Note: The English text in this document is an AI translation (translated by Kimi, a large language model developed by Moonshot AI) and is provided for reference only. In the interpretation of this Law, the Chinese text shall prevail.

更新说明：《中华人民共和国商标法（2026修订）》由中华人民共和国主席令第七十七号于2026年6月26日公布，自2027年1月1日起施行。在2027年1月1日之前，本文件所载《中华人民共和国商标法（2019修正）》仍为现行有效文本。本文件中文原文未作任何改动；自2027年1月1日起，商标法律适用以2026年修订文本为准。

Update Note: The Trademark Law of the People's Republic of China (2026 Revision) was promulgated by Order of the President No. 77 on June 26, 2026 and will come into force on January 1, 2027. Until January 1, 2027, the Trademark Law of the People's Republic of China (2019 Amendment) contained in this document remains the currently effective text. The Chinese text of this document has not been altered in any way; from January 1, 2027, the 2026 Revision shall govern the application of trademark law.

中华人民共和国商标法（2019修正）

Trademark Law of the People's Republic of China (2019 Amendment)

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第一章　总　则

Chapter I General Provisions

第一条　【立法目的】为了加强商标管理，保护商标专用权，促使生产、经营者保证商品和服务质量，维护商标信誉，以保障消费者和生产、经营者的利益，促进社会主义市场经济的发展，特制定本法。

Article 1 [Purposes of Legislation] This Law is enacted for the purposes of strengthening trademark administration, protecting the exclusive right to use trademarks, encouraging producers and business operators to guarantee the quality of goods and services, maintaining the reputation of trademarks, so as to safeguard the interests of consumers and of producers and business operators and promote the development of the socialist market economy.

第二条　【商标局和商标评审委员会的职责】国务院工商行政管理部门商标局主管全国商标注册和管理的工作。

Article 2 [Functions of the Trademark Office and the Trademark Review and Adjudication Board] The Trademark Office of the administrative department for industry and commerce under the State Council shall be in charge of the work of trademark registration and administration nationwide.

国务院工商行政管理部门设立商标评审委员会，负责处理商标争议事宜。

The administrative department for industry and commerce under the State Council shall establish a Trademark Review and Adjudication Board, which shall be responsible for handling trademark disputes.

第三条　【注册商标及其分类、保护】经商标局核准注册的商标为注册商标，包括商品商标、服务商标和集体商标、证明商标；商标注册人享有商标专用权，受法律保护。

Article 3 [Registered Trademarks, Their Classification and Protection] Trademarks approved and registered by the Trademark Office are registered trademarks, including trademarks for goods, service marks, collective marks and certification marks; trademark registrants enjoy the exclusive right to use their trademarks, which is protected by law.

本法所称集体商标，是指以团体、协会或者其他组织名义注册，供该组织成员在商事活动中使用，以表明使用者在该组织中的成员资格的标志。

For the purposes of this Law, the term "collective mark" means a sign registered in the name of a group, association or other organization for use by members of that organization in commercial activities, to indicate the user's membership in the organization.

本法所称证明商标，是指由对某种商品或者服务具有监督能力的组织所控制，而由该组织以外的单位或者个人使用于其商品或者服务，用以证明该商品或者服务的原产地、原料、制造方法、质量或者其他特定品质的标志。

For the purposes of this Law, the term "certification mark" means a sign controlled by an organization having the ability to supervise a certain kind of goods or services and used by entities or individuals other than that organization on their goods or services, to certify the place of origin, raw materials, manufacturing method, quality or other specific qualities of the goods or services.

集体商标、证明商标注册和管理的特殊事项，由国务院工商行政管理部门规定。

Special matters concerning the registration and administration of collective marks and certification marks shall be prescribed by the administrative department for industry and commerce under the State Council.

第四条　【商标注册】自然人、法人或者其他组织在生产经营活动中，对其商品或者服务需要取得商标专用权的，应当向商标局申请商标注册。不以使用为目的的恶意商标注册申请，应当予以驳回。

Article 4 [Trademark Registration] Where a natural person, legal person or other organization, in the course of production or business operations, needs to acquire the exclusive right to use a trademark for its goods or services, it shall apply to the Trademark Office for trademark registration. A malicious application for trademark registration not filed for the purpose of use shall be rejected.

本法有关商品商标的规定，适用于服务商标。

The provisions of this Law concerning trademarks for goods shall apply to service marks.

第五条　【注册商标共有】两个以上的自然人、法人或者其他组织可以共同向商标局申请注册同一商标，共同享有和行使该商标专用权。

Article 5 [Joint Ownership of Registered Trademarks] Two or more natural persons, legal persons or other organizations may jointly apply to the Trademark Office for the registration of the same trademark, and jointly enjoy and exercise the exclusive right to use that trademark.

第六条　【商标强制注册】法律、行政法规规定必须使用注册商标的商品，必须申请商标注册，未经核准注册的，不得在市场销售。

Article 6 [Compulsory Trademark Registration] For goods for which a registered trademark must be used as prescribed by laws or administrative regulations, an application for trademark registration must be filed; goods for which registration has not been approved may not be sold on the market.

第七条　【诚信原则和商标使用人对商品质量负责】申请注册和使用商标，应当遵循诚实信用原则。

Article 7 [The Principle of Good Faith and the Trademark User's Responsibility for the Quality of Goods] Applications for trademark registration and the use of trademarks shall follow the principle of good faith.

商标使用人应当对其使用商标的商品质量负责。各级工商行政管理部门应当通过商标管理，制止欺骗消费者的行为。

Trademark users shall be responsible for the quality of the goods on which they use their trademarks. The administrative departments for industry and commerce at all levels shall, through trademark administration, stop acts that deceive consumers.

第八条　【商标的本质特征和构成要素】任何能够将自然人、法人或者其他组织的商品与他人的商品区别开的标志，包括文字、图形、字母、数字、三维标志、颜色组合和声音等，以及上述要素的组合，均可以作为商标申请注册。

Article 8 [Essential Features and Constituent Elements of Trademarks] Any sign capable of distinguishing the goods of a natural person, legal person or other organization from those of others, including words, devices, letters, numerals, three-dimensional signs, color combinations and sounds, as well as combinations of the foregoing elements, may be applied for registration as a trademark.

第九条　【申请注册的商标应当遵循的基本原则】申请注册的商标，应当有显著特征，便于识别，并不得与他人在先取得的合法权利相冲突。

Article 9 [Basic Principles to Be Observed by Trademarks Applied for Registration] A trademark applied for registration shall have distinctive features, be easy to identify, and may not conflict with the lawful rights previously acquired by others.

商标注册人有权标明“注册商标”或者注册标记。

A trademark registrant has the right to mark the words "registered trademark" or a registration symbol.

第十条　【不得作为商标使用的标志及使用地名作为商标的管理】下列标志不得作为商标使用：

Article 10 [Signs That May Not Be Used as Trademarks and the Administration of Using Place Names as Trademarks] None of the following signs may be used as a trademark:

（一）同中华人民共和国的国家名称、国旗、国徽、国歌、军旗、军徽、军歌、勋章等相同或者近似的，以及同中央国家机关的名称、标志、所在地特定地点的名称或者标志性建筑物的名称、图形相同的；

(1) those identical with or similar to the State name, national flag, national emblem, national anthem, military flag, military emblem or military anthem of the People's Republic of China, or medals and the like, and those identical with the name or sign of a central State organ, the name of the specific place where it is located, or the name or device of a landmark building;

（二）同外国的国家名称、国旗、国徽、军旗等相同或者近似的，但经该国政府同意的除外；

(2) those identical with or similar to the State name, national flag, national emblem or military flag of a foreign country, except with the consent of the government of that country;

（三）同政府间国际组织的名称、旗帜、徽记等相同或者近似的，但经该组织同意或者不易误导公众的除外；

(3) those identical with or similar to the name, flag or emblem of an intergovernmental international organization, except with the consent of that organization or where the public is unlikely to be misled;

（四）与表明实施控制、予以保证的官方标志、检验印记相同或者近似的，但经授权的除外；

(4) those identical with or similar to an official sign or inspection hallmark that indicates control or guarantee, except with authorization;

（五）同“红十字”、“红新月”的名称、标志相同或者近似的；

(5) those identical with or similar to the name or sign of the Red Cross or the Red Crescent;

（六）带有民族歧视性的；

(6) those discriminating against any ethnic group;

（七）带有欺骗性，容易使公众对商品的质量等特点或者产地产生误认的；

(7) those that are deceptive and likely to mislead the public with regard to the quality or other characteristics or the place of origin of the goods;

（八）有害于社会主义道德风尚或者有其他不良影响的。

(8) those detrimental to socialist morality or having other adverse effects.

县级以上行政区划的地名或者公众知晓的外国地名，不得作为商标。但是，地名具有其他含义或者作为集体商标、证明商标组成部分的除外；已经注册的使用地名的商标继续有效。

Place names of administrative divisions at or above the county level or foreign place names known to the public may not be used as trademarks, except where the place name has another meaning or forms part of a collective mark or certification mark; registered trademarks in which place names are used shall remain valid.

第十一条　【不得作为商标注册的标志及显著特征的取得】下列标志不得作为商标注册：

Article 11 [Signs That May Not Be Registered as Trademarks and the Acquisition of Distinctive Features] None of the following signs may be registered as a trademark:

（一）仅有本商品的通用名称、图形、型号的；

(1) those consisting only of the generic name, device or model number of the goods concerned;

（二）仅直接表示商品的质量、主要原料、功能、用途、重量、数量及其他特点的；

(2) those consisting only of a direct indication of the quality, main raw materials, function, use, weight, quantity or other characteristics of the goods;

（三）其他缺乏显著特征的。

(3) those otherwise lacking distinctive features.

前款所列标志经过使用取得显著特征，并便于识别的，可以作为商标注册。

A sign listed in the preceding paragraph that has acquired distinctive features through use and is easy to identify may be registered as a trademark.

第十二条　【三维标志申请注册商标的限制】以三维标志申请注册商标的，仅由商品自身的性质产生的形状、为获得技术效果而需有的商品形状或者使商品具有实质性价值的形状，不得注册。

Article 12 [Restrictions on Registration of Three-Dimensional Signs as Trademarks] Where a three-dimensional sign is applied for registration as a trademark, a shape resulting solely from the nature of the goods themselves, a shape of the goods necessary for achieving a technical effect, or a shape that gives substantial value to the goods may not be registered.

第十三条　【驰名商标的特别保护】为相关公众所熟知的商标，持有人认为其权利受到侵害时，可以依照本法规定请求驰名商标保护。

Article 13 [Special Protection of Well-Known Trademarks] Where the holder of a trademark that is well known to the relevant public considers that its rights have been infringed upon, it may request protection of the well-known trademark in accordance with the provisions of this Law.

就相同或者类似商品申请注册的商标是复制、摹仿或者翻译他人未在中国注册的驰名商标，容易导致混淆的，不予注册并禁止使用。

Where a trademark applied for registration on identical or similar goods is a copy, imitation or translation of another person's well-known trademark not registered in China and is likely to cause confusion, it shall not be registered and its use shall be prohibited.

就不相同或者不相类似商品申请注册的商标是复制、摹仿或者翻译他人已经在中国注册的驰名商标，误导公众，致使该驰名商标注册人的利益可能受到损害的，不予注册并禁止使用。

Where a trademark applied for registration on non-identical or dissimilar goods is a copy, imitation or translation of another person's well-known trademark already registered in China, misleading the public so that the interests of the registrant of the well-known trademark are likely to be harmed, it shall not be registered and its use shall be prohibited.

第十四条　【驰名商标的认定】驰名商标应当根据当事人的请求，作为处理涉及商标案件需要认定的事实进行认定。认定驰名商标应当考虑下列因素：

Article 14 [Determination of Well-Known Trademarks] A well-known trademark shall, at the request of a party, be determined as a fact that needs to be found in handling a trademark-related case. The following factors shall be taken into account in determining a well-known trademark:

（一）相关公众对该商标的知晓程度；

(1) the extent to which the trademark is known to the relevant public;

（二）该商标使用的持续时间；

(2) the duration of use of the trademark;

（三）该商标的任何宣传工作的持续时间、程度和地理范围；

(3) the duration, extent and geographical scope of any publicity work for the trademark;

（四）该商标作为驰名商标受保护的记录；

(4) the record of protection of the trademark as a well-known trademark;

（五）该商标驰名的其他因素。

(5) other factors making the trademark well known.

在商标注册审查、工商行政管理部门查处商标违法案件过程中，当事人依照本法第十三条规定主张权利的，商标局根据审查、处理案件的需要，可以对商标驰名情况作出认定。

In the course of trademark registration examination or the investigation and handling of trademark violation cases by administrative departments for industry and commerce, where a party claims rights in accordance with the provisions of Article 13 of this Law, the Trademark Office may, as needed for the examination or handling of the case, make a determination on whether the trademark is well known.

在商标争议处理过程中，当事人依照本法第十三条规定主张权利的，商标评审委员会根据处理案件的需要，可以对商标驰名情况作出认定。

In the course of handling a trademark dispute, where a party claims rights in accordance with the provisions of Article 13 of this Law, the Trademark Review and Adjudication Board may, as needed for the handling of the case, make a determination on whether the trademark is well known.

在商标民事、行政案件审理过程中，当事人依照本法第十三条规定主张权利的，最高人民法院指定的人民法院根据审理案件的需要，可以对商标驰名情况作出认定。

In the course of trying civil or administrative trademark cases, where a party claims rights in accordance with the provisions of Article 13 of this Law, the people's court designated by the Supreme People's Court may, as needed for the trial of the case, make a determination on whether the trademark is well known.

生产、经营者不得将“驰名商标”字样用于商品、商品包装或者容器上，或者用于广告宣传、展览以及其他商业活动中。

Producers and business operators may not use the words "well-known trademark" on goods, on the packaging or containers of goods, or in advertising, exhibitions and other commercial activities.

第十五条　【禁止恶意抢注】未经授权，代理人或者代表人以自己的名义将被代理人或者被代表人的商标进行注册，被代理人或者被代表人提出异议的，不予注册并禁止使用。

Article 15 [Prohibition of Malicious Preemptive Registration] Where, without authorization, an agent or representative registers in its own name the trademark of the principal or the represented party, and the principal or the represented party raises an opposition, the trademark shall not be registered and its use shall be prohibited.

就同一种商品或者类似商品申请注册的商标与他人在先使用的未注册商标相同或者近似，申请人与该他人具有前款规定以外的合同、业务往来关系或者其他关系而明知该他人商标存在，该他人提出异议的，不予注册。

Where a trademark applied for registration on the same kind of goods or similar goods is identical with or similar to another person's unregistered trademark previously used by another person, and the applicant, having a contractual or business relationship or other relationship with that person other than as prescribed in the preceding paragraph, clearly knew of the existence of that person's trademark, and that person raises an opposition, the trademark shall not be registered.

第十六条　【地理标志】商标中有商品的地理标志，而该商品并非来源于该标志所标示的地区，误导公众的，不予注册并禁止使用；但是，已经善意取得注册的继续有效。

Article 16 [Geographical Indications] Where a trademark contains a geographical indication of goods but the goods do not originate from the region indicated by that sign, thus misleading the public, the trademark shall not be registered and its use shall be prohibited; however, those already registered in good faith shall remain valid.

前款所称地理标志，是指标示某商品来源于某地区，该商品的特定质量、信誉或者其他特征，主要由该地区的自然因素或者人文因素所决定的标志。

The geographical indication mentioned in the preceding paragraph means a sign indicating that certain goods originate from a certain region and that the specific quality, reputation or other characteristics of the goods are mainly determined by the natural or human factors of that region.

第十七条　【外国人或者外国企业在我国申请商标注册的原则】外国人或者外国企业在中国申请商标注册的，应当按其所属国和中华人民共和国签订的协议或者共同参加的国际条约办理，或者按对等原则办理。

Article 17 [Principles for Foreigners or Foreign Enterprises Applying for Trademark Registration in China] A foreigner or foreign enterprise applying for trademark registration in China shall do so in accordance with the agreement concluded between the country to which it belongs and the People's Republic of China or the international treaty to which both are parties, or in accordance with the principle of reciprocity.

第十八条　【商标代理】申请商标注册或者办理其他商标事宜，可以自行办理，也可以委托依法设立的商标代理机构办理。

Article 18 [Trademark Agency] An application for trademark registration or other trademark matters may be handled by the applicant itself or by a trademark agency established in accordance with the law entrusted thereby.

外国人或者外国企业在中国申请商标注册和办理其他商标事宜的，应当委托依法设立的商标代理机构办理。

A foreigner or foreign enterprise applying for trademark registration or handling other trademark matters in China shall entrust a trademark agency established in accordance with the law to act on its behalf.

第十九条　【商标代理机构的行为规范】商标代理机构应当遵循诚实信用原则，遵守法律、行政法规，按照被代理人的委托办理商标注册申请或者其他商标事宜；对在代理过程中知悉的被代理人的商业秘密，负有保密义务。

Article 19 [Code of Conduct for Trademark Agencies] A trademark agency shall follow the principle of good faith, abide by laws and administrative regulations, and handle trademark registration applications or other trademark matters as entrusted by the principal; it shall bear the obligation of keeping confidential the trade secrets of the principal learned in the course of agency.

委托人申请注册的商标可能存在本法规定不得注册情形的，商标代理机构应当明确告知委托人。

Where a trademark for which the client applies for registration may fall under the circumstances in which registration is not allowed as prescribed by this Law, the trademark agency shall explicitly inform the client.

商标代理机构知道或者应当知道委托人申请注册的商标属于本法第四条、第十五条和第三十二条规定情形的，不得接受其委托。

Where a trademark agency knows or should have known that the trademark for which the client applies for registration falls under the circumstances prescribed in Article 4, Article 15 or Article 32 of this Law, it may not accept the engagement.

商标代理机构除对其代理服务申请商标注册外，不得申请注册其他商标。

A trademark agency may not apply for the registration of trademarks other than those for its own agency services.

