

Implementing Regulations Under the Trademark Law

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(Translated by the Patent Office of the People's Republic of China. In case of discrepancy, the original version in Chinese shall prevail.)

Chapter 1: General Provisions

Rule 1. These Implementing Regulations are drawn up in accordance with the provisions of Article 42 of the Trademark Law of the People's Republic of China (hereinafter referred to as the "Trademark Law").

Rule 2. An applicant for the registration of a trademark shall be such an enterprise, an institution, a social organization, an individual industrial or commercial household or an individual partnership as legally established, or such a foreigner or a foreign enterprise as provided for in Article 9 of the Trademark Law. The provisions made in these Implementing Regulations concerning goods trademarks shall apply to service marks.

Rule 3. Where an application for the registration of a trademark, for the assignment or renewal of a trademark registration, for the modification of the name or address of a registrant, for the resistance of a certificate of trademark registration or for any other matters concerning a trademark is to be filed, the applicant may either entrust any of such trademark agencies as approved by the State Administration for Industry and Commerce to act as his agent, or file his application directly with the Trademark Office. Concerning a trademark in China shall entrust any foreigner or foreign enterprise intending to apply for the registration of a trademark or for any other matters any of such trademark agencies as designated by the State Administration for Industry and Commerce to act as his or its agent. Where an application is filed for international registration, it shall be done in accordance with the "Madrid Agreement Concerning the International Registration of Marks".

Rule 4. Any application for the registration of a trademark, for the assignment or renewal of a trademark registration, for the modification of the name or address of a registrant, for the resistance of a certificate of trademark registration, for the review of or adjudication on a trademark or for any other matters concerning a trademark shall be subject to payment of the fees as prescribed.

Rule 5. The Trademark Office of the State Administration for Industry and Commerce (hereinafter referred to as the "Trademark Office") shall establish and keep a "Trademark Register", in which all the registered trademarks and any other registered matters in relation shall be recorded. The Trademark Office shall compile and publish a "Trademark Gazette", in which all the trademark registrations and any other matters in relation shall be announced.

Rule 6. According to Article 3 of the Trademark Law, all the collective marks and certification marks approved by the Trademark Office for registration shall be protected by law. The procedures for the registration and administration of collective marks and certification marks shall be separately drawn up by the State Administration for Industry and Commerce, in cooperation with the departments concerned of the State Council.

Rule 7. Any of such pharmaceutic products for human use and tobacco products as prescribed by the State and published by the State Administration for Industry and Commerce shall use a registered trademark. Any of such other goods as prescribed by the State that must use a registered trademark shall be published by the State Administration for Industry and Commerce.

Rule 8. Under the State Administration for Industry and Commerce, there shall be established the Trademark Review and Adjudication Board, which shall make a final decision or adjudication on any matters submitted for review or adjudication under the relevant provisions of the Trademark Law and these Regulations.

Chapter 2: Application for Trademark Registration

Rule 9. When applying for the registration of a trademark, the applicant shall file one application in respect of each class of goods according to the Classification of Goods as published. For each filing, an "Application for Trademark Registration" shall be submitted to the Trademark Office, accompanied by ten copies of the reproductions of the trademark (If colour is claimed, ten copies of the colour reproductions of the trademark shall be attached thereto.) and one copy of the black and white design thereof. The reproductions of a trademark must be clear and easy to be pasted up, and shall be printed on smooth and clear durable paper or substituted by photographs, the length and breadth of which shall be less than 10 cm but more than 5 cm each.

Rule 10. The forms relating to an application for trademark registration or for any other matters concerning a trademark shall be filled out with pen, Chinese writing brush or typewriter, and the writing or typing shall be clear and neat. The applicant's name and seal shall be the same as approved or registered. The goods listed in the application shall not go beyond the scope of business as approved or registered. The goods

shall be listed in the application according to the Classification of Goods. If any goods are not included in the Classification of Goods, a description of the goods shall be attached to the application.

Rule 11. Any application for the registration of a trademark in respect of pharmaceutic products for human use shall be accompanied by a certificate issued by the health administrative department. Any application for the registration of a trademark in respect of cigarettes, cigars or cut tobacco with packages shall be accompanied by a certificate of authorized manufacture issued by the competent authority of the State for tobacco products. Any application for the registration of a trademark in respect of any such other goods as prescribed by the State that must use a registered trademark shall be accompanied by a certificate of authorization issued by the competent department concerned.

