

**CHINA**  
**Trademark Regulations**  
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## **Chapter 1 General Provisions**

### **Rule 1**

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

### **Rule 2**

The provisions made in these Implementing Regulations concerning goods marks shall apply to service marks.

### **Rule 3**

The use of trademarks referred to in the Trademark Law and these Regulations include, among other things, the use of trademarks on goods, packages or containers thereof and commodity trading instruments, or use of trademarks in advertisements, exhibitions and other commercial activities.

### **Rule 4**

Goods required to bear registered trademarks as prescribed by the State mentioned in Article 6 of the Trademark Law refer to goods in respect of which registered trademarks must be used as prescribed by law and administrative regulations.

### **Rule 5**

Under the Trademark Law and these Regulations, when an interested party believes his trademark constitutes a well-known trademark when a dispute arises in the course of trademark registration or trademark review and adjudication, he may file a request with the Trademark Office or the Trademark Review and Adjudication Board to establish it as a well-known trademark, to reject the trademark registration application contrary to the provision of Article 13 of the Trademark Law, or to cancel the trademark registration contrary to the provision of Article 13 of the Trademark Law. When filing an application, an interested party shall submit proofs that his trademark constitutes a well-known trademark.

At the request of the interested party, the Trademark Office or the Trademark Review and Adjudication Board shall, on the basis of ascertained facts, establish whether his trademark constitutes a well-known trademark pursuant to the provision of Article 14 of the Trademark Law.

#### **Rule 6**

Applications may be filed for registration of geographic indications provided for in Article 16 of the Trademark Law as certification marks or collective marks in accordance with the provisions of the Trademark Law and these Regulations.

Where a geographic indication is registered as a certification mark, the natural person, legal person or other organization whose goods has met the requirement imposed on the geographic indications may request for using the certification mark, and the organization having control on the certification mark shall give its permission. Where a geographic indication is registered as a collective mark, the natural person, legal person or other organization whose goods has met the requirement imposed on the geographic indications may request for membership of the body, association or other organization having the geographic indication as its collective mark. The body, association or other organization shall accept him or it as its member according to the articles of constitution thereof. Any person who does not ask to join the body, association or other organization having the geographic indication as its collective mark may also duly use the geographic indication, and the body, association or other organization does not have the right to prohibit the use.

#### **Rule 7**

An interested party entrusting a trademark agency with the filing of an application for trademark registration or attending to other trademark matters shall submit a Power of Attorney. The Power of Attorney shall indicate such contents and competence as authorized; the Power of Attorney from a foreign person or foreign enterprise shall, in addition, indicate the nationality of the entruster.

Notarization and legalization of the Power of Attorney and other relevant certificates from a foreign person or foreign enterprise shall be done based on the principle of reciprocity.

The foreign person or foreign enterprise mentioned in Article 18 of the Trademark Law refers to the foreign person who or foreign enterprise which does not have its habitual residence or place of business in China.

#### **Rule 8**

The Chinese language shall be used in applying for trademark registration or attending to other trademark matters.

Where the various certificates, certifying documents and proofs submitted under the Trademark Law and these Regulations are in a foreign language, the Chinese translation thereof shall be attached; where the Chinese

translation is not attached, the certificates, certifying documents and proofs shall be deemed not to have been submitted.

#### **Rule 9**

In any one of the following circumstances, any staff member of the Trademark Office and the Trademark Review and Adjudication Board shall withdraw, or a party or interested party may request him to withdraw:

- (1) he is a party or a close relative to a party or agent;
- (2) he is related in such ways with a party or agent insofar as the relation would affect impartiality; or
- (3) he has interests in an application for trademark registration or any other trademark matters.

#### **Rule 10**

Unless otherwise provided for in these Regulations, where any document is sent to the Trademark Office or the Trademark Review and Adjudication Board, the date of receipt shall be the date of delivery where it is delivered personally, or the date of posting indicated by the postmark if it is sent by post; where the date of posting indicated by the postmark is illegible, or there is no postmark, the date of receipt shall be the date on which the Trademark Office or the Trademark Review and Adjudication Board actually receives the document, except that the interested party is able to present evidence as to the actual date of posting indicated by the postmark.

