

Implementing Regulations under the Trademark Law of the People's Republic of China

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Chapter I General Provisions

Rule 1. These Implementing Regulations are drawn up in accordance with the Trademark Law of the People's Republic of China (hereafter referred to as the "Trademark Law").

Rule 2. The provisions made in these Implementing Regulations concerning goods trademarks shall also apply to service marks.

Rule 3. The use of a trademark referred to in both the Trademark Law and these Implementing Regulations shall include the use of the trademark on goods, packaging or containers of the goods as well as trading documents, or the use of the trademark in advertisement, exhibition, or any other business activities.

Rule 4. As indicated in Article 7 of the Trademark Law, the goods prescribed by the State that must use a registered trademark refer to those goods stipulated by relevant law and administrative regulations that must use a registered mark.

Rule 5. In accordance with the provisions of the Trademark Law and these Implementing Regulations, where a dispute arises in the course of trademark registration or trademark examination, any party claiming its trademark as a well-known trademark may request the China Trademark Office or the Trademark Review and Adjudication Board to identify its trademark as a well-known trademark to refuse the application for registration of a trademark violating Article 13 of the Trademark Law or cancel the registered trademark violating Article 13 of the Trademark Law. When filing such an application, the party concerned is required to provide evidential documents to prove its trademark as a well-known trademark.

At the request of the party concerned, the China Trademark Office and the Trademark Review and Adjudication Board should, in accordance with Article 14 of the Trademark Law, identify whether its trademark has constituted a well-known trademark when ascertaining relevant facts.

Rule 6. The geographical sign prescribed in Article 16 of the Trademark Law can be applied for registration as certification trademarks or collective trademarks in accordance with the Trademark Law and these Implementing Regulations.

Where a geographical sign is registered as a certification trademark, any natural person, juridical person or any other organization whose goods are qualified for using the geographical sign may request for use of the certification trademark. The organization that supervises the certification trademark should permit such use. Where a geographical sign is registered as a collective trademark, any natural person, juridical person or any other organization whose goods are qualified for use of the geographical sign may apply for joining the group, association and other organization that registers the geographical sign as a collective trademark. The said society, association and other organization should admit the said applicant to be its member according to its rules. Those who have not request for membership of the group, association and other organization that has registered the geographical sign as a collective trademark may also use the geographical sign legitimately, and the group, association and organization shall have no right to forbid such use.

Rule 7. Where a trademark applicant entrusts a trademark agency in filing any application for the registration of a trademark or for any other matters concerning a trademark, he shall submit a Power of Attorney. The Power of Attorney shall indicate such contents and competence as

authorized. Where the applicant is a foreigner or a foreign enterprise, the Power of Attorney shall, in addition, indicate the nationality of the applicant.

The notarization and legalization of the Power of Attorney executed by a foreigner or a foreign enterprise and the relevant certificates concerned shall be done based on the principle of reciprocity.

"Foreigner" or "Foreign Enterprise" indicated in Article 18 of the Trademark law refers to the foreigner or the foreign enterprise who has no regular residence or business office in China.

Rule 8. Where any trademark registration is applied for, or any other matters concerning a trademark are handled, the Chinese written language is required.

Where a supporting document, certificate or evidence required for submission according to the Trademark Law or these Implementing Regulations is in a foreign language, the Chinese translation of the same must also be submitted. Where the applicant fails to submit the translation, the required supporting document, certificate or evidence shall be deemed to have not been submitted.

Rule 9. Any person who is involved in the service of the Trademark Office or the Trademark Review and Adjudication Board shall, on his own initiative or upon the request of the party concerned or any other interested party, avoid being present in any of the following situations:

- (1) where he is a close relative of the party concerned or the latter's agent;
- (2) where he has such other kinds of relations with the party concerned or the latter's agent that might influence the impartial examination and hearing; and
- (3) where he has an interest in the registration of the applied trademark or in other matters concerning the trademark application.