Rule 12. The date of filing of an application for trademark registration shall be the date on which the Trademark Office receives the application. If the formal formalities for the application are complete and the application form is filled out according to the relevant provisions, the Trademark Office shall give it a filing number and issue a "Notification of Acceptance". If the formal formalities therefor are not complete or the application form is not filled out according to the relevant provisions, the application shall be returned to the applicant and no filing date shall be retained. Where the formal 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 fifteen days from receipt of the notification. If it is supplemented or corrected and resubmitted to the Trademark Office within the time limit, the filing date shall be retained; but if no such supplements or corrections have been made at the expiration of the specified period or they are made beyond the time limit, no filing date shall be retained.

Rule 13. Where two or more applicants apply for the registration of the identical or similar trademarks in respect of the same or similar goods on the same day, each of the applicants shall, as notified by the Trademark Office, furnish it, within thirty days, with the proof of the date of first use of the said trademark. If the first use started on the same day, or if neither or none of them has been in use, all applicants involved therein shall hold consultations among themselves. If they have reached an agreement, they shall submit their agreement in writing to the Trademark Office within thirty days. If no agreement has been reached through consultations within thirty days, both or all the applicants involved therein shall draw lots to decide it, the process of which shall be presided over by the Trademark Office, or otherwise the Trademark Office shall make an adjudication on it.

Rule 14. Where a trademark applicant entrusts a trademark agency in filing any application for the registration of a trademark or for any other matters concerning a trademark, he shall submit a Power of Attorney. The Power of Attorney shall indicate such contents and competence as authorized. Where the applicant is a foreigner or a foreign enterprise, the Power of Attorney shall, in addition, indicate the nationality of the entruster. Where a foreigner or a foreign enterprise applies for the registration of a trademark or for any other matters concerning a trademark, the Chinese language shall be used. The notarization and legalization of the Power of Attorney and the relevant certificates shall be done based on

the principle of reciprocity. Any document in a foreign language shall be accompanied by a Chinese translation thereof.

Rule 15. The Trademark Office shall accept and handle any claim for the right of priority in respect of an application for the registration of a trademark. The specific procedures in this respect shall be such as prescribed and promulgated by the State Administration for Industry and Commerce.

Chapter 3: Examination for Trademark Registration

Rule 16. The Trademark Office shall, according to the Trademark Law, examine all the applications it has accepted. Where a trademark is distinctive and in conformity with the relevant provisions of the Trademark Law, the Trademark Office shall, after examination, preliminarily approve the trademark and publish it in the "Trademark Gazette". Where an application for trademark registration is refused, the Trademark Office shall send a "Notification of Refusal" to the applicant. Where the Trademark Office considers that the application for a trademark registration is yet to be modified, it shall send an "Examiner's Advice" to the applicant and require the latter to make necessary modifications within fifteen days from receipt of the notification. If no such modifications have been made at the expiration of the specified period, or the modifications are made beyond the time limit, or the modified application is still not in conformity with the relevant provisions of the Trademark Law, the Trademark Office shall refuse the application and send a "Notification of Refusal" to the applicant.

Rule 17. When applying for review of the refused trademark, the applicant shall, within fifteen days from receipt of the notification of refusal, send an "Application for Review of the Refused Trademark" to the Trademark Review and Adjudication Board, accompanied by the original Application for Trademark Registration", ten copies of the original reproductions of the trademark, one copy of the black and white design thereof and the "Notification of Refusal". The Trademark Review and Adjudication Board shall make a final decision and notify the applicant of the same in writing. Where a trademark is, according to the final decision, to be preliminarily approved, it shall be transferred to the Trademark Office for the corresponding actions.

