

Trademark Law Of The People's Republic Of China (Revised In 2013)

(Adopted at the 24th Meeting of the Standing Committee of the Fifth National People's Congress on August 23, 1982, amended for the first time in accordance with the Decision on Revising the Trademark Law of the People's Republic of China adopted at the 30th Meeting of the Standing Committee of the Seventh National People's Congress on February 22, 1993, amended for the second time in accordance with the Decision on Revising the Trademark Law of the People's Republic of China adopted at the 24th Meeting of the Standing Committee of the Ninth National People's Congress on October 27, 2001, and amended for the third time in accordance with the Decisions on Revising the Trademark Law of the People's Republic of China adopted at the Fourth Meeting of the Standing Committee of the 12th National People's Congress on August 30, 2013)

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Chapter I General Provisions

Article 1 The Trademark Law of the People's Republic of China (hereinafter referred to as "the Law") is enacted for the purposes of improving the administration of trademarks, protecting the exclusive right to use a trademark, encouraging producers or operators to guarantee the quality of their goods or services and maintain the reputation of their trademarks, with a view to protecting the interests of consumers, producers and operators and promoting the development of the socialist market economy.

Article 2 The administrative department for industry and commerce under the State Council has established a Trademark Office to take charge of matters concerning trademark registration and administration throughout the country.

The administrative department for industry and commerce under the State Council has established a Trademark Review and Adjudication Board to be responsible for handling of trademark disputes.

Article 3 "Registered trademark" refers to trademarks that have been approved by and registered with the Trademark Office, including goods marks, service marks, collective marks and certification marks. The registrant of a trademark enjoys the exclusive right to use the trademark, which shall be protected by law.

"Collective mark" in the Law refers to a mark registered in the name of a group, association, or any other organization and used in business activities by its members to indicate their membership.

"Certification mark" in the Law refers to a mark which is controlled by an organization that exercises supervision over particular goods or services and which is used to indicate that third-party goods or services meet certain standards pertaining to place of origin, raw materials, mode of manufacture, quality, or other specific characteristics.

Special matters pertaining to the registration and administration of collective marks and certification marks shall be specified by the administrative department for industry and commerce under the State Council.

Article 4 Any natural person, legal person, or other organizations that needs to acquire the exclusive right to use a trademark in the production and operation activities shall file an application for trademark registration with the Trademark Office.

Provisions of the Law regarding goods marks apply to service marks.

Article 5 Two or more natural persons, legal persons, or other organizations may jointly file an application for the registration of the same trademark with the Trademark Office, jointly enjoying and exercising the exclusive right to use the trademark.

Article 6 With respect to goods requiring the use of a registered trademark according to the laws and administrative laws and regulations, an application for trademark registration shall be filed; the goods may not be sold on the market before the registration thereof is approved.

Article 7 The application for registration and use of a trademark shall be based on the principle of good faith.

Users of a trademark shall be liable for the quality of the goods on which the trademark is used. The administrative department for industry and commerce at all levels shall, through the administration of trademarks, prohibit any practice that defrauds the consumers.

Article 8 Any sign that distinguishes the goods of a natural person, legal person, or other organizations from those of others, including any word, device, letter, number, three-dimensional sign, color combination, sound and combination thereof, may be registered as a trademark.

Article 9 The trademark applied for registration shall have distinctive characteristics for identification, and shall not conflict with the prior legitimate rights of others.

The registrant of a trademark has the right to indicate the wording 'Registered Trademark' or a sign indicating that it is registered.

Article 10 The following signs shall not be used as trademarks:

1. Those identical with or similar to the State name, national flag, national emblem, national anthem, military flag, army emblem, military songs, medals and others of the People's Republic of China; those identical with the names

and signs of central state organs, names of the specific locations thereof, or those identical with the names or device of landmark buildings;

2. Those identical with or similar to the state names, national flags, national emblems or military flags of foreign countries, unless permitted by the government of the country;
3. Those identical with or similar to the names, flags, or emblems of international inter-governmental organizations, unless permitted by the organization concerned or unlikely to mislead the public;
4. Those identical with or similar to an official sign or inspection seal that indicates control and guarantee, unless it is authorized;
5. Those identical with or similar to the names or signs of the Red Cross or the Red Crescent;
6. Those of discrimination against any race;
7. Those of fraud that may easily mislead the public in the characteristics such as the quality of goods, or place of production; and
8. Those detrimental to socialist morals or customs, or having other unhealthy influences.

