

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

Chapter I General Provisions

Rule 1 The 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 the Implementing Regulations concerning trademarks of goods shall also apply to service marks.

Rule 3 Where a holder of a well-known trademark requests for protection of well-known trademark according to Article 13 of the Trademark Law, evidence to prove that the trademark constitutes a well-known trademark shall be submitted. The Trademark Office and the Trademark Review and Adjudication Board shall, in accordance with Article 14 of the Trademark Law, make a determination of the well-knownness of such trademark according to the requirements of case examination and evidence submitted by the party concerned.

Rule 4 A geographical indication prescribed in Article 16 of the Trademark Law can be applied for registration as a certification trademark or collective trademark in accordance with the Trademark Law and the Implementing Regulations.

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

Rule 5 Where a trademark applicant entrusts a trademark agency in filing any application for the registration of a trademark or for any other matter 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 foreign national or a foreign enterprise and the relevant certificates concerned shall be done based on the principle of reciprocity.

Where the trademark registration applicant or the assignee of a trademark transfer is a foreign national or a foreign enterprise, in applying for a trademark registration or transferring a trademark, a recipient within the territory of China shall be indicated in the application form to receive legal documents of subsequent trademark business from the Trademark Office and Trademark Review and Adjudication Board. Legal documents of subsequent trademark business will be sent to the recipient within the territory of China by the Trademark Office and Trademark Review and Adjudication Board.

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

Rule 6 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 the 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 7 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 for trademark or in other matters concerning the trademark application.

Rule 8 Relevant documents such as application for trademark registration submitted through electronic means in accordance with Article 22 of the Trademark Law shall be submitted according to the provisions of the Trademark Office or Trademark Review and Adjudication Board via Internet.

Rule 9 Except as stipulated in Rule 18 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. In case of the absence of postmark or illegible postmark, the date on which the Trademark Office or the Trademark Review and Adjudication Board actually receives the document shall be the date of filing, except where the party concerned can provide evidence to prove the actual postmark. For any documents of written material sent by express enterprises other than postal enterprises, the date when the express enterprises receive the documents shall be the date of filing. Where the date when the express enterprises receive the documents is not specific, 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 party concerned can provide evidence to prove the actual date. Where the documents are submitted through electronic means, the date of entry into the electronic system of the Trademark Office or Trademark Review and Adjudication Board shall prevail.

Where the party concerned sends documents to the Trademark Office or Trademark Review and Adjudication Board by mail, it or he shall use registered postal material.

Where the party concerned sends documents to the Trademark Office or Trademark Review and Adjudication Board in written form, the date recorded in the files of the Trademark Office or Trademark Review and Adjudication Board shall prevail. Where the documents are submitted through electronic means, the date recorded in the database of the Trademark Office or Trademark Review and Adjudication Board shall prevail, except where the party concerned provides evidence that the date recorded in files or database of the Trademark Office or Trademark Review and Adjudication Board is wrong.

Rule 10 Any document of the Trademark Office or the Trademark Review and Adjudication Board may be served by mail, by personal delivery, through electronic means, or by other means. Where documents are sent through electronic means, the permission of the party concerned shall be obtained. Where any party concerned appoints a trademark agency organization, upon the delivery of the document to the trademark agency organization, the document shall be deemed to have been served.

For any document sent by mail from the Trademark Office or the Trademark Review and Adjudication Board, the date of the receipt shall be the date on which the party concerned receives the document. In the case of 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, except where the party concerned can prove the actual date of receiving the document. For any document delivered personally, the date of delivery is the date on which the party concerned receives the document. For any document delivered through electronic means, the 16th day from the date of mailing shall be deemed as the date on which the party concerned receives the document, except where the party concerned can prove the entry date of the document into its or his electronic system. Where any document cannot be sent by the above-mentioned means, 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 11 The following time periods shall not be included in the examination or trial time limit of trademarks:

1. Time period where the Trademark Office or Trademark Review and Adjudication Board announces the delivery of the document.
2. Time period where the party concerned needs to supplement evidence or document, or where the party concerned is replaced and needs to reply again.
3. Time period of submitting the evidence of use for applications having the same date, negotiation, and drawing lots.
4. Time period where priority is determined.
5. Time period of waiting for the conclusion of a prior application at the request of the applicant in the process of examination and trial.

Rule 12 Except the situation in clause 2 of this Rule, that very day when all time limits stipulated by the Trademark Law and the Implementing Regulations start shall not be calculated in the time limit. Where the time limit is calculated by year or month, the corresponding day of the last month shall be the expiration date; where there is no corresponding day of such month, the last day of such month shall be the expiration date; where the expiration date is a holiday, the first working day after holiday shall be the expiration date.

The expiry date of a registered trademark stipulated by Articles 39 and 40 of the Trademark Law shall be calculated from the appointed day and the day before the corresponding day of the last month shall be the expiration day. Where there is no corresponding day of such month, the last day of such month shall be the expiration day.

