and duplicate copy:

- (1) application form for trademark opposition;
- (2) identity document of the opposer; and
- (3) where violation of the provisions of the second and third paragraphs of Article 13, Article 15, the first paragraph of Article 16, Article 30, Article 31, and Article 32 of the Trademark Law is cited in the application for opposition, proof that the opposer is a holder of pre-emptive rights or a stakeholder.

An application form for trademark opposition shall have specific requests and factual basis, and the relevant evidential materials shall be attached.

Article 25 Upon receipt of an application form for trademark opposition, the Trademark Bureau shall examine the application, accept the application if the application satisfies the acceptance criteria, and issue a notice of acceptance to the applicant.

Article 26 Trademark Bureau shall not accept an application for trademark opposition under any of the following circumstances, and shall notify the applicant in writing and state the reason(s):

- (1) applications which are not submitted within the statutory period;
- (2) the entity status of the applicant or the reason(s) for opposition does not comply with the provisions of Article 33 of the Trademark Law;
- (3) there is no specific opposition reason, facts and legal basis; or
- (4) the same opposer has re-submitted an application for opposition for the same trademark citing the same reason, facts and legal basis.

Article 27 The Trademark Bureau shall promptly serve the duplicate copy of the trademark opposition materials to the party being opposed, and order the party being opposed to provide a defence within 30 days from receipt of the duplicate copy of the trademark opposition materials. Non-provision of a defence by the party being opposed shall not affect decision-making by the Trademark Bureau.

Where a party concerned needs to supplement the relevant evidential materials upon submission of an opposition application or provision of defence, it shall state so in the application form for trademark opposition or the defence, and submit the supplementation within three months from submission of the application form for trademark opposition or the defence; where the supplementation is not submitted within the stipulated period, the party

concerned shall be deemed to have forfeited supplementation of the relevant evidential materials. However, in the event of submission of evidence generated after the stipulated period or submission of evidence after the stipulated period when the party concerned has evidence to prove any justification for not being able to submit within the stipulated period, the Trademark Bureau shall transfer the evidence to the counterparty and may adopt the evidence after cross-examination.

Article 28 A decision for non-registration referred to in the third paragraph of Article 35 and the first paragraph of Article 36 of the Trademark Law shall include a decision for non-registration for some designated goods.

Where an opposed trademark has been gazetted after the Trademark Bureau has decided on registration or non-registration, the said gazette shall be revoked. Where the opposition is not established upon examination and a decision on registration is granted thereby, the opposed trademark shall be re-gazetted after the decision on registration takes effect.

Article 29 Where an applicant for trademark registration or a trademark registrant submits an application for correction pursuant to the provisions of Article 38 of the Trademark Law, he/she shall submit an application form for correction to the Trademark Bureau. Where the application satisfies the correction criteria, Trademark Bureau shall correct the relevant contents upon approval; where the application does not satisfy the correction criteria, the Trademark Bureau shall not grant approval, and shall notify the applicant in writing and state the reason(s).

In the event of correction of a trademark which has been preliminarily validated and gazetted or has been registered and gazetted, a correction gazette shall be made.

Chapter 4 Change, Transfer and Renewal of Registered Trademark

Article 30 In the event of change of name or address of a trademark registrant or change in any registration matter, an application for change shall be submitted to the Trademark Bureau. In the event of change of name of trademark registrant, proof document for the change issued by the relevant registration authorities shall also be submitted. Where the Trademark Bureau approves the application, it shall issue the corresponding certificate to the trademark registrant and shall gazette the change; where the application is not approved, it shall notify the applicant in writing and state the reason(s).

In the event of change of name or address of trademark registrant, the trademark registrant shall complete change formalities concurrently for all its registered trademarks; where the trademark registrant does not complete change formalities for all its registered trademarks concurrently, it shall be notified by the Trademark Bureau to make correction within the stipulated period; where correction is not made within the stipulated period, the trademark

registrant shall be deemed to have forfeited its change application, and the Trademark Bureau shall notify the applicant in writing.

Article 31 In the event of transfer of a registered trademark, the transferor and the transferee shall submit an application form for transfer of the registered trademark to the Trademark Bureau. The application formalities for transfer of the registered trademark shall be jointly handled by the transferor and the transferee. Where the Trademark Bureau approves the application for transfer of the registered trademark, it shall issue the corresponding certificate to the transferee, and gazette the transfer.