The geographical names of administrative divisions at or above the county level and foreign geographical names well-known to the public shall not be used as trademarks, except for geographical names that contain other meanings or constitute parts of a collective mark or certification mark. Where a trademark bearing any of the above-mentioned geographical names has been registered, it shall continue to be valid.

Article 11 The following signs shall not be registered as trademarks:

1. Marks that only bear the generic names, devices, or model numbers of the goods;
2. Marks that simply indicate the quality, main raw materials, function, use, weight, quantity or other features of the goods;
3. Marks that lack distinctive characteristics.

The signs referred to in the preceding paragraph may be registered as a trademark where it has acquired distinctiveness through use and is readily distinguishable.

Article 12 Where a three-dimensional sign is applied for registration as a trademark, application shall be rejected if the three-dimensional sign merely indicates the shape inherent in the nature of the goods concerned or if the three-dimensional sign is only dictated by the need to achieve technical effects or the need to give the goods substantive value.

Article 13 Holders of trademarks known to the public may seek for protection of well-known trademarks in accordance with the provisions hereof, when they believe that their rights have been infringed.

Where a mark is a reproduction, imitation, or translation of a third party's well-known trademark that has not been registered in China in respect of identical or similar goods, which is likely to lead to confusion, such mark shall not be registered and shall be prohibited from being used.

Where a mark is a reproduction, imitation, or translation of a third party's well-known trademark that has been registered in China in respect of different or other types of goods, which may mislead the public and damage the interests of the registrant of the well-known trademark, such mark shall not be registered and shall be prohibited from being used.

Article 14 Well-known trademarks shall be, as requested by the party involved, determined as those facts that are required to be determined when handling trademark-related cases. The following factors shall be considered in determining a well-known trademark:

1. The popularity degree of the trademark in its trading areas;
2. The duration the trademark has been in use;
3. The duration, extent and geographical range of advertising and publicity of the trademark;
4. The records on the protection of the trademark as a well-known trademark; and
5. Other reasons for the reputation of the trademark.

During the process of registered trademark review or investigation of cases in violation of laws concerning trademarks by the administrative department for industry and commerce, where the parties involved claim their rights in accordance with the provisions of Article 13 hereof, the Trademark Office may, as required by such review or handling, determine whether the trademarks are well-known trademarks or not.

During the settlement of disputes in connection with trademarks, where the parties involved claim their rights in accordance with the provisions of Article 13 hereof, the Trademark Review and Adjudication Board may, as required by case handling, determine whether the trademarks are well-known trademarks or not.

During the process of hearing civil or administrative cases concerning trademarks, where the parties involved claim their rights in accordance with the provisions of Article 13 hereof, the people's court designated by the Supreme People's Court may, as required by case hearing, determine whether the trademarks are well-known trademarks or not.

Producers and operators shall neither use characters such as "Well-known Trademark" in the goods, on the packaging or vessels nor apply the same for advertising, exhibition or other commercial activities.

Article 15 In the event that an agent or a representative seeks to register the client's trademark in its own name without the authorization of the client and faces objection from the client, such trademark shall not be registered and be prohibited from being used.

Where a trademark that the applicant applies for registration with respect to the same or similar goods is the same as or similar to an unregistered trademark that has been used by others, and there is contractual, business or any other relation between the applicant and others in addition to previous provisions, such trademark shall not be registered when the others raise objections.

Article 16 In the event that a trademark containing a geographical indication of goods misleads the public for the goods does not come from the location as stated in the indication, such trademark shall not be registered and shall

be prohibited from being used. However, if the registration has been obtained in goodwill, such registration shall continue to be valid.

The geographical indication set forth in the preceding paragraph refers to a sign indicating the place of origin of the goods of which the special quality, reputation or other characteristics are primarily determined by the natural conditions or other humanistic conditions of the location involved.

Article 17 A foreigner or foreign enterprise applying for trademark registration in China shall be subject to the agreement concluded by and between the country to which the applicant belongs and the People's Republic of China, or the international treaty to which both countries are parties, or on the basis of the principle of reciprocity.

Article 18 Matters concerning application for trademark registration or other issues in connection with trademarks may be handled independently, or a qualified trademark agency that has been established in accordance with laws may be entrusted.

The foreigner or foreign enterprise that needs to apply for the registration of a trademark or handle any other trademark matters in China shall authorize an organization qualified as a trademark agency.

Article 19 The trademark agency shall apply for registered trademarks or handle any other trademark matters authorized by the clients based on the principle of integrity, honesty and credibility and in accordance with laws and administrative rules and regulations; and the trademark agency shall assume confidentiality obligations for trade secrets of the client obtained during the agency.

The trademark that the client applies for registration may not be registered in accordance with the Law, in which case the trademark agency shall explicitly notify the client.