Chapter II Application for Trademark Registration

Rule 13 When applying for the registration of a trademark, the applicant shall file one application 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 one copy of reproductions of the trademark. Where the application for trademark registration is based on the combination of color or colored pattern, such colored pattern shall be submitted along with one copy of black and white design; where the color is not designated, one copy of the black and white design shall be submitted.

The trademark pattern must be clear and easy to be pasted up, and shall be printed on smooth clear and 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 a three-dimensional trademark, the applicant should declare it in the application form to explain the usage of the trademark, and submit a pattern that could determine the three-dimensional shape, which shall include at least a three-dimensional drawing.

When applying for registration of a trademark based on a combination of colors, the applicant should declare it in the application form to explain the usage of the trademark.

When applying for registration of a trademark based on a sound mark, the applicant shall declare it in the application form and submit a sound sample meeting relevant requirements and describe the sound sample applied for registration to explain the usage of the trademark. When describing the sound mark, the applicant shall describe the sound applied as trademark with stave or simplified notation and additional description text; where there is difficulty describing with stave or simplified notation, the applicant shall describe with text. The description of the trademark and the sound sample shall be consistent.

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

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

Rule 14 When applying for trademark registration, the applicant should submit an identification document. The applicant's name in the trademark application form should be identical with that of the submitted document.

The preceding paragraph regarding the provision that the applicant submits an identification document applies for other trademark matters such as applying for amendment, transfer, extension, opposition, or withdrawal filed to the Trademark Office.

Rule 15 The goods/service items shall be listed in the application according to the category code and name in 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.

Where relevant document(s) relating to an application for trademark registration or for any other matters concerning a trademark are filed in paper form, such document shall be typed or in printed form.

The second clause of this rule applies for other trademark matters.

Rule 16 When applying for registration of a trademark as joint applicants or handling other shared trademark matters, the applicants shall designate a representative among them in the

application form. If there is not such a designation, the first applicant as listed in the application form shall be taken as the representative.

The documents from the Trademark Office and Trademark Review and Adjudication Board shall be sent to the representative.

Rule 17 When the applicant's name, address, agency, and recipient of documents are changed or some designated goods are to be deleted, the applicant shall file an application 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 an application for trademark registration shall be the date on which the Trademark Office receives the application form.

If the formal formalities for the application for trademark registration are completed, the application form is filled out according to the relevant provisions, and relevant fees are paid as well, the Trademark Office shall accept the application and notify the applicant in written form. If the formal formalities are not complete or the application form is not filled out according to the relevant provisions, or relevant fees are not paid yet, the application shall not be accepted and the Trademark Office shall notify the applicant in written form 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 not made according to relevant requirements, the application shall not be accepted and the Trademark Office shall notify the applicant in written form.

The second clause of this article regarding provisions about acceptance conditions applies for other trademark matters.

Rule 19 Where two or more applicants respectively apply for the registration of 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 prior use of said trademark. If the prior use started on the same day, or if neither of the trademarks has been in use, all the applicants involved therein shall hold consultations among themselves within thirty days from receipt of the notification from the Trademark Office and submit an agreement in writing to the Trademark Office. If no agreement has been reached through consultations or the applicants do not agree to make consultation within thirty days, the Trademark Office shall notify both or all the applicants involved therein to draw lots to decide one applicant and shall refuse the other party's application for registration. If an applicant does not come to draw lots after receiving the notification of the Trademark Office, his application will be deemed as abandoned automatically. The Trademark Office shall notify an applicant who did not attend the drawing of lots in writing.

Rule 20 Where a priority right is claimed in accordance with the provision of Article 25 of the Trademark Law, the copy of the first filed trademark application form submitted by the applicant shall be certified by the competent trademark authority that accepted the application and indicate the priority filing date and filing number.

Chapter III Examination of Application for Trademark Registration

Rule 21 Where a trademark is 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, after examination, preliminarily approve the trademark and publish 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 reject the application or reject part of the goods designated by the application and notify the applicant in writing with explanations.

Rule 22 Where the Trademark Office rejects part of the designated goods in an application for trademark registration, the applicant can divide part of the application after preliminary examination into another application, and the latter application will retain the application date of the original application.

Where such division is needed, the applicant shall apply for a divisional application with the Trademark Office within 15 days from the receipt of *Notification of Partial Rejection of Application for Trademark Registration* from the Trademark Office.

After a divisional application is received, the Trademark Office shall divide the original application into two, give a new application number to the divisional application after preliminary examination, and make an announcement thereof.

Rule 23 In accordance with the provision of Article 29 of the Trademark Law, where the Trademark Office deems the content of an application for trademark registration needs description or amendment, the applicant shall submit such description or amendment within 15 days from receipt of notice from Trademark Office.

Rule 24 Where an opposition is filed against a trademark which has, after examination, been preliminarily approved and published by the Trademark Office, the opponent shall send two copies of the following trademark opposition materials to the Trademark Office and mark the original and the duplicate.