In the event of transfer of a registered trademark, where the trademark registrant does not transfer its identical or similar trademark(s) registered on identical or similar goods concurrently, it shall be ordered by the Trademark Bureau to make correction within the stipulated period; where correction is not made within the stipulated period, it shall be deemed to have forfeited the application for transfer of the said registered trademark, and the Trademark Bureau shall notify the applicant in writing.

Article 32 In the event of migration of exclusive rights to use a registered trademark due to succession etc other than transfer, the party concerned which accepts the exclusive rights to use the said registered trademark shall present the relevant proof documents or legal documents to complete the formalities for migration of exclusive rights to use registered trademark with the Trademark Bureau.

In the event of migration of exclusive rights to use a registered trademark, the holder of the exclusive rights to use the registered trademark shall transfer its identical or similar trademarks registered on identical or similar goods concurrently; where it does not do so, the Trademark Bureau shall order the holder to make correction within a stipulated period; where correction is not made within the stipulated period, the holder shall be deemed to have forfeited the said application for migration of exclusive rights to use registered trademark, and the Trademark Bureau shall notify the applicant in writing.

Where the application for migration of trademark is approved, the application shall be gazetted. The party concerned which accepts the migration of the exclusive rights to use the said registered trademark shall enjoy the exclusive rights to use the registered trademark with effect from the gazette date.

Article 33 Where there is a need for renewal of registered trademark, an application form for renewal of trademark registration shall be submitted to the Trademark Bureau. Where the Trademark Bureau approves the application for renewal of trademark registration, it shall issue the corresponding certificate and gazette the renewal.

Chapter 5 International Registration of a Trademark

Article 34 International registration of a trademark stipulated in Article 21 of the Trademark Law shall mean international registration of a Madrid trademark handled pursuant to the provisions of the Madrid Agreement Concerning International Trademark Registration (hereinafter referred to as the "Madrid Agreement"), the Madrid Agreement Concerning International Registration Trademark Protocol" (hereinafter referred to as the "Madrid Protocol") and the Common Regulations under the Madrid Agreement Concerning International Trademark Registration and the Protocol to the Agreement.

Applications for Madrid international registration of a trademark shall include applications for Madrid international registration with China as the country of origin, applications designating China for territorial extension and other related applications.

Article 35 For an application for international registration of a trademark with China as the country of origin, the applicant shall have a true and valid business premise or a domicile in China, or holds Chinese nationality.

Article 36 An applicant who complies with the provisions of Article 35 and whose trademark is registered with the Trademark Bureau may apply for international registration of the said trademark pursuant to the Madrid Agreement.

An applicant who complies with the provisions of Article 35 and whose trademark is registered with the Trademark Bureau, or whose application for trademark registration has been accepted by the Trademark Bureau, may apply for international registration of the said trademark with the Madrid Protocol.

Article 37 Applicants who apply for international registration of a trademark with China as the country of origin shall apply to the International Bureau of the World Intellectual Property Organization (hereinafter referred to as the "International Bureau") through the Trademark Bureau.

An application for subsequent designation, forfeiture or cancellation of international registration of a trademark in relation to the Madrid Agreement and with China as the country of origin shall be made to the International Bureau through the Trademark Bureau; an application for transfer, deletion, change or renewal of international registration of a trademark in relation to the Madrid Agreement may be made to the International Bureau through the Trademark Bureau, or may be made directly to the International Bureau.

An application for subsequent designation, transfer, deletion, forfeiture, cancellation, change or renewal of international registration of a trademark in relation to the Madrid Protocol and with China as the country of origin may be made to the International Bureau through the Trademark Bureau, or may be made directly to the International Bureau.

Article 38 Applicants making an application for international registration of a trademark or any other related application to the International Bureau through the Trademark Bureau shall

submit an application form and the relevant materials required by the International Bureau and the Trademark Bureau.

Article 39 Commodities or services designated in an application for international registration of a trademark shall not exceed the scope of commodities or services designated in the basic application in China or in the basic registration.

Article 40 Where the application formalities of international registration of a trademark are incomplete, or the application form for international registration of a trademark is not filled in pursuant to the provisions, the Trademark Bureau shall not accept the application and shall not retain the date of application.