#### **Rule 11**

Any document of the Trademark Office or the Trademark Review and Adjudication Board may be served by post, by personal delivery or by other means. Where an interested party entrusts a trademark agency, delivery of the document to the trademark agency shall be deemed delivery thereof to the interested party.

Where any document is sent to an interested party by the Trademark Office or the Trademark Review and Adjudication Board, the date of receipt shall be the date of receipt indicated by the postmark on which the interested party receives it if it is sent by post; where the date of posting indicated by the postmark is illegible, or where there is no postmark, the document shall be deemed to have been delivered to the interested party on the fifteenth day from the date of posting the document; the date of receipt shall be the date of delivery if it is delivered personally. Where any document cannot be sent by post or by personal delivery, the document may be served by making an announcement. At the expiration of the thirtieth

day from the date of the announcement, the document shall be deemed to have been served.

**Rule 12**

Where an application is filed for international registration, it shall be done in accordance with the relevant international treaties to which China has acceded. The specific measures shall be prescribed by the administrative department for industry and commerce under the State Council.

## **Chapter 2 Application for Trademark Registration**

### **Rule 13**

When applying for the registration of a trademark, a separate application shall be filed in respect of each class of goods or service according to the published Classification of Goods and Services. For each application for the trademark registration, an Application for Trademark Registration shall be filed with the Trademark Office, accompanied by five copies of the reproduction of the trademark; if color is claimed, five copies of the color reproduction of the trademark shall be attached, so shall be a black and white design of the trademark.

The reproduction of the trademark must be clear and easy to paste and shall be printed on smooth and clean durable paper or substituted by a photograph. Its length or breadth shall not be more than 10 cm and less than 5 cm each.

Where an application is filed for the registration of a three-dimensional sign as a trademark, a statement shall be made in the application, and the reproduction capable of defining the three-dimensional shape be submitted.

Where an application is filed for the registration of a combination of colors as a trademark, a statement shall be made in the application, and an explanation thereof be submitted in writing.

Where an application is filed for the registration of a certification mark or collective mark, a statement shall be made in the application, and the certificates of the qualification of the applicant and regulations for the administration of the use thereof be submitted.

Where a trademark is in a foreign language or contains lexical elements in a foreign language, explanation of its meaning shall be made.

### **Rule 14**

Filing an application for the registration of a trademark, the applicant shall submit a copy of effective certificate capable of proving his identification. The name of the applicant for trademark registration shall be consistent with the certificate submitted.

### **Rule 15**

The goods or services shall be listed in the application according to the Classification of Goods and Services. If the goods or services are not listed in the Classification of Goods and Services, a description of the said goods or services shall be attached.

The documents relating to an application for trademark registration shall



be typewritten or printed.

**Rule 16**

If an application is jointly filed for registration of the same trademark, a representative shall be designated in the application; if such representative is not designated, the first person listed in the application shall be the representative.

**Rule 17**

If an applicant changes his name, address, agent, or deletes or reduces designated goods, he may go through the formalities for the change with the Trademark Office.

An applicant who assigns his application for trademark registration shall go through the formalities for the assignment with the Trademark Office.

**Rule 18**

The filing date of an application for trademark registration shall be the date on which the Trademark Office receives the application documents. Where the formal requirements of the application are fulfilled and the application form is filled out according to the relevant rules, the Trademark Office will accept the application and notify the applicant in writing. Where the formal requirements are not fulfilled or the application form is not filled out according to the relevant rules, the Trademark Office will not accept it, and it shall notify the applicant in writing and explain the reason.

Where the formal requirements are basically fulfilled or the application form filled out basically according to the relevant rules, but amendments are required, the Trademark Office shall notify the applicant to make the amendments and require him to do so according to the contents prescribed and re-submit it to the Trademark Office within thirty days from the date on which he receives the notification. Where the application is amended and re-submitted to the Trademark Office within the time limit, the date of filing shall be retained. Where the application is not amended within the time limit, the application shall be deemed to have been abandoned, and the Trademark Office shall notify the applicant in writing.

