

The “Interpretation of the Supreme People's Court on the Relevant Issues concerning the Scope of Jurisdiction and the Scope of Application of Laws for Hearing Trademark Cases after the Implementation of the Decision for Amending the Trademark Law

(adopted at the 1606th meeting of the Judicial Committee of the Supreme People's Court on February 10, 2014)

Interpretation No. 4 [2014]

Announcement of the Supreme People's Court of the People's Republic of China

The “Interpretation of the Supreme People's Court on the Relevant Issues concerning the Scope of Jurisdiction and the Scope of Application of Laws for Hearing Trademark Cases after the Implementation of the Decision for Amending the Trademark Law, which was adopted at the 1606th meeting of the Judicial Committee of the Supreme People's Court on February 10, 2014, is hereby announced and shall come into force on May 1, 2014.

the Supreme People's Court

March 25, 2014

In order to correctly hear trademark cases, the following interpretation is hereby formulated in accordance with the “Decision on Amending the Trademark Law of the People's Republic of China” adopted at the 4th session of the Standing Committee of the 12th National People's Congress on August 30, 2013, the re-announced “Trademark Law of the People's Republic of China”, the “Civil Litigation Law of the People's Republic of China” and the “Administrative Litigation Law of the People's Republic of China”, regarding the relevant issues concerning the scope of jurisdiction and the application of laws for the people's courts in their hearing of trademark cases.

Article 1.

The people's courts shall accept the following trademark cases:

1. Administrative cases filed by parties dissatisfied with the decisions or rulings on review made by the Trademark Review and Adjudication Board of the Administration for Industry and Commerce of the State Council;

2. Cases filed by parties dissatisfied with other specific administrative acts on relevant trademarks made by the administrations for industry and commerce;
3. Cases of disputes over the ownership of trademarks;
4. Cases of disputes over infringement upon the exclusive right in trademarks;
5. Cases of disputes over confirmation of non-infringement upon the exclusive right in trademarks;
6. Cases of disputes over trademark right assignment contracts;
7. Cases of disputes over trademark licensing contracts;
8. Cases of disputes over trademark agency contracts;
9. Cases of cease of infringement upon trademark exclusive right before filing of a lawsuit;
10. Cases of liabilities upon the application for cease of infringement upon the trademark exclusive right;
11. Cases of asset preservation before filing of a law suit over trademark disputes;
12. Cases of evidence preservation before filing of a lawsuit over trademark disputes;
13. Other trademark cases.

Article 2

Administrative cases filed by parties dissatisfied with the review decisions or rulings made by the Trademark Review and Adjudication Board and specific administrative acts taken by the Trademark Office of the State Administration for Industry and Commerce (“the Trademark Office”) concerning trademarks shall be governed by the relevant intermediate people's courts in Beijing.

Article 3

Civil trademark cases of the first instance shall be governed by the intermediate people's courts or above or primary people's courts designated by the Supreme People's Court.

Civil or administrative cases concerning well-known trademarks shall be governed by the intermediate people's courts of the cities where the provincial or autonomous

people's governments are located, cities with separate plans or cities under the direct administration of the central government or other intermediate people's courts designated by the Supreme People's Court.

Article 4

The people's courts shall accept civil cases filed by the parties concerned over the ownership or exclusive rights in trademarks during raid actions taken by the administrations for industry and commerce against trademark infringements.

Article 5

As for the applications for registration or renewal of a trademark filed before the implementation of the decision for amending the Trademark Law, if the decision to refuse to accept the application for registration or renewal of the trademark is made by the Trademark Office after the implementation of the decision for amending the Trademark Law, and the parties concerned institute administrative proceedings over the said decisions, the amended Trademark Law shall apply during the examination by the people's courts.

As for the trademark opposition applications filed before the implementation of the decision for amending the Trademark Law, if the decision to refuse to accept the opposition application is made by the Trademark Office before the implementation of the decision for amending the Trademark Law, and the parties concerned institute administrative proceedings over the said decisions, the Trademark Law before amendment shall apply during the examination by the people's courts

Article 6

In the case the parties concerned file a review on an unregistered trademark before the implementation of the decision for amending the Trademark Law, and the Trademark Review and Adjudication Board makes a decision or ruling after the implementation of the decision for amending the Trademark Law, if administrative proceedings are instituted by the said parties, the amended Trademark Law shall apply during examination by the people's court.

If the trademark review applications are filed before the implementation of the decision for amending the Trademark Law, and the Trