

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

(Promulgated by Decree No.358 of the State Council of the People's Republic of China on August 3, 2002, and effective as of September 15, 2002)

Chapter I General Provisions

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

Article 2 Provisions regarding the goods trademarks in these Regulations shall apply to service marks.

Article 3 The use of a trademark, as referred to in the Trademark Law and these Regulations, shall include the use of the trademark on goods, packages or containers of the goods or in trading documents, and the use of the trademark in advertising, exhibition or any other business activities.

Article 4 Goods on which the State requires the use of a registered trademark, as mentioned in Article 6 of the Trademark Law, refer to those on which a registered trademark must be used as required by laws or administrative regulations.

Article 5 Where a dispute arises in the procedures of trademark registration or trademark review and adjudication and the party concerned believes that its trademark constitutes a well-known trademark, it may, in accordance with the provisions of the Trademark Law and these Regulations, request the Trademark Office or the Trademark Review and Adjudication Board to determine whether its trademark constitutes a well-known trademark or not and to refuse the application for trademark registration which is in violation of the provisions of Article 13 of the Trademark Law or to cancel the trademark registration which is in violation of the provisions of Article 13 of the Trademark Law. When an application for this purpose is filed, the party concerned shall submit evidence to prove that its trademark constitutes a well-known trademark.

At the request of the party, the Trademark Office or the Trademark Review and Adjudication Board shall, on the basis of ascertaining the facts, determine whether its trademark is a well-known one or not in accordance with the provisions of Article 14 of the Trademark Law.

Article 6 For geographical indications referred to in Article 16 of the Trademark Law, applications may be filed to register them as certification marks or collective marks under the provisions of the Trademark Law and these Regulations.

Where a geographical indication is registered as a certification mark, any natural person, legal person or other organization whose goods satisfy the conditions under which the geographical indication is used may request the use of the certification mark, and the organization in control of such certification mark shall permit the use. Where a geographical indication is registered as a collective mark, any natural person, legal person or other organization whose goods satisfy the conditions under which the geographical indication is used may request the membership of the society, association or any other organization that has the geographical indication registered as a collective mark, and the society, association or any other organization shall accept the membership in accordance with its articles of association; those who do not request the membership of the society, association or any other organization that has the geographical indication registered as a collective mark may legitimately use the geographical indication, and the society, association or any other organization is not entitled to prohibit such use.

Article 7 Where a party entrusts a trademark agency with the application for registration of a trademark or with the handling of other trademark matters, a Power of Attorney shall be submitted. The Power of Attorney shall state the contents and the scope of powers; the Power of Attorney of a foreigner or foreign enterprise shall also state the nationality of the principal.

Procedures for notarizing and authenticating the Power of Attorney and certifying documents relating thereto of a foreigner or foreign enterprise shall be undertaken based on the principle of reciprocity.

As mentioned in Article 18 of the Trademark Law, a foreigner or foreign enterprise refers to a foreigner or foreign enterprise having no habitual residence or place of business in China.

Article 8 The Chinese language shall be used in applying for trademark registration or handling other trademark matters.

Where any certificate, certifying document or evidence submitted in accordance with the provisions of the Trademark Law and these Regulations is written in a foreign language, a Chinese translation shall be attached thereto; if no Chinese translation is attached, it shall be deemed that the certificate, certifying document or evidence has never been submitted.

Article 9 In any of the following situations, a staff member of the Trademark Office or the Trademark Review and Adjudication Board shall voluntarily recuse himself, and a party or an interested person may demand his recusal:

- (1) if he is a party, or a close relative of a party or an agent;
- (2) if he has any other relation with a party or an agent that may affect impartiality; or
- (3) if he has an interest with the application for trademark registration or the handling of other trademark matters.

Article 10 Except as otherwise provided in these Regulations, the date on which a party submits documents or papers to the Trademark Office or the Trademark Review and Adjudication Board shall be the date of delivery if the documents or papers are submitted in person, or be the mailing date indicated by the postmark if they are sent by mail, or, if the mailing date indicated by the postmark is illegible or there is no postmark, be the date on which all of the papers or documents are received in the Trademark Office or the Trademark Review and Adjudication Board, except if the party can provide evidence of the exact date indicated by the postmark.