The trademark agency knows or has already known that, where the client applies for a trademark that falls into Article 15 and Article 32 hereof, the trademark agency shall not accept the entrustment.

Except for the registration of trademarks on behalf of client, the trademark agency shall not apply for the registration of any other trademarks.

Article 20 The industry organization of trademark agency shall strictly implement conditions on absorption of members in accordance with the provisions its articles of association, and shall impose penalty on those members that have breached the self-discipline standards of the industry. Such absorption of or penalty on members by the industry organization shall be made available to the public on a timely basis.

Article 21 International registration of trademarks shall be subject to the system that has been established by conclusion or participation in relevant international treaty with specific measures subject to the provisions of the State Council.

Chapter II Application for Trademark Registration

Article 22 An applicant for trademark registration shall fill in the class and the designation of the goods on which the trademark is to be used in accordance with the prescribed classification of goods and file the registration application.

An applicant for trademark registration may apply for registering the same trademark for several classes of goods through one application.

Documents concerning application for trademark registration may be filed in writing or via data message.

Article 23 If a registered trademark needs to secure the exclusive rights to use a registered trademark on goods beyond the verified range of use, a separate application for registration shall be filed.

Article 24 If a registered trademark needs to change its sign, a new registration application shall be filed.

Article 25 Where an applicant for trademark registration files an application for trademark registration in China within six months of filing the first application for registering the same trademark for the same goods in a foreign country, the applicant may have priority in accordance with any agreement concluded by and between the People's Republic of China and the foreign country concerned, or with the international treaty to which both countries are parties, or on the basis of the principle of reciprocity.

An applicant claiming priority in accordance with the preceding paragraph shall state in writing at the time of filing the trademark registration application and shall submit a copy of the first-filed trademark registration application within three months. An applicant who neither claims priority in writing nor submits a copy of the said trademark registration application shall be deemed as not claiming priority.

Article 26 In the event that an applicant uses a trademark for the first time on goods displayed at an international exhibition organized or recognized by the Chinese Government, the applicant may be entitled to priority provided that it files an application to register the trademark within six months from the date of the exhibition.

An applicant claiming priority in accordance with the preceding paragraph shall state in writing at the time of filing the trademark registration application and shall submit the name of the exhibition within three months, evidence showing the use of the mark on the goods displayed, and documents validating the date of the exhibition. An applicant who neither claims priority in writing nor submit the necessary documents shall be deemed as not claiming priority.

Article 27 Matters and all the information submitted for trademark application shall be authentic, accurate, and complete.

Chapter III Examination and Approval of Trademark Registration

Article 28 For a trademark applied for registration, the Trademark Office shall, within nine months upon receipt of application documents for trademark registration, complete the examination. Where the provisions of the Law have been complied with, the Trademark Office shall make an announcement on preliminary examination and determination.

Article 29 During the process of examination, where the Trademark Office considers that the contents of the application for trademark registration are required to be explained or revised, it may ask the applicant to make explanation or correction; the failure of the applicant to make such explanation or correction will exert no effort on the decision made by the Trademark Office.

Article 30 Where a trademark to be applied for registration is in nonconformity with the relevant provisions of the Law, or it is identical with or similar to the trademark of another person that has, in respect of the same or similar goods, been registered or preliminarily approved, the Trademark Office shall refuse the application without announcement.

Article 31 Where two or more applicants apply for the registration of identical or similar trademarks for the same or similar goods, the preliminary approval and the announcement shall be made for the trademark that was first filed.

Where applications are filed on the same day, the preliminary approval, and the announcement shall be made for the trademark that is used the earliest, and the applications of the others shall be refused without announcement.

Article 32 The trademark application shall neither infringe upon another party's prior existing rights, nor be an improper means to register a trademark that is already in use by another party and enjoys substantial influence.

Article 33 Where any prior right owner or interested person believes that provisions of Paragraphs 2 and 3 of Article 13, Article 15, Paragraph 1 of Article 16, Article 30, Article 31 or Article 32 of the Law have been breached or any person believes that the provisions of Article 10, Article 11 or Article 12 have been violated, it may raise an objection to the Trade Office against a trademark that has been published after a preliminary examination within three months from the date of announcement. When no objections have been raised upon expiration of such period, the application shall be approved for registration with issuance of a certificate of trademark registration and announcement of the trademark.