Rule 10. Except otherwise provided in these Implementing Regulations, for any document or written material submitted by the party concerned to the Trademark Office or the Trademark Review and Adjudication Board, the date of personal delivery shall be the date of filing. For any document or written material sent by mail, the date of the mailing indicated by the postmark shall be the date of filing. For the absence of postmark or illegible postmark, the date on which the Trademark Office or the Trademark Review and Adjudication Board receives the document shall be the date of filing, except where the addresser can provide evidence to prove the actual postmark.

Rule 11. Any document of the Trademark Office or the Trademark Review and Adjudication Board may be served by mail, by personal delivery or by other means. Where any party concerned appoints a trademark agency, upon the delivery of the document to the trademark agency the document shall be deemed to have been served.

For any document sent by mail by the Trademark Office or the Trademark Review and Adjudication Board, the date of the arrival postmark shall be the date on which the addressee receives the document. For the absence of postmark or illegible postmark, the 16th day from the date of mailing shall be deemed as the date on which the addressee receives the document. For any document delivered personally, the date of delivery is the date on which the addressee receives the document. Where any document cannot be sent by mail or cannot be delivered personally, the document may be served by making an announcement in the Trademark Gazette. At the expiration of 30 days from the date of the announcement, the document shall be deemed to have been served.

Rule 12. Trademark applications for international registration shall be handled in accordance with relevant international treaty of which China is a member. Specific procedures shall be formulated by the administrative department for industry and commerce under the State Council.

Chapter II. Application for Trademark Registration

Rule 13. When applying for the registration of a trademark, the applicant shall file one application with respect to each class of goods according to the Classification of Goods/Services as published. For each filing, an "Application for Trademark Registration" shall be submitted to the Trademark Office, accompanied by five copies of reproductions of the trademark (if color is claimed, five copies of the color reproductions of the trademark shall be attached thereto) and one copy of the black and white design thereof.

The reproductions of a trademark must be clear and easy to be pasted up, and shall be printed on smooth and clear durable paper or substituted by photographs, the length and breadth of which shall be less than 10 cm but more than 5 cm each.

When applying for registration of three-dimensional trademark, the applicant should declare it in the application form and submit the reproduction of the trademark, which could show the shape of the three-dimension.

When applying for registration of a trademark in colors, the applicant should declare it in the application form and submit the relevant description on the color.

When applying for registration of Collective trademark or Certification trademark, the applicant should declare it in the application form and submit the certificate of qualification of the applicant and the administrative rules for using the trademark.

When a trademark is in foreign language or containing foreign language, the applicant should point out its meaning.

Rule 14. When applying for trademark registration, the applicant should submit a copy of the valid certificate, which can prove his identity. The applicant's name in the trademark application form should be identical with that of the submitted certificate.

Rule 15. The goods/service items shall be listed in the application according to the Classification of Goods/Services. If any goods/service items are not included in the Classification of Goods/Services, a description of the goods/service items shall be attached to the application.

The forms relating to an application for trademark registration or for any other matters concerning a trademark shall be filled out with typewriter or in printed form.

Rule 16. When applying for registration of a trademark as multi-applicants, the applicants should designate a representative among them. If there is not such a designation, the first applicant as listed in the application form shall be taken as the representative.

Rule 17. When the applicant's name, address or agency changes, or some designated goods are to be deleted, the applicant may file applications for recording these changes with the Trademark Office.

When the applicant agrees to assign his application for registering the trademark, he should file an application for recording of the relevant assignment.

Rule 18. The date of filing of an application for trademark registration shall be the date on which the Trademark Office receives the application. If the formal formalities for the application are completed and the application form is filled out according to the relevant provisions, the Trademark Office shall accept the application and issue a "Notification of Acceptance" to the applicant. If the formal formalities are not complete or the application form is not filled out according to the relevant provisions, the application shall not be accepted and the Trademark Office shall notify the applicant in a formal document and illustrate the reasons.

Where formalities are basically complete or the application form is basically in conformity with the relevant provisions, but there is still a need for the applicant to make necessary supplements thereto or corrections thereof, the Trademark Office shall notify the applicant to make such supplements or corrections as advised and require the latter to resubmit the supplemented or corrected application to the Trademark Office within thirty days from receipt of the notification. If it is supplemented or corrected and resubmitted to the Trademark Office within the time limit, the filing date shall be retained; but if no such supplements or corrections have been made at the expiration of the specified period or they are made beyond the time limit, the application will be taken as automatically given up. The Trademark Office should notify the applicant in a formal document.