Article 11 The documents of the Trademark Office or the Trademark Review and Adjudication Board may be sent to a party by mail, in person or by other means. Where the party entrusts a trademark agency, the documents shall be considered served on the party once they are delivered to the trademark agency.

The date of service of any document on a party by the Trademark Office or the Trademark Review and Adjudication Board shall, if the document is sent by mail, be the receiving date indicated by the postmark on which the document is received; if the receiving date indicated by the postmark is illegible or there is no postmark, the document shall be considered served on the party 15 days after the date on which the document is sent. If the document is delivered in person, the date of service shall be the date on which the document is delivered. If the document cannot be sent by mail or delivered in person, it may be served on the party by means of public notice, and the service of the document shall be considered completed 30 days after the date on which the public notice is issued.

Article 12 Applications for international registration of trademarks shall be dealt with in accordance with the relevant international treaties to which China has acceded. The specific measures therefor shall be formulated by the authority of administration for industry and commerce under the State Council.

Chapter II Application for Trademark Registration

Article 13 Anyone who applies for registration of a trademark shall file an application based on the categories in the published Classification of Goods and Services. For each application for registration of a trademark, the applicant shall submit to the Trademark Office one copy of the Application for Trademark Registration and five copies of reproductions of the trademark; if color or colors is or are designated, five copies of colored reproductions of the trademark and one copy of the black and white design shall be submitted.

The reproductions of a trademark must be clear, easy to be pasted up, printed on smooth and clear durable paper or use photographs as a substitute, and the length and breadth of which shall be not more than ten centimeters and not less than five centimeters each.

If applying for the registration of a three-dimensional sign as a trademark, the applicant shall make a statement in the application, and submit a reproduction thereof by which the three-dimensional shape can be determined.

If applying for the registration of the combination of colors as a trademark, the applicant shall make a statement in the application, and submit the descriptions thereof.

If applying for the registration of a collective mark or a certification mark, the applicant shall make a statement in the application, and submit the documents certifying the qualifications of the subjects and the rules on the administration of the use of the mark.

Where a trademark is, or consists of, foreign words, their Chinese meanings shall be indicated.

Article 14 When applying for the registration of a trademark, the applicant shall submit a duplicated copy of the valid credentials that can certify its identity. The name in which the applicant has filed the application for trademark registration shall be consistent with that shown in the credentials submitted.

Article 15 The goods or services shall be listed as specified in the Classification of Goods and Services; where any goods or services are not included in the Classification of Goods and Services, a description of the goods or services in question shall be attached to the application.

Applications for trademark registration and other related documents shall be typewritten or printed.

Article 16 Where an application is jointly filed for the registration of a trademark, a representative shall be designated in the application; if no representative is designated, the first person in order in the application shall be the representative.

Article 17 Where an applicant modifies its name, address, agent, or deletes the goods designated, it may go through the formalities of modification with the Trademark Office.

Where an applicant assigns an application for trademark registration, it shall go through the formalities of assignment with the Trademark Office.

Article 18 The filing date of an application for trademark registration shall be the date on which the application documents are received by the Trademark Office. Where the application formalities are complete and the application documents are filled in as required, the Trademark Office shall accept the application and notify the applicant in writing. Where the application formalities are not complete and the application documents are not filled in as required, the Trademark Office shall not accept the application and shall notify the applicant in writing and give the reasons therefor.

Where the application formalities are basically complete or the application documents are basically in compliance with the provisions, but there is a need for supplements or amendments, the Trademark Office shall notify the applicant to make supplements or amendments, requesting it to make supplements or amendments to the specified parts and deliver them back to the Trademark Office within 30 days from the date of receipt of the notification. Where the supplements or amendments are made and delivered back to the Trademark Office within the specified time limit, the filing date shall be retained; where no supplements or amendments are made at the expiration of the specified time limit, the application shall be considered abandoned and the Trademark Office shall notify the applicant in writing.