Article 34 The Trademark Office shall notify the applicant in writing of the trademark that has been rejected and has not been published. The applicant who is dissatisfied with the decision may apply to the Trademark Review and Adjudication Board for a review within 15 days from receipt of the notice. The Trademark Review and Adjudication Board shall make a ruling within nine months from receipt of the application, and notify the applicant in writing. In case of prolonging such period for certain special situations, it may be prolonged for three months after the approval of the administrative department for industry and commerce under the State Council. In the event that the party concerned is dissatisfied with the ruling of the Trademark Review and Adjudication Board, it may appeal to the People's Court within 30 days from receipt of the notice.

Article 35 In the event that an objection is raised against a trademark published after preliminary examination, the Trademark Office shall consider the facts and grounds submitted by both the dissenting party and the person challenged and shall decide on whether the registration is allowed within 12 months upon the expiration of announcement after investigation and verification, and notify the dissenting party and the person challenged in writing. In case of prolonging such period for certain special situations, it may be prolonged for six months after the approval of the administrative department for industry and commerce under the State Council.

Where the Trademark Office decides to approve the registration, it shall grant a certificate of trademark registration to the person challenged and publish the same. In case the dissenting party is dissatisfied, it may request to the Trademark Review and Adjudication Board for nullification of the registered trademark according to Article 44 and Article 45 hereof.

Where the Trademark Office decides not to approve the registration and the person challenged is dissatisfied, it may apply to the Trademark Review and Adjudication Board for review within 15 days upon receipt of the notice, which shall, with 12 months upon receipt of the notice, make a ruling for the review and notify the dissenting party and the person challenged in writing. In case of prolonging such period for certain special situations, it may be prolonged for six months after the approval of the administrative department for industry and commerce under the State Council. In the event that the person challenged is still dissatisfied with the ruling of such review, it may file a lawsuit before the People's Court within 30 days upon receipt of the notice. The People's Court shall notify the dissenting party of participation in the proceedings as a third party.

During the review by the Trademark Review and Adjudication Board in accordance with previous provisions, where the determination of prior rights involved is based on another case that the people's court is hearing or the administrative organization is handling, such review may be suspended. After the cause for such suspension is eliminated, the review shall be resumed.

Article 36 Upon expiry of the legal term, in the event that no party concerned applies for review against the rejection or refusal decision by the Trademark Office or files any lawsuit with respect to the ruling of review by the Trademark Review and Adjudication Board before the People's Court, such rejection, refusal decision or ruling of review shall come into force.

Where the above-mentioned objection is disconfirmed upon examination and thus the registration of the trademark in question is approved, the date of acquiring the exclusive right to use a trademark by the applicant shall be calculated as of the expiration of three-month announcement period of preliminary examination. From the expiry of the announcement period of the trademark till the ruling on approval of registration, there will be no retroactive effects for uses of symbols the same as or similar to the trademark or on the same or similar goods by others; however, where such hostility of users causes losses to the trademark registrant, the users shall compensate the same.

Article 37 The application for registration and review of trademarks shall be examined on a timely basis.

Article 38 When the trademark application applicant or the registrant finds obvious mistakes in the trademark application documents or registration documents, it may apply for correction. The Trademark Office shall make corrections within its power of authorities and notify the party concerned.

The corrections referred to in the last paragraph shall not involve material contents of the trademark application or registration documents.

Chapter IV Renewal, Alteration, Assignment and Licensing of Registered Trademarks

Article 39 The period of validity of a registered trademark shall be ten years, starting from the day the registration is approved.

Article 40 When it is necessary to continue using the registered trademark upon expiration of period of validity, an application for renewal shall be made within 12 months before the expiration. If such an application cannot be filed within that period, an extension period of six months may be granted. The period of validity for each renewal of registration shall be ten years as of the next day of the previous period of validity. If the formalities for renewal have not been handled upon expiration of period of validity, the registered trademarks will be deregistered.

The Trademark Office shall announce the registered trademarks for renewal.

Article 41 An application for alteration shall be filed if the name, address or the other registered matters of the registrant is required to be altered.

Article 42 In case of assignment of registered trademark, the transferor shall sign a transfer agreement with the transferee and jointly file an application with the Trademark Office. The transferee shall guarantee the quality of the goods on which the trademark is used.

For assignment of registered trademarks, the trademark registrant shall assign similar trademarks on the same goods or the same or similar trademarks on similar goods.

The Trademark Office shall not approve assignment of registered trademarks that may easily lead to confusion or other adverse effects, and notify the applicant in writing stating reasons thereof.

The assignment of a registered trademark shall be published after it has been approved. The transferee enjoys exclusive right to use the trademark as of the date of announcement.

