Provisions of the State Council on Handling Foreign-Related Intellectual Property Disputes of the PRC

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Unofficial English translation prepared for reference only. The official Chinese text prevails.

Adopted at the 53rd Executive Meeting of the State Council on February 21, 2025
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Effective: May 1, 2025

Article 1 — These Provisions are formulated for the purpose of strengthening intellectual property protection, facilitating citizens and organizations to handle foreign-related intellectual property disputes in accordance with the law, safeguarding the lawful rights and interests of citizens and organizations, advancing high-level opening up, and promoting high-quality economic development.

Article 2 — The departments of the State Council responsible for the administration of intellectual property work such as trademarks, patents and copyrights (hereinafter referred to as the intellectual property administrative departments) and the competent commerce authorities shall strengthen guidance and services for citizens and organizations in handling foreign-related intellectual property disputes, and other relevant departments of the State Council shall do the relevant work well in accordance with the division of responsibilities.

The relevant departments of the State Council shall strengthen work coordination and information communication, and jointly do a good job in the work related to the handling of foreign-related intellectual property disputes.

Article 3 — The local people's governments at or above the county level and their relevant departments shall, in light of the actual circumstances of their respective regions, do a good job in the work related to the handling of foreign-related intellectual property disputes.

Article 4 — The intellectual property administrative departments of the State Council and the relevant departments such as commerce and judicial administration shall, in accordance with the division of responsibilities, promptly collect and release information on foreign intellectual property legal systems, improve the public service system for intellectual property information, and provide the public with inquiry services for foreign intellectual property information.

Article 5 — The intellectual property administrative departments and the competent commerce authorities of the State Council shall, in accordance with the division of responsibilities, strengthen follow-up and understanding of key information such as changes in foreign intellectual property legal systems, carry out analysis and research on typical cases, promptly issue risk warnings, and provide the public with early warnings concerning foreign-related intellectual property.

Article 6 — The intellectual property administrative departments and the competent commerce authorities of the State Council shall, in accordance with the division of responsibilities, improve the guiding working organs and working procedures for the handling of foreign-related intellectual property disputes, and provide response guidance and rights protection assistance for citizens and organizations in handling foreign-related intellectual property disputes.

Article 7 — Support shall be given to commercial mediation organizations and arbitration institutions to participate in the resolution of foreign-related intellectual property disputes, so as to provide citizens and organizations with efficient and convenient channels for resolving foreign-related intellectual property disputes; citizens and organizations shall be encouraged and guided to promptly resolve foreign-related

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intellectual property disputes through reconciliation, mediation, arbitration and other means.

The judicial administrative departments of the State Council shall strengthen guidance on the mediation and arbitration of foreign-related intellectual property disputes.

Article 8 — Law firms and intellectual property service institutions shall be encouraged to improve their capabilities in providing foreign-related intellectual property services, and to establish practice institutions abroad by such means as establishing branches and joint operations, so as to provide citizens and organizations with high-quality and efficient foreign-related intellectual property-related services.

The judicial administrative departments and intellectual property administrative departments of the State Council shall, in conjunction with the relevant departments, take measures to create conditions for law firms, intellectual property service institutions and others to strengthen foreign-related intellectual property-related services.

Article 9 — Support shall be given to enterprises to establish mutual assistance funds for the protection and safeguarding of foreign-related intellectual property rights; insurance institutions shall be encouraged to carry out foreign-related intellectual property-related insurance business in accordance with market-oriented principles, so as to reduce the costs of enterprises in safeguarding their rights.

Article 10 — Chambers of commerce, industry associations, cross-border e-commerce platforms and other organizations shall be encouraged to establish platforms for foreign-related intellectual property rights protection assistance, open service hotlines, and provide public welfare services such as consultation and training.

Article 11 — Enterprises shall enhance their awareness of the rule of law, establish and improve internal rules and regulations, strengthen the reserve of intellectual property talents, and intensify the protection and application of intellectual property; when entering foreign markets, they shall proactively learn about the legal systems and intellectual property protection conditions of the countries or regions concerned, carry out production and business activities in accordance with the law, and actively safeguard their own lawful rights and interests.