Where the application formalities are complete, or the application form basically complies with the provisions but there is a need for supplementation or correction, the applicant shall make supplementation or correction within 30 days from receipt of the notice on supplementation and correction; where supplementation or correction is not made within the stipulated period, the Trademark Bureau shall not accept the application, and shall notify the applicant in writing.

Article 41 Applicants making an application for international registration of trademark and any other related application to the International Bureau through the Trademark Bureau shall pay fees pursuant to the provisions.

An applicant shall pay fees to the Trademark Bureau within 15 days from receipt of the notice on fee payment from the Trademark Bureau. Where the payment is not made within the stipulated period, the Trademark Bureau shall not accept the application, and shall notify the applicant in writing.

Article 42 The Trademark Bureau shall examine an application designating China for territorial extension pursuant to the relevant provisions of the Trademark Law and these Regulations during the rejection period stipulated in the Madrid Agreement or the Madrid Protocol (hereinafter referred to as the "rejection period"), make a decision and notify the International Bureau. Where the Trademark Bureau does not issue a rejection notice or a partial rejection notice during the rejection period, the application for territorial extension shall be deemed approved.

Article 43 Where an applicant designating China for territorial extension requests for trademark protection for a three-dimensional mark, a colour combination or a sound trademark, or protection of a collective mark or certification mark, the relevant materials stipulated in Article 13 shall be submitted to the Trademark Bureau through a trademark agency established pursuant to the law within three months from registration of the said trademark in the international register of the International Bureau. Where the relevant materials are not submitted within the aforesaid period, the Trademark Bureau shall reject the application for territorial extension.

Article 44 Where the World Intellectual Property Organization has gazetted the relevant matter(s) of international registration of a trademark, the Trademark Bureau will not make another gazette.

Article 45 For an application designating China for territorial extension, an opposer who satisfies the criteria stipulated in Article 33 of the Trademark Law may submit an application for opposition to the Trademark Bureau within three months from the first day of the month following publication of the "International Trademark Gazette" of the World Intellectual Property Organization.

The Trademark Bureau shall notify the International Bureau of the relevant information of the application for opposition in the form of a rejection decision during the rejection period.

The party being opposed may provide the defence within 30 days from receipt of the notice on rejection forwarded by the International Bureau; the defence and the relevant evidential materials shall be submitted to the Trademark Bureau through a trademark agency established pursuant to the law.

Article 46 The validity period of an internationally registered trademark protected in China shall commence from the international registration date or the subsequent designation date. The registrant may apply to the International Bureau for renewal prior to expiry of the validity period; where an application for renewal is not made within the validity period, a six-month grace period may be granted. Upon receipt of the renewal notice from the International Bureau, the Trademark Bureau shall carry out examination pursuant to the law. Where the International Bureau notifies non-renewal, the said internationally registered trademark shall be deregistered.

Article 47 In the event of transfer of an application designating China for territorial extension, the transferee shall have a true and valid business premise or a domicile in the territory of the contracting party, or be a citizen of the contracting party.

Where the transferor does not transfer all its identical or similar trademarks on identical or similar commodities or services concurrently, the Trademark Bureau shall notify the registrant to make correction within three months from issuance of the notice; where correction is not made within the stipulated period, or the transfer will cause confusion easily or have any other adverse impact, the Trademark Bureau shall rule that the said transfer is invalid in China, and issue a statement to the International Bureau.

Article 48 In the event of deletion for an application designating China for territorial extension, where the scope of commodities or services after the deletion does not comply with the requirements of China for classification of commodities or services, or exceeds the original scope of designated commodities or services, the Trademark Bureau shall rule that the deletion is invalid in China, and issue a statement to the International Bureau.

Article 49 An applicant applying for revocation of international registration of a trademark pursuant to the provisions of the second paragraph of Article 49 of the Trademark Law shall submit the application to the Trademark Bureau after three years from expiry of the rejection period for the said application for international registration of the trademark; where the trademark is still under rejection review or opposition-related procedures at the time of expiry of the rejection period, an application shall be made to the Trademark Bureau after three years from the effective date of the decision of the Trademark Bureau or the Trademark Review and Adjudication Board on approval of registration.

An applicant applying for invalidation of international registration of a trademark pursuant to the provisions of the first paragraph of Article 44 of the Trademark Law shall submit the application to the Trademark Review and Adjudication Board upon expiry of the rejection period of the said application for international registration of the trademark; where the trademark is still under rejection review or opposition-related procedures at the time of expiry of the rejection period, an application shall be made to the Trademark Bureau after three years from the effective date of the decision of the Trademark Bureau or the Trademark Review and Adjudication Board on approval of registration.