1. Application for Trademark Opposition
2. Identification document of the opponent
3. Evidence that the opponent is the holder of a prior mark or interested party where the opposition is filed based on violation of Article 13 (2), (3), Article 15, Article 16 (1), Article 30, Article 31, or Article 32 of the Trademark Law.

The Application for Trademark Opposition shall contain a specific request and factual basis including relevant evidence

Rule 25 After an Application for Trademark Opposition is received, provided that it complies with the conditions of acceptance after examination, the Trademark Office shall accept it and issue a Notification of Acceptance to the applicant.

Rule 26 In the following situations, the Trademark Office will not accept an application for trademark opposition and will notify the applicant in written form and describe the reason:

1. Such application is not filed within the prescribed time limit
2. The qualification of the applicant for opposition or the opposition reason does not comply with the provision of Article 33 of the Trademark Law.
3. There is no specific opposition reason, facts, or legal basis.

4. The same opponent files another application for opposition against the same trademark for the same reason, facts, and legal basis.

Rule 27 The Trademark Office shall deliver a copy of the materials of a trademark opposition to the applicant timely and require the applicant to reply within 30 days from the date of receipt of the copy of the materials of the trademark opposition. Where the applicant does not reply, it shall not influence the decision made by the Trademark Office.

Where a party concerned needs to supplement relevant evidence materials after filing an application for opposition or reply, the party concerned shall announce it in the Application for Trademark Opposition or Statement of Reply, and submit the materials within three months from the first submission date; where a material is not submitted before expiration, it is deemed that the party concerned gives up supplementing relevant evidence materials. However, where evidence is generated after the expiration of the time limit or the party concerned cannot supplement the evidence for other justified reasons and the party concerned submits the evidence after the expiration of the time limit, the Trademark Office will deliver the evidence to the other party concerned and will admit the evidence after cross-examination.

Rule 28 The decision of denial of registration stipulated in Article 35 (3) and Article 36 (1) of the Trademark Law includes the decision of denial of registration for partial designated goods.

Where a registration announcement has been already issued before the Trademark Office makes a decision on whether the trademark in opposition shall be registered or not, such registration announcement shall be withdrawn. Where after examination the opposition is denied and registration is approved, announcement shall be made again after the decision of approval of registration takes effect.

Rule 29 Where the applicant for trademark registration or the trademark registrant files an application for correction in accordance with the provision of Article 38 of the Trademark Law, the application for correction shall be submitted with the Trademark Office. If it is eligible, the Trademark Office shall correct relevant content after approval; if not, the Trademark Office will not approve it and will notify the applicant in written form and describe reasons.

Where the announcement of preliminary examination has been already issued or the trademark is corrected after announcement of registration, the Trademark Office shall issue a rectified announcement.

Chapter IV Modification, Assignment and Renewal of a Registered Trademark

Rule 30 When applying for modification of the name, address or other matters concerning a trademark registrant, the registrant shall submit an "Application for Modification of a Registered Trademark" with the Trademark Office. Where applying for modification of his name, the trademark registrant shall also furnish a certification document issued by the relevant competent authority. 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"; otherwise, the Trademark Office shall notify the applicant of the decision and the reason in writing.

When applying for modification of his name or address, the registrant shall make the same modification with respect to all his registered trademarks. Where the registrant fails to do so, the Trademark Office shall notify him to make rectification within a time limit; where the registrant does not make such modification within the time limit, the application for modification shall be deemed to have been abandoned, and the Trademark Office shall notify the applicant in writing.

Rule 31 When applying for the assignment of a registered trademark, both the assignor and the assignee shall submit an "Application for Assignment of Registered Trademark" with the Trademark Office. The assignor and the assignee both 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, where the registrant does not make the same assignment with respect to all his other registered trademarks that are identical with or similar to said registered trademark with respect to the same or similar goods, the Trademark Office shall order him to make correction within the time limit. Where the registrant fails to do that, 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 writing.

Rule 32 Where an exclusive right to use a registered trademark is transferred due to reasons other than trademark assignment such as inheritance, the party concerned accepting the transferred exclusive right shall submit a 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 of a registered trademark is transferred, the owner of the exclusive right of 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 time limit. Where the owner of the exclusive right to use the registered trademark fails to do that, 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 writing.

Where the transfer of a registered trademark is approved, the Trademark Office shall publish the transfer in the "Trademark Gazette". The party concerned accepting the transferred exclusive right of a registered trademark enjoys the exclusive right of the registered trademark from the date of the publication of this transfer.

Rule 33. When it is necessary to renew a registered trademark, the registrant shall submit an "Application for Renewal of Trademark Registration" to the Trademark Office. Where the application for renewal of a registered trademark is approved, the Trademark Office shall issue a certificate and make a publication in the "Trademark Gazette".

Chapter V International Registration of Trademarks

Rule 34 The international registration of trademarks stipulated in Article 21 of the Trademark Law refers to Madrid international registration of trademarks in accordance with provisions of The Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as the Madrid Agreement), the Protocol Relating to The Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as the Protocol of the Madrid Agreement) and the Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and the Protocol Relating to that Agreement.