The intellectual property administrative departments and the competent commerce authorities of the State Council shall, in conjunction with the relevant departments, focus on the intellectual property protection needs of enterprises in foreign-related production and business activities, and, centering on the key fields and key links of foreign-related intellectual property disputes, carry out publicity and training for enterprises, introduce the experience and practices of handling foreign-related intellectual property disputes in accordance with the law in combination with typical cases, and enhance the awareness of enterprises of foreign-related intellectual property protection and their ability to handle disputes.

The judicial administrative departments of the State Council shall, in accordance with the requirements of the responsibility system of "whoever enforces the law shall popularize the law," strengthen publicity and education on the rule of law concerning intellectual property, and comprehensively enhance the awareness of intellectual property protection and the ability to safeguard rights in accordance with the law of citizens and organizations.

Article 12 — Service of documents and investigation and evidence collection within the territory of China shall be handled in accordance with the international treaties concluded or acceded to by China and the provisions of laws such as the Civil Procedure Law of the People's Republic of China and the International Criminal Judicial Assistance Law of the People's Republic of China. No organization or individual may, in violation of Chinese law, serve documents or conduct investigation and evidence collection within the territory of China.

Article 13 — Where organizations or individuals within the territory of China participate in foreign intellectual property-related litigation or are subject to relevant investigations by foreign judicial or law enforcement

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authorities, and need to provide evidence or relevant materials abroad, they shall comply with the provisions of laws and administrative regulations on guarding state secrets, data security, personal information protection, technology export administration, judicial assistance, and so forth. Where approval by the competent authorities is required in accordance with the law, the relevant legal procedures shall be performed.

Article 14 — The competent commerce authorities of the State Council may, in accordance with the Foreign Trade Law of the People's Republic of China, conduct investigations into and take necessary measures against the following matters:

(1) imported goods that infringe upon intellectual property rights and harm the order of foreign trade;

(2) an intellectual property right holder who commits any of such acts as preventing a licensee from challenging the validity of the intellectual property in the licensing contract, carrying out mandatory package licensing, or stipulating exclusive grant-back conditions in the licensing contract, thereby harming the order of fair competition in foreign trade; or

(3) another country or region that fails to grant national treatment to Chinese citizens or organizations in intellectual property protection, or that fails to provide sufficient and effective intellectual property protection for goods, technologies or services originating from China.

Article 15 — Where a foreign country, in violation of international law and the basic norms of international relations, contains and suppresses China under the pretext of intellectual property disputes, adopts discriminatory restrictive measures against Chinese citizens and organizations, or interferes in China's internal affairs, the relevant departments of the State Council may, in accordance with laws such as the Foreign Relations Law of the People's Republic of China and the Anti-Foreign Sanctions Law of the People's Republic of China, place organizations and individuals that directly or indirectly participate in the formulation, decision or implementation of discriminatory restrictive measures on the countermeasure list, and take corresponding countermeasures and restrictive measures.

Article 16 — No organization or individual may implement, or assist in implementing, discriminatory restrictive measures taken by foreign countries against Chinese citizens or organizations under the pretext of intellectual property disputes.

Where any organization or individual, in violation of the provisions of the preceding paragraph, infringes upon the lawful rights and interests of Chinese citizens or organizations, the Chinese citizens or organizations may bring a lawsuit in a people's court in accordance with the law to demand that the infringement be stopped and the losses be compensated.

Article 17 — The relevant departments of the State Council shall strengthen coordination and cooperation; where intellectual property disputes are exploited to endanger China's sovereignty, security and development interests, corresponding measures shall be taken in accordance with laws such as the National Security Law of the People's Republic of China, the Foreign Relations Law of the People's Republic of China and the Anti-Foreign Sanctions Law of the People's Republic of China; and where intellectual property rights are abused to exclude or restrict competition or to commit acts of unfair competition, the matter shall be handled in accordance with laws such as the Anti-Monopoly Law of the People's Republic of China and the Anti-Unfair Competition Law of the People's Republic of China.

Article 18 — These Provisions shall come into force on May 1, 2025.

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