Article 19 Where two or more applicants apply respectively on the same day for the registration of identical or similar trademarks in respect of the same or similar goods, both or all of the applicants shall, within 30 days from the date of receipt of the notification of the Trademark Office, submit the evidence of prior use of such trademarks before applying for registration. Where the use started on the same day or none is yet in use, both or all of the applicants may, within 30 days from the date of receipt of the notification of the Trademark Office, conduct consultations on their own and submit a written agreement to the Trademark Office; if they are not willing to conduct consultations or they fail to reach an agreement

through consultations, the Trademark Office shall notify both or all of the applicants to determine one of them by drawing lots and refuse the applications for registration filed by others. Where an applicant has been notified by the Trademark Office but fails to participate in the drawing of lots, the application filed by such an applicant shall be considered abandoned, and the Trademark Office shall notify the applicant in writing who does not participate in the drawing of lots.

Article 20 Where a priority is claimed in accordance with the provisions of Article 24 of the Trademark Law, the copies of the application documents submitted by the applicant for the first time for registering the trademark in question shall be certified by the competent trademark authority which accepts the said application, and the filing date and serial number of the application shall be indicated.

Where a priority is claimed in accordance with the provisions of Article 25 of the Trademark Law, the certifying documents submitted by the applicant shall be authenticated by the institution specified by the authority of administration for industry and commerce under the State Council, except that the international exhibition on which the applicant's goods are displayed is held within Chinese territory.

Chapter III Examination of Applications for Trademark Registration

Article 21 The Trademark Office shall, in accordance with the relevant provisions of the Trademark Law and these Regulations, examine the applications for trademark registration it has accepted, granting preliminary approval to those that are in compliance with the provisions and to the applications for the registration of trademarks used on some of the designated goods that are in compliance with the provisions, and publishing them; the application that is not in compliance with the provisions and the application for the registration of a trademark used on some of the designated goods that is not in compliance with the provisions shall be refused, the applicant shall be notified in writing and the reasons therefor shall be given.

Where the Trademark Office grants preliminary approval to an application for the registration of a trademark used on some of the designated goods, the applicant may, before the date on which the opposition period expires, apply to abandon the application for the registration of the trademark used on some of the designated goods; where the applicant abandons the application for the registration of a trademark used on some of the designated

goods, the Trademark Office shall withdraw the previous preliminary approval, terminate the examination proceedings and republish it.

Article 22 Where an opposition is filed against a trademark which has been preliminarily approved and published by the Trademark Office, the opponent shall submit in duplicate an Application for Trademark Opposition to the Trademark Office. The Application for Trademark Opposition shall specify both the issue number of the Trademark Gazette in which the opposed trademark is published and the number of the preliminary approval. The Application for Trademark Opposition shall state the requests and grounds in plain terms, and the relevant evidence shall be attached thereto.

The Trademark Office shall promptly send a copy of the Application for Trademark Opposition to the opposed party, who shall be requested to make a response within 30 days from the date of receipt of the copy of the Application for Trademark Opposition. If the opposed party fails to make a response, it shall not affect the Trademark Office's ruling of the opposition.

Where a party needs to supplement related evidence after filing an application of opposition or making a response, it shall make a statement for this purpose in the application or in the response made in writing, and submit the said evidence within three months from the date on which the application is filed or the response is made in writing; if no evidence is submitted at the expiry of the time limit, the party shall be considered given up the supplementing of related evidence.

Article 23 A justified opposition referred to in the second paragraph of Article 34 of the Trademark Law shall include the opposition that is justified for some of the designated goods. If an opposition is justified for some of the designated goods, the application for the registration of the trademark on this part of the designated goods shall not be approved.

Where an opposed trademark is already published as a registered trademark prior to the entry into force of the ruling on the opposition, the publishing of the registration shall be canceled, and the trademark the registration of which has been approved upon the ruling of the opposition shall be republished.