第二十条　【商标代理行业组织及会员管理】商标代理行业组织应当按照章程规定，严格执行吸纳会员的条件，对违反行业自律规范的会员实行惩戒。商标代理行业组织对其吸纳的会员和对会员的惩戒情况，应当及时向社会公布。

Article 20 [Trademark Agency Industry Organizations and Membership Management] A trademark agency industry organization shall, in accordance with its charter, strictly enforce the conditions for admitting members and impose disciplinary sanctions on members that violate industry self-discipline norms. A trademark agency industry organization shall promptly make public the members it admits and the disciplinary sanctions imposed on members.

第二十一条　【商标国际注册】商标国际注册遵循中华人民共和国缔结或者参加的有关国际条约确立的制度，具体办法由国务院规定。

Article 21 [International Registration of Trademarks] International registration of trademarks shall follow the system established by the relevant international treaties concluded or acceded to by the People's Republic of China, and the specific measures shall be prescribed by the State Council.

第二章　商标注册的申请

Chapter II Application for Trademark Registration

第二十二条　【商标注册申请的提出】商标注册申请人应当按规定的商品分类表填报使用商标的商品类别和商品名称，提出注册申请。

Article 22 [Filing of Trademark Registration Applications] An applicant for trademark registration shall fill in the class and name of the goods on which the trademark is to be used in accordance with the prescribed classification table of goods, and file an application for registration.

商标注册申请人可以通过一份申请就多个类别的商品申请注册同一商标。

An applicant for trademark registration may apply for registration of the same trademark for goods in multiple classes through a single application.

商标注册申请等有关文件，可以以书面方式或者数据电文方式提出。

Documents relating to trademark registration applications and the like may be filed in writing or in the form of data messages.

第二十三条　【核定使用范围之外需另行申请】注册商标需要在核定使用范围之外的商品上取得商标专用权的，应当另行提出注册申请。

Article 23 [Separate Application Required Beyond the Approved Scope of Use] Where a registered trademark needs to acquire the exclusive right to use the trademark on goods beyond the approved scope of use, a separate application for registration shall be filed.

第二十四条　【改变标志需重新注册】注册商标需要改变其标志的，应当重新提出注册申请。

Article 24 [Re-registration Required for Changing a Sign] Where a registered trademark needs to have its sign changed, a new application for registration shall be filed.

第二十五条　【优先权】商标注册申请人自其商标在外国第一次提出商标注册申请之日起六个月内，又在中国就相同商品以同一商标提出商标注册申请的，依照该外国同中国签订的协议或者共同参加的国际条约，或者按照相互承认优先权的原则，可以享有优先权。

Article 25 [Right of Priority] Where an applicant for trademark registration, within six months from the date on which it first files an application for trademark registration in a foreign country, files an application in China for registration of the same trademark on identical goods, it may enjoy the right of priority in accordance with the agreement concluded between that foreign country and China or the international treaty to which both are parties, or in accordance with the principle of mutual recognition of the right of priority.

依照前款要求优先权的，应当在提出商标注册申请的时候提出书面声明，并且在三个月内提交第一次提出的商标注册申请文件的副本；未提出书面声明或者逾期未提交商标注册申请文件副本的，视为未要求优先权。

To claim the right of priority in accordance with the preceding paragraph, the applicant shall make a written declaration at the time of filing the trademark registration application and submit, within three months, a copy of the trademark registration application documents of the first filing; where no written declaration is made or the copy of the trademark registration application documents is not submitted within the time limit, the applicant shall be deemed not to have claimed the right of priority.

第二十六条　【国际展览会展出商品上的商标注册申请人享有优先权】商标在中国政府主办的或者承认的国际展览会展出的商品上首次使用的，自该商品展出之日起六个月内，该商标的注册申请人可以享有优先权。

Article 26 [Right of Priority for Applicants for Registration of Trademarks on Goods Exhibited at International Exhibitions] Where a trademark is first used on goods exhibited at an international exhibition sponsored or recognized by the Chinese Government, the applicant for registration of that trademark may enjoy the right of priority within six months from the date on which the goods are exhibited.

依照前款要求优先权的，应当在提出商标注册申请的时候提出书面声明，并且在三个月内提交展出其商品的展览会名称、在展出商品上使用该商标的证据、展出日期等证明文件；未提出书面声明或者逾期未提交证明文件的，视为未要求优先权。

To claim the right of priority in accordance with the preceding paragraph, the applicant shall make a written declaration at the time of filing the trademark registration application and submit, within three months, supporting documents such as the name of the exhibition at which its goods were displayed, evidence of the use of the trademark on the exhibited goods, and the date of the exhibition; where no written declaration is made or the supporting documents are not submitted within the time limit, the applicant shall be deemed not to have claimed the right of priority.

第二十七条　【申请商标注册的行为规则】为申请商标注册所申报的事项和所提供的材料应当真实、准确、完整。

Article 27 [Rules of Conduct for Applying for Trademark Registration] The matters declared and the materials provided for an application for trademark registration shall be true, accurate and complete.

第三章　商标注册的审查和核准

Chapter III Examination and Approval of Trademark Registration

第二十八条　【初步审定】对申请注册的商标，商标局应当自收到商标注册申请文件之日起九个月内审查完毕，符合本法有关规定的，予以初步审定公告。

Article 28 [Preliminary Approval] For a trademark applied for registration, the Trademark Office shall complete its examination within nine months from the date of receipt of the trademark registration application documents, and if it conforms to the relevant provisions of this Law, give preliminary approval and announce it.

第二十九条　【说明或者修正】在审查过程中，商标局认为商标注册申请内容需要说明或者修正的，可以要求申请人做出说明或者修正。申请人未做出说明或者修正的，不影响商标局做出审查决定。

Article 29 [Explanation or Correction] In the course of examination, where the Trademark Office considers that the content of a trademark registration application needs explanation or correction, it may require the applicant to make such explanation or correction. Failure of the applicant to make an explanation or correction shall not affect the Trademark Office from making an examination decision.

第三十条　【驳回申请】申请注册的商标，凡不符合本法有关规定或者同他人在同一种商品或者类似商品上已经注册的或者初步审定的商标相同或者近似的，由商标局驳回申请，不予公告。

Article 30 [Rejection of Applications] Where a trademark applied for registration does not conform to the relevant provisions of this Law, or is identical with or similar to another person's trademark already registered or preliminarily approved on the same kind of goods or similar goods, the Trademark Office shall reject the application and shall not announce it.

第三十一条　【申请在先原则】两个或者两个以上的商标注册申请人，在同一种商品或者类似商品上，以相同或者近似的商标申请注册的，初步审定并公告申请在先的商标；同一天申请的，初步审定并公告使用在先的商标，驳回其他人的申请，不予公告。

Article 31 [First-to-File Principle] Where two or more applicants for trademark registration apply for registration of identical or similar trademarks on the same kind of goods or similar goods, the trademark applied for first shall be preliminarily approved and announced; where the applications are filed on the same day, the trademark used first shall be preliminarily approved and announced, and the applications of the others shall be rejected and not announced.

第三十二条　【保护在先权利和禁止恶意抢注】申请商标注册不得损害他人现有的在先权利，也不得以不正当手段抢先注册他人已经使用并有一定影响的商标。

Article 32 [Protection of Prior Rights and Prohibition of Malicious Preemptive Registration] An application for trademark registration may not impair the existing prior rights of others, nor may a trademark already used by another person and having a certain influence be preemptively registered by improper means.

第三十三条　【商标异议程序和核准注册】对初步审定公告的商标，自公告之日起三个月内，在先权利人、利害关系人认为违反本法第十三条第二款和第三款、第十五条、第十六条第一款、第三十条、第三十一条、第三十二条规定的，或者任何人认为违反本法第四条、第十条、第十一条、第十二条、第十九条第四款规定的，可以向商标局提出异议。公告期满无异议的，予以核准注册，发给商标注册证，并予公告。

Article 33 [Trademark Opposition Procedure and Approval of Registration] For a trademark preliminarily approved and announced, within three months from the date of announcement, a prior right holder or an interested party that considers it in violation of the provisions of the second and third paragraphs of Article 13, Article 15, the first paragraph of Article 16, Article 30, Article 31 or Article 32 of this Law, or any person that considers it in violation of the provisions of Article 4, Article 10, Article 11, Article 12 or the fourth paragraph of Article 19 of this Law, may raise an opposition to the Trademark Office. Where no opposition is raised upon the expiration of the announcement period, the trademark shall be approved for registration, a trademark registration certificate shall be issued, and the registration shall be announced.

第三十四条　【对驳回申请、不予公告的救济程序】对驳回申请、不予公告的商标，商标局应当书面通知商标注册申请人。商标注册申请人不服的，可以自收到通知之日起十五日内向商标评审委员会申请复审。商标评审委员会应当自收到申请之日起九个月内做出决定，并书面通知申请人。有特殊情况需要延长的，经国务院工商行政管理部门批准，可以延长三个月。当事人对商标评审委员会的决定不服的，可以自收到通知之日起三十日内向人民法院起诉。

Article 34 [Remedy Procedure for Rejection of Application and Non-Announcement] For a trademark whose application is rejected and not announced, the Trademark Office shall notify the applicant for trademark registration in writing. Where the applicant is not satisfied, it may, within fifteen days from the date of receipt of the notification, apply to the Trademark Review and Adjudication Board for reexamination. The Trademark Review and Adjudication Board shall make a decision within nine months from the date of receipt of the application and notify the applicant in writing. Where special circumstances require an extension, the extension may be three months upon approval by the administrative department for industry and commerce under the State Council. Where a party is not satisfied with the decision of the Trademark Review and Adjudication Board, it may, within thirty days from the date of receipt of the notification, bring a suit before a people's court.

第三十五条　【商标异议的处理程序】对初步审定公告的商标提出异议的，商标局应当听取异议人和被异议人陈述事实和理由，经调查核实后，自公告期满之日起十二个月内做出是否准予注册的决定，并书面通知异议人和被异议人。有特殊情况需要延长的，经国务院工商行政管理部门批准，可以延长六个月。

Article 35 [Procedure for Handling Trademark Oppositions] Where an opposition is raised against a trademark preliminarily approved and announced, the Trademark Office shall hear the facts and reasons stated by the opponent and the opposed party, and after investigation and verification, make a decision on whether to approve the registration within twelve months from the expiration of the announcement period, and notify the opponent and the opposed party in writing. Where special circumstances require an extension, the extension may be six months upon approval by the administrative department for industry and commerce under the State Council.

商标局做出准予注册决定的，发给商标注册证，并予公告。异议人不服的，可以依照本法第四十四条、第四十五条的规定向商标评审委员会请求宣告该注册商标无效。

Where the Trademark Office makes a decision approving registration, it shall issue a trademark registration certificate and announce it. Where the opponent is not satisfied, it may, in accordance with the provisions of Article 44 and Article 45 of this Law, request the Trademark Review and Adjudication Board to declare the registered trademark invalid.

商标局做出不予注册决定，被异议人不服的，可以自收到通知之日起十五日内向商标评审委员会申请复审。商标评审委员会应当自收到申请之日起十二个月内做出复审决定，并书面通知异议人和被异议人。有特殊情况需要延长的，经国务院工商行政管理部门批准，可以延长六个月。被异议人对商标评审委员会的决定不服的，可以自收到通知之日起三十日内向人民法院起诉。人民法院应当通知异议人作为第三人参加诉讼。

Where the Trademark Office makes a decision not to approve registration and the opposed party is not satisfied, it may, within fifteen days from the date of receipt of the notification, apply to the Trademark Review and Adjudication Board for reexamination. The Trademark Review and Adjudication Board shall make a reexamination decision within twelve months from the date of receipt of the application and notify the opponent and the opposed party in writing. Where special circumstances require an extension, the extension may be six months upon approval by the administrative department for industry and commerce under the State Council. Where the opposed party is not satisfied with the decision of the Trademark Review and Adjudication Board, it may, within thirty days from the date of receipt of the notification, bring a suit before a people's court. The people's court shall notify the opponent to participate in the litigation as a third party.

商标评审委员会在依照前款规定进行复审的过程中，所涉及的在先权利的确定必须以人民法院正在审理或者行政机关正在处理的另一案件的结果为依据的，可以中止审查。中止原因消除后，应当恢复审查程序。

Where, in the course of reexamination conducted by the Trademark Review and Adjudication Board in accordance with the provisions of the preceding paragraph, the determination of the prior rights involved must be based on the outcome of another case being tried by a people's court or being handled by an administrative organ, the examination may be suspended. After the grounds for suspension cease to exist, the examination procedure shall be resumed.

第三十六条　【决定的生效时间、专用权取得时间及其效力】法定期限届满，当事人对商标局做出的驳回申请决定、不予注册决定不申请复审或者对商标评审委员会做出的复审决定不向人民法院起诉的，驳回申请决定、不予注册决定或者复审决定生效。

Article 36 [Time of Effectiveness of Decisions, Time of Acquisition of Exclusive Rights and Their Effect] Where, upon the expiration of the statutory time limit, a party does not apply for reexamination of the Trademark Office's decision to reject an application or not to approve registration, or does not bring a suit before a people's court against the reexamination decision made by the Trademark Review and Adjudication Board, the decision to reject the application, the decision not to approve registration or the reexamination decision shall take effect.

经审查异议不成立而准予注册的商标，商标注册申请人取得商标专用权的时间自初步审定公告三个月期满之日起计算。自该商标公告期满之日起至准予注册决定做出前，对他人在同一种或者类似商品上使用与该商标相同或者近似的标志的行为不具有追溯力；但是，因该使用人的恶意给商标注册人造成的损失，应当给予赔偿。

For a trademark approved for registration upon examination finding the opposition untenable, the time at which the applicant for trademark registration acquires the exclusive right to use the trademark shall be computed from the date of expiration of the three-month period of the preliminary approval announcement. From the date of expiration of the announcement period of the trademark until the making of the decision approving registration, there shall be no retroactive effect against another person's use of a sign identical with or similar to the trademark on the same kind of or similar goods; however, losses caused to the trademark registrant by the user's malicious intent shall be compensated.

第三十七条　【及时审查】对商标注册申请和商标复审申请应当及时进行审查。

Article 37 [Timely Examination] Applications for trademark registration and applications for trademark reexamination shall be examined in a timely manner.

第三十八条　【更正】商标注册申请人或者注册人发现商标申请文件或者注册文件有明显错误的，可以申请更正。商标局依法在其职权范围内作出更正，并通知当事人。

Article 38 [Correction] Where an applicant for trademark registration or a registrant finds an obvious error in the trademark application documents or registration documents, it may apply for correction. The Trademark

Office shall, in accordance with the law and within the scope of its functions and powers, make the correction and notify the party concerned.

前款所称更正错误不涉及商标申请文件或者注册文件的实质性内容。

The correction of an error mentioned in the preceding paragraph shall not involve the substantive content of the trademark application documents or registration documents.

第四章　注册商标的续展、变更、转让和使用许可

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

第三十九条　【有效期】注册商标的有效期为十年，自核准注册之日起计算。

Article 39 [Term of Validity] The term of validity of a registered trademark is ten years, computed from the date of approval of registration.

第四十条　【续展】注册商标有效期满，需要继续使用的，商标注册人应当在期满前十二个月内按照规定办理续展手续；在此期间未能办理的，可以给予六个月的宽展期。每次续展注册的有效期为十年，自该商标上一届有效期满次日起计算。期满未办理续展手续的，注销其注册商标。

Article 40 [Renewal] Where a registered trademark needs to continue to be used upon the expiration of its term of validity, the trademark registrant shall complete the renewal formalities in accordance with the provisions within twelve months before the expiration; where it fails to do so within this period, a grace period of six months may be granted. The term of validity of each renewed registration is ten years, computed from the day following the expiration of the preceding term of validity of the trademark. Where the renewal formalities are not completed upon the expiration of the term, the registered trademark shall be cancelled.

商标局应当对续展注册的商标予以公告。

The Trademark Office shall announce renewed trademark registrations.

第四十一条　【变更】注册商标需要变更注册人的名义、地址或者其他注册事项的，应当提出变更申请。

Article 41 [Modification] Where a registered trademark needs to have the name, address or other registered matters of the registrant changed, an application for modification shall be filed.

第四十二条　【转让】转让注册商标的，转让人和受让人应当签订转让协议，并共同向商标局提出申请。受让人应当保证使用该注册商标的商品质量。

Article 42 [Assignment] To assign a registered trademark, the assignor and the assignee shall sign an assignment agreement and jointly file an application with the Trademark Office. The assignee shall guarantee the quality of the goods on which the registered trademark is used.

转让注册商标的，商标注册人对其在同一种商品上注册的近似的商标，或者在类似商品上注册的相同或者近似的商标，应当一并转让。

To assign a registered trademark, the trademark registrant shall assign together with it the similar trademarks registered by it on the same kind of goods, or the identical or similar trademarks registered on similar goods.

对容易导致混淆或者有其他不良影响的转让，商标局不予核准，书面通知申请人并说明理由。

The Trademark Office shall not approve an assignment that is likely to cause confusion or has other adverse effects, and shall notify the applicant in writing and state the reasons.

转让注册商标经核准后，予以公告。受让人自公告之日起享有商标专用权。

An assignment of a registered trademark shall be announced after approval. The assignee shall enjoy the exclusive right to use the trademark from the date of announcement.

第四十三条　【使用许可】商标注册人可以通过签订商标使用许可合同，许可他人使用其注册商标。许可人应当监督被许可人使用其注册商标的商品质量。被许可人应当保证使用该注册商标的商品质量。

Article 43 [Licensing for Use] A trademark registrant may, by concluding a trademark license contract, license another person to use its registered trademark. The licensor shall supervise the quality of the goods on which the licensee uses its registered trademark. The licensee shall guarantee the quality of the goods on which the registered trademark is used.

经许可使用他人注册商标的，必须在使用该注册商标的商品上标明被许可人的名称和商品产地。

Where another person's registered trademark is used under license, the name of the licensee and the place of origin of the goods must be indicated on the goods bearing the registered trademark.

许可他人使用其注册商标的，许可人应当将其商标使用许可报商标局备案，由商标局公告。商标使用许可未经备案不得对抗善意第三人。

Where a licensor licenses another person to use its registered trademark, the licensor shall report the trademark license to the Trademark Office for recordation, and the Trademark Office shall announce it. A trademark license that has not been recorded may not be asserted against a third party in good faith.