The Madrid international registration includes international registration of a trademark whose office of origin is the China Trademark Office, or extended application in the territory of China or other applications.

Rule 35 In case of a registration whose office of origin is the China Trademark office, the applicant shall have a habitual place of business in China or residence in China, or have Chinese nationality.

Rule 36 Where an applicant that complies with the provision of Rule 35 of these Implementing Regulations has already registered a trademark in the Trademark Office, he can apply for international registration of such trademark under the provisions of the Madrid Agreement.

Where an applicant that complies with the provision of Rule 35 of the Implementing Regulations has already registered a trademark in the Trademark Office, or already applied for trademark registration in the Trademark Office which is accepted, the applicant can apply for international registration under the provisions of the Protocol of the Madrid Agreement.

Rule 37 An application for international registration of a trademark whose office of origin is the China Trademark Office shall be applied for through the Trademark Office with the International Bureau of WIPO (hereinafter referred to as the International Bureau).

Where the office of origin is the China Trademark Office, a subsequent application for designation, abandonment, or cancellation of international registration of trademark relevant to the Madrid Agreement shall be applied for through the Trademark Office with the International Bureau; whereas the transfer, deletion, modification, or renewal of international registration of trademark relevant to Madrid Agreement can be applied for through the Trademark Office with the International Bureau, or directly applied for with the International Bureau.

Where the office of origin is the China Trademark Office, subsequent designation, transfer, deletion, abandonment, cancellation, modification, or renewal of international registration of trademark relevant to Protocol of Madrid Agreement can be applied for through the Trademark Office with the International Bureau, or directly applied for with the International Bureau.

Rule 38 Where the international registration of a trademark or other relevant application is made through Trademark Office with the International Bureau, the applicant shall submit application and relevant materials required by the International Bureau and the Trademark Office.

Rule 39 The designated goods or services in an international registration of trademark shall not go beyond the scope of the domestic basis registration or goods or services registered previously.

Rule 40 Where the formalities of an international registration of trademark are not complete or its application is not filled in as required, the Trademark Office will not accept it and the application date will not be retained.

Where the formalities of international registration of trademark are basically complete or its application basically complies with requirements but correction is needed, the applicant shall make such correction within 30 days from the receipt date of the Notification to Make Rectification; where such correction is not made within the time limit, the Trademark Office will not accept it and will notify the applicant in writing.

Rule 41 Where the international registration of trademark and other relevant application are applied for through Trademark Office with the International Bureau, the applicant shall pay relevant fees as required.

The applicant shall pay the fees with the Trademark Office within 15 days from receipt of Notice of Payment from the Trademark Office. Where the payment is not made within the time limit, the Trademark Office will not accept this application and will notify the applicant in writing.

Rule 42 Within the rejection period stipulated under provisions of the Madrid Agreement or Protocol of the Madrid Agreement (hereinafter referred to as rejection period), the Trademark Office shall examine the territorial extension designating China in accordance with relevant provisions of the Trademark Law and these Implementing Regulations, make a decision, and notify the International Bureau as well. Where the Trademark Office does not issue a Notice of Rejection or Notice of Partial Rejection within the rejection period, such territorial extension is deemed approved.

Rule 43 Where the applicant for territorial extension designating China seeks a three dimensional mark, color combination, or sound mark for trademark protection, or protection for a collective trademark or certification trademark, the applicant shall submit relevant materials stipulated by Rule 13 of these Implementing Regulations through a legally designated trademark agency organization within three months from the registration date of such trademark in the International Register of the International Bureau. Where relevant materials are not submitted within the above-mentioned time limit, the Trademark Office will reject such territorial extension.

Rule 44 Where the WIPO has made publication regarding relevant matters of international registration of a trademark, the Trademark Office will not make another publication again.

Rule 45 Regarding territorial extension designating China, an opponent who complies with the conditions of Article 33 of the Trademark Law can apply for opposition with the Trademark Office within three months from the first day of the month following issuance of the International Trademark Announcement by the WIPO.

The Trademark Office shall notify the International Bureau of the relevant situation of an opposition in the form of a rejection decision.

The opposed party shall reply within 30 days from receipt of Notice of Rejection forwarded by the International Bureau and submit a statement of reply and relevant evidence with the Trademark Office through a lawfully established trademark agency organization.

Rule 46 Where an international registered trademark is protected in China, its expiry date shall be calculated from its international registration date or subsequent designation date. Before the expiration, the registrant can apply for renewal with the International Bureau. Where the registrant fails to apply for renewal before the expiration, a grace period of 6 months can be given. The Trademark Office will make examination according to law after receiving the Notice of Renewal from the International Bureau. Where the International Bureau notifies no renewal, such international registered trademark shall be cancelled.

Rule 47 Where the transfer of territorial extension designating China is applied for, the assignee shall have a habitual place of business or residence in the territory of a designated Contracting Party, or have nationality of a designated Contracting Party.