Rule 19. Where two or more applicants respectively apply for the registration of the identical or similar trademarks in respect to the same or similar goods on the same day, each of the applicants shall, as notified by the Trademark Office, furnish it, within thirty days, with the proof of the date of first use of the said trademark. If the first use started on the same day, or if neither of them has been in use, all the applicants involved therein shall hold consultations among themselves. If they have reached an agreement, they shall submit their agreement in writing to the Trademark Office within thirty days. If no agreement has been reached through consultations or the applicants do not agree to make consultation within thirty days, both or all the applicants involved therein shall draw lots to decide it. The Trademark Office shall refuse the other party's application. If applicant does not come to draw lots when receiving the notification of the Trademark Office, his application will be taken as given up automatically. The Trademark Office should notify the applicant in formal documents who did not attend the drawing of lots.

Rule 20. Where the priority right is claimed in accordance with the prescription of Article 24 of the Trademark Law, the applicant should present to the Trademark Office a copy of the first filed trademark application form, which should be certified by the Trademark Administrative authority who accepted the application used for priority right. The priority filing date and filing number should be indicated in the certified priority documents. Where the priority right is claimed in accordance with the prescription of Article 25 of the Trademark Law, the certification documents submitted by the applicant should be legalized by the relevant authority as prescribed or accepted by the Administration for Industry and Commerce of the State Council. But if the products exhibited in the international exhibition were held beyond the territory of China, the applicant is not required to present said certification documents.

Chapter III Examination of Trademark Application for Registration

Rule 21. The Trademark Office shall, according to the Trademark Law and the prescription of this Implementing Regulation, examine all the applications it has accepted. Where a trademark is distinctive and in conformity with the relevant provisions of the Trademark Law with respect to all the designated goods or some part of the designated goods, the Trademark Office shall, after examination, preliminarily approve the trademark and published it in the "Trademark Gazette". Where a trademark application is not in conformity with the relevant provisions of the Trademark Law with respect to all the designated goods or part of the designated goods, the Trademark Office shall refuse the application or refuse part of the goods designated by the application and send a "Notification of Refusal" to the applicant with explanations.

Where the application is preliminarily approved by the Trademark Office with respect to part of the designated goods, the applicant may, before the expiration of opposition period, file an application for giving up the application with respect to part of the designated goods. Where the applicant gives up the application with respect to part of the designated goods, the Trademark Office should withdraw the former preliminary approval and terminate the examination procedure, and publish the fact in the Trademark Gazette.

Rule 22. Where an opposition is filed against a trademark which has, after examination, been preliminarily approved and so published by the Trademark Office, the opponent shall send two copies of the same "Application for Trademark Opposition" to the Trademark Office. The "Application for Trademark Opposition" shall indicate both the issue number of the "Trademark Gazette" in which the opposed trademark was published and the number of the preliminary approval. The "Application for Trademark Opposition" should have specific claims and facts, and should be accompanied by the relevant evidence materials.

The Trademark Office shall send one copy of the "Application for Trademark Opposition" to the opposed party for a response to be made within thirty days from receipt of the notification. Where the opposed party makes no response at the expiration of the specified period, it will not affect the adjudication on opposition to the Trademark Office.

Where the parties concerned need to submit the relevant supplementary evidence materials after filing the opposition or making a response to the opposition, they should claim this point in the application form or in the relevant response, and submit these supplementary evidence materials within three months after filing the application form or response letter. If these supplementary evidence materials were submitted beyond the prescribed period, they will be taken as that the parties give up the right of submitting the supplementary documents.

Rule 23. The opposition, which is adjudicated as being tenable, as indicated in paragraph 2 of Article 34 of the Trademark Law, includes those which are tenable in part of the designated goods. Where an opposition is tenable with respect to part of the designated goods, the trademark application with respect to the part of the designated goods shall not be approved for registration.

If an opposed trademark has, prior to the entry into force of the adjudication on the opposition, been announced as a registered trademark in the "Trademark Gazette", the announcement thereof shall be withdrawn and the opposed trademark, which has been approved for registration through the opposition procedure, will be published in the "Trademark Gazette" once again.