Article 43 The trademark registrant may, by concluding a trademark licensing contract, authorize other persons to use the registered trademark. The licensor shall supervise the quality of the goods on which the licensee uses the licensor's registered trademark, and the licensee shall guarantee the quality of the goods on which the registered trademark is used.

The party authorized to use others' registered trademark shall indicate the name of the licensee and the place of origin on the goods that bear the registered trademark.

When granting others to use the registered trademarks, the licensor shall file the license of the trademarks with the Trademark Office for records, which shall announce the same. Without putting the licensing of the trademark on records, the trademark shall not be used to defend the bona fide third party.

Chapter V Nullification of Registered Trademarks

Article 44 The Trademark Office shall annul the registered trademark if it violates the provisions of Articles 10, 11, and 12 of the Law, or it was acquired by fraud or any other improper means. Other units or individuals may request the Trademark Review and Adjudication Board for a ruling to annul such a registered trademark.

The Trademark Office shall notify the party concerned in writing of the nullification of the registered trademarks. Where the party concerned is dissatisfied with the ruling may apply to the Trademark Review and Adjudication Board for a review within 15 days from the receipt of the notice. The Trademark Review and Adjudication Board shall make a ruling within nine months from the receipt of the application, and notify the party concerned in writing. In case of prolonging such period for certain special situations, it may be prolonged for three months after the approval of the administrative department for industry and commerce under the State Council. In the event that the party concerned is dissatisfied with the ruling of the Trademark Review and Adjudication Board, it may appeal to the People's Court within 30 days from receipt of the notice.

Where other units or individuals request the Trademark Review and Adjudication Board for nullification of a registered trademark, the Trademark Review and Adjudication Board shall notify relevant parties upon receipt of the application, and request them to submit arguments within a specified time. The Trademark Review and Adjudication Board shall make a ruling on maintaining or nullification of registered trademark, and notify the party concerned of such ruling. Where the period is required to be prolonged in special circumstances, it may be extended by three months after the approval of the administrative department for industry and commerce under the State Council. In the event that the party concerned is dissatisfied with the ruling of the Trademark Review and Adjudication Board, it may appeal to the People's Court within 30 days from receipt of the notice. The people's court shall notify the counterparty of the trademark ruling procedures of participation in the proceedings as a third party.

Article 45 Where a registered trademark stands in violation of the provisions of Paragraphs 2 and 3 of Article 13, Article 15, Paragraph 1 of Article 16, Article 30, Article 31 and Article 32 hereof, the prior right owner or interested party may, within five years upon the registration date of such trademark, apply to the Trademark Review and Adjudication Board for nullifying the same. In the event of malicious registration, owners of well-known trademark may exempt from the aforesaid five-year duration.

The Trademark Review and Adjudication Board shall, upon receipt of the application for nullification, notify the party concerned and request the same to respond with arguments within a specified period. The Trademark Review and Adjudication Board shall, within 12 months upon receipt of such application, make a ruling on maintaining or nullification of registered trademark, and notify the party concerned of such ruling in writing. In case of prolonging such period for certain special situations, it may be prolonged for six months after the approval of the administrative

department for industry and commerce under the State Council. In the event that the party concerned is dissatisfied with the ruling of the Trademark Review and Adjudication Board, it may appeal to the People's Court within 30 days from receipt of the notice. The people's court shall notify the counterparty of the trademark ruling procedures of participation in the proceedings as a third party.

During the review of nullification by the Trademark Review and Adjudication Board in accordance with previous provisions, where the determination of prior rights referred to is based on another case that the people's court is hearing or the administrative authority is handling, such review may be suspended. After the cause for such suspension is eliminated, the review shall be resumed.

Article 46 Upon expiry of the legal term, in the event that no party concerned applies for review against the decision of nullification of the registered trademark by the Trademark Office or files any lawsuit with respect to maintaining or nullification of the registered trademark by the Trademark Review and Adjudication Board before the People's Court, the decision of the Trademark Office or review decisions or ruling of the Trademark Review and Adjudication Board shall come into force.

Article 47 The registered trademark deemed as invalid according to Article 44 and Article 45 shall be announced by the Trademark Office and the exclusive right to use such registered trademark deemed as inexistence ab initio.

The decision or adjudication of nullifying a registered trademark has no retroactive effect upon trademark infringement verdicts, adjudications or mediation agreements made by the People's Court that have been enforced, trademark infringement decisions made by the administrative department for industry and commerce that have been made and enforced or trademark assignment or license contracts which have been performed; provided, however, where the hostility of the trademark registrant causes losses to others, the trademark registrant shall compensate the same.