Where the assigner does not transfer identical or similar trademarks of identical or similar goods or services at the same time, the Trademark Office will notify the registrant to make correction within three months from the issuance of the notice; where no correction is made within the time limit, or the transfer easily leads to confusion or other bad effect, the Trademark Office shall make a decision that such transfer in China is invalid and declare this to the International Bureau.

Rule 48 Where deletion of goods or services with regard to a territorial extension designating China is applied for and the goods or services after deletion do not comply with classification requirements of relevant goods or services in China or go beyond the scope of original goods or service, the Trademark Office shall make a decision that such deletion is invalid in China and declare this to the International Bureau.

Rule 49 In case revocation of an international registered trademark is applied for in accordance with the provision of Article 49(2) of the Trademark Law, the applicant shall apply with the Trademark Office after three years from the expiration date of the rejection period of such international registration of trademark; where the expiration of the rejection period occurs during the process of Review of Rejection or relevant process of opposition, the applicant shall apply with the Trademark Office after three years from the effective date of registration approved by the Trademark Office or Trademark Review and Adjudication Board.

In case declaration of invalidation of an international registered trademark is applied for in accordance with provision of Article 44(1) of the Trademark Law, the applicant shall apply with the Trademark Review and Adjudication Board after the expiration of the rejection period of the international registration of trademark; where the expiration of the rejection period occurs during the process of Review of Rejection or relevant process of opposition, the applicant shall apply with the Trademark Review and Adjudication Board after the registration approved by the Trademark Office or Trademark Review and Adjudication Board takes effect.

In case declaration of invalidation of an international registered trademark is applied for in accordance with provision of Article 45(1) of the Trademark Law, the applicant shall apply with the Trademark Review and Adjudication Board within five years from the expiration date of the rejection period of such international registration of trademark; where the expiration of the rejection period occurs during the process of Review of Rejection or relevant process of opposition, the applicant shall apply with the Trademark Review and Adjudication Board within five years from the registration approved by the Trademark Office or Trademark Review and Adjudication Board takes effect. In case of a malicious registration, the owner of the well-known trademark is not restricted by such five years.

Rule 50 The following provisions of the Trademark Law and these Implementing Regulations do not apply regarding relevant matters of international registration of trademark:

1. The provision stipulated in Article 28 and Article 35(1) of the Trademark Law regarding time limits of examination and trial
2. Rule 22 and Rule 30(2) in these Implementing Regulations
3. The provision stipulated in Article 42 of the Trademark law and Rule 31 of these Implementing Regulations regarding transfer being jointly applied for by the assigner and assignee.

Chapter VI Review of Trademark

Rule 51 Review of trademark refers to examination by the Trademark Review and Adjudication Board regarding relevant matters of a trademark dispute in accordance with provisions stipulated in Articles 34, 35, 44, 45, and 54 of the Trademark Law. Where a party concerned applies with the Trademark Review and Adjudication Board for review of a trademark, the party concerned shall have a specific request, facts, reasons, and legal basis and shall submit relevant evidence. The Trademark Review and Adjudication Board shall, on the basis of facts, review trademarks according to law.

Rule 52 Where the Trademark Review and Adjudication Board examines a case for review whose applicant is not satisfied with a decision of rejection of trademark registration by the Trademark Office, the Trademark Review and Adjudication Board shall examine based on the decision of rejection by the Trademark Office along with the facts, reasons, and request for the review by the applicant and the fact status of the review.

Where the Trademark Review and Adjudication Board examines a case for review whose applicant is not satisfied with a decision of rejection of trademark registration by the Trademark Office and finds that the trademark applied for is in violation of Article 10, 11, 12, or 16(1) of the Trademark Law and the Trademark Office did not make the decision of rejection according to the above-mentioned provisions, the Trademark Review and Adjudication Board can make decision of review regarding the rejection according to the above-mentioned provisions. The Trademark Review and Adjudication Board shall hear the opinions of the applicant before making the decision of review.

Rule 53 Where the Trademark Review and Adjudication Board examines a case for review whose applicant is not satisfied with a decision of refusal of trademark registration by the Trademark Office, the Trademark Review and Adjudication Board shall examine based on the decision of refusal by the Trademark Office along with the facts, reasons, request for the review by the applicant, and opinion proposed by the original opponent.

Where the Trademark Review and Adjudication Board examines a case for review whose applicant is not satisfied with a decision of refusal of trademark registration by the Trademark Office, the Trademark Review and Adjudication Board shall notify the original opponent to participate and give opinions. Where the opinions of the original opponent have substantial influence on the result of the examination, such opinions may be used as a basis for review; where the original opponent does not participate or does not file opinions, it shall not influence the examination of a case.

Rule 54 Where the Trademark Review and Adjudication Board examines a case for invalidation of registered trademark according to Article 44 or 45 of the Trademark Law, the Trademark Review and Adjudication Board shall make an examination based on the request of the applicant and the facts, reasons, and requirement of the reply.