第五章　注册商标的无效宣告

Chapter V Declaration of Invalidity of Registered Trademarks

第四十四条　【违反绝对拒绝注册理由的无效宣告程序】已经注册的商标，违反本法第四条、第十条、第十一条、第十二条、第十九条第四款规定的，或者是以欺骗手段或者其他不正当手段取得注册的，由商标局宣告该注册商标无效；其他单位或者个人可以请求商标评审委员会宣告该注册商标无效。

Article 44 [Invalidation Procedure for Violation of Absolute Grounds for Refusal of Registration] Where a registered trademark violates the provisions of Article 4, Article 10, Article 11, Article 12 or the fourth paragraph of Article 19 of this Law, or its registration was obtained by fraudulent or other improper means, the Trademark Office shall declare the registered trademark invalid; any other entity or individual may request the Trademark Review and Adjudication Board to declare the registered trademark invalid.

商标局做出宣告注册商标无效的决定，应当书面通知当事人。当事人对商标局的决定不服的，可以自收到通知之日起十五日内向商标评审委员会申请复审。商标评审委员会应当自收到申请之日起九个月内做出决定，并书面通知当事人。有特殊情况需要延长的，经国务院工商行政管理部门批准，可以延长三个月。当事人对商标评审委员会的决定不服的，可以自收到通知之日起三十日内向人民法院起诉。

The Trademark Office shall notify the party concerned in writing of its decision to declare a registered trademark invalid. Where the party is not satisfied with the decision of the Trademark Office, it may, within fifteen days from the date of receipt of the notification, apply to the Trademark Review and Adjudication Board for reexamination. The Trademark Review and Adjudication Board shall make a decision within nine months from the date of receipt of the application and notify the party in writing. Where special circumstances require an extension, the extension may be three months upon approval by the administrative department for industry and commerce under the State Council. Where the party is not satisfied with the decision of the Trademark Review and Adjudication Board, it may, within thirty days from the date of receipt of the notification, bring a suit before a people's court.

其他单位或者个人请求商标评审委员会宣告注册商标无效的，商标评审委员会收到申请后，应当书面通知有关当事人，并限期提出答辩。商标评审委员会应当自收到申请之日起九个月内做出维持注册商标或者宣告注册商标无效的裁定，并书面通知当事人。有特殊情况需要延长的，经国务院工商行政管理部门批准，可以延长三个月。当事人对商标评审委员会的裁定不服的，可以自收到通知之日起三十日内向人民法院起诉。人民法院应当通知商标裁定程序的对方当事人作为第三人参加诉讼。

Where any other entity or individual requests the Trademark Review and Adjudication Board to declare a registered trademark invalid, the Trademark Review and Adjudication Board shall, upon receipt of the application, notify the relevant parties in writing and set a time limit for them to submit a defense. The

Trademark Review and Adjudication Board shall, within nine months from the date of receipt of the application, make an adjudication upholding the registered trademark or declaring the registered trademark invalid, and notify the parties in writing. Where special circumstances require an extension, the extension may be three months upon approval by the administrative department for industry and commerce under the State Council. Where a party is not satisfied with the adjudication of the Trademark Review and Adjudication Board, it may, within thirty days from the date of receipt of the notification, bring a suit before a people's court. The people's court shall notify the opposing party in the trademark adjudication procedure to participate in the litigation as a third party.

第四十五条　【违反相对拒绝注册理由的无效宣告程序】已经注册的商标，违反本法第十三条第二款和第三款、第十五条、第十六条第一款、第三十条、第三十一条、第三十二条规定的，自商标注册之日起五年内，在先权利人或者利害关系人可以请求商标评审委员会宣告该注册商标无效。对恶意注册的，驰名商标所有人不受五年的时间限制。

Article 45 [Invalidation Procedure for Violation of Relative Grounds for Refusal of Registration] Where a registered trademark violates the provisions of the second and third paragraphs of Article 13, Article 15, the first paragraph of Article 16, Article 30, Article 31 or Article 32 of this Law, a prior right holder or an interested party may, within five years from the date of registration of the trademark, request the Trademark Review and Adjudication Board to declare the registered trademark invalid. For malicious registration, the owner of a well-known trademark is not subject to the five-year time limit.

商标评审委员会收到宣告注册商标无效的申请后，应当书面通知有关当事人，并限期提出答辩。商标评审委员会应当自收到申请之日起十二个月内做出维持注册商标或者宣告注册商标无效的裁定，并书面通知当事人。有特殊情况需要延长的，经国务院工商行政管理部门批准，可以延长六个月。当事人对商标评审委员会的裁定不服的，可以自收到通知之日起三十日内向人民法院起诉。人民法院应当通知商标裁定程序的对方当事人作为第三人参加诉讼。

The Trademark Review and Adjudication Board shall, upon receipt of an application for declaring a registered trademark invalid, notify the relevant parties in writing and set a time limit for them to submit a defense. The Trademark Review and Adjudication Board shall, within twelve months from the date of receipt of the application, make an adjudication upholding the registered trademark or declaring the registered trademark invalid, and notify the parties in writing. Where special circumstances require an extension, the extension may be six months upon approval by the administrative department for industry and commerce under the State Council. Where a party is not satisfied with the adjudication of the Trademark Review and Adjudication Board, it may, within thirty days from the date of receipt of the notification, bring a suit before a people's court. The people's court shall notify the opposing party in the trademark adjudication procedure to participate in the litigation as a third party.

商标评审委员会在依照前款规定对无效宣告请求进行审查的过程中，所涉及的在先权利的确定必须以人民法院正在审理或者行政机关正在处理的另一案件的结果为依据的，可以中止审查。中止原因消除后，应当恢复审查程序。

Where, in the course of examination by the Trademark Review and Adjudication Board of a request for invalidation in accordance with the provisions of the preceding paragraph, the determination of the prior rights involved must be based on the outcome of another case being tried by a people's court or being handled by an administrative organ, the examination may be suspended. After the grounds for suspension cease to exist, the examination procedure shall be resumed.

第四十六条　【无效审查决定、裁定的生效】法定期限届满，当事人对商标局宣告注册商标无效的决定不申请复审或者对商标评审委员会的复审决定、维持注册商标或者宣告注册商标无效的裁定不向人民法

院起诉的，商标局的决定或者商标评审委员会的复审决定、裁定生效。

Article 46 [Effectiveness of Invalidation Examination Decisions and Adjudications] Where, upon the expiration of the statutory time limit, a party does not apply for reexamination of the Trademark Office's decision declaring a registered trademark invalid, or does not bring a suit before a people's court against the Trademark Review and Adjudication Board's reexamination decision or its adjudication upholding a registered trademark or declaring a registered trademark invalid, the decision of the Trademark Office or the reexamination decision or adjudication of the Trademark Review and Adjudication Board shall take effect.

第四十七条　【宣告注册商标无效的法律效力】依照本法第四十四条、第四十五条的规定宣告无效的注册商标，由商标局予以公告，该注册商标专用权视为自始即不存在。

Article 47 [Legal Effect of Declaration of Invalidity of a Registered Trademark] A registered trademark declared invalid in accordance with the provisions of Article 44 or Article 45 of this Law shall be announced by the Trademark Office, and the exclusive right to use the registered trademark shall be deemed never to have existed.

宣告注册商标无效的决定或者裁定，对宣告无效前人民法院做出并已执行的商标侵权案件的判决、裁定、调解书和工商行政管理部门做出并已执行的商标侵权案件的处理决定以及已经履行的商标转让或者使用许可合同不具有追溯力。但是，因商标注册人的恶意给他人造成的损失，应当给予赔偿。

A decision or adjudication declaring a registered trademark invalid shall have no retroactive effect on judgments, rulings or mediation statements of trademark infringement cases made and enforced by a people's court before the declaration of invalidity, on handling decisions of trademark infringement cases made and enforced by administrative departments for industry and commerce, or on trademark assignment or license contracts already performed. However, losses caused to others by the malicious intent of the trademark registrant shall be compensated.

依照前款规定不返还商标侵权赔偿金、商标转让费、商标使用费，明显违反公平原则的，应当全部或者部分返还。

Where, in accordance with the provisions of the preceding paragraph, the failure to return trademark infringement damages, trademark assignment fees or trademark royalties would clearly violate the principle of fairness, they shall be returned in whole or in part.

第六章　商标使用的管理

Chapter VI Administration of Trademark Use

第四十八条　【商标使用】本法所称商标的使用，是指将商标用于商品、商品包装或者容器以及商品交易文书上，或者将商标用于广告宣传、展览以及其他商业活动中，用于识别商品来源的行为。

Article 48 [Use of Trademarks] For the purposes of this Law, the use of a trademark means the act of using a trademark on goods, on the packaging or containers of goods and on transaction documents for goods, or using a trademark in advertising, exhibitions and other commercial activities, for identifying the source of goods.

第四十九条　【注册商标的撤销】商标注册人在使用注册商标的过程中，自行改变注册商标、注册人名义、地址或者其他注册事项的，由地方工商行政管理部门责令限期改正；期满不改正的，由商标局撤销其注册商标。

Article 49 [Revocation of Registered Trademarks] Where a trademark registrant, in the course of using a registered trademark, on its own initiative changes the registered trademark, the name or address of the registrant or other registered matters, the local administrative department for industry and commerce shall order it to make corrections within a prescribed time limit; where it fails to make corrections upon the expiration of the time limit, the Trademark Office shall revoke its registered trademark.