Where a trademark, which has been approved for registration through the opposition procedure, shall, from the expiration date of the opposition period to the entry of force of the adjudication on the opposition, have no tracing force in relation to the other party's use of the same or similar trademark with respect to the same or similar products. But, if the bad faith of the party who uses the trademark has caused damages to the trademark registrant, a claim shall be made for the compensation therefor.

Where a trademark, which has been approved for registration through the opposition procedure, against which the expiration period for filing an application for review shall begin from the publication date of the adjudication on the trademark opposition.

Chapter IV Modification, Assignment and Renewal of a Registered Trademark

Rule 24. When applying for modification of the name, address or other matters concerning a registered trademark, the registrant shall submit an "Application for Modification of a Registered Trademark" to the Trademark Office. If the application is approved, the Trademark Office shall issue a relevant certificate to the trademark registrant and publish the same in the "Trademark Gazette". If the application is not approved, the Trademark Office shall notify the applicant of the decision and the reason in written form.

When applying for modification of his name, the trademark registrant shall furnish the certification document issued by the competent authority in charge of the name change. Said certification document can be furnished within 30 days from the application date for name change. Where the certification document has not been furnished at the expiration of the prescribed period, the application for name change shall be deemed to have been abandoned, and the Trademark Office shall notify the applicant in written form.

When applying for modification of his name and address, the registrant shall do the same modification with respect to all his registered trademarks. Where the registrant fails to do so, the application for name change shall be deemed to have been abandoned, and the Trademark Office shall notify the applicant in written form.

Rule 25. When applying for the assignment of a registered trademark, both the assignor and the assignee shall submit an "Application for Assignment of Registered Trademark" to the Trademark Office. The assignee shall complete the formalities required for the assignment of a registered trademark. Where the assignment of a registered trademark is approved, the Trademark Office shall issue a certificate to the assignee and publish the assignment in the "Trademark Gazette".

When applying for the assignment of a registered trademark, the registrant shall, at the same time, do the same assignment with respect to all his other registered trademarks that are identical with or similar to the said registered trademark with respect to the same or similar goods. Where the registrant fails to do so, the Trademark Office shall require him to do as required within a prescribed period. Where the registrant fails to fulfill said requirement, he shall be deemed to have abandoned the application for the assignment of the registered trademark, and the Trademark Office shall notify the applicant of the same in written form.

Where an application for the assignment of a registered trademark may mislead the public or cause confusion or exert any other unhealthy influences, the Trademark Office shall grant no approval thereof and shall notify the application of the reason in written form.

Rule 26. Where the exclusive right to use a registered trademark is transferred due to the issue other than trademark assignment, the party accepting the transferred exclusive right shall submit relevant certification document or legal document to the Trademark Office and complete the required formalities for the transfer of the registered trademark.

Where the exclusive right to use a registered trademark is transferred, the owner of the exclusive right to use the registered trademark shall, at the same time, complete the required formalities for the transfer of all his other registered trademarks that are identical with or similar to the said registered trademark with respect to the same or similar goods. Where the registrant fails to do so, the Trademark Office shall require him to do as required within a prescribed period. Where the owner of the exclusive right to use the registered trademark fails in fulfilling the said requirement, he shall be deemed to have abandoned the application for the transfer of the registered trademark, and the Trademark Office shall notify the applicant of the same in written form.

Rule 27. When it is necessary to renew a registered trademark, the registrant shall submit an "Application for Renewal of Trademark Registration" to the Trademark Office. When approving the application for renewal of a registered trademark, the Trademark Office shall issued a certificate and make a publication in the "Trademark Gazette".

The valid period of a renewed trademark registration shall be calculated as from the next day to the date of expiration of the previous period of validity of said trademark.

Chapter V Review of Trademark

Rule 28. The Trademark Review and Adjudication Board accepts the applications for trademark review filed in accordance with the provisions in Article 32, Article 33, Article 41 and Article 49 of the Trademark Law. The Trademark Review and Adjudication Board shall, on the basis of facts, review trademarks according to law.