Rule 18. Where an opposition is filed against a trademark which has, after examination, been preliminarily approved and so published by the Trademark Office, the opponent shall send two copies of the same "Application for Trademark Opposition" to the Trademark Office. The "Application for Trademark Opposition" shall indicate both the page number and issue number of the "Trademark Gazette" in which the opposed trademark was published and the number of the preliminary approval. The Trademark Office shall send one copy of the "Application for Trademark Opposition" to the opposed party for a response to be made within thirty days from receipt of the notification, and then make an adjudication on the basis of such facts and grounds as stated by both parties. If no response has been made at the expiration of the specified period, the Trademark Office shall also make an adjudication thereon and notify the interested parties of the same. If an opposed trademark has, prior to the entry into force of the adjudication on the

opposition, been announced as a registered trademark in the "Trademark Gazette", the announcement thereof shall be invalid.

Rule 19. Where any interested party is dissatisfied with the adjudication on the opposition made by the Trademark Office, he may, within fifteen days from receipt of the notification of adjudication, apply to the Trademark Review and Adjudication Board for review by sending two copies of the same "Application for Review of the Opposed Trademark" thereto. The Trademark Review and Adjudication Board shall make a final adjudication, notify the interested parties of the same in writing and transfer the case to the Trademark Office for the corresponding actions. If the opposition against a trademark is not justified, the Trademark Office shall, after the entry into force of the adjudication on the opposition, approve the registration of the trademark involved therein.

Chapter 4: Modification, Assignment, Renewal and Adjudication-on-Dispute Concerning a Registered Trademark

Rule 20. When applying modification of his name, the registrant shall send an "Application for Modification of the Name of Trademark Registrant" and a proof of the modification to the Trademark Office, and return the original "Certificate of Trademark Registration" thereto. Where the Trademark Office, after examination, approves the application, it shall return, to the applicant, the original "Certificate of Trademark Registration" on which the approval has been marked and shall make a publication of the modification. When applying for modification of his address or any other matters relating to a trademark registration, the registrant shall send an "Application for Modification of the Address of Trademark Registrant" or an "Application for Modification of Other Matters Relating to the Registered Trademark" and a proof of the modification to the Trademark Office, and return the original "Certificate of Trademark Registration" thereto. Where the Trademark Office, after examination, approves the application, it shall return, to the applicant, the original "Certificate of Trademark Registration" on which the approval has been marked and shall make a publication of the modification. When applying for modification of his name or address, the registrant shall do the same modification in respect of all his registered trademarks.

Rule 21. When applying for the assignment of a registered trademark, both the assignor and assignee shall jointly send an "Application for Assignment of Registered Trademark" to the Trademark Office, accompanied by the original "Certificate of trademark Registration". The assignee shall do the formalities required in applying for the assignment of a registered trademark. The assignee shall be so qualified as provided for in Rule 2 of these Regulations. Where the Trademark Office approves the assignment, it shall return, to the assignee, the original "Certificate of Trademark Registration" on which the approval of the assignment has been marked and shall make a publication of the assignment. When applying for the assignment of a registered trademark, the registrant shall, at the same time, do the same assignment in respect of all his other registered trademarks that are identical with or similar to the said registered trademark in respect of the same or similar goods. Where a registered trademark is assigned in respect of such goods as provided for in Rule 7 of these Regulations, the assignee shall, under the provisions of Rule 11 of these Regulations, furnish the Trademark Office with a certificate issued by the competent department concerned. Where an application for the assignment of a registered trademark may mislead the public or

cause confusions or exert any other unhealthy influences, the Trademark Office shall grant no approval thereof but refuse it.

Rule 22. When applying for the renewal of a trademark registration, the registrant shall send an "Application for Renewal of Trademark Registration" to the Trademark Office, accompanied by five copies of the reproductions of the registered trademark, and return the original "Certificate of Trademark Registration" thereto. Where the Trademark Office, after examination, approves the renewal, it shall return, to the registrant, the original "Certificate of Trademark Registration" on which the approval of the renewal has been marked and shall make a publication of the renewal. Where it contravenes the relevant provisions of the Trademark Law, the Trademark Office shall grant no approval thereof but refuse it. The period of validity of a renewed trademark registration shall be so calculated as from the next day to the date of expiration of the previous period of validity of the said trademark.