Where the registration of a trademark has been approved upon the ruling of an opposition, from the date of expiration of the opposition period to the date of entry into force of the ruling on the opposition, it shall have no retroactive effect on the use by another party

of the marks that are identical or similar to the said trademark on the same or similar goods. However, the user shall make compensation for any loss suffered by the trademark registrant as a result of the user's bad faith.

Where the registration of a trademark has been approved upon the ruling of an opposition, the period for filing an application for review and adjudication thereof shall be counted from the date on which the ruling on the opposition to the said trademark is published.

Chapter IV Modification, Assignment and Renewal of Registered Trademarks

Article 24 Where the name or address of a trademark registrant or any other registration matter is to be modified, the applicant shall submit an application for modification to the Trademark Office. The Trademark Office shall, upon approval, issue a corresponding certification to the trademark registrant and publish the modification; if no approval is granted, the applicant shall be notified in writing and the reasons therefor shall be given.

Where the name of a trademark registrant is to be modified, the modification certification issued by the relevant registration authorities shall be also submitted. If the modification certification is not submitted, it may be submitted within 30 days from the date on which the application is filed; if it is not submitted at the expiry of the time limit, the application for modification shall be considered abandoned and the Trademark Office shall notify the applicant in writing.

Where the name or address of a trademark registrant is to be modified, the trademark registrant shall make the modification in respect of all its registered trademarks in a lump; if they are not so modified, the application for modification shall be considered abandoned and the Trademark Office shall notify the applicant in writing.

Article 25 When a registered trademark is to be assigned, both the assignor and assignee shall jointly send an application for assignment of the registered trademark to the Trademark Office. The assignee shall go through the formalities for the application for assignment of the registered trademark. The Trademark Office shall, upon approval of the application for assignment of the registered trademark, issue the assignee a corresponding certification and publish the assignment.

Where a registered trademark is to be assigned, the trademark registrant shall assign in a lump all of its trademarks that are identical or similar to each other in respect of the same or similar goods; if they are not so assigned, the Trademark Office shall notify it to rectify the situation within a specified time limit; if it fails to ratify it at the expiry of the said time limit, the application for assignment of the registered trademark shall be considered abandoned, and the Trademark Office shall notify the applicant in writing.

With respect to applications for the assignment of registered trademarks, which may produce misleading, confusing or other adverse effects, the Trademark Office shall refuse them, and shall notify the applicants in writing and give the reasons therefor.

Article 26 Where the exclusive right to use a registered trademark is transferred due to the reasons other than assignment, the party who accepts the transfer of the exclusive right to use the registered trademark shall, by producing the relevant evidential documents or legal instruments, go through the formalities of the transfer of the exclusive right to use the registered trademark with the Trademark Office.

Where the exclusive right to use a registered trademark is transferred, the right holder shall assign in a lump all of its trademarks that are identical or similar to each other in respect of the same or similar goods; if they are not so transferred, the Trademark Office shall notify it to rectify the situation within a specified time limit; if it fails to ratify it at the expiry of the said time limit, the application for transfer of the registered trademark shall be considered abandoned, and the Trademark Office shall notify the applicant in writing.

Article 27 Where the registration of a registered trademark needs to be renewed, an application for renewal of registration of the trademark shall be submitted to the Trademark Office. The Trademark Office shall, upon approval of the application for renewal of registration of the trademark, issue a corresponding certification and publish the renewal.

The period of validity of a renewed trademark registration shall be calculated from the day following the expiration of the previous period of validity of such a trademark.

Chapter V Review and Adjudication of Trademarks

Article 28 The Trademark Review and Adjudication Board shall accept applications for trademark review and adjudication filed under Articles 32, 33, 41 and 49 of the Trademark Law. The Trademark Review and Adjudication Board shall, on the basis of facts, conduct review and adjudication according to law.

Article 29 As referred to in the third paragraph of Article 41 of the Trademark Law, “a dispute against a registered trademark” means that a prior trademark registrant believes that a trademark registered later by another party is identical or similar to its registered trademark in respect of the same or similar goods.