Rule 29. The dispute over a registered trademark mentioned in Paragraph 3, Article 41 of the Trademark Law refers to the situation that the registrant of a prior-registered trademark believes that other people's later-applied trademark is identical with or similar to his registered trademark with respect to the same or similar goods.

Rule 30. When applying for trademark review, the applicant shall submit an application to the Trademark Review and Adjudication Board and provide the same number of duplicate copies of the application as the number of opposing parties concerned. Where the application for trademark review is based on a decision or adjudication made by the Trademark Office, the applicant shall submit, at the same time, a duplicate copy of the decision or adjudication made by the Trademark Office.

After receiving an application for trademark review, the Trademark Review and Adjudication Board shall have a formal examination of the application. Where the application has satisfied the requirements for trademark review, it shall be accepted. Otherwise, the Trademark Review and Adjudication Board shall refuse the application and notify the applicant of the reason in written form. Where any supplementary document or necessary correction is required for satisfying the requirement, the Trademark Review and Adjudication Board shall notify the applicant to furnish the same within 30 days from the receipt of the notification. Where the application still cannot satisfy the filing requirement after the supplementary document or necessary correction is furnished, the Trademark Review and Adjudication Board shall refuse the application and notify the applicant of the reason in written form. Where the supplementary document or correction has not been furnished at the expiration of the prescribed period, the application for trademark review shall be deemed to have been withdrawn, and the Trademark Review and Adjudication Board shall notify the applicant of the same in written form.

When finding out that an accepted application for trademark review cannot satisfy the requirement, the Trademark Review and Adjudication Board shall refuse the application and notify the applicant of the reason in written form.

Rule 31. After accepting an application for trademark review, the Trademark Review and Adjudication Board shall deliver a copy of the accepted application to the opposite party without delay and require the opposite party to make a response within 30 days from the receipt of the copy of the application. Where no response is made by the opposite party at the expiration of the prescribed period, the Trademark Review and Adjudication Board shall review the application without being influenced.

Rule 32. Where the party concerned deems it necessary to furnish supplementary evidence after submitting the application for trademark review or making a response, he shall make a relevant statement in the application for trademark review or in the response in advance and furnish the supplementary evidence within three months after the application for trademark review or the response to the same is filed. Where the supplementary evidence has not been submitted at the expiration of the prescribed period, the party concerned shall be deemed to have abandoned the chance to submit the supplementary evidence.

Rule 33. The Trademark Review and Adjudication Board may, at the request of the party concerned or for practical need, decide to hold a public hearing and review the application.

Where a decision is made to hold a public hearing and review the application, the Trademark Review and Adjudication Board shall, at least 15 days before the public hearing and review, notify in writing the parties concerned of the date, place of the public hearing and the participating examiners. The party concerned shall make a reply within the time limit as prescribed in the notification.

Where the applicant fails in making a reply and attending the public hearing, his application for trademark review shall be deemed to have been withdrawn, and the Trademark Review and Adjudication Board shall notify the applicant in written form. Where the opposite party fails in making a

reply and attend the public hearing, the Trademark Review and Adjudication shall make a adjudication by default.

Rule 34. Where the applicant requests withdrawal of the application for trademark review before a decision or adjudication is made by the Trademark Review and Adjudication Board, the application can be withdrawn provided that a written explanation is submitted to the Trademark Review and Adjudication Board. Along with the withdrawal of the application for trademark review, the procedure of hearing and review shall be terminated.

Rule 35. Where the applicant has withdrawn his application for trademark review, he shall not be allowed to resubmit an application for trademark review for the same facts and arguments. Where the Trademark Review and Adjudication Board has made a decision or adjudication on the reviewed trademark, no one shall be allowed to submit another application for review of the trademark for the same facts and arguments.

Rule 36. Where a registered trademark has been cancelled according to Article 41 of the Trademark Law, the exclusive right to use it shall be deemed as having no existence from the very beginning. Where a registered trademark has been cancelled according to a decision or adjudication, there shall be no tracing force in any such judgement or adjudication on any trademark infringement case as made and enforced by the administrative authority for industry and commerce and in any such trademark assignment or trademark license contract as performed prior to the said cancellation. But, if the bad faith of the trademark registration has caused damages to any other party, a claim shall be made for the compensation therefor.