**Rule 19**

Where two or more applicants respectively apply for the registration of identical or similar trademarks used on the identical or similar goods on the same day, each applicant shall, within thirty days from the date of receipt of the notification of the Trademark Office, submit a proof

of his prior use of the mark in respect of which he has applied for the registration. Where the applicants used the mark for the first time on the same day or where none of them has used the mark, they shall try to resolve the matter through consultation, and submit a written agreement to the Trademark Office within thirty days from the date of receipt of the notification from the Trademark Office; where the applicants are reluctant to resolve the matter through consultation or an agreement is not reached, the Trademark Office shall notify the applicants that one applicant will be singled out by lot, and reject the registration applications filed by the other applicants. Where the Trademark Office notifies an applicant, but the applicant does not show up and draw his lot, his application shall be deemed to have been abandoned, and the Trademark Office shall notify in writing the applicant who has failed to show up.

#### **Rule 20**

Where an applicant claims the right of priority according to Article 24 of the Trademark Law, the copy of the application document which he first filed for the registration of the trademark shall be certified by the competent trademark authority accepting the application, with the date of filing and the application number indicated.

Where an applicant claims the right of priority according to Article 25 of the Trademark Law, the certification documents submitted by him shall be certified by the administrative department for industry and commerce under the State Council, except that the international exhibition on which the goods are put on display is held inside the territory of China.

## **Chapter 3 Examination of Application for Trademark Registration**

### **Rule 21**

The Trademark Office shall, in accordance with the Trademark Law and these Regulations, examine the applications for the registration of trademark it has accepted. Applications which conform to the relevant provisions, or those for the registration of trademarks in respect of a part of the designated goods which conform to the relevant provisions, shall be preliminarily approved and published. Applications which do not conform to the relevant provisions, or those for the registration of trademarks in respect of a part of the designated goods which do not conform to the relevant provisions, shall be rejected. The Trademark Office shall notify the applicant in writing and explain the reason for the rejection. Where the Trademark Office has preliminarily approved applications for the registration of trademarks on a part of the designated goods, the applicant may apply for the abandonment thereof before the date of expiration of the opposition period; where the applicant abandons the registration of trademarks in respect of a part of the designated goods, the Trademark Office shall withdraw the preliminary approval, terminate the examination procedure, and republish it.

### **Rule 22**

Where an opposition is filed to a trademark which, after examination, has been preliminarily approved and published by the Trademark Office, the opponent shall submit the Application for Trademark Opposition in duplicate to the Trademark Office. The Application for Trademark Opposition shall indicate the issue number of the Trademark Gazette on which the opposed trademark is published, and the number of preliminary approval of the opposed trademark. The Application for Trademark Opposition shall contain the specific requests and facts and grounds, with relevant proofs and certificates attached.

The Trademark Office shall send a copy of the Application for Trademark Opposition to the opposed party and require him to make a reply within thirty days from the date of his receipt of the copy. His failure to make a reply shall not affect the adjudication by the Trademark Office on the opposition.

Where an interested party needs to supplement relevant proofs and certificates after he raises an opposition application or makes a reply, he shall make a statement in the application or reply, and submit the proofs and certificates within three months from the date of submission of the application or reply; where he fails to submit them at the expiration

of the time limit, the interested party shall be deemed to have abandoned supplementing the relevant proofs and certificates.

### **Rule 23**

The justification of the opposition mentioned in Article 34, paragraph two, of the Trademark Law shall include the justification of the opposition to a registration in respect of a part of the designated goods. Where such opposition is justified, the application for the registration of trademarks in respect of that part of the designated goods shall not be approved.

Where an opposed trademark has, prior to the coming into effect of the adjudication on the opposition, been announced as a registered trademark in the Trademark Gazette, the registration announcement shall be cancelled. The trademark that has been approved for registration upon the adjudication on the opposition shall be re-published.

The trademark approved for registration upon the adjudication on the opposition shall not have the retroactive effect on another person's act to use a sign identical with or similarly to the trademark on the same or similar goods from the date on which the period for trademark opposition expires and before the adjudication on the opposition takes effect; however, the losses inflicted to the trademark registrant due to the bad faith in which the sign is used shall be compensated.