Rule 23. Where an applicant is dissatisfied with the decision of the Trademark Office to refuse his application for an assignment or renewal, he may, within fifteen days from receipt of the notification of review by sending an "Application for Review of the Refused Assignment" or an "Application for Review of the Refused Renewal" to the Trademark Review and Adjudication Board, accompanied by the original "Application for Assignment of Registered Trademark" or "Application for Renewal of Trademark Registration" and the "Notification of Renewal of Refusal". The Trademark Review and Adjudication Board shall make a final decision and notify the applicant of the same in writing. If the final decision approves the assignment or renewal, the case shall be transferred to the Trademark Office for the corresponding actions.

Rule 24. Where a trademark registrant disputes a registered trademark of another party, he shall, within one year from the date of announcement, in the "Trademark Gazette", of the registered trademark in question of another party, send two copies of the same "Application for Adjudication on the Disputed Trademark" to the Trademark Review and Adjudication Board for adjudication. Where the Trademark Review and Adjudication Board makes a final adjudication either to maintain or to cancel a disputed registered trademark, it shall notify the interested parties of the same in writing and transfer the case to the Trademark Office for the corresponding actions. If the grounds for the cancellation involve only some of the registered components, such components as involved therein shall be canceled. Where it is adjudicated that it should be canceled, the proprietor of the disputed trademark shall, within fifteen days from receipt of the notification of adjudication, return the original "Certificate of trademark Registration" to the Trademark Office.

Rule 25. The following shall be such acts as referred to in Paragraph 1 of Article 27 of the Trademark Law, which are committed in the acquisition of a trademark registration by fraud or any other unfair means: (1) to fabricate or withhold the truth or forge an application and the related documents in the registration; (2) to violate the principles of honesty and credit and plagiarize, counterfeit or translate any well-known trademark of another party in the registration; (3) to acquire a trademark registration in the name of a trademark agent but without the authorization of the trademark proprietor who entrusts him in the registration; (4) to infringe any legal prior rights of another party in the registration; and (5) to use any other

unfair means to acquire a registration. Where the trademark registrant is dissatisfied with the decision made by the Trademark Office to cancel the trademark registration in accordance with Paragraph 1 of Article 27 of the Trademark Law, he may, within fifteen days from receipt of the notification of the decision, apply for review by sending an "Application for Review of the Cancellation of Improperly Registered Trademark" to the Trademark Review and Adjudication Board. The Trademark Review and Adjudication Board shall make a final decision thereon, notify the applicant of the same in writing and transfer the case to the Trademark Office for the corresponding actions. Wherever any organization or individual considers that a trademark has been improperly registered, it or he may apply for adjudication by sending two copies of the same "Application for the Cancellation of Improperly Registered Trademark" to the Trademark Review and Adjudication Board. The Trademark Review and Adjudication Board shall make a final adjudication thereon, notify the interested parties of the same in writing and transfer the case to the Trademark Office for the corresponding actions. Where an improperly registered trademark is canceled, the Trademark Office shall have it published. The trademark registrant in question shall, within fifteen days from receipt of the notification of the decision or adjudication, send the original "Certificate of Trademark Registration" back to the Trademark Office. Where a registered trademark has been canceled according to paragraph 1 and Paragraph 2 of Article 27 of the Trademark Law, the exclusive right to use it shall be deemed as no existence from the very beginning. Where a registered trademark has been canceled according to a decision or adjudication, there shall be no tracing force in any such judgment or adjudication on any trademark infringement case as made and enforced by the people's court or in any such decision as made and enforced by the administrative authority for industry and commerce and in any such trademark assignment or trademark license contract as performed prior to the said cancellation. But, if the bad faith of the trademark registrant has caused damages to any other party, a claim shall be made for the compensation therefor.

Chapter 5: Administration of the Use of Trademarks

Rule 26. Where a registered trademark is used, it shall carry the indication of "Registered Trademark" or the registration sign of (?) or (R) If it is difficult to mark such an indication or sign on the goods, it shall be marked on the packages or descriptions of or any other attachments to the goods.

Rule 27. Where a "Certificate of Trademark Registration" is lost or damaged, it is necessary to apply for the reissuance thereof. The trademark registrant shall send an "Application for Reissuance of Certificate of Trademark Registration" to the Trademark Office, accompanied by five copies of the reproductions of the registered trademark. Where a "Certificate of Trademark Registration" is lost, the owner shall declare the loss thereof in the "Trademark Gazette". Where a "Certificate of Trademark Registration" is damaged, it shall be sent back to the Trademark Office. Where any party has committed any act in forging or altering a "Certificate of Trademark Registration", the local administrative authority for industry and commerce shall, according to the case, impose a fine of not exceeding 20, 000 RMB Yuan and seize all the copies of the "Certificate of Trademark Registration" that have been forged or altered.