When the trademark infringement damages, assignment fee and trademark royalties will not be returned according to previous regulations, which is obviously contrary to fairness, the trademark infringement damages, assignment fee and trademark royalties shall be returned in whole or part.

Chapter VI Administration of the Use of Trademarks

Article 48 The use of trademarks herein refers to such activities as using trademarks on goods, goods packaging or containers and goods transaction documents, or using trademarks in advertising, exhibits and other commercial events so as to identify the sources thereof.

Article 49 Where a trademark registrant, at his/her discretion, alters the registered trademark, name or address of the registrant or other information during use of the registered trademark, the local administrative department for industry and commerce shall order such registrant to rectify the same. Where no rectification has been made upon expiration of the prescribed period, the Trademark Office shall revoke the registered trademark in question.

Where a registered trademark has become the generic name of the designated goods or stays unused for three consecutive years, any unit or individual may apply to the Trademark Office for revoking the same, which shall make decision within nine months upon receipt of such application. In case of prolonging such period for certain special situations, it may be prolonged for three months after the approval of the administrative department for industry and commerce under the State Council.

Article 50 If a registered trademark is revoked, nullified or subject to no renewal upon expiration of the period of validity, the Trademark Office shall not approve any application for the registration of a trademark identical with or similar to the said trademark within one year as of the day of the revocation, nullification or cancellation.

Article 51 In the event of a violation of the provisions of Article 6 hereof, the local administrative department for industry and commerce shall order the violator to file an application for registration within a specified period; in the event of illegal business revenue of over CNY50,000, a fine up to 20% of such revenue may be imposed; in the event of no illegal business revenue or illegal business revenue of less than CNY50,000, a fine up to CNY10,000 may be imposed.

Article 52 If the unregistered trademark is falsely represented as a registered one, or use of an unregistered trademark is in violation of Article 10 hereof, the local administrative department for industry and commerce shall stop such use, order rectification of the situation within a specified period, and may circulate a notice; in the event of illegal business revenue of over CNY50,000, a fine up to 20% of such revenue may be imposed; in the event of no illegal business revenue or business revenue of less than CNY50,000, a fine up to CNY10,000 may be imposed.

Article 53 In the event of a violation of provisions of Paragraph 5 of Article 14 hereof, the local administrative department for industry and commerce shall order a correction and impose a fine of CNY100,000.

Article 54 The party concerned that is dissatisfied with the decision of the Trademark Office to repeal or refuse to repeal the registered trademark may, within 15 days from the receipt of notice, apply to the Trademark Review and Adjudication Board for a review. The Trademark Review and Adjudication Board shall make a decision within nine months upon receipt of such application and notify the party concerned in writing. In case of prolonging such period for certain special situations, it may be prolonged for three months after the approval of the administrative department for industry and commerce under the State Council. The party concerned is dissatisfied with the decision of the Trademark Review and Adjudication Board may institute legal proceedings with the People's Court within 30 days from the receipt of notice.

Article 55 Upon expiry of the legal term, in the event that no party concerned applies for review against revocation of the registered trademark or files any lawsuit with respect to the decision of review by the Trademark Review and Adjudication Board before the People's Court, such decision of revocation and the decision of review of registered trademark shall come into force.

The Trademark Office shall publish the revoked registered trademark and the exclusive right to use the same shall cease as of the date of announcement.

Chapter VII Protection of the Exclusive Right to Use a Registered Trademark

Article 56 The exclusive right to use a registered trademark shall be limited to trademarks that have been approved for registration and to goods on which the use of the trademark has been approved.

Article 57 Any of the following conducts shall constitute an infringement of the exclusive right to use a registered trademark:

1. Using a trademark that is identical with a registered trademark on the same goods without the licensing of the trademark registrant;
2. Using a trademark that is similar to a registered trademark on the same goods, or using a trademark that is identical with or similar to a registered trademark on similar goods, which may be easily confusing, without the licensing of the trademark registrant;
3. Selling goods that violate the exclusive right to use a registered trademark;

4. Counterfeiting or arbitrarily forging others' registered trademark, or selling the counterfeited or arbitrarily forged trademarks;
5. Altering the trademark registrant's registered trademark without authorization of the same and selling goods bearing such altered trademark;
6. Providing convenience for or even help others to infringe the exclusive right to use a registered trademark on purpose;
7. Other conducts causing prejudice to others' exclusive right to use its registered trademark.

Article 58 Using characters of the registered or unregistered well-known trademarks of others in the name of an enterprise to mislead the public that constitutes unfair competition shall be subject to the Anti-Unfair Competition Law of the People's Republic of China.

