

中华人民共和国商标法实施细则(5) PDF转换可能丢失图片或格式，建议阅读原文

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Administration of the Use of Trademarks Article 26 Registered trademarks in use shall carry the indication of “ ZHUCE SHANGBIAO ” (registered trademark - the editor) or the registration sign of (ZHU) (registered - the editor) or (R) 。 In cases when it is inconvenient for a commodity to bear such indications or signs , accompanying packaging or description and other attachments shall be so marked. Article 27 In cases when a Certificate of Trademark Registration is lost or damaged , the trademark registrant must apply for reissuance thereof. The trademark registrant shall submit an Application for Reissuance of a Certificate of Trademark Registration to the Trademark Office , accompanied by five prototypes of the registered trademark. When a Certificate of Trademark Registration is lost , the trademark registrant shall publish the loss thereof in the Trademark Gazette. A damaged Certificate of Trademark Registration shall be returned to the Trademark Office. In cases when any person commits any act of forging or altering a Certificate of Trademark Registration , the local administrative authority for industry and commerce shall , in accordance with prevailing circumstances , impose a fine not exceeding 20 , 000 RMB Yuan , and shall seize all copies of the forged or altered Certificate of Trademark Registration. Article 28 In cases when a person is found to have committed any act referred to

in Items (1) , (2) and (3) of Article 30 of the Trademark Law , the administrative authority for industry and commerce shall order the trademark registrant to rectify the situation within a specified period. Should registrant refuses to undertake rectification , the administrative authority for industry and commerce in the relevant location shall submit the case to the Trademark Office for cancellation of the registered trademark. Article 29 In cases when any person has committed acts referred to in Item (4) of Article 30 of the Trademark Law , any other interested party may apply to the Trademark Office for cancellation of the registered trademark in question by stating the facts related thereto. The Trademark Office shall notify the trademark registrant and require the registrant to furnish proof of use of said trademark or otherwise state fair reasons for non-use thereof within three months of receipt of said notifications. Should the registrant fail to furnish proof of use by the expiration of the specified period , or said proof is invalid , the Trademark Office shall cancel the registered trademark. Use of a trademark referred to in the preceding paragraph shall include the use of said trademark on the goods themselves , as well packages or containers for said goods , in trade related documents , and use in advertising , exhibitions or any other business activities. Article 30 Applications filed for the registration of trademarks identical with or similar to a trademark cancelled under the provisions of Article 29 of the Rules in respect to the same or similar goods shall not be subject to the provisions of Article 32 of the Trademark Law. Article 31 The administrative authority for Industry and Commerce shall order

persons who have committed any act outlined in Article 31 and Item (3) of Article 34 of the Trademark Law to rectify the situation within a specified period. In serious cases , said authority shall order the infringing party to carry out a self-examination of said violations , and circulate a notice of criticism. In addition , the authority shall impose a fine not exceeding 20% of the volume of his illegal business , or not exceeding twice the amount of illegal profits ; poisonous and harmful goods , or goods with no use value , shall be destroyed ; the Trademark Office shall cancel registered trademarks used on such goods in accordance with provisions of the Trademark Law.

Article 32 The administrative authority for industry and commerce shall prohibit any person found to have committed any acts referred to in Item (1) and (2) of Article 34 of the Trademark Law from any form of advertising thereof. In addition , the authority shall seal or seize representations of said trademark and order the infringing party to rectify the situation within a specified period. In accordance with the seriousness of the case , the authority may also circulate a notice of criticism , and may impose a fine not exceeding 20% of the volume of the illegal business.

Article 33 The administrative authority for industry and commerce shall prohibit any person found to have violated the provisions of Article 5 of the Trademark Law from the sale and advertising of the goods in question. The authority shall seal or seize the representations of the trademark , and may , according to the seriousness of the case , impose a fine not exceeding 10% of the volume of the illegal business.

Article 34 No person shall be permitted to engage in illegal

activities related to traffic in , printing or reproducing representations of registered trademarks. The administrative authority for industry and commerce shall force any person found in violation of provisions outlined in the preceding paragraph to cease and desist from illegal activities and shall seize all representations of the trademark. In addition , in accordance with the seriousness of the case , the authority may impose a fine not exceeding 20% of the volume of his illegal business. The Trademark Office may cancel the registered trademark of any person found illegally selling representations of said registered trademark. Cases involving infringements on the exclusive rights for a registered trademark shall be handled in accordance with provisions in Article 43 of the Rules.

Article 35 Trademark registrants authorizing any other person to use a registered trademark shall sign a trademark license contract for such use. Both the licensor and licensee shall , within three months of the consummation of a trademark license contract , submit a copy of said contract to the administrative authority for industry and commerce at the county level of his location for reference. The licensor shall submit a second copy of said contract to the Trademark Office for record , with the latter publishing same in the Trademark Gazette.

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