注册商标成为其核定使用的商品的通用名称或者没有正当理由连续三年不使用的，任何单位或者个人可以向商标局申请撤销该注册商标。商标局应当自收到申请之日起九个月内做出决定。有特殊情况需要延

长的，经国务院工商行政管理部门批准，可以延长三个月。

Where a registered trademark becomes the generic name of the goods for which it is approved for use, or has not been used for three consecutive years without justifiable reasons, any entity or individual may apply to the Trademark Office for revocation of the registered trademark. The Trademark Office shall make a decision within nine months from the date of receipt of the application. Where special circumstances require an extension, the extension may be three months upon approval by the administrative department for industry and commerce under the State Council.

第五十条　【被撤销、被宣告无效或者被注销商标的管理】注册商标被撤销、被宣告无效或者期满不再续展的，自撤销、宣告无效或者注销之日起一年内，商标局对与该商标相同或者近似的商标注册申请，不予核准。

Article 50 [Administration of Revoked, Invalidated or Cancelled Trademarks] Where a registered trademark is revoked, declared invalid or not renewed upon expiration, the Trademark Office shall, within one year from the date of revocation, declaration of invalidity or cancellation, not approve applications for registration of trademarks identical with or similar to that trademark.

第五十一条　【违反强制注册的法律责任】违反本法第六条规定的，由地方工商行政管理部门责令限期申请注册，违法经营额五万元以上的，可以处违法经营额百分之二十以下的罚款，没有违法经营额或者违法经营额不足五万元的，可以处一万元以下的罚款。

Article 51 [Legal Liability for Violation of Compulsory Registration] Whoever violates the provisions of Article 6 of this Law shall be ordered by the local administrative department for industry and commerce to apply for registration within a prescribed time limit; where the amount of illegal business revenue is 50,000 yuan or more, a fine of not more than twenty percent of the illegal business revenue may be imposed; where there is no illegal business revenue or the illegal business revenue is less than 50,000 yuan, a fine of not more than 10,000 yuan may be imposed.

第五十二条　【不当使用未注册商标的法律责任】将未注册商标冒充注册商标使用的，或者使用未注册商标违反本法第十条规定的，由地方工商行政管理部门予以制止，限期改正，并可以予以通报，违法经营额五万元以上的，可以处违法经营额百分之二十以下的罚款，没有违法经营额或者违法经营额不足五万元的，可以处一万元以下的罚款。

Article 52 [Legal Liability for Improper Use of Unregistered Trademarks] Whoever passes off an unregistered trademark as a registered trademark, or uses an unregistered trademark in violation of the provisions of Article 10 of this Law, shall be stopped by the local administrative department for industry and commerce, ordered to make corrections within a prescribed time limit, and may be circulated a notice of criticism; where the amount of illegal business revenue is 50,000 yuan or more, a fine of not more than twenty percent of the illegal business revenue may be imposed; where there is no illegal business revenue or the illegal business revenue is less than 50,000 yuan, a fine of not more than 10,000 yuan may be imposed.

第五十三条　【违法使用“驰名商标”字样的法律责任】违反本法第十四条第五款规定的，由地方工商行政管理部门责令改正，处十万元罚款。

Article 53 [Legal Liability for Illegal Use of the Words “Well-Known Trademark”] Whoever violates the provisions of the fifth paragraph of Article 14 of this Law shall be ordered by the local administrative department for industry and commerce to make corrections and be fined 100,000 yuan.

第五十四条　【撤销或不予撤销决定的复审】对商标局撤销或者不予撤销注册商标的决定，当事人不服的，可以自收到通知之日起十五日内向商标评审委员会申请复审。商标评审委员会应当自收到申请之日起九个月内做出决定，并书面通知当事人。有特殊情况需要延长的，经国务院工商行政管理部门批准，

可以延长三个月。当事人对商标评审委员会的决定不服的，可以自收到通知之日起三十日内向人民法院起诉。

Article 54 [Reexamination of Revocation or Non-Revocation Decisions] Where a party is not satisfied with the Trademark Office's decision to revoke or not to revoke a registered trademark, it may, within fifteen days from the date of receipt of the notification, apply to the Trademark Review and Adjudication Board for reexamination. The Trademark Review and Adjudication Board shall make a decision within nine months from the date of receipt of the application and notify the party in writing. Where special circumstances require an extension, the extension may be three months upon approval by the administrative department for industry and commerce under the State Council. Where the party is not satisfied with the decision of the Trademark Review and Adjudication Board, it may, within thirty days from the date of receipt of the notification, bring a suit before a people's court.

第五十五条　【撤销决定的生效及其效力】法定期限届满，当事人对商标局做出的撤销注册商标的决定不申请复审或者对商标评审委员会做出的复审决定不向人民法院起诉的，撤销注册商标的决定、复审决定生效。

Article 55 [Effectiveness and Effect of Revocation Decisions] Where, upon the expiration of the statutory time limit, a party does not apply for reexamination of the Trademark Office's decision to revoke a registered trademark, or does not bring a suit before a people's court against the reexamination decision made by the Trademark Review and Adjudication Board, the decision to revoke the registered trademark or the reexamination decision shall take effect.

被撤销的注册商标，由商标局予以公告，该注册商标专用权自公告之日起终止。

A revoked registered trademark shall be announced by the Trademark Office, and the exclusive right to use the registered trademark shall terminate from the date of announcement.

第七章　注册商标专用权的保护

Chapter VII Protection of the Exclusive Right to Use Registered Trademarks

第五十六条　【保护范围】注册商标的专用权，以核准注册的商标和核定使用的商品为限。

Article 56 [Scope of Protection] The exclusive right to use a registered trademark is limited to the trademark approved for registration and the goods approved for use.

第五十七条　【商标侵权的情形】有下列行为之一的，均属侵犯注册商标专用权：

Article 57 [Circumstances of Trademark Infringement] Any of the following acts constitutes an infringement of the exclusive right to use a registered trademark:

（一）未经商标注册人的许可，在同一种商品上使用与其注册商标相同的商标的；

(1) using a trademark identical with a registered trademark on the same kind of goods without the permission of the trademark registrant;

（二）未经商标注册人的许可，在同一种商品上使用与其注册商标近似的商标，或者在类似商品上使用与其注册商标相同或者近似的商标，容易导致混淆的；

(2) using, without the permission of the trademark registrant, a trademark similar to the registered trademark on the same kind of goods, or using a trademark identical with or similar to the registered trademark on similar goods, which is likely to cause confusion;

（三）销售侵犯注册商标专用权的商品的；

(3) selling goods that infringe upon the exclusive right to use a registered trademark;

（四）伪造、擅自制造他人注册商标标识或者销售伪造、擅自制造的注册商标标识的；

(4) forging or manufacturing without authorization the representations of another person's registered trademark, or selling such forged or unauthorized representations of a registered trademark;

（五）未经商标注册人同意，更换其注册商标并将该更换商标的商品又投入市场的；

(5) altering a registered trademark without the consent of the trademark registrant and putting the goods bearing the altered trademark back onto the market;

（六）故意为侵犯他人商标专用权行为提供便利条件，帮助他人实施侵犯商标专用权行为的；

(6) intentionally providing convenience for acts infringing upon another person's exclusive right to use a trademark, or helping another person commit acts infringing upon the exclusive right to use a trademark;

（七）给他人的注册商标专用权造成其他损害的。

(7) otherwise causing damage to another person's exclusive right to use a registered trademark.

第五十八条　【将商标用作企业字号的管理】将他人注册商标、未注册的驰名商标作为企业名称中的字号使用，误导公众，构成不正当竞争行为的，依照《中华人民共和国反不正当竞争法》处理。

Article 58 [Administration of Using Trademarks as Enterprise Trade Names] Whoever uses another person's registered trademark or unregistered well-known trademark as the trade name in its enterprise name, misleading the public and constituting an act of unfair competition, shall be handled in accordance with the Anti-Unfair Competition Law of the People's Republic of China.

第五十九条　【注册商标专用权的限制】注册商标中含有的本商品的通用名称、图形、型号，或者直接表示商品的质量、主要原料、功能、用途、重量、数量及其他特点，或者含有的地名，注册商标专用权人无权禁止他人正当使用。

Article 59 [Limitations on the Exclusive Right to Use Registered Trademarks] Where a registered trademark contains the generic name, device or model number of the goods concerned, or directly indicates the quality, main raw materials, function, use, weight, quantity or other characteristics of the goods, or contains a place name, the holder of the exclusive right to use the registered trademark has no right to prohibit others from fairly using such content.

三维标志注册商标中含有的商品自身的性质产生的形状、为获得技术效果而需有的商品形状或者使商品具有实质性价值的形状，注册商标专用权人无权禁止他人正当使用。

Where a three-dimensional sign registered trademark contains a shape resulting from the nature of the goods themselves, a shape of the goods necessary for achieving a technical effect, or a shape that gives substantial value to the goods, the holder of the exclusive right to use the registered trademark has no right to prohibit others from fairly using such shapes.