Article 59 The exclusive right owner of a registered trademark may not prohibit others from rightful use of the generic names, models or designs of the goods, or direct reference to the quality, main raw materials, function, use, weight, quantity or other features of the goods, or geographical names as included in the registered trademark.

The exclusive right owner of a registered trademark of 3D symbols may not prohibit others from rightful use of the shapes generated from the nature of the goods in respect of which the trademark is used, or shapes of the goods to realize certain technical effects, or shapes to provide the goods with substantive values.

Where an identical or similar trademark with certain influence has been used, prior to the use by the trademark registrant, with respect to the same goods or similar goods by others before the trademark registrant's application for trademark registration, the exclusive right owner may not prohibit the user of the aforesaid trademark from continuous use of such trademark within the original scope but may request its user for addition of proper logos for distinction purpose.

Article 60 In the event of infringement of the registered trademark as specified in Article 57 hereof that leads to disputes, the parties concerned shall settle such disputes through negotiations; where no negotiation is prospective or fails, the trademark registrant or any interested party may file a lawsuit before the People's Court or request the administrative department for industry and commerce for handling.

Where the foresaid infringement is confirmed, the administrative department for industry and commerce shall order the infringer to cease such infringement, confiscate and destroy the infringing goods and tools used in producing such goods or forging logos of the registered trademark. In the event of illegal business revenue of over CNY50,000, a fine up to five times of the revenue may be imposed; in the event of no illegal business revenue or illegal business revenue of less than CNY50,000, a fine up to CNY250,000 may be imposed; in the event of trademark infringement of more than two times within five years or other serious circumstances, a heavier punishment shall be given. Where a seller with no knowledge of its infringing goods can prove the legality of acquiring such goods and point out the provider, the administrative department for industry and commerce shall order the seller to cease selling its goods.

Where there is dispute concerning the amount of compensation for infringing the exclusive right to use the trademark, the party concerned may request the administrative department for industry and commerce for mediation or file a lawsuit before the People's Court pursuant to the Civil Procedure Law of the People's Republic of China; In case of absence of agreements or nonperformance of mediation agreement upon effectiveness after the mediation by

the administrative department for industry and commerce, any party concerned may file a lawsuit before the People's Court pursuant to the Civil Procedure Law of the People's Republic of China.

Article 61 The administrative department for industry and commerce has the power to investigate any conduct that infringes the exclusive right to use a registered trademark. In the event that a crime is suspected to have been committed, the administrative department for industry and commerce shall promptly transfer the case to the judicial department to be dealt with in accordance with the law.

Article 62 The administrative department for industry and commerce at or above the county level may, based on the available evidence of illegal conduct or information supplied by a member of the public, may exercise the following power in investigating activities suspected of infringing upon others' exclusive right to use a registered trademark:

1. Question the parties concerned and investigate the circumstances in connection with the infringement of others' exclusive right to use a registered trademark;
2. Look up and copy the contracts, invoices, books, and other materials pertaining to the trademark-infringing activities of the parties concerned;
3. Conduct an on-site inspection of the premises where the party concerned is suspected of carrying out activities that have infringed upon others' exclusive right to use a registered trademark;
4. Inspect the articles involved in trademark-infringing activities. Articles that are proven to have infringed upon others' exclusive right to use a registered trademark may be sealed and taken into custody.

The parties concerned shall assist in and cooperate with the administrative department for industry and commerce when the latter exercises the powers provided for in the preceding paragraph in accordance with the law and shall not refuse or obstruct.

During the process of investigating and handling a trademark infringement case, in case that any dispute arises with respect to the trademark ownership or the right owner files a lawsuit regarding such infringement before the People's Court, the administrative department for industry and commerce may suspend the aforesaid process. As the cause for suspension is eliminated, the process shall be restored or closed.

Article 63 The amount of compensation for infringing the exclusive right to use the trademark shall be determined based on the right owner's actual losses due to infringement or the infringer's actual interests obtained due to the same if the actual losses are hard to be determined, or may be determined based on times of the royalties of the registered trademark when both the losses or the infringer's actual interests obtained are hard to be determined. For seriously malicious infringement, the amount of compensation may be one time – three times of the aforesaid amount determined in light of the foregoing regulations. The amount of compensation shall include reasonable expenses of the right owner to prevent the infringement.

For the purpose of determining the amount of compensation, where the account books and information regarding the infringement are held by the infringer while the right owner has put to the proof as practical as possible, the People's Court may order the infringer submit such account books and information; in case the infringer refuses to submit the account books and information or submit a false version thereof, the People's Court may determine the amount of compensation with reference to the right owner's claim and proof.