The time limit for the application for review and adjudication of the trademark approved for registration upon the adjudication on the opposition shall be calculated from the date of publication of the adjudication on the trademark opposition.

## **Chapter 4 Modification, Assignment and Renewal of Registered Trademarks**

### **Rule 24**

When applying for modification of his name, address or other registration matters, the registrant shall file an Application for Modification with the Trademark Office. The Trademark Office shall, upon examination and approval, issue the trademark registrant the relevant certificates, and make an announcement. Where the application is not approved, the Trademark Office shall notify the applicant in writing and explain the reason. When applying for modification of his name, the registrant shall submit modification certificate issued by the relevant registry. An applicant who has not submitted the modification certificate may do so within thirty days from the date of filing the application. Where the submission is not made within the time limit, the application for the modification shall be deemed to have been abandoned, and the Trademark Office shall notify the applicant in writing.

When applying for modification of his name and address, the trademark registrant shall make the modifications in all his registered trademarks. If he fails to do so, the application for the modification shall be deemed to have been abandoned, and the Trademark Office shall notify the applicant in writing.

### **Rule 25**

When applying for the assignment of a registered trademark, the assignor and assignee shall file with the Trademark Office an Application for Assignment of Registered Trademark. The formalities of applying for the assignment of the registered trademark shall be gone through by the assignee. The Trademark Office, upon examination and approval of the application, shall issue the relevant certificate to the assignee and make an announcement.

When applying for the assignment of a registered trademark, the trademark registrant shall assign all the identical or similar trademarks registered in respect of the same or similar goods. If the registrant fails to do so, the Trademark Office shall notify him to correct the situation within a time limit; if the correction is not made within the time limit, the application for the assignment of the registered trademark shall be deemed to have been abandoned, and the Trademark Office shall notify the applicant in writing.

Any application for the assignment of a registered trademark that may mislead the public or cause confusion or exert any other adverse effects shall not be approved by the Trademark Office. The Trademark Office shall

notify the applicant in writing and explain the reason.

**Rule 26**

If the exclusive right to use a registered trademark is transferred for reasons other than assignment, the party receiving the transferred exclusive right to use the registered trademark shall go to the Trademark Office with relevant certificates or legal instruments to go through the formalities for the transfer of the exclusive right to use the registered trademark.

When applying for the transfer of the exclusive right to use a registered trademark, the exclusive right holder of the registered trademark shall transfer all the other identical or similar trademarks registered in respect of the same or similar goods. If the exclusive right holder fails to do so, the Trademark Office shall notify him to correct the situation within a time limit; if the correction is not made within the time limit, the application for the assignment of the registered trademark shall be deemed to have been abandoned, and the Trademark Office shall notify the applicant in writing.

**Rule 27**

When applying for the renewal of a trademark registration, the applicant shall file with the Trademark Office an Application for Renewal of Trademark Registration. After examination and approval of the application for the renewal of a trademark registration, the Trademark Office shall issue the relevant certificate and announce it.

The period of validity of a renewed trademark shall be calculated from the day after the expiration of the previous period of validity of the said trademark.

## **Chapter 5 Trademark Review and Adjudication**

### **Rule 28**

The Trademark Review and Adjudication Board shall accept applications for trademark review and adjudication filed according to the provisions of Articles 32, 33, 41 and 49 of the Trademark Law, and conduct, according to law, the review and adjudication on the basis of facts.

### **Rule 29**

By having dispute over a registered trademark mentioned in Article 41, paragraph three, of the Trademark Law shall be meant that a registrant of a trademark in respect of which a prior application is filed for registration thereof alleges that a trademark in respect of which another person subsequently files an application for its registration is identical with or similar to his trademark registered in respect of the identical or similar goods.