Article 30 When applying for trademark review and adjudication, an application shall be submitted to the Trademark Review and Adjudication Board, accompanied with the copies corresponding to the number of the other party. If an application for review and adjudication is filed on the basis of the decision or the ruling made by the Trademark Office, the copies of such decision or ruling shall also be filed.

Upon receiving the application, the Trademark Review and Adjudication Board shall, upon examination, accept it if the requirements for acceptance are satisfied; if the requirements for acceptance are not satisfied, it shall not accept the application, and shall notify the applicant in writing and give the reasons therefor. If the application needs to be supplemented or corrected, the applicant shall be notified to make supplements or corrections within 30 days from the date of receipt of the notification. If, after being supplemented or corrected, the application still does not conform to the provisions, the Trademark Review and Adjudication Board shall refuse it, and notify the applicant in writing and give the reasons therefor; if no supplements or corrections are made at the expiry of the specified time limit, the application shall be considered withdrawn and the Trademark Review and Adjudication Board shall notify the applicant in writing.

If the Trademark Review and Adjudication Board finds that an application does not satisfy the requirements for acceptance after it has accepted the application, it shall refuse the application, notify the applicant in writing and give the reasons therefor.

Article 31 The Trademark Review and Adjudication Board shall, upon the acceptance of the application for trademark review and adjudication, send in time the copy of the application to the other party, who shall be required to make a response within 30 days from the date of receipt of such copy. If no response is made at the expiry of the time limit, it shall not affect the review and adjudication of the Trademark Review and Adjudication Board.

Article 32 Where a party needs to supplement related evidence after filing an application for review and adjudication or making a response, a statement for this purpose shall be made in the application or in the response, and the said evidence shall be submitted within three months from the date on which the application is filed or the response is made; if

no evidence is submitted at the expiry of the time limit, the party shall be considered given up the supplementing of related evidence.

Article 33 The Trademark Review and Adjudication Board may, at the request of a party or on the basis of the practical needs, decide to review and adjudicate an application for review and adjudication in public session.

Where the Trademark Review and Adjudication Board decides to review and adjudicate the application for review and adjudication in public session, it shall notify in writing the parties 15 days before the public review and adjudication, informing them of the date, venue and persons conducting the public review and adjudication. The parties shall make a response within the time limit specified in the written notice.

Where the applicant does not make a response nor appear at the public review and adjudication, its application for review and adjudication shall be considered withdrawn, and the Trademark Review and Adjudication Board shall notify the applicant in writing. If the other party does not make a response nor appear at the public review and adjudication, the Trademark Review and Adjudication Board may conduct the review and adjudication by default.

Article 34 Where an applicant requests to withdraw its application before the Trademark Review and Adjudication Board makes a decision or ruling, it may withdraw its application after making an explanation of the reasons therefor in writing to the Trademark Review and Adjudication Board; where an application is withdrawn, the review and adjudication proceedings shall be terminated.

Article 35 Where an application for trademark review and adjudication has been withdrawn, the applicant shall not file another application for review and adjudication on the basis of the same facts and grounds. Where the Trademark Review and Adjudication Board has already made a decision or ruling on an application for trademark review and adjudication, no one shall file another application for review and adjudication on the basis of the same facts and grounds.

Article 36 Where a registered trademark is canceled pursuant to Article 41 of the Trademark Law, the exclusive right to use the said trademark shall be deemed as not existing from the very beginning. A decision or ruling on canceling a registered trademark shall have no retroactive effect on any judgment or order on any trademark infringement case made and

already enforced by the people's court before the cancellation, nor on any decision on any trademark infringement case made and already enforced by the authority of administration for industry and commerce before the cancellation, and nor on any trademark assignment contract or trademark license contract already performed before the cancellation. However, the trademark registrant shall compensate any loss caused to another person due to its bad faith.

Chapter VI Administration of the Use of Trademarks

Article 37 Where a registered trademark is used, the characters “注册商标” or a registration mark may be indicated on goods, packages of goods, descriptions of goods or other ancillary items.