Chapter VI Administration of the Use of Trademarks

Rule 37. Where a registered trademark is used, it shall carry the indication of “注册商标” (Registered Trademark) or the registration signs on the designated goods, the packages or descriptions of or any other attachments to the goods.

The registration signs include 注 and ®. In practical use, the registered sign shall be marked on the right upper corner or right lower corner of the trademark.

Rule 38. Where a “Certificate of Trademark Registration” is lost or damaged, it is necessary to apply for the reissuance before the Trademark Office thereof. Where a “Certificate for Trademark Registration” is lost, the owner shall declare the loss thereof in the “Trademark Gazette”. Where a “Certificate for Trademark Registration” is damaged, it shall be sent back to the Trademark Office when an application is filed for reissuance of the same.

Where any party has committed any act in forging or altering a “Certificate of Trademark Registration”, he shall be prosecuted for his criminal liabilities in accordance with the provisions on the crime of forging, altering credentials issued by the State authority or other crimes in the Criminal Law of the People’s Republic of China.

Rule 39. Where any party has committed any of the such acts as 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 specified period. If the registrant refuses to make said rectification, the administrative authority for industry and commerce at the registrant’s location shall submit the case to the Trademark Office for the cancellation of the registered trademark.

Where any party has committed the act referred to in Article 44 (4) of the Trademark Law, any person may apply to the Trademark Office for the cancellation of the registered trademark in question and state the facts related thereto. The Trademark Office shall notify the trademark registrant and require the latter to furnish, within two months from receipt of the said notification, proof of the prior use of the trademark before the application for cancellation is filed or otherwise fair reasons for non-use thereof. If no proof of use has been furnished at the expiration of the prescribed period or the furnished proof is invalid, the Trademark Office shall cancel the registered trademark.

The proof mentioned in the proceeding paragraph shall include proving the trademark registrant’s use of the registered trademark and the evidence proving the trademark registrant’s authorizing other persons to use his registered trademark.

Rule 40. Where any trademark is cancelled by the Trademark Office according to Article 44 and Article 45 of the Trademark Law, the Trademark Office shall publish the same in the Trademark Gazette. The exclusive right to use the registered trademark shall cease on the day when the decision to cancel is made by the Trademark Office.

Rule 41. Where the grounds for cancellation of a registered trademark in the decision made by the Trademark Office or the adjudication made by the Trademark Review and Adjudication Board involve only some of the designated goods, such registration of the trademark with respect to the involved goods shall be cancelled.

Rule 42. The amount of fine imposed according to Article 45 and Article 48 of the Trademark Law shall not exceed 20% of the illegal business volume or two times the profit earned in the infringement.

The amount of fine imposed according to Article 47 of the Trademark Law shall not exceed 10% of the illegal business volume.

Rule 43. When any other person is authorized to use a registered trademark, the trademark registrant shall, within three months from the conclusion of the trademark license contract, submit a copy of the contract to the Trademark Office for record.

Rule 44. Where any party uses a trademark in violation of the provisions of Paragraph 2, Article 40 of the Trademark Law, the administrative authority for industry and commerce shall order him to rectify the situation within a specified period. If the said party has not rectified the situation

at the expiration of the specified period, the administrative authority for industry and commerce shall seize the representations of the trademark. If the representations cannot be separated from the goods, both the representations and the goods shall be seized and destroyed.

Rule 45. Where any party uses a trademark in violation of the provisions of Article 13 of the Trademark Law, the party concerned may request the administrative authority for industry and commerce to forbid such use. When submitting such an application, the applicant shall furnish evidence to prove its trademark as a well-known trademark. Where the said trademark is identified as a well-known trademark by the Trademark Office according to the provisions in Article 14 of the Trademark Law, the administrative authority for industry and commerce shall order the infringing party to stop the use of the well-known trademark which is in violation of the provisions of Article 13 of the Trademark Law, seize and destroy the representations of the well-known trademark. If the representations cannot be separated from the goods, both the representations and the goods shall be seized and destroyed.