Rule 28. Where any party has committed any of such acts as referred to in Article 30 (1), (2) and (3) of the Trademark Law, the administrative authority for industry and commerce shall order the trademark registrant

to rectify the situation within a specified period. If the registrant refuses to rectify it, the administrative authority for industry and commerce at the registrant's location shall submit the case to the Trademark Office for the cancellation of the registered trademark.

Rule 29. Where any party has committed the act referred to in Article 30 (4) of the Trademark Law, any person may apply to the Trademark Office for the cancellation of the registered trademark in question and state the facts related thereto. The Trademark Office shall notify the trademark registrant and require the latter to furnish, within three months from receipt of the said notification, proof of use of the said trademark or otherwise fair reasons for non-use thereof. If no proof of use has been furnished at the expiration of specified period or the proof is invalid, the Trademark Office shall cancel the registered trademark. The use of a trademark referred to in the preceding paragraph 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.

Rule 30. Where an application is filed for the registration of a trademark that is identical with or similar to such a trademark as has been canceled under the provisions of Rule 29 of these Regulations in respect of the same or similar goods, it shall not be bound by the provisions of Article 32 of the Trademark Law.

Rule 31. Where any party has committed any of such acts as referred to in Article 31 or 34 (3) of the Trademark Law, the administrative authority for industry and commerce shall order him to rectify the situation within a specified period. If the case is serious, the said authority shall order him to make a self-examination of his faults, circulate a notice of criticism and, in addition, impose a fine of not exceeding 20% of the amount of his illegal business or not exceeding twice his profit illegally earned. If the goods in question are poisonous, harmful or of no value of use, they shall be destroyed. If a registered trademark is used on such goods, the Trademark Office shall cancel the registered trademark according to the provisions of the Trademark Law.

Rule 32. Where any party has committed any of such acts as referred to in Article 34 (1) and (2) of the Trademark Law, the administrative authority for industry and commerce shall prohibit him from any advertising thereof, seal or seize the representations of the said trademark and order him to rectify the situation within a specified period, and may, in addition, circulate a notice of criticism and impose a fine of not exceeding 20% of the amount of his illegal business according to the case.

Rule 33. Where any party violates the provisions of Article 5 of the Trademark Law, the administrative authority for industry and commerce shall prohibit him from the sale and advertising of the goods and seal or seize the representations of the registered trademark, and may, in addition, impose a fine of not exceeding 10% of the amount of his illegal business according to the case.

Rule 34. No person shall be allowed to make, print or transact, in an illegal manner, the representations of a trademark. Where any person violates the provisions of the preceding paragraph, the administrative

authority for industry and commerce shall stop his illegal acts and seize the representations of the trademark, and may, in addition, impose a fine of not exceeding 20% of the amount of his illegal business according to the case. Where any person sells the representations of his own registered trademark, the Trademark Office may, in addition, cancel his registered trademark. Where it is a case in which the exclusive right to use a registered trademark has been infringed, it shall be handled according to the provisions of Rule 43 of these Regulations.

Rule 35. Where a trademark registrant authorizes any other person to use his registered trademark, they shall sign a trademark license contract for the use. Both the licensor and licensee shall, within three months from conclusion of the trademark license contract, submit a copy of the contract to the administrative authority for industry and commerce at the county level of his location for reference. The licensor shall submit another copy of the same contract to the Trademark Office for record, and the Trademark Office shall publish the same. Where any party violates the provisions of the preceding paragraph, the administrative authority for industry and commerce at the location of either the licensor or the licensee shall order him to rectify the situation within a specified period. If the said party refuses to rectify it, the administrative authority for industry and commerce shall impose a fine of not exceeding 10,000 RMB Yuan, or even submit the case to the Trademark Office for the cancellation of the registered trademark. Where any party violates the provisions of Paragraph 2 of Article 26 of the Trademark Law, the administrative authority for industry and commerce at the licensee's location shall order him to rectify the situation within a specified period and seize the representations of the licensed trademark of the licensee, and may, in addition, impose a fine of not exceeding 50,000 RMB Yuan according to the case.