The registration mark includes 注 and R, which, in the use of such registration mark, shall be placed on the upper or lower right-hand corner.

Article 38 Where a Certificate of Trademark Registration is lost or damaged, an application for reissuance shall be filed with the Trademark Office. Where a Certificate of Trademark Registration is lost, a loss declaration shall be published in the Trademark Gazette. The damaged Certificate of Trademark Registration shall be sent back to the Trademark Office when the application for reissuance is submitted.

Where a Certificate of Trademark Registration is forged or altered, criminal liability shall be investigated according to the provisions of the criminal law on the crime of forging or altering certificates of State organs or other crimes.

Article 39 With respect to any of the acts referred to in Article 44 (1), (2) and (3) of the Trademark Law, the authority of administration for industry and commerce shall order the trademark registrant to rectify the situation within a specified time limit; where there is a refusal to rectify, it shall report to the Trademark Office for the cancellation of the registered trademark.

With respect to the act referred to in Article 44 (4) of the Trademark Law, any person may apply to the Trademark Office for the cancellation of such registered trademark, and state the relevant circumstances. The Trademark Office shall notify the trademark registrant to, within two months from the date of receipt of the notification, provide evidence of use of the trademark prior to the submission of the application for cancellation, or explain proper reasons for non-use. If, at the expiry of the time limit, no evidence of use is provided or the evidence provided is invalid and there are no proper reasons for non-use, the Trademark Office shall cancel the registered trademark.

The evidence referred to in the preceding paragraph includes the evidence of use of the registered trademark by the trademark registrant and the evidence of licensing another person by the trademark registrant to use its registered trademark.

Article 40 For a registered trademark canceled under Article 44 or 45 of the Trademark Law, the Trademark Office shall publish it, and the exclusive right to use the said registered

trademark shall be terminated from the date on which the Trademark Office makes the decision of cancellation.

Article 41 Where a registered trademark is canceled by the Trademark Office or the Trademark Review and Adjudication Board and the grounds for the cancellation involve some of the designated goods only, the registered trademark used on such goods shall be canceled.

Article 42 The amount of a fine imposed under Articles 45 and 48 of the Trademark Law shall be not more than 20% of the volume of the illegal business or not more than two times of the profit illegally earned.

The amount of a fine imposed under Article 47 of the Trademark Law shall be not more than 10% of the volume of the illegal business.

Article 43 Where licensing another person to use its registered trademark, the licensor shall, within three months from the date of conclusion of the license contract, submit the copy of the contract to the Trademark Office for the record.

Article 44 Where anyone violates the provisions of the second paragraph of Article 40 of the Trademark Law, the authority of administration for industry and commerce shall order it to make corrections within a specified time limit, or seize the representations of its trademark if no corrections are made at the expiry of the specified time limit. Where it is impossible to separate the representations of the trademark from the goods involved, both of them shall be seized and destroyed.

Article 45 Where the use of a trademark is in violation of the provisions of Article 13 of the Trademark Law, the party concerned may request the authority of administration for industry and commerce to prohibit such use. When filing an application for this purpose, the party shall submit evidence proving that its mark constitutes a well-known trademark. If the mark is determined as a well-known trademark by the Trademark Office pursuant to Article 14 of the Trademark Law, the authority of administration for industry and commerce shall order the infringer to stop the act of using the well-known trademark in violation of the provisions of Article 13 of the Trademark Law, seize and destroy the representations of the trademark; where it is impossible to separate the representations of the trademark from the goods involved, both of them shall be seized and destroyed.

Article 46 A trademark registrant applying for the removal of its registered trademark or for the removal of the registration of its trademark used on some of the designated goods from the Trademark Register shall submit an application for the removal of the trademark to the Trademark Office and return the original Certificate of Trademark Registration.

Where a trademark registrant applies for the removal of its registered trademark or the removal of the registration of its trademark on some of the designated goods from the Trademark Register, the exclusive right to use the registered trademark or the effect of the exclusive right to use the registered trademark on some of the designated goods shall be terminated from the date on which the Trademark Office receives the application for removal.