Rule 55 Where the Trademark Review and Adjudication Board examines a case for review whose applicant is not satisfied with a decision of invalidation by the Trademark Office according to Article 44(1) of the Trademark Law, the Trademark Review and Adjudication Board shall make an examination based on the decision by the Trademark Office and the facts, reasons, and request of the application for review.

Rule 56 Where the Trademark Review and Adjudication Board examines a case for review whose applicant is not satisfied with a decision of revocation or decision that a registered trademark is maintained by the Trademark Office in accordance with Article 49 of the Trademark Law, the Trademark Review and Adjudication Board shall make examination based on the decision of revocation or decision that the registered trademark is maintained and the facts, reasons, and request of the application for review.

Rule 57 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 made by the Trademark Office, the applicant shall submit, at the same time, a duplicate copy of the decision made by the Trademark Office.

After receiving an application for trademark review, the Trademark Review and Adjudication Board shall make 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 reject the application and notify the applicant of the reason in written form. Where any supplementary document or necessary correction is required for satisfying the requirements, 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 does not satisfy the filing requirement after the supplementary document or necessary correction is furnished, the Trademark Review and Adjudication Board shall reject 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.

If it is found that an accepted application for trademark review did not satisfy the requirements, the Trademark Review and Adjudication Board shall reject the application and notify the applicant of the reason in written form.

Rule 58 After accepting an application for trademark review, the Trademark Review and Adjudication Board shall deliver a copy of the accepted application to any 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 by default.

Rule 59 Where a party concerned deems it necessary to furnish supplementary evidence after submitting an application for trademark review or making a response, he shall make a relevant statement in the application for trademark review or Statement of Reply and furnish the supplementary evidence within three months after the application for trademark review or Statement of Reply 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. However, where the evidence is generated after the time limit or the party concerned has other justified reasons for not submitting the evidence before the expiration and submits the evidence after expiration, the Trademark Review and Adjudication Board shall deliver the evidence to the other party concerned and admit the evidence after cross-examination.

Rule 60 The Trademark Review and Adjudication Board may, at the request of a party concerned or for practical need, decide to hold an oral hearing and review an application.

Where a decision is made to hold an oral hearing and review the application, the Trademark Review and Adjudication Board shall, at least 15 days before the oral hearing and review, notify in written form the parties concerned of the date and place of the oral hearing, and the participating examiners. The parties 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 oral 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 attending the oral hearing, the Trademark Review and Adjudication Board may make adjudication by default.

Rule 61 The applicant can make a request for withdrawal of an application for trademark review and illustrate the reason before a decision or adjudication made by the Trademark

Review and Adjudication Board. Where the application can be withdrawn and provided that the Trademark Review and Adjudication Board deems it feasible, the procedure of hearing and review shall be terminated.

Rule 62 Where an applicant has withdrawn an application for trademark review, he shall not be allowed to resubmit an application for trademark review based on 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 based on the same facts and arguments. However, exception can be made in case of an application for invalidation of a registered trademark that has received approval of registration by the Trademark Review and Adjudication Board after a procedure of refusal to register.

Chapter VII Administration of the Use of Trademarks

Rule 63 Where a registered trademark is used, it shall carry the indication of "注册商标" (Registered Trademark) or registration signs on the designated goods, the packaging, or description of or any other attachments to the goods.

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

Rule 64 Where a "Certificate of Trademark Registration" is lost or damaged, an application for re-issuance of the Trademark Registration Certificate must be filed with the Trademark Office. Where a "Certificate for Trademark Registration" is lost, the registrant 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 the registrant applies for reissuance or evidence for modification, transfer, renewal with the Trademark Office, he shall furnish evidence of trademark registration, or where the applicant applies for issuance of a priority document with the Trademark Office, he shall submit a relevant application to the Trademark Office. Where it satisfies relevant requirements, the Trademark Office shall issue relevant certification; otherwise, the Trademark Office will not accept it and will notify the applicant and describe the reasons.

Where any party has committed any act of forging or altering a "Certificate of Trademark Registration" or other trademark supporting documents, he shall be prosecuted for criminal liability in accordance with the provisions on the crime of forging or altering credentials issued by a State authority or other crimes in the Criminal Law of the People's Republic of China.

Rule 65 Where a registered trademark has become the generic name of the designated goods as stipulated in Article 49 of the Trademark Law, any unit or individual can apply with the Trademark Office to revoke such registered trademark and submit evidence at the same time. The Trademark Office shall, after acceptance, notify the registrant to reply within two months from receipt of the notification; where reply is not made within the time limit, it shall not influence the decision by the Trademark Office.

Rule 66 In the situation that the use of a registered trademark has ceased for three consecutive years without justified reasons as stated in Article 49 of the Trademark Law, any unit or individual can apply with the Trademark Office to revoke such registered trademark and describe the relevant facts at the same time. The Trademark Office shall notify the trademark registrant and require the latter to furnish, within two months from receipt of the notification, proof of the use of the trademark before the application for revocation was filed or otherwise state proper 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 revoke the registered trademark.