Rule 36. Where a trademark registrant authorizes any other person to use his registered trademark, the licensee shall be so qualified as provided for in Rule 2 of these Regulations. Where a licensor authorizes any other person to use his registered trademark in respect of any such goods as prescribed in Rule 7 of these Regulations, the licensee shall, under Rule 11 of these Regulations, furnish, as an attachment thereto, the related certificate issued by the competent authority concerned when he submits a copy of the contract to the administrative authority for industry and commerce for reference.

Rule 37. When the Trademark Office makes a decision to cancel a registered trademark under the provisions of Article 30 or 31 of the Trademark Law or Rule 28, 29, 31, 34 or 35 of these Regulations, it shall notify the trademark registrant and the administrative authority for industry and commerce at the registrant's location of the same in writing. Where the trademark registrant is dissatisfied with the decision of the Trademark Office to cancel his registered trademark, he may, within fifteen days from receipt of the notification of cancellation, apply for review by sending an "Application for Review of the Canceled Trademark" to the Trademark Review and Adjudication Board. The Trademark Review and Adjudication Board shall make a final decision, notify the trademark registrant and the administrative authority for industry and commerce at the registrant's location of the same in writing and transfer the case to the Trademark Office for the corresponding actions.

Rule 38. Where a trademark registrant applies for the removal of his registered trademark from the "Trademark Register", he shall send an "Application for Trademark Removal" to the Trademark Office and return the original "Certificate of Trademark Registration" thereto.

Rule 39. Where a registered trademark is canceled or removed, the Trademark Office shall publish the same in the "Trademark Gazette". From the date of announcement of the cancellation or removal thereof, there shall be no further existence of the exclusive right to use the trademark. Where a registered trademark is canceled, the administrative authority for industry and commerce at the registrant's location shall recall the "Certificate of Trademark Registration" in question and transfer it to the Trademark Office.

Rule 40. Where any interested party is dissatisfied with the decision made by the administrative authority for industry and commerce under the provisions of Chapter VI of the Trademark Law and Chapter V of these Regulations, he may, within fifteen days from receipt of the notification of the decision, apply to the administrative authority for industry and commerce at the higher level for reconsideration of the decision. The said authority at the higher level shall, within two months from receipt of the application for reconsideration, make a decision on it. Where any interested party is dissatisfied with the decision on the reconsideration, he may, within fifteen days from receipt of the notification of the decision, institute legal proceedings with the people's court. If there has been filed no application for reconsideration, instituted no legal proceedings or made no performance of the decision at the expiration of the specified period, the administrative authority for industry and commerce shall request the people's court for compulsory execution thereof.

Chapter 6: Protection of the Exclusive Right to Use a Registered Trademark

Rule 41. Any of the following acts shall constitute an infringement of the exclusive right to use a registered trademark as referred to in Article 38 (4) of the Trademark Law. (1) to deal in the goods that he knows or he should know have been involved in an infringement of the exclusive right of another person to use a registered trademark; (2) to use any word or device that is identical with or similar to the registered trademark of another person, in respect of the same or similar goods, as the designation or decoration of the goods, which is so sufficient as to mislead the public; and (3) to provide any person intentionally with such facilities as of storage, transportation, post service and concealment in his infringing the exclusive right of another person to use a registered trademark.

Rule 42. Where the exclusive right to use a registered trademark has infringed, any person may lodge a complaint with or report the case of infringement to the administrative authority for industry and commerce at or above the county level of the infringer's location or of the place where the infringing act was done. The infringer may otherwise institute legal proceedings directly with people's court. Where the administrative authority for industry and commerce considers that it has constituted an infringement of the exclusive right to use a registered trademark, it may exercise the following functions and powers in its investigations to obtain evidences: (1) to inquire of the interested parties about the case; (2) to check up such articles as relate to the infringing act, and to order to seal the same where necessary; (3) to investigate

into such acts as involved in the infringement; and (4) to examine or reproduce such contracts, account books and any other commercial data as connected with the infringing act. When the administrative authority for industry and commerce exercises such functions and powers as enumerated in the preceding paragraph, the interested parties shall give assistance thereto and must not refuse to do so.