### **Rule 30**

When applying for the trademark review and adjudication, the applicant shall file an application with the Trademark Review and Adjudication Board, and submit the same number of copies thereof as that of the other parties; when filing the application for reexamination based on the Decision or Adjudication made by the Trademark Office, the applicant shall meantime submit a copy of the Decision or Adjudication made by the Trademark Office. After receipt of the application, the Trademark Review and Adjudication Board shall accept the application found to have met the requirements for acceptance upon examination; the Trademark Review and Adjudication Board shall not accept the application if it does not meet the requirements, and notify the applicant in writing and explain the reason. Where rectification is required, the Trademark Review and Adjudication Board shall notify the applicant to make the rectification within thirty days from the date of receipt of the notification. If an application still fails to meet the requirements after the rectification, the Trademark Review and Adjudication Board shall not accept it, and notify the applicant in writing and explain the reason. If the rectification is not made within the time limit, the application shall be deemed to have been withdrawn, and the Trademark Review and Adjudication Board shall notify the applicant in writing.

Where it finds that an application for the trademark review and adjudication does not meet the requirements for acceptance after accepting it, the Trademark Review and Adjudication Board shall reject the application and

notify the applicant in writing and explain the reason.

**Rule 31**

After accepting an application for the trademark review and adjudication, the Trademark Review and Adjudication Board shall send, in a timely manner, a copy of the Application to the other party, and require him to reply within thirty days from the date of receipt of the copy of the Application; failure to make a reply at the expiration of the time limit shall not affect the review and adjudication by the Trademark Review and Adjudication Board.

**Rule 32**

Where an interested party needs to supplement relevant proofs after he files an application for trademark review and adjudication or makes a reply, he shall make a statement to this effect in the Application or Reply, and submit the proofs within three months from the date of filing the Application or making the Reply; if the proofs are not submitted at the expiration of the time limit, the supplementation thereof shall be deemed to have been abandoned.

**Rule 33**

The Trademark Review and Adjudication Board may, at the request of an interested party or according to practical needs, decide to conduct a public review and adjudication of the application therefor.

Where it conducts a public review and adjudication of an application therefor, the Trademark Review and Adjudication Board shall notify the interested party, within fifteen days before the public review and adjudication is held, of the date and place of, and the persons conducting the public review and adjudication. The interested party shall make a reply within the time limit fixed in the notification.

Where the applicant does not reply, nor attend the public review and adjudication, his application for the trademark review and adjudication shall be deemed to have been withdrawn, and the Trademark Review and Adjudication Board shall notify him in writing. Where the respondent does not respond, nor attend the public review and adjudication, the Trademark Review and Adjudication Board may conduct a default review and adjudication.

**Rule 34**

Where an applicant requests for the withdrawal of his application before the Trademark Review and Adjudication Board makes its decision or



adjudication, he may withdraw his application after he explains the reason in writing to the Trademark Review and Adjudication. Where the application is withdrawn, the review and adjudication procedure terminates.

**Rule 35**

Where an applicant withdraws his application for review and adjudication, he shall not file another application for the review and adjudication on the basis of the same facts and grounds. Where the Trademark Review and Adjudication Board has made the adjudication or decision as regards an application for trademark review and adjudication, any person shall not file another application for the review and adjudication on the basis of the same facts and grounds.

**Rule 36**

In respect of a trademark the registration of which is cancelled in accordance with Article 41 of the Trademark Law, the exclusive right to use the trademark shall be deemed to be non-existent from the beginning. The decision or adjudication on the cancellation of the registered trademark has no retroactive effect on a judgment or decision already made and executed by the People's Court or the administrative department for industry and commerce on a case of trademark infringement, or on a trademark assignment or licensing contract executed. However, in respect of damage done to any other person in bad faith by the trademark registrant, he shall compensate for the damages.

## **Chapter 6 Administration of the Use of Trademarks**

### **Rule 37**

Where a registered trademark is used, it may carry the indication of "Registered Trademark" or the registration signs on the goods, packaging or description or other attachments on the goods.

The registration signs include ® and R. When used, the registration signs shall be marked or indicated on the upper or lower right hand corner of the trademark.

### **Rule 38**

Where a Certificate of Trademark Registration is lost or damaged, it is necessary to apply to the Trademark Office for re-issuance of the Certificate. Where the Certificate is lost, the registrant shall declare the loss of the Certificate by publishing a declaration in the Trademark Gazette. The damaged Certificate shall be returned to the Trademark Office when an application for re-issuance is filed.