商标注册人申请商标注册前，他人已经在同一种商品或者类似商品上先于商标注册人使用与注册商标相同或者近似并有一定影响的商标的，注册商标专用权人无权禁止该使用人在原使用范围内继续使用该商标，但可以要求其附加适当区别标识。

Where, before a trademark registrant applies for trademark registration, another person has already used, ahead of the trademark registrant, a trademark identical with or similar to the registered trademark on the same kind of goods or similar goods with a certain influence, the holder of the exclusive right to use the registered trademark has no right to prohibit that user from continuing to use the trademark within the original scope of use, but may require it to add an appropriate distinguishing sign.

第六十条　【商标侵权的处理】有本法第五十七条所列侵犯注册商标专用权行为之一，引起纠纷的，由当事人协商解决；不愿协商或者协商不成的，商标注册人或者利害关系人可以向人民法院起诉，也可以请求工商行政管理部门处理。

Article 60 [Handling of Trademark Infringement] Where a dispute arises from any of the acts infringing upon the exclusive right to use a registered trademark listed in Article 57 of this Law, the parties shall resolve it through consultation; where they are unwilling to consult or the consultation fails, the trademark registrant or an interested party may bring a suit before a people's court, or request the administrative department for industry and commerce to handle the matter.

工商行政管理部门处理时，认定侵权行为成立的，责令立即停止侵权行为，没收、销毁侵权商品和主要用于制造侵权商品、伪造注册商标标识的工具，违法经营额五万元以上的，可以处违法经营额五倍以下的罚款，没有违法经营额或者违法经营额不足五万元的，可以处二十五万元以下的罚款。对五年内实施两次以上商标侵权行为或者有其他严重情节的，应当从重处罚。销售不知道是侵犯注册商标专用权的商品，能证明该商品是自己合法取得并说明提供者的，由工商行政管理部门责令停止销售。

Where the administrative department for industry and commerce, in handling the matter, finds the infringing act established, it shall order the immediate cessation of the infringing act, confiscate and destroy the infringing goods and the tools mainly used for manufacturing the infringing goods or forging the representations of the registered trademark; where the amount of illegal business revenue is 50,000 yuan or more, a fine of not more than five times the illegal business revenue may be imposed; where there is no illegal business revenue or the illegal business revenue is less than 50,000 yuan, a fine of not more than 250,000 yuan may be imposed. Whoever has committed trademark infringement twice or more within five years or under other serious circumstances shall be given a heavier punishment. Whoever sells goods without knowing that they infringe upon the exclusive right to use a registered trademark, and can prove that the goods were lawfully obtained by it and indicate the supplier, shall be ordered by the administrative department for industry and commerce to stop the sale.

对侵犯商标专用权的赔偿数额的争议，当事人可以请求进行处理的工商行政管理部门调解，也可以依照《中华人民共和国民事诉讼法》向人民法院起诉。经工商行政管理部门调解，当事人未达成协议或者调解书生效后不履行的，当事人可以依照《中华人民共和国民事诉讼法》向人民法院起诉。

For a dispute over the amount of damages for infringement of the exclusive right to use a trademark, the parties may request mediation by the administrative department for industry and commerce handling the matter, or bring a suit before a people's court in accordance with the Civil Procedure Law of the People's Republic of China. Where, after mediation by the administrative department for industry and commerce, the parties fail to reach an agreement or fail to perform after the mediation statement takes effect, the parties may bring a suit before a people's court in accordance with the Civil Procedure Law of the People's Republic of China.

第六十一条　【商标侵权的查处和司法移送】对侵犯注册商标专用权的行为，工商行政管理部门有权依法查处；涉嫌犯罪的，应当及时移送司法机关依法处理。

Article 61 [Investigation and Handling of Trademark Infringement and Judicial Referral] The administrative departments for industry and commerce have the power to investigate and handle, in accordance with the law, acts infringing upon the exclusive right to use registered trademarks; where a crime is suspected, the case shall be promptly transferred to the judicial organ for handling in accordance with the law.

第六十二条　【工商部门的职权及中止查处】县级以上工商行政管理部门根据已经取得的违法嫌疑证据或者举报，对涉嫌侵犯他人注册商标专用权的行为进行查处时，可以行使下列职权：

Article 62 [Functions and Powers of the Administrative Departments for Industry and Commerce and Suspension of Investigation] When an administrative department for industry and commerce at or above the county level, on the basis of evidence of suspected violations already obtained or a report, investigates and handles an act suspected of infringing upon another person's exclusive right to use a registered trademark, it may exercise the following functions and powers:

（一）询问有关当事人，调查与侵犯他人注册商标专用权有关的情况；

(1) questioning the parties concerned and investigating the circumstances related to the infringement of another person's exclusive right to use a registered trademark;

（二）查阅、复制当事人与侵权活动有关的合同、发票、账簿以及其他有关资料；

(2) consulting and reproducing the parties' contracts, invoices, account books and other relevant materials related to the infringing activities;

（三）对当事人涉嫌从事侵犯他人注册商标专用权活动的场所实施现场检查；

(3) conducting on-site inspections of the premises where the parties are suspected of engaging in activities infringing upon another person's exclusive right to use a registered trademark;

（四）检查与侵权活动有关的物品；对有证据证明是侵犯他人注册商标专用权的物品，可以查封或者扣押。

(4) inspecting articles related to the infringing activities; and sealing up or seizing articles for which there is evidence of infringement of another person's exclusive right to use a registered trademark.

工商行政管理部门依法行使前款规定的职权时，当事人应当予以协助、配合，不得拒绝、阻挠。

When an administrative department for industry and commerce exercises the functions and powers prescribed in the preceding paragraph in accordance with the law, the parties shall assist and cooperate and may not refuse or obstruct.

在查处商标侵权案件过程中，对商标权属存在争议或者权利人同时向人民法院提起商标侵权诉讼的，工商行政管理部门可以中止案件的查处。中止原因消除后，应当恢复或者终结案件查处程序。

In the course of investigating and handling a trademark infringement case, where the ownership of the trademark right is in dispute or the right holder simultaneously brings a trademark infringement lawsuit before a people's court, the administrative department for industry and commerce may suspend the investigation and handling of the case. After the grounds for suspension cease to exist, the investigation and handling procedure of the case shall be resumed or terminated.

第六十三条　【商标侵权的赔偿数额】侵犯商标专用权的赔偿数额，按照权利人因被侵权所受到的实际损失确定；实际损失难以确定的，可以按照侵权人因侵权所获得的利益确定；权利人的损失或者侵权人获得的利益难以确定的，参照该商标许可使用费的倍数合理确定。对恶意侵犯商标专用权，情节严重的，可以在按照上述方法确定数额的一倍以上五倍以下确定赔偿数额。赔偿数额应当包括权利人为制止侵权行为所支付的合理开支。

Article 63 [Amount of Damages for Trademark Infringement] The amount of damages for infringement of the exclusive right to use a trademark shall be determined according to the actual losses suffered by the right holder as a result of the infringement; where the actual losses are difficult to determine, the amount may be determined according to the benefits obtained by the infringer as a result of the infringement; where the losses of the right holder or the benefits obtained by the infringer are difficult to determine, the amount shall be reasonably determined with reference to a multiple of the trademark license royalties. For malicious infringement of the exclusive right to use a trademark, where the circumstances are serious, the amount of damages may be determined at not less than one time nor more than five times the amount determined in accordance with the above method. The amount of damages shall include the reasonable expenses paid by the right holder to stop the infringing act.

人民法院为确定赔偿数额，在权利人已经尽力举证，而与侵权行为相关的账簿、资料主要由侵权人掌握的情况下，可以责令侵权人提供与侵权行为相关的账簿、资料；侵权人不提供或者提供虚假的账簿、资料的，人民法院可以参考权利人的主张和提供的证据判定赔偿数额。

For the purpose of determining the amount of damages, where the right holder has made every effort to adduce evidence and the account books and materials related to the infringing act are mainly in the possession of the infringer, the people's court may order the infringer to provide the account books and materials related to the infringing act; where the infringer fails to provide them or provides false account books or materials, the people's court may determine the amount of damages with reference to the claims of the right holder and the evidence provided by it.

权利人因被侵权所受到的实际损失、侵权人因侵权所获得的利益、注册商标许可使用费难以确定的，由人民法院根据侵权行为的情节判决给予五百万元以下的赔偿。

Where the actual losses suffered by the right holder as a result of the infringement, the benefits obtained by the infringer as a result of the infringement and the registered trademark license royalties are difficult to determine, the people's court shall, according to the circumstances of the infringing act, render a judgment awarding damages of not more than 5,000,000 yuan.

人民法院审理商标纠纷案件，应权利人请求，对属于假冒注册商标的商品，除特殊情况外，责令销毁；对主要用于制造假冒注册商标的商品的材料、工具，责令销毁，且不予补偿；或者在特殊情况下，责令禁止前述材料、工具进入商业渠道，且不予补偿。

In trying a trademark dispute case, the people's court shall, at the request of the right holder, order the destruction of goods bearing a counterfeit registered trademark, except under special circumstances; order the destruction, without compensation, of the materials and tools mainly used for manufacturing goods bearing a counterfeit registered trademark; or, under special circumstances, order the prohibition, without compensation, of the aforesaid materials and tools from entering commercial channels.