An applicant applying for invalidation of international registration of trademark pursuant to the provisions of the first paragraph of Article 45 of the Trademark Law shall submit an application to the Trademark Review and Adjudication Board within five years from expiry of the rejection period of the said application for international registration of the trademark; where the trademark is still under rejection review or opposition-related procedures at the time of expiry of the rejection period, an application shall be made to the Trademark Bureau after three years from the effective date of the decision of the Trademark Bureau or the Trademark Review and Adjudication Board on approval of registration. In the case of malicious registration, the owner of a famous trademark shall not be subject to the five-year limitation.

Article 50 The provisions of the following articles of the Trademark Law and these Regulations shall not apply to matters related to international registration of trademark:

- (1) the provisions of Article 28 and the first paragraph of Article 35 of the Trademark Law on examination and examination period;
- (2) Article 22 and the second paragraph of Article 30 of these Regulations; and
- (3) the provisions of Article 42 of the Trademark Law and Article 31 of these Regulations on application and handling of formalities jointly by the transferor and the transferee in a trademark transfer.

Chapter 6 Trademark Review and Adjudication

Article 51 Trademark review and adjudication shall mean trial of trademark dispute matters by the Trademark Review and Adjudication Board pursuant to the provisions of Article 34, Article 35, Article 44, Article 45, and Article 54 of the Trademark Law. A party concerned submitting an application for trademark review and adjudication to the Trademark Review and Adjudication Board shall have specific requests, facts, reasons and legal basis, and shall provide the corresponding evidence.

The Trademark Review and Adjudication Board shall carry out review and adjudication based on facts and pursuant to the law.

Article 52 The Trademark Review and Adjudication Board, in the trial of a review case arising from disagreement with the Trademark Bureau's decision on rejection of applications for trademark registration, shall examine the case based on the rejection decision of the Trademark Bureau, the facts, reasons and requests alleged by the applicant, and the factual status at the time of the review.

In the trial of a review case arising from disagreement with the Trademark Bureau's decision on rejection of applications for trademark registration, where the Trademark Review and Adjudication Board discovers that the trademark in the application for registration violates the provisions of Article 10, Article 11, Article 12 or the first paragraph of Article 16 of the Trademark Law but the Trademark Bureau does not make a rejection decision pursuant to the provisions of the aforesaid clauses, the Trademark Review and Adjudication Board may make a review decision to reject the application pursuant to the provisions of the aforesaid clauses. The Trademark Review and Adjudication Board shall solicit the opinion of the applicant before making the review decision.

Article 53 The Trademark Review and Adjudication Board shall, in the trial of a review case arising from disagreement with the Trademark Bureau's decision on non-registration, examine the case based on the Trademark Bureau's decision on non-registration, the facts and reasons alleged by the applicant and requests thereof, and the opinion of the original opposer.

The Trademark Review and Adjudication Board shall, in the trial of a review case arising from disagreement with the Trademark Bureau's decision on non-registration, notify the original opposer to participate and give opinion. Where the opinion of the original opposer has a substantial impact on the trial outcome of the case, the opinion may form the basis of the review and adjudication; where the original opposer does not participate or give an opinion, this shall not have an impact on the trial of the case.

Article 54 The Trademark Review and Adjudication Board shall, in the trial of a case pertaining to request for invalidation of trademark registration pursuant to the provisions of Article 44 and Article 45 of the Trademark Law, examine the case based on the facts and reasons alleged and defended by the parties concerned and requests thereof.

Article 55 The Trademark Review and Adjudication Board shall, in the trial of a review case arising from disagreement with the Trademark Bureau's decision on invalidation of trademark registration pursuant to the provisions of the first paragraph of Article 44 of the Trademark Law, examine the case based on the Trademark Bureau's decision, the facts and reasons of the applicant, and the requests thereof.

Article 56 The Trademark Review and Adjudication Board shall, in the trial of a review case arising from disagreement with the Trademark Bureau's decision on revocation or upholding of a registered trademark pursuant to the provisions of Article 49 of the Trademark Law, examine the case based on the Trademark Bureau's decision on revocation or upholding of the registered trademark, the facts and reasons alleged by the parties concerned, and the requests thereof.