The proof mentioned in the preceding paragraph shall include evidence proving the trademark registrant's use of the registered trademark or evidence proving the trademark registrant's authorizing other persons to use his registered trademark.

Where an application for revocation of a registered trademark is based on non-use for three consecutive years, it shall be filed after expiration of three years after the publication date of the registered trademark.

Rule 67 The following are proper reasons stipulated in Article 49 in Trademark Law:

1. Force majeure
2. Policy limitations by the government

3. Liquidation of the government
4. Other justified reasons for which the registrant cannot be blamed.

Rule 68 Where the grounds for revocation of a registered trademark in a decision or invalidation of a registered trademark made by the Trademark Office or the Trademark Review and Adjudication Board involve only some of the designated goods, such registration of the trademark shall be revoked or declared invalid with respect to the involved goods.

Rule 69 When any other person is authorized to use a registered trademark, the licensor shall, within the duration of the trademark license contract, submit a copy of the contract to the Trademark Office for recordation. Documents for recordation shall describe the licensor, licensee, license term, goods or scope of service licensed, etc. for use of the registered trademark.

Rule 70 Where the exclusive right of a registered trademark is pledged, the pledger and the pledgee shall conclude a pledge contract in written form and apply for registration of pledge with the Trademark Office which shall publish it.

Rule 71 Where any party uses a trademark in violation of the provisions of Article 43(2) of the Trademark Law, the Administrative authority for Industry and Commerce shall order him to rectify the situation within a specified period. If the party has not rectified the situation at the expiration of the specified period, the Administrative authority for Industry and Commerce shall order him to stop sales; where such party refuses to stop sales, he shall be imposed with a fine of no more than CNY100, 000.

Rule 72 Where a trademark owner applies for protection of well-known trademark in accordance with the provisions of Article 13 of the Trademark Law, he may file a request with the Administrative authority for Industry and Commerce. Where said trademark is identified as a well-known trademark by the Trademark Office according to the provisions of Article 14 of the Trademark Law, the Administrative authority for Industry and Commerce shall order any 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, and 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 73 Where a trademark registrant applies for the removal of his registered trademark or the removal of 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 removal of registration of the trademark with respect to some goods and receives approval from the Trademark Office, 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 74 Where a registered trademark has been cancelled or removed from the Trademark Gazette in accordance with the provisions of Rule 73 of these Implementing Regulations, the original Certificate of Trademark Registration shall be abolished and announced on Trademark Gazette. Where a registration of a trademark with respect to some designated goods is revoked, or the trademark registrant applies for removal of the registration of his trademark with respect to some designated goods, the Trademark Office shall reissue a Certificate of Trademark Registration and publish the same in the Trademark Gazette.

Chapter VIII Protection of exclusive right of registered trademark

Rule 75 Where any party provides storage, transformation, mailing, printing, hiding, places of business, platform for commodity trading online, etc. for infringing the exclusive right of another's trademark, such party is providing conveniences as stipulated in Article 57(6) of the Trademark Law.

Rule 76 Where any party uses a sign identical or similar to another's registered trademark as a product name or decoration of a product on the same or similar goods so as to mislead the public, such act constitutes an act of infringing the exclusive right of registered trademark as stipulated in provisions of Article 57(2) of the Trademark Law.

Rule 77 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 78. In calculation of the illegal business revenue as stipulated in the provision of Article 60 of the Trademark Law, the following can be taken into consideration:

1. The sales price of the goods infringed
2. The bid price of the unsold goods infringed
3. The average price of verified actual sales of goods infringed
4. Middle market price of the goods infringed
5. Business revenue of the infringer generated by the infringement
6. Other reasonable facts that could be used to calculate the value of the goods infringed.

Rule 79 The following conditions are conditions that can prove the goods are obtained through legal channels as stipulated in the provision of Article 60 of the Trademark Law:

1. The party concerned can provide a supply checklist and payment receipt with legitimate signatures of the supplier, which is verified or recognized by the supplier;
2. The party concerned can provide a purchase contract signed by both parties, which is verified and performed as true.
3. The party concerned can provide a legitimate purchase invoice, which corresponds to the goods involved;
4. Other conditions that can prove the goods involved are obtained through legal channels.

Rule 80 Where a party concerned does not know he is selling goods that infringe the exclusive right of a registered trademark and he can prove that he obtain the goods through legal channels and indicates the supplier, the Administrative department for Industry and Commerce under the State Council shall order him to stop selling and notify the local Administrative department for Industry and Commerce of the supplier of the goods infringed and the situation thereof.

Rule 81 Where the ownership of a registered trademark involved is under examination by the Trademark Office or the Trademark Review and Adjudication Board or litigation by the People's Court and the result may influence the quality of a case, it belongs to a situation that the ownership of trademark is under dispute as stipulated in the provision in Article 62(4) of the Trademark Law.