假冒注册商标的商品不得在仅去除假冒注册商标后进入商业渠道。

Goods bearing a counterfeit registered trademark may not enter commercial channels after merely removing the counterfeit registered trademark.

第六十四条　【不承担赔偿责任的情形】注册商标专用权人请求赔偿，被控侵权人以注册商标专用权人未使用注册商标提出抗辩的，人民法院可以要求注册商标专用权人提供此前三年内实际使用该注册商标的证据。注册商标专用权人不能证明此前三年内实际使用过该注册商标，也不能证明因侵权行为受到其他损失的，被控侵权人不承担赔偿责任。

Article 64 [Circumstances Where No Liability for Compensation Is Borne] Where the holder of the exclusive right to use a registered trademark requests compensation and the accused infringer raises a defense that the holder of the exclusive right to use the registered trademark has not used the registered trademark, the people's court may require the holder of the exclusive right to use the registered trademark to provide evidence of its actual use of the registered trademark during the preceding three years. Where the holder of the exclusive right to use the registered trademark can neither prove its actual use of the registered trademark during the preceding three years nor prove other losses suffered as a result of the infringing act, the accused infringer shall not bear liability for compensation.

销售不知道是侵犯注册商标专用权的商品，能证明该商品是自己合法取得并说明提供者的，不承担赔偿责任。

Whoever sells goods without knowing that they infringe upon the exclusive right to use a registered trademark, and can prove that the goods were lawfully obtained by it and indicate the supplier, shall not bear liability for compensation.

第六十五条　【诉前临时措施】商标注册人或者利害关系人有证据证明他人正在实施或者即将实施侵犯其注册商标专用权的行为，如不及时制止将会使其合法权益受到难以弥补的损害的，可以依法在起诉前向人民法院申请采取责令停止有关行为和财产保全的措施。

Article 65 [Pre-Litigation Provisional Measures] Where a trademark registrant or an interested party has evidence proving that another person is committing or is about to commit an act infringing upon its exclusive right to use the registered trademark, which, if not stopped in time, will cause irreparable damage to its lawful rights and interests, it may, in accordance with the law and before bringing a suit, apply to the people's court for measures ordering the cessation of the relevant act and for property preservation.

第六十六条　【诉前证据保全】为制止侵权行为，在证据可能灭失或者以后难以取得的情况下，商标注册人或者利害关系人可以依法在起诉前向人民法院申请保全证据。

Article 66 [Pre-Litigation Evidence Preservation] In order to stop an infringing act, where evidence may be destroyed or may be difficult to obtain later, the trademark registrant or an interested party may, in accordance with the law and before bringing a suit, apply to the people's court for evidence preservation.

第六十七条　【刑事责任】未经商标注册人许可，在同一种商品上使用与其注册商标相同的商标，构成犯罪的，除赔偿被侵权人的损失外，依法追究刑事责任。

Article 67 [Criminal Liability] Where, without the permission of the trademark registrant, a trademark identical with a registered trademark is used on the same kind of goods, which constitutes a crime, criminal liability shall be pursued in accordance with the law in addition to compensating the losses of the infringed party.

伪造、擅自制造他人注册商标标识或者销售伪造、擅自制造的注册商标标识，构成犯罪的，除赔偿被侵权人的损失外，依法追究刑事责任。

Whoever forges or manufactures without authorization the representations of another person's registered trademark, or sells such forged or unauthorized representations of a registered trademark, which constitutes a crime, shall be pursued for criminal liability in accordance with the law in addition to compensating the losses of the infringed party.

销售明知是假冒注册商标的商品，构成犯罪的，除赔偿被侵权人的损失外，依法追究刑事责任。

Whoever sells goods while clearly knowing that they bear a counterfeit registered trademark, which constitutes a crime, shall be pursued for criminal liability in accordance with the law in addition to compensating the losses of the infringed party.

第六十八条　【商标代理机构的法律责任】商标代理机构有下列行为之一的，由工商行政管理部门责令限期改正，给予警告，处一万元以上十万元以下的罚款；对直接负责的主管人员和其他直接责任人员给予警告，处五千元以上五万元以下的罚款；构成犯罪的，依法追究刑事责任：

Article 68 [Legal Liability of Trademark Agencies] Where a trademark agency commits any of the following acts, the administrative department for industry and commerce shall order it to make corrections within a prescribed time limit, give it a warning, and impose a fine of not less than 10,000 yuan nor more than 100,000 yuan; the directly responsible persons in charge and other directly responsible persons shall be given a warning and fined not less than 5,000 yuan nor more than 50,000 yuan; where a crime is constituted, criminal liability shall be pursued in accordance with the law:

（一）办理商标事宜过程中，伪造、变造或者使用伪造、变造的法律文件、印章、签名的；

(1) forging, altering, or using forged or altered legal documents, seals or signatures in the course of handling trademark matters;

（二）以诋毁其他商标代理机构等手段招徕商标代理业务或者以其他不正当手段扰乱商标代理市场秩序的；

(2) soliciting trademark agency business by means such as disparaging other trademark agencies, or disturbing the order of the trademark agency market by other improper means;

（三）违反本法第四条、第十九条第三款和第四款规定的。

(3) violating the provisions of Article 4, or the third and fourth paragraphs of Article 19 of this Law.

商标代理机构有前款规定行为的，由工商行政管理部门记入信用档案；情节严重的，商标局、商标评审委员会并可以决定停止受理其办理商标代理业务，予以公告。

Where a trademark agency commits an act prescribed in the preceding paragraph, the administrative department for industry and commerce shall record it in the credit archives; where the circumstances are serious, the Trademark Office and the Trademark Review and Adjudication Board may also decide to stop accepting its trademark agency business, and announce it.

商标代理机构违反诚实信用原则，侵害委托人合法利益的，应当依法承担民事责任，并由商标代理行业组织按照章程规定予以惩戒。

Where a trademark agency violates the principle of good faith and infringes upon the lawful interests of its client, it shall bear civil liability in accordance with the law and shall be disciplined by the trademark agency industry organization in accordance with its charter.

对恶意申请商标注册的，根据情节给予警告、罚款等行政处罚；对恶意提起商标诉讼的，由人民法院依法给予处罚。

Whoever maliciously applies for trademark registration shall, according to the circumstances, be given administrative penalties such as a warning or a fine; whoever maliciously brings a trademark lawsuit shall be punished by the people's court in accordance with the law.

第六十九条　【国家机关工作人员的行为规范】从事商标注册、管理和复审工作的国家机关工作人员必须秉公执法，廉洁自律，忠于职守，文明服务。

Article 69 [Code of Conduct for Staff Members of State Organs] Staff members of State organs engaged in trademark registration, administration and reexamination work must enforce the law impartially, be honest and self-disciplined, be devoted to their duties, and provide services with civility.

商标局、商标评审委员会以及从事商标注册、管理和复审工作的国家机关工作人员不得从事商标代理业务和商品生产经营活动。

Staff members of State organs engaged in trademark registration, administration and reexamination work in the Trademark Office and the Trademark Review and Adjudication Board may not engage in trademark agency business or in goods production and business operations.

第七十条　【工商部门的内部监督】工商行政管理部门应当建立健全内部监督制度，对负责商标注册、管理和复审工作的国家机关工作人员执行法律、行政法规和遵守纪律的情况，进行监督检查。

Article 70 [Internal Supervision of the Administrative Departments for Industry and Commerce] The administrative departments for industry and commerce shall establish and improve internal supervision systems to supervise and inspect how the staff members of State organs responsible for trademark registration, administration and reexamination work enforce laws and administrative regulations and observe discipline.

第七十一条　【国家机关工作人员的法律责任】从事商标注册、管理和复审工作的国家机关工作人员玩忽职守、滥用职权、徇私舞弊，违法办理商标注册、管理和复审事项，收受当事人财物，牟取不正当利益，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予处分。

Article 71 [Legal Liability of Staff Members of State Organs] Where a staff member of a State organ engaged in trademark registration, administration and reexamination work neglects his duties, abuses his power or engages in malpractice for personal gain, illegally handles trademark registration, administration and reexamination matters, accepts money or property from a party, or seeks improper benefits, which constitutes a crime, criminal liability shall be pursued in accordance with the law; where no crime is constituted, a sanction shall be given in accordance with the law.

第八章　附　则

Chapter VIII Supplementary Provisions

第七十二条　【缴纳费用】申请商标注册和办理其他商标事宜的，应当缴纳费用，具体收费标准另定。

Article 72 [Payment of Fees] Those applying for trademark registration and handling other trademark matters shall pay fees, and the specific charging rates shall be prescribed separately.

第七十三条　【施行日期及效力】本法自1983年3月1日起施行。1963年4月10日国务院公布的《商标管理条例》同时废止；其他有关商标管理的规定，凡与本法抵触的，同时失效。

Article 73 [Effective Date and Effect] This Law shall come into force on March 1, 1983. The Regulations on Trademark Administration promulgated by the State Council on April 10, 1963 shall be repealed at the same time; any other provisions concerning trademark administration that conflict with this Law shall cease to be effective at the same time.

本法施行前已经注册的商标继续有效。

Trademarks registered before the implementation of this Law shall remain valid.