Article 57 Applicants applying for trademark review and adjudication shall submit an application form to the Trademark Review and Adjudication Board, and submit the corresponding number of duplicate copies based on the number of the counterparties; where an application for review is based on a decision of the Trademark Bureau, the duplicate copy of the Trademark Bureau's decision shall also be attached.

Upon receipt of an application form, the Trademark Review and Adjudication Board shall examine and accept the application if it satisfies the acceptance criteria; applications which do not satisfy the acceptance criteria shall not be accepted, unsuccessful applicants shall be notified in writing and the reason(s) shall be stated; where there is a need for supplementation or correction, the applicant shall make supplementation or correction within 30 days from receipt of the notice. Where the application still does not comply with the provisions after supplementation or correction, the Trademark Review and Adjudication Board shall not accept the application, the applicant shall be notified in writing and the reason shall be stated; where supplementation or correction is not made within the stipulated period, the application shall be deemed withdrawn, the Trademark Review and Adjudication Board shall notify the applicant in writing.

Upon acceptance of an application for trademark review and adjudication, where the Trademark Review and Adjudication Board discovers that the application does not satisfy acceptance criteria, the application shall be rejected, the applicant shall be notified in writing and the reason shall be stated.

Article 58 The Trademark Review and Adjudication Board shall, upon acceptance of an application for trademark review and adjudication, promptly serve the duplicate copy(ies) of the application form on the counterparty(ies), and order the counterparty(ies) to provide a defence within 30 days from receipt of the duplicate copy of the application form; non-provision of a defence within the stipulated period shall not affect review and adjudication of the Trademark Review and Adjudication Board.

Article 59 Where a party concerned needs to supplement the relevant evidential materials after submitting an application for trademark review and adjudication or provision of defence,

it shall state so in the application form or in the defence, and submit the supplementary evidential materials within three months from submission of the application form or the defence; where the supplementary evidence is not submitted within the stipulated period, the party concerned shall be deemed to have forfeited submission of the relevant supplementary evidential materials. However, in the event of submission of evidence generated after the stipulated period or submission of evidence after the stipulated period when the party concerned has evidence to prove any justification for not being able to submit within the stipulated period, the Trademark Bureau shall forward the evidence to the counterparty and may adopt the evidence after cross-examination.

Article 60 The Trademark Review and Adjudication Board may decide to try an application for review and adjudication verbally based on the request of a party concerned or actual needs.

Where the Trademark Review and Adjudication Board decides to try an application for review and adjudication verbally, it shall notify the parties concerned in writing 15 days before the verbal trial, informing them the date and venue and review and adjudication personnel for the verbal trial. The parties concerned shall reply within the period stipulated in the notice.

Where the applicant neither replies nor participate in the verbal trial, its application for review and adjudication shall be deemed withdrawal, and the Trademark Review and Adjudication Board shall notify the applicant in writing; where the respondent neither replies nor participate in the verbal trial, the Trademark Review and Adjudication Board may carry out review and adjudication in its absence.

Article 61 An applicant may, before the Trademark Review and Adjudication Board makes a decision or ruling, submit a written request for withdrawal of application to the Trademark Review and Adjudication Board and state the reason(s); where the Trademark Review and Adjudication Board rules that the application may be withdrawn, the review and adjudication procedures shall be terminated.

Article 62 Where an applicant has withdrawn its application for trademark review and adjudication, it shall not submit another application for trademark review and adjudication citing the same facts and reasons.

Where the Trademark Review and Adjudication Board has made a ruling or decision for an application for trademark review and adjudication, no person shall submit another application for review and adjudication citing the same facts and reasons, except in the case of an application for invalidation of trademark registration to the Trademark Review and Adjudication Board after approval of registration after undergoing review procedures for non-registration.

Chapter 7 Management of Trademark Use

Article 63 A registered trademark may be used on goods, packaging of goods, user manual or other attachments by stating the words "registered trademark" or the registered mark.

Registered marks shall include ® and ™ . The registered mark shall be stated at the top right corner or bottom right corner of the trademark.

Article 64 In the event of loss or mutilation of a "Trademark Registration Certificate", an application form for issuance of a replacement "Trademark Registration Certificate" shall be submitted to the Trademark Bureau. In the event of loss of a "Trademark Registration Certificate", a statement of lost "Trademark Registration Certificate" shall be published on the "Trademark Gazette". In the event of mutilation of a "Trademark Registration Certificate", the mutilated certificate shall be returned to the Trademark Bureau at the time of submission of the application for issuance of replacement.