Rule 82 In the process of investigating a case of trademark infringement, the Administrative department for Industry and Commerce under the State Council can order the right holder to distinguish if the goods involved are goods produced by the right holder or that the trademark owner authorizes others to produce.

Chapter IX Agency of Trademark

Rule 83 Said agency of trademark in the Trademark Law refers to the agency that accepts the commission of the consignor and applies for trademark registration, trademark review or other trademark matters under the name of consignor.

Rule 84. A trademark agency authorized by law in the Trademark Law refers to a facilitating agency registered with the Administrative department of Industry and Commerce under the State Council to engage in the business of trademark agency, and law firms engaged in the business of trademark agency.

Where a trademark agency engages in business of trademark agency in the charge of the Trademark Office or the Trademark Review and Adjudication Board, they shall be recorded with the Trademark Office in accordance with the following provisions:

1. Supply registration certification documents to the Administrative department of Industry and Commerce under the State Council for examination, or certification documents that the law firm has received approval of establishment from the judicial administrative department, but copies shall be kept.
2. Submit basic information such as name, address, person in charge, and contact information of the trademark agency organization
3. Submit a list and contact information of the trademark agency practitioners.

The Administrative department of industry and Commerce under the State Council shall build a credit file for trademark agency organizations. Where a trademark agency organization violates provisions of the Trademark Law or the Implementing Regulations, the Trademark Office of Trademark Review and Adjudication Board shall publish the same in the Trademark Gazette and record it in the credit file.

Rule 85 A trademark agent in the Trademark Law refer to staff engaging in the business of agency of trademark in trademark agency organizations.

A trademark agent cannot accept a commission under personal name.

Rule 86 Relevant application documents submitted by trademark agency organizations with the Trademark Office or Trademark Review and Adjudication Board shall bear the official seal of such trademark agency organization and be signed by the relevant trademark agent.

Rule 87 Where the trademark agency applies for registration or transfer of trademarks of other trademark agency organizations, the Trademark Office shall not accept it.

Rule 88 The following behaviors belong to behavior that disturb the normal order of the trademark representation market in other dishonest means as stipulated in the provision of item 2 of Article 68, paragraph 1 of the Trademark law:

1. Soliciting business by means of fraud, false propaganda, misleading or commercial bribery, etc.
2. Suppression of truth, providing false evidence, or threatening or inducing others to conceal facts or provide false evidence
3. Accepting a commission from both parties with a conflict of interest in the same trademark case.

Rule 89 Where a trademark agency organization engages in behaviors stipulated in the provision of Article 68 of the Trademark law, the Administrative department of Industry and Commerce at and above the county level in the locality of the actor or the locality where the act occurs shall investigate and notify the Trademark Office of the situation thereof.

Rule 90 Where the Trademark Office or Trademark Review and Adjudication Board ceases accepting the business of agency of a trademark agency organization in accordance with the provision of Article 68 of the Trademark Law, they can make the decision to cease accepting the business of agency of such trademark agency organization for a period of at least six months until forever. The Trademark Office or Trademark Review and Adjudication Board shall restore accepting at the expiration of the prescribed time limit.

The Trademark Office or Trademark Review and Adjudication Board shall publish a decision to stop or restore accepting the business of agency on its website

Rule 91 The Administrative department of Industry and Commerce under the State Council shall strengthen the supervision and guidance for the trademark agency organizations.

Chapter X Supplementary Provisions

Rule 92 Where a service mark which has been used 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 after July 1, 1993.

Where a trademark that has been used consecutively before the day when the Trademark Office first accepts newly designated goods or services is identical or similar to another registered trademark with respect to the newly designated goods or services, it may continue to be used; however, a trademark that has not been used for more than three consecutive years after the first acceptance date may not continue to be used.

Rule 93 A Classification of Goods and Services for the Purposes of the Registration of Trademarks shall be prescribed and published by the Trademark Office.

The forms of the application for a trademark registration or for any other matters concerning a trademark shall be prescribed and published by the Trademark Office and Trademark Review and Adjudication Board.

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

Rule 94 The Trademark Office shall establish a Trademark Register to record registered trademarks and related information.

Rule 95 A Trademark Registration Certificate and other certifications are proof that the holder enjoys the exclusive rights of a registered trademark. The registered particulars recorded in the Trademark Registration Certificate shall coincide with those of the Trademark Register; in case of inconformity, the information in Trademark Register shall prevail unless information in the Trademark Register is proved to be erroneous.

Rule 96. The Trademark Office shall publish a Trademark Gazette and circulate trademark registration and related matters.

The Trademark Gazette shall be published by paper or electronic means.

Except for delivery of the gazette, the content there of is deemed to be known or supposed to be known by the social public from the publication date.

Rule 97 Any application for a trademark registration and for any other matters concerning a trademark shall be subject to payment of fees as prescribed. A schedule of fees shall be prescribed and published by the financial department of the State Council and the competent department of price under the State Council respectively.

Rule 98 These Implementing Regulations shall enter into force from May 1, 2014.