Rule 46. Where a trademark registrant applies for the removal of his registered trademark or the registration of the trademark with respect to some goods from the Trademark Gazette, he shall submit an "Application for Trademark Removal" to the Trademark Office and return the original certificate of trademark registration.

Where a trademark registrant applies for the removal of his registered trademark or the registration of the trademark with respect to some goods from the Trademark Gazette, the exclusive right to use the registered trademark or to use the registered trademark with respect to some designated goods shall cease on the day when the Trademark Office receives the application for removal of the trademark.

Rule 47. Where a trademark registrant has passed away or terminated and the formalities for transfer of the registered trademark have not been completed at the expiration of 12 months from the date of death or termination of the trademark registrant, any person may apply with the Trademark Office for removal of the registered trademark. When filing an application for removal of a registered trademark, the applicant shall furnish evidence to prove the death or termination of the trademark registrant.

Where a registered trademark is removed from the Trademark Gazette due to the death or termination of the trademark registrant, the exclusive right to use this registered trademark shall cease from the date of death or termination of the trademark registrant.

Rule 48. Where a registered trademark has been cancelled or removed from the Trademark Gazette in accordance with the provisions of Article 46 and Article 47 of the Trademark Law, the original certificate of trademark registration shall be abolished. Where a registration of a trademark with respect to some designated goods is cancelled, or the trademark registrant applies for removal of the registration of his trademark with respect to some designated goods, the Trademark Office shall add remarks on the original certification of trademark registration before returning the same to the registrant, or reissue a certificate of trademark registration and publish the same in the Trademark Gazette.

Chapter Seven

Rule 49 The registrant has not right to prohibit others from using the following parts in its registered trademark: the generic names or designs of the goods; those having direct reference to the quality, main raw materials, function, use, weight, quantity or other features of the goods; geographical names.

Rule 50 Any of the following acts shall constitute an infringement of the exclusive right to use a registered trademark as referred to in Article 52(5) of the Trademark Law:

- 1) to use any word or device that is identical with or similar to the registered trademark of another person, with respect to the same or similar goods, as the designation or decoration of the goods, which is so sufficient as to mislead the public; and
- 2) to provide any person intentionally with such facilities as storage, transportation, post service and concealment in his infringing 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 report the case of infringement to the administrative authority for industry and commerce.

Rule 52 The fine for the infringement of the exclusive right to use a registered trademark will not exceed three times of the amount of his illegal business. If such amount of illegal business cannot be counted, the fine will not exceed RMB 100, 000.

Rule 53 The trademark registrant may apply to the trade name recording authority to cancel such a trade name, when he believes that other person has recorded his well-known trademark as its trade name and will cheat or cause confusion among the consumers. The trade name recording authority should handle the case according to Trade Name Recording Regulations.

Chapter Eight

Rule 54 Where a service mark which has never been used since before July 1, 1993 is identical with or similar to any registered service mark of another party with respect to the same or similar services, it may continue to be used, excluding the ones which have not been used for three consecutive years since July 1, 1993.

Rule 55 The regulations concerning the management of trademark agencies shall be prescribed by the State Council.

Rule 56 The Classification of Goods and Services for the Purposes of the Registration of Trademarks shall be prescribed and published by the State Administration for Industry and Commerce.

The forms of the application for a trademark registration or for any other matters concerning a trademark shall be prescribed and published by the State Administration for Industry and Commerce.

The adjudication standard of the Trademark Review and Adjudication Board shall be prescribed and published by the State Administration for Industry and Commerce.

Rule 57 The Trademark Office shall establish the Trademark Registration Book, recording the registered trademarks and related information.

The Trademark Office shall edit and publish the Trademark Gazette, circulating the trademarks and related information.

Rule 58 Any application for a trademark registration and for any other matters concerning a trademark shall be subject to payment of the fees as prescribed. The schedule of fees shall be prescribed and published by the State Administration for Industry and Commerce.

Rule 59 This law shall enter into force on September 15, 2002. The Implementing Regulations under the Trademark Law of the People's Republic of China, which was published on March 10, 1983 by the State Council and was revised on January 3, 1988 for the first time and July 15, 1993 for the second time by the State Council, shall be abrogated on the same time.