Where a trademark registrant needs to apply to the Trademark Bureau for issuance of replacement of a certificate for change, transfer or renewal of a trademark, or issuance of a trademark registration certificate, or where an applicant requests the Trademark Bureau to issue a proof document for pre-emptive rights, the corresponding application form shall be submitted to the Trademark Bureau. Where an application satisfies the requirements, the Trademark Bureau shall issue the corresponding certificate; where an application does not satisfy the requirements, the Trademark Bureau shall not accept the application, and shall notify the applicant and state the reason.

In the event of forgery or alteration of a "Trademark Registration Certificate" or any other trademark certificate, criminal liability shall be pursued pursuant to the provisions of the Criminal Law on forgery and alteration of State agency credentials or other crimes.

Article 65 Where a registered trademark becomes a generic name of the commodities for which it is approved as stipulated in Article 49 of the Trademark Law, any organization or individual may apply to the Trademark Bureau for revocation of the said registered trademark, and the evidential materials shall be attached to the application. Upon acceptance of application by the Trademark Bureau, the trademark registrant shall be notified and ordered to provide a defence within two months from receipt of notification; non-provision of defence within the stipulated period shall not affect decision-making by the Trademark Bureau.

Article 66 Where a registered trademark has not been used for three years consecutively without a proper reason as stipulated in Article 49 of the Trademark Law, any organization or individual may apply to the Trademark Bureau for revocation of the said registered trademark, and the relevant information shall be provided at the time of submission of application. Upon acceptance of the application, the Trademark Bureau shall notify the trademark registrant and order it to submit evidential materials within two months from receipt of notification to prove that the trademark has been used prior to submission of the application for revocation, or to state any proper reason for not using the trademark; where the evidential materials of trademark use are not submitted within the stipulated period or the evidential materials are

invalid, and there is no proper reason, the Trademark Bureau shall revoke the registered trademark.

Evidential materials for trademark use referred to in the preceding paragraph shall include evidential materials to prove that the registered trademark is used by the trademark registrant and evidential materials that the trademark registrant has licensed others to use the registered trademark.

An application for revocation of a registered trademark on the ground that the registered trademark has not been used for three years consecutively without a proper reason shall be submitted three years after the gazette date of the said registered trademark.

Article 67 The following circumstances shall fall under proper reasons stipulated in Article 49 of the Trademark Law:

- (1) force majeure;
- (2) government policy restriction;
- (3) bankruptcy liquidation; and
- (4) any other proper matters which cannot be attributed to the trademark registrant.

Article 68 Where the Trademark Bureau or the Trademark Review and Adjudication Board revokes a registered trademark or invalidates a registered trademark, where the reason(s) for revocation or invalidation apply(ies) only to some designated commodities, revocation or invalidation shall apply only to use of the registered trademark on such designated commodities.

Article 69 For licensing of a registered trademark, the licensor shall file record with the Trademark Bureau within the validity period of the licensing contract and submit the filing materials. The filing materials shall state the licensor and licensee of the registered trademark, the licensing period, and the scope of commodities or services for the licensing etc.

Article 70 For pledge of exclusive rights to use a registered trademark, the pledgor and the pledgee shall enter into a pledge contract in writing, and submit an application for pledge registration to the Trademark Bureau jointly; the pledge registration shall be gazetted by the Trademark Bureau.

Article 71 Persons who violate the provisions of the second paragraph of Article 43 of the Trademark Law shall be ordered by the administration for industry and commerce to make correction within a stipulated period; where correction is not made within the stipulated period, the offender shall be ordered to stop selling; offenders who refuse to stop selling shall be subject to a fine of not more than RMB100,000.

Article 72 A trademark holder requesting for protection of a famous trademark pursuant to the provisions of Article 13 of the Trademark Law may submit the request to the administration for industry and commerce. Where the Trademark Bureau determines that the trademark is a famous trademark pursuant to the provisions of Article 14 of the Trademark Law, the trademark holder shall be ordered by the administration for industry and commerce to stop using the trademark in violation of the provisions of Article 13 of the Trademark Law, and the trademark labels used illegally shall be confiscated and destroyed; where it is difficult to detach the trademark labels from the commodities, the commodities shall be confiscated and destroyed as well.