Where a Certificate of Trademark Registration is forged or falsified, criminal liability shall be imposed according to law based on the provisions governing the crimes of forging and falsifying certificates issued by the State administrative authority or other crimes.

### **Rule 39**

In respect of any of the acts referred to in Article 44(1), (2) and (3) of the Trademark Law, the administrative authority for industry and commerce shall order the trademark registrant to rectify the situation within a time limit. If the registrant refuses to comply, the case shall be submitted to the Trademark Office for cancellation of the registered trademark.

In respect of the act referred to in Article 44(4) of the Trademark Law, any person may apply to the Trademark Office for cancellation of the said registered trademark and explain the circumstances. The Trademark Office shall notify the trademark registrant and require him to furnish, within two months from the date of receipt of the notification, proof of use of the trademark before the date on which the application for cancellation is filed, or a justifiable reason for its non-use. If no proof of use, nor a justifiable reason for the non-use is furnished at the expiration of the time limit or the proof is invalid, the Trademark Office shall cancel his registered trademark.

The proof of use of a trademark referred to in the preceding paragraph includes the proofs of the registrant's use of the registered trademark

and his licensing any other person to use the registered trademark.

**Rule 40**

Registered trademarks cancelled according to the provisions of Articles 44 and 45 of the Trademark Law shall be published by the Trademark Office; the exclusive right in the registered trademarks shall terminate on the date of cancellation decision made by the Trademark Office.

**Rule 41**

Where the Trademark Office or the Trademark Review and Adjudication Board cancels a registered trademark for reasons relating only to a part of the goods designated, the trademark registration in respect of this part of the designated goods shall be cancelled.

**Rule 42**

The amount of the fine imposed in accordance with the provisions of Articles 45 and 48 of the Trademark Law shall be less than 20% of the illegal business turnover or less than two times the illegal profits.

The amount of the fine imposed in accordance with the provision of Article 47 of the Trademark Law shall be less than 10% of the illegal business turnover.

**Rule 43**

Where he licenses another person to use his registered trademark, the licensor shall submit a copy of the trademark licensing contract to the Trademark Office for filing within three months from the date on which the contract is concluded.

**Rule 44**

Where any person contravening the provisions of Article 40, paragraph two, of the Trademark Law, the administrative department for industry and commerce shall order the offender to rectify the situation within a prescribed time limit. Where the offender refuses to comply, the administrative department for industry and commerce shall confiscate the representations of his trademark. If it is difficult to detach the representations of the trademark from the goods, both the representations and goods shall be confiscated and destroyed.

**Rule 45**

Where a trademark is used in contravention of the provision of Article 13 of the Trademark Law, an interested party may request the administrative

department for industry and commerce for prohibition of the use. When filing the request, the interested party shall submit proofs that his trademark constitutes a well-known mark. If the Trademark Office establishes it as a well-known mark according to the provision of Article 14 of the Trademark Law, the administrative department for industry and commerce shall order the infringer to cease the act of using the well-known mark in contravention with the provision of Article 13 of the Trademark Law, confiscate and destroy the representations of the trademark. If it is difficult to detach the representations of the trademark from the goods, both the representations and goods shall be confiscated and destroyed.

#### **Rule 46**

Where a trademark registrant applies for the removal, from the Register, of his registered trademark or the registration of his trademark in respect of a part of the designated goods, he shall send an Application for Trademark Removal and return the original Certificate of Trademark Registration to the Trademark Office.

Where a trademark registrant applies for the removal, from the Register, of his registered trademark or the registration of his trademark in respect of a part of the designated goods, the exclusive right in the registered trademark or the effect thereof on the part of designated goods shall terminate on the date of receipt by the Trademark Office of the Application for Trademark Removal.

#### **Rule 47**

Where the registrant of a trademark dies or ceases, and no formalities have been gone through for transfer of the registered trademark at the expiration of one year from the date of the death or cessation, any person is entitled to apply to the Trademark Office for the removal, from the Register, of the registered trademark. When filing an application for the removal, he shall submit the proofs of the death or cessation of the trademark registrant.

