Regulations for the Implementation of the Trademark Law of the PRC

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Contents

Table of Contents 1

Chapter I — General Provisions 1

Chapter II — Application for Trademark Registration 2

Chapter III — Examination and Approval of Trademark Registration 2

Chapter IV — Renewal, Modification, Assignment and Licensing of Registered Trademarks 3

Chapter V — Trademark Review and Adjudication 3

Chapter VI — Administration of the Use of Trademarks 3

Chapter VII — Protection of Exclusive Rights to Use Registered Trademarks 4

Chapter VIII — Well-Known Trademarks 4

Chapter IX — Supplementary Provisions 4

Table of Contents

- Chapter I — General Provisions
- Chapter II — Application for Trademark Registration
- Chapter III — Examination and Approval of Trademark Registration
- Chapter IV — Renewal, Modification, Assignment and Licensing of Registered Trademarks
- Chapter V — Trademark Review and Adjudication
- Chapter VI — Administration of the Use of Trademarks
- Chapter VII — Protection of Exclusive Rights to Use Registered Trademarks
- Chapter VIII — Well-Known Trademarks
- Chapter IX — Supplementary Provisions

Chapter I — General Provisions

Article 1 — These Regulations are formulated in accordance with the Trademark Law of the People's Republic of China.

Article 2 — The Trademark Office of the State Administration for Industry and Commerce shall be responsible for the registration and administration of trademarks throughout the country. The Trademark Review and Adjudication Board under the State Administration for Industry and Commerce shall be

responsible for handling trademark disputes.

Article 3 — An applicant for trademark registration shall be a natural person, legal person or other organization that is lawfully established. Where a foreigner or foreign enterprise applies for trademark registration in China, the application shall be handled in accordance with the agreement concluded between the country of the applicant and China or the international treaties to which both countries are parties, or on the basis of the principle of reciprocity.

Article 4 — Where a foreigner or foreign enterprise applies for trademark registration or handles other trademark matters in China, it shall entrust a legally established trademark agency organization to do so on its behalf. The trademark agency organization shall comply with the principles of good faith and shall keep confidential the trade secrets of the principal that come to its knowledge in the course of acting as an agent.

Chapter II — Application for Trademark Registration

Article 5 — An application for trademark registration shall specify the class of goods or services and the name of the goods or services in accordance with the prescribed classification of goods or services. Where an applicant applies for registration of the same trademark on goods or services of different classes, the applicant shall file separate applications for registration in accordance with the classification of goods or services.

Article 6 — An application for trademark registration shall be filed with the Trademark Office. Each application for trademark registration shall be limited to one trademark. The applicant may file one application for the same trademark to be used on goods of the same class.

Article 7 — An application for trademark registration shall submit a pattern of the trademark. Where the trademark is in color, a colored pattern shall be submitted. Where the trademark is a three-dimensional mark, a pattern capable of identifying the three-dimensional shape shall be submitted. Where the trademark is a sound mark, a description of the sound shall be submitted.

Article 8 — The date of filing of an application for trademark registration shall be the date on which the Trademark Office receives the application documents. Where the application procedures 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 procedures are incomplete or the application documents are not filled in as required, the Trademark Office shall not accept the application and shall notify the applicant in writing, specifying the reasons.

Article 9 — Where an applicant claims the right of priority in accordance with the Trademark Law, the applicant shall submit a written declaration at the time of filing the application for trademark registration and, within three months, submit a copy of the earlier trademark application documents. Where the applicant fails to submit the written declaration or fails to submit the copy of the earlier trademark application documents within the time limit, the claim to the right of priority shall be deemed not to have been made.

Chapter III — Examination and Approval of Trademark Registration

Article 10 — The Trademark Office shall, within nine months from the date of receipt of the application documents for trademark registration, complete the examination of the application. Where the application complies with the relevant provisions, the Trademark Office shall make a preliminary examination and approval and publish the same. Where the application does not comply with the relevant provisions, the Trademark Office shall reject the application and notify the applicant in writing, specifying the reasons.

Article 11 — Within three months from the date of publication of a trademark that has been preliminarily examined and approved, any prior rights holder or interested party may file an opposition with the Trademark Office. Where no opposition is filed within the time limit, the Trademark Office shall grant the registration, issue a trademark registration certificate and publish the same. Where an opposition is filed, the Trademark

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Office shall hear the statements of the facts and grounds made by the opposing party and the opposed party and make a decision within 12 months.

Article 12 — Where the Trademark Office rejects an application for trademark registration or does not publish the same, it shall notify the applicant in writing, specifying the reasons. Where the applicant is dissatisfied with the rejection, the applicant may apply to the Trademark Review and Adjudication Board for a review within 15 days from the date of receipt of the notification.

Chapter IV — Renewal, Modification, Assignment and Licensing of Registered Trademarks

Article 13 — The term of validity of a registered trademark shall be 10 years, counting from the date of approval of registration. Where the registrant intends to continue to use the registered trademark after the expiration of the term of validity, the registrant shall go through the renewal procedures in accordance with the provisions within 12 months before the expiration of the term. Where the registrant fails to do so within such period, a grace period of six months may be granted. The term of validity of each renewal of registration shall be 10 years.

Article 14 — Where the name, address or other registered items of a trademark registrant change, the registrant shall apply for change registration. Where a registered trademark is to be assigned, the assignor and the assignee shall conclude an assignment agreement and jointly file an application with the Trademark Office. The Trademark Office shall, after approving the assignment of a registered trademark, publish the same. The assignee shall guarantee the quality of the goods on which the trademark is used.