Article 73 A trademark registrant applying for cancellation of its registered trademark or cancellation of registration of its trademark on some designated commodities shall submit an application form for trademark cancellation to the Trademark Bureau, and surrender the original "Trademark Registration Certificate".

Where a trademark registrant applies for cancellation of its registered trademark or cancellation of its trademark on some designated commodities, upon approval of cancellation by the Trademark Bureau, the exclusive rights to use the said registered trademark or the validity of the exclusive rights for use of the said registered trademark on some designated commodities shall terminate on the date of receipt of application for cancellation by the Trademark Bureau.

Article 74 Where a registered trademark is revoked or cancelled pursuant to the provisions of Article 73 of these Regulations, the original "Trademark Registration Certificate" shall become void and gazetted; in the event of revocation of registration of the said trademark on some designated commodities, or application by the trademark registrant for cancellation of registration of the said trademark on some designated commodities, a new "Trademark Registration Certificate" shall be issued and gazetted.

Chapter 8 Protection of Exclusive Rights to use a registered trademark

Article 75 Persons who provide warehousing, transportation, postage, printing, concealment, business premises, and online commodities trading platform etc for infringement upon others' exclusive rights to use a trademark shall fall under facilitation of infringement stipulated in item (6) of Article 57 of the Trademark Law.

Article 76 Persons who use a mark which is identical or similar to other's registered trademark on identical or similar commodities as the name of the commodities or commodity packaging and has misled the public shall fall under infringement of exclusive rights to use a registered trademark stipulated in item (2) of Article 57 of the Trademark Law.

Article 77 Any person may complain or report an act of infringement of exclusive rights to use a registered trademark to the administration for industry and commerce.

Article 78 Computation of the illegal turnover amount stipulated in Article 60 of the Trademark Law may take into account the following factors:

- (1) selling price of the infringed commodities;
- (2) label price for unsold infringed commodities;
- (3) average price of actual sales of identified infringed commodities;
- (4) the middle market price of the infringed commodities;
- (5) operating income derived by the infringing party from the infringement; and
- (6) any other factors which can reasonably compute the value of the infringed commodities.

Article 79 The following circumstances shall fall under "where it can be proven that the commodities are obtained legitimately" stipulated in Article 60 of the Trademark Law:

- (1) able to present a supply list signed and sealed legitimately by the supplier, and receipt for payment which is verified to be true or authenticated by the supplier;
- (2) able to present the purchase contract entered into between the supplier and the seller which is verified to be truthfully performed;
- (3) able to present a legitimate invoice for the procurement, and the contents of the invoice correspond to the commodities involved in the case; or
- (4) any other circumstances which can prove that the commodities involved in the case are legitimately obtained.

Article 80 Persons who sell commodities which infringe upon others' exclusive rights to use a registered trademark unwittingly and are able to prove that they have obtained the commodities legitimately and can name the supplier shall be ordered by the administration for industry and commerce to stop selling; the information of the case shall be notified to the administration for industry and commerce at the location of the supplier of the infringing commodities.

Article 81 Ownership of a registered trademark in a case which is tried by the Trademark Bureau or the Trademark Review and Adjudication Board or under a lawsuit filed with a People's Court shall fall under a "dispute over the ownership of trademark rights" stipulated in the third paragraph of Article 62 of the Trademark Law if the trial outcome may affect the attributes of the trademark rights.

Article 82 In the course of investigation of a trademark infringement case, the administration for industry and commerce may require the rights holder to identify whether

the products are manufactured for the rights holder or manufactured under licensing from the rights holder.

Chapter 9 Trademark Agency

Article 83 Trademark agency referred to in the Trademark Law shall mean acceptance of entrustment by a principal to handle application for trademark registration, trademark review and adjudication or other trademark matters in the name of the principal.

Article 84 Trademark agencies referred to in the Trademark Law shall include

service organizations registered with the administration for industry and commerce which engage in trademark agency business and law firms engaging in trademark agency business.

A trademark agency engaging in trademark agency business governed by the Trademark Bureau and the Trademark Review and Adjudication Board shall file record with the Trademark Bureau pursuant to the following provisions:

- (1) submit for verification the registration proof documents issued by the administration for industry and commerce or approval document(s) of the judicial administrative authorities for establishment of the law firm, and retain photocopies;
- (2) submit basic information such as name, address, person-in-charge, and contact details etc. of the trademark agency; and
- (3) submit a name list of the practitioners of the trademark agency and their contact details.