Where a registered trademark is removed from the Register owing to the death or cessation of the trademark registrant, the exclusive right to use the registered trademark terminates from the date of the death or cessation of the trademark registrant.

#### **Rule 48**

Where a registered trademark is cancelled or removed from the Register according to the provisions of Rules 46 and 47 of these Regulations, the original Certificate of Trademark Registration shall become invalid. Where

the registration of the trademark in respect of a part of the designated goods is cancelled, or where the trademark registrant applies for removal, from the Register, the registration of the trademark in respect of a part of designated goods, the Trademark Office shall return, to the registrant, the original Certificate of Trademark Registration on which the approval of the cancellation or removal has been marked, or re-issue the Certificate of Trademark Registration and publish the re-issuance.

## **Chapter 7 Protection of the Exclusive Right to Use Registered Trademark**

### **Rule 49**

Where a registered trademark contains the generic name, shape or model of the goods in respect of which it is used, or directly indicates the quality, main raw material, function, use, weight, quantity and other features of the goods, or contains a place name, the holder of the exclusive right to use the registered trademark has no right to prohibit others from duly using.

### **Rule 50**

Any of the following acts shall be an act of infringement of the exclusive right to use a registered trademark as provided for in Article 52(5) of the Trademark Law:

(1) to use any design which is identical with or similar to the registered trademark of another person on the same or similar goods, as the designation or decoration of the goods, which mislead the public; or

(2) to intentionally provide any other person with such facilities as of storage, transportation, postal service, and concealment in his infringement of the exclusive right of another person to use a registered trademark.

### **Rule 51**

Where the exclusive right to use a registered trademark has been infringed, any person may lodge a complaint with, or file a report on, the case of infringement to the administrative department for industry and commerce.

### **Rule 52**

An act of infringement of the exclusive right to use a registered trademark shall be subject to a fine of not exceeding three times the amount of the illegal business turnover. Where it is impossible to calculate the amount of the illegal business turnover, the fine shall be no more than RMB 100,000 yuan.

### **Rule 53**

Where a trademark proprietor believes that another person has registered his well-known trademark as an enterprise name, which is likely to deceive, or mislead, the public, he may file an application with the competent authority for the registration of enterprise names for cancellation of the registration of the enterprise name. The competent authority for the registration of enterprise names shall handle the matter pursuant to the

Regulations for the Administration of Registration of Enterprise Names.

## **Chapter 8 Supplementary Provisions**

### **Rule 54**

Where a service mark already in continuous use up to 1 July 1993 which is identical with or similar to the service mark of another person already registered in respect of the same or similar services may continue to be used. However, a mark the use of which has been suspended for three or more years after 1 July 1993 shall not continue to be used.

### **Rule 55**

The specific measures for the administration of trademark agency shall be separately provided for by the State Council.

### **Rule 56**

The classification of goods and services for the purposes of registration of trademarks shall be formulated and published by the administrative department for industry and commerce under the State Council.

The documents or forms for filing applications for the registration of trademarks or for attending to other trademark matters shall be formulated and published by the administrative department for industry and commerce under the State Council.

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

### **Rule 57**

The Trademark Office shall set up the Register of Trademark Registration for the documentation of registered trademarks and matters relating to the registration.

The Trademark Office shall compile, print and distribute the Trademark Gazette to publish trademark registrations and other related matters.

### **Rule 58**

Fees shall be paid for applying for the registration of trademarks or for handling other trademark matters. The items and schedule of the fees shall be provided for and published by the administrative department for industry and commerce under the State Council in conjunction with the competent price administrative department under the State Council.



**Rule 59**

These Regulations shall enter into force on 15 September 2002. The Implementing Regulations of the Trademark Law of the People's Republic of China promulgated by the State Council on 10 March 1983, revised for the first time with the approval by the State Council on 3 January 1988, and revised for the second time with the approval by the State Council on 15 July 1993 and the Answers by the State Council to Issues Relating to the Attachment of Certificates for the Purpose of Trademark Registration on 23 April 1995 shall simultaneously be abrogated.