Article 15 — Where a trademark registrant licenses another person to use its registered trademark, the registrant shall conclude a trademark licensing contract and file the contract with the Trademark Office for record within three months from the date of conclusion of the contract. The licensor shall supervise the quality of the goods on which the licensee uses the registered trademark, and the licensee shall guarantee the quality of the goods on which the trademark is used.

Chapter V — Trademark Review and Adjudication

Article 16 — The Trademark Review and Adjudication Board shall accept and hear the following trademark review and adjudication cases: (1) cases of dissatisfaction with the decision of the Trademark Office to reject an application for trademark registration or not to publish the same; (2) cases of dissatisfaction with the decision of the Trademark Office on an opposition; (3) cases of request for invalidation of a registered trademark; (4) cases of dissatisfaction with the decision of the Trademark Office to invalidate a registered trademark; and (5) cases of request for cancellation of a registered trademark.

Article 17 — A party applying for trademark review and adjudication shall submit an application to the Trademark Review and Adjudication Board and state the grounds and claims for the application. The Trademark Review and Adjudication Board shall, within nine months from the date of receipt of the application, make a review and adjudication decision and notify the party in writing.

Chapter VI — Administration of the Use of Trademarks

Article 18 — The use of a registered trademark shall be indicated by the words “registered trademark” or a registration mark. The registration mark shall be printed on the upper right or lower right corner of the trademark. Where a trademark registrant uses the registered trademark, it shall use the trademark in accordance with the approved pattern of the trademark.

Article 19 — Where the registered trademark is not used for three consecutive years without justifiable reasons, any entity or individual may apply to the Trademark Office for cancellation of the registered trademark. The Trademark Office shall, within nine months from the date of receipt of the application, make

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a decision and notify the party in writing.

Article 20 — The administrative authority for industry and commerce shall supervise and administer the use of trademarks and shall investigate and punish the illegal acts in the use of trademarks in accordance with the law. The printing of trademarks shall be administered in accordance with the relevant provisions of the State.

Chapter VII — Protection of Exclusive Rights to Use Registered Trademarks

Article 21 — The following acts shall be infringements upon the exclusive right to use a registered trademark: (1) using a trademark that is identical to the registered trademark on the same goods without the permission of the trademark registrant; (2) using a trademark that is similar to the registered trademark on the same goods, or using a trademark that is identical to or similar to the registered trademark on similar goods, without the permission of the trademark registrant, which is likely to cause confusion; (3) selling goods that infringe upon the exclusive right to use a registered trademark; (4) forging or manufacturing without authorization the marks of another person's registered trademark or selling forged or unauthorized marks of a registered trademark; (5) replacing the registered trademark without the consent of the trademark registrant and putting the goods with the replaced trademark into the market; or (6) providing conveniences such as storage, transportation, mailing, printing, concealment or business premises for the infringement upon the exclusive right to use a trademark of another person.

Article 22 — The amount of compensation for infringement upon the exclusive right to use a trademark shall be determined based on the actual loss suffered by the right holder as a result of the infringement. Where it is difficult to determine the actual loss, the amount of compensation may be determined based on the profit derived by the infringer from the infringement. Where it is difficult to determine the loss suffered by the right holder or the profit derived by the infringer, the amount of compensation shall be reasonably determined by reference to the multiple of the trademark licensing fee. The amount of compensation shall include the reasonable expenses incurred by the right holder in ceasing the infringement.

Chapter VIII — Well-Known Trademarks

Article 23 — The Trademark Office and the Trademark Review and Adjudication Board shall, in accordance with the request of a party and the needs of the case, determine whether a trademark constitutes a well-known trademark as prescribed by the Trademark Law. The following factors shall be taken into account in the determination of a well-known trademark: (1) the degree of awareness of the trademark among the relevant public; (2) the duration of use of the trademark; (3) the duration, extent and geographical scope of any publicity for the trademark; (4) the record of protection of the trademark as a well-known trademark; and (5) other factors making the trademark well-known.

Article 24 — Where a trademark is determined as a well-known trademark in accordance with the provisions, it shall be recorded in the well-known trademark list. The Trademark Office and the Trademark Review and Adjudication Board shall promptly publish the relevant information on the determination of well-known trademarks in accordance with the provisions.

Chapter IX — Supplementary Provisions

Article 25 — An applicant for trademark registration or any other party handling trademark matters who is dissatisfied with the relevant decisions or rulings of the Trademark Office or the Trademark Review and Adjudication Board may file an administrative lawsuit with the people's court in accordance with the Administrative Litigation Law of the People's Republic of China.

Article 26 — The Trademark Office and the Trademark Review and Adjudication Board shall, in accordance with the actual needs, carry out the construction of information technology so as to improve the efficiency of trademark examination, review and adjudication.

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Article 27 — The fees for trademark registration and other trademark matters shall be prescribed by the price administration department and the finance department under the State Council.

Article 28 — These Regulations shall come into force on September 15, 2002. The Detailed Rules for the Implementation of the Trademark Law of the People's Republic of China approved by the State Council on January 3, 1983, amended on January 13, 1988, and amended for the second time on July 15, 1993, and the Implementing Regulations of the Trademark Law of the People's Republic of China promulgated on August 3, 2002 shall be repealed simultaneously. These Regulations were amended in accordance with the Decision of the State Council on Amending the Implementing Regulations of the Trademark Law of the People's Republic of China on April 29, 2014.

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