Where it is hard to determine the right owner's actual losses due to infringement, the infringer's actual interests obtained due to the same or the royalties of the registered trademark, the People's Court shall, based on the actual circumstance of infringement, bring in a verdict of amount up to CNY3 million.

Article 64 Where the owner of the exclusive right to use a registered trademark claims for compensation and the infringer challenge raises a plea that such owner has never used the registered trademark in question, the People's Court may request such owner to provide the proof of using the trademark over the past three years. In case such owner fails to neither provide the aforesaid proof nor the proof of losses due to infringement, the infringer challenged shall bear no liability for compensation.

Where a seller selling goods who is ignorant of infringing others' registered trademark can prove the legality of acquiring such goods and point out the provider, such seller shall be exempted from liabilities for compensations.

Article 65 Where a trademark registrant or any interested party could prove that the infringement in process or to be conducted on the exclusive right to use the registered trademark will cause irretrievable losses to their legal interests if lack of prevention in a timely manner, they may apply to the People's Court for taking such measures as ordering the infringer to cease relevant behaviors and property preservation before filing any lawsuit.

Article 66 In order to stop trademark infringing activities, a trademark registrant or an interested party may, prior to filing a lawsuit, apply to the People's Court for evidence preservation when such evidence may be destroyed or lost or become unobtainable in the future.

Article 67 Any person who, without the permission of trademark registrants, uses a trademark identical with the registrant's trademark for the same goods, where the case constitutes a crime, shall be prosecuted according to the law for its criminal liabilities, in addition to compensation of the losses suffered by the infringed.

Any person who forges or counterfeits others' registered trademark or sells registered trademarks that are forged or counterfeited shall, if the act constitutes a crime, be investigated for criminal responsibility according to the law in addition to compensation of the losses suffered by the infringed.

Any person who knowingly sells goods bearing counterfeit registered trademarks shall, if the act constitutes a crime, be investigated for criminal responsibility according to the law in addition to compensation of the losses suffered by the infringed.

Article 68 If a trademark agency has any one of the following conducts, the administrative department for industry and commerce shall order the agency organization to rectify the same within a specified time, give corresponding warning and impose a fine of more than CNY10,000 up to CNY100,000; and give warnings to management in direct charges and the other persons in direct charge and impose a fine of more than CNY5,000 up to CNY50,000; those who have committed crimes shall be held for criminal responsibilities:

1. Forging/altering legal documents, seals or signatures or using forged/altered legal documents, seals or signatures during the process of handling trademark-related matters;
2. Soliciting agency business by slandering other trademark agencies or disturbing the trademark agency market order by other unjust means; and
3. Violating provisions of Paragraphs 3 and 4 of Article 19 of the Law.

Where a trademark agency has had conducts stipulated in the previous paragraph, it will be recorded by the administrative department for industry and commerce in the files of credits; in case of serious circumstances, the Trademark Office and the Trademark Review and Adjudication Board may cease accepting its agency business and make relevant announcement.

Where a trademark agency violates the principle of good faith and thus infringes the client's legal interests, such organization shall bear relevant civil liability according to law and be punished by the industry organization of trademark agency in accordance with the articles of association.

Article 69 State personnel engaging in trademark registration, administration, and review shall be impartial in implementing the law, incorruptible and self-disciplined, and devoted to their duty, and shall provide civilized services.

State personnel in the Trademark Office and the Trademark Review and Adjudication Board and other personnel engaging in trademark registration, administration, and review shall not be involved in trademark agency services, production, or the trading of goods.

Article 70 The administrative department for industry and commerce shall establish a comprehensive internal supervisory system to supervise and inspect the state personnel responsible for trademark registration, administration, and review in the law and administrative rules and regulations implementation and discipline observance.

Article 71 The state personnel engaging in trademark registration, administration, and review who neglect their duty, abuse their official power, commit fraud for personal considerations, handle trademark registration matters in violation of laws, accept money or properties from a party concerned or seek improper gains, shall be prosecuted according to the law for their criminal liabilities if the case constitutes a crime. For the case that does not constitute a crime, the personnel involved shall be subject to sanctions.

Chapter VIII Supplementary Provisions

Article 72 Applicants for trademark registration and the handling of other trademark matters shall be subject to fee payment, the specific charging standards of which will be prescribed separately.

Article 73 The Law shall come into force as of March 1, 1983. The Administrative Regulations on Trademark promulgated by the State Council on April 10, 1963 shall simultaneously be repealed, and any other provisions concerning trademark administration that conflict with the Law shall be ineffective simultaneously.

Trademarks registered before the implementation of the Law shall continue to be valid.