Rule 43. Where the exclusive right to use a registered trademark has been infringed, the administrative authority for industry and commerce may take the following measures to stop the infringing act: (1) to order to immediately stop the sale of the goods; (2) to seize and destroy the representations of the trademark in question; (3) to order to remove the infringing trademark from the remaining goods; (4) to seize such molds, plates and any other tools of offense as directly and exclusively used in the trademark infringement; and (5) to order and supervise to destroy the infringing articles if it cannot sufficiently stop the infringing act to take such measures as enumerated in the preceding four sub-paragraphs or if the infringing trademark and the goods involved therein could hardly be separated from each other. Where an infringement of the exclusive right to use a registered trademark is not serious enough to constitute a crime, the administrative authority for industry and commerce may, according to the case, impose a fine of not exceeding 50% of the amount of his illegal business or five times his profit earned in the infringement. As for the person who is directly responsible therefor of an organization that was involved in an infringement of the exclusive right to use a registered trademark, the administrative authority for industry and commerce may, according to the case, impose a fine of not exceeding 10,000 RMB Yuan. The administrative authority for industry and commerce may, at the request of the infringer, order the infringer to compensate for the damages suffered by the infringer. Where any interested party is dissatisfied therewith, he may institute legal proceedings with the people's court.

Rule 44. Where any interested party is dissatisfied with the decision made by the administrative authority for industry and commerce under the provisions of Paragraph 1 and Paragraph 2 of the preceding article, he may, within fifteen days from receipt of the notification of the decision, apply to the administrative authority for industry and commerce at the higher level for reconsideration of the decision. The said authority at the higher level shall, within two months from receipt of the application for reconsideration, make a decision on it. Where any interested party is dissatisfied with the decision on the reconsideration, he may, within fifteen days from receipt of the notification of the decision, institute legal proceedings with the people's court. If there has been filed no application for reconsideration, instituted no legal proceedings or made no performance of the decision at the expiration of the specified period, the administrative authority for industry and commerce shall request the people's court for compulsory execution thereof.

Rule 45. Where any party passes off a registered trademark of another person, any person may lodge a complaint with or report the case of offense to the administrative authority for industry and commerce or the procuratorial organ. If the complaint is lodged with or the case of offense is reported to the administrative authority for industry and commerce, it shall be dealt with by the said authority according to the provisions of Rule 43 of these Regulations. If the case is so serious as to constitute a crime, any person responsible for it shall be prosecuted, according to law, by the judicial organ for his criminal liabilities.

Chapter 7: Supplementary Provisions

Rule 46. Where any party applies for review under the provisions of Article 21, 22 or 35 of the Trademark Law or Rule 23 or 25 of these Regulations, he shall do it within the specified period. In case of irresistible cases or any other fair reasons, the interested party may ask for an extension of thirty days before the expiration of the said period. It shall, however, be up to the Trademark Review and Adjudication Board to decide whether or not it is approvable. where a document is dispatched or delivered by post, it shall be dated as that of the postmark. In case the postmark is not clear or missing, the receiving or sending date for the interested party shall respectively be that twenty days after the Trademark Office dispatches or twenty days before the Trademark Office receives the document in question.

Rule 47. The forms of the application for a trademark registration or for any other matters concerning a trademark shall be prescribed and published by the State Administration for Industry and Commerce. The schedule of fees in respect of applications for a trademark registration and for any other matters concerning a trademark shall be prescribed and published by the State Administration for Industry and Commerce in accordance with the relevant prescriptions of the State. The Classification of Goods for the Purposes of the Registration of Trademarks shall be published by the State Administration for Industry and Commerce.

Rule 48. Where a service mark which has ever been used since before July 1, 1993 is identical with or similar to any registered service mark (other than a well-known service mark) of another party in respect of the same or similar services, it may continue to be used in accordance with the relevant regulations issued by the State Administration for Industry and Commerce.

Rule 49. The State Administration for Industry and Commerce shall be responsible for interpreting these Regulations.

Rule 50. These Regulations shall enter into force on the date of the promulgation thereof.