The administration for industry and commerce shall establish a trademark agency integrity file. Where a trademark agency has violated the provisions of the Trademark Law or these Regulations, the Trademark Bureau or the Trademark Review and Adjudication Board shall make a public notification and record the violation in its integrity file.

Article 85 Trademark agency practitioners referred to in the Trademark Law shall mean staff members of a trademark agency who engage in trademark agency business.

Trademark agency practitioners shall not accept entrustment in their personal capacity.

Article 86 The relevant application documents submitted by a trademark agency to the Trademark Bureau and the Trademark Review and Adjudication Board shall be affixed with the official seal of the agency and signed by the relevant trademark agency practitioner(s).

Article 87 Application of a trademark agency to register or accept a trademark other than the trademarks entrusted by its principal shall not be accepted by the Trademark Bureau.

Article 88 The following acts shall fall under "use of improper means to disrupt the order of the trademark agency market" stipulated in item (2) of the first paragraph of Article 68 of the Trademark Law:

(1) solicitation of business by fraud, false promotion, misleading others or commercial bribery etc.;

(2) concealment of facts, provision of false evidence, or coercing or instigating others to conceal facts or provide false evidence; and

(3) be entrusted by both parties concerned which have conflict of interests in the same trademark case.

Article 89 Where a trademark agency has committed an act stipulated in Article 68 of the Trademark Law, the matter shall be investigated by the administration for industry and commerce of county level and above at the location of the doer or occurrence of the illegal act, the Trademark Bureau shall be notified of the investigation outcome.

Article 90 Where the Trademark Bureau or the Trademark Review and Adjudication Board suspends acceptance of applications submitted by a trademark agency pursuant to the provisions of Article 68 of the Trademark Law, it may make a decision on suspension of acceptance of applications submitted by the said the trademark agency for six months to permanently. Upon expiry of the suspension period for acceptance of applications submitted by the trademark agency, the Trademark Bureau or the Trademark Review and Adjudication Board shall resume acceptance.

A decision of the Trademark Bureau or the Trademark Review and Adjudication Board for suspension of acceptance of applications submitted by a trademark agency or resumption of acceptance of applications submitted by a trademark agency shall be announced on its website.

Article 91 The administration for industry and commerce shall strengthen supervision and guidance of trademark agency industry organizations.

Chapter 10 Supplementary Provisions

Article 92 A service mark which has been used consecutively up to 1 July 1993 which is identical or similar to a service mark registered by others for identical or similar services may continue to be used; however, if the use of the service mark has been discontinued for three or more years after 1 July 1993, it shall cease to be used.

Where a trademark which has been used consecutively up to the date of acceptance of newly released commodities or services for the first time by the Trademark Bureau is identical or

similar to a trademark registered by others on newly released commodities or services or identical or similar services, it may continue to be used; however, if the use of the service mark has been discontinued for three or more years after the first acceptance, it shall cease to be used.

Article 93 The classification of commodities and services for trademark registration shall be formulated and announced by the Trademark Bureau.

The document templates for application for trademark registration or other trademark matters shall be formulated and announced by the Trademark Bureau and the Trademark Review and Adjudication Board.

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

Article 94 The Trademark Bureau shall set up a "Trademark Register" to record registered trademarks and related registration matters.

Article 95 A "Trademark Registration Certificate" and the relevant proof shall be proof that the rights holder enjoys the exclusive rights to use the registered trademark. The registration matters stated on a "Trademark Registration Certificate" shall be consistent with the records in the "Trademark Register"; in the event of discrepancy, except where there is evidence to prove that there is an error in the "Trademark Register", the records in the "Trademark Register" shall prevail.

Article 96 The "Trademark Gazette" published by the Trademark Bureau shall publish trademark registration and other related matters.

The "Trademark Gazette" shall be made by way of hard copy or in electronic form.

Except for service by way of announcement, the public shall be deemed to have knowledge or should have been aware of the contents of an announcement with effect from the date of announcement.

Article 97 Fees shall be paid for application for trademark registration or handling of other trademark matters. Fee items and rates shall be separately formulated by the finance department of the State Council and the pricing department of the State Council.

Article 98 These Regulations shall be effective 1 May 2014.