Article 47 Where a trademark registrant dies or terminates, each and every person may, at the expiry of one year from the date of death or termination, apply to the Trademark Office for the removal of the registered trademark in question from the Trademark Register if no formalities of transfer have been conducted with respect to the registered trademark. When applying for the removal, the applicant shall submit the evidence certifying the death or termination of the trademark registrant.

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

Article 48 Where a registered trademark is canceled or removed from the Trademark Register as provided in Articles 46 and 47 of these Regulations, the original Certificate of Trademark Registration shall become invalid. Where the registration of the trademark on some of the designated goods is canceled or the trademark registrant applies for the removal of the registration of its trademark on some of the designated goods from the Trademark Register, the Trademark Office shall make a note on the original Certificate of Trademark Registration and return it to the registrant, or reissue the Certificate of Trademark Registration and publish it.

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

Article 49 Where a registered trademark consists of the generic name, design or model of the goods in question, or directly shows the quality, main raw materials, functions, intended purposes, weight, quantity or other characteristics of the goods in question, or consists of geographical names, the proprietor of the exclusive right to use the registered trademark shall have no right to prohibit the fair use thereof by another person.

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

(1) using any signs which are identical or similar to another person's registered trademark as the name of the goods or decoration of the goods on the same or similar goods, thus misleading the public;

(2) intentionally providing facilities such as storage, transport, mailing, concealing, etc. for the purpose of infringing another person's exclusive right to use a registered trademark.

Article 51 Where the exclusive right to use a registered trademark is infringed upon, each and every person may lodge a complaint with or report the case to the authority of administration for industry and commerce.

Article 52 The amount of a fine imposed on an act infringing the exclusive right to use a registered trademark shall be not more than three times of the volume of the illegal business. If it is impossible to calculate the volume of the illegal business, the amount of the fine shall be not more than 100,000 yuan.

Article 53 A trademark owner who believes that the registration of its well-known trademark as an enterprise name by another person is likely to deceive or mislead the public may apply to the competent registration authorities of enterprise names for the cancellation of the registration of the enterprise name. The competent registration authorities of enterprise names shall handle the case in accordance with the Provisions on Administration of Enterprise Name Registration.

Chapter VIII Supplementary Provisions

Article 54 Service marks continuously in use to July 1, 1993, which are identical or similar to any registered service marks of another person for the same or similar services, may continue to be used; however, if such use is suspended for a period of three years or more after July 1, 1993, it shall not be used any longer.

Article 55 The specific measures for the administration of trademark agency shall be separately formulated by the State Council.

Article 56 The Classification of Goods and Services for trademark registration shall be worked out and published by the authority of administration for industry and commerce under the State Council.

The format of the documents for applying for trademark registration or for handling other trademark matters shall be determined and published by the authority of administration for industry and commerce under the State Council.

The rules on review and adjudication to be followed by the Trademark Review and Adjudication Board shall be formulated and promulgated by the authority of administration for industry and commerce under the State Council.

Article 57 The Trademark Office shall establish and keep the Trademark Register recording registered trademarks and other registration matters.

The Trademark Office shall compile and issue the Trademark Gazette publishing trademark registration and other related matters.

Article 58 Fees shall be paid for applying for trademark registration or for handling other trademark matters. The items and standards for collecting fees shall be prescribed and published by the authority of administration for industry and commerce under the State Council jointly with the competent department for pricing of the State Council.

Article 59 These Regulations shall become effective as of September 15, 2002. The Rules for the Implementation of the Trademark Law of the People's Republic of China, which was promulgated by the State Council on March 10, 1983, revised for the first time with the approval of the State Council on January 3, 1988 and revised for the second time with the approval of the State Council on July 15, 1993, and the Official Reply from the State

Council Concerning Papers Furnished as Attachments to Applications for Trademark Registration, which was issued on April 23, 1995, shall be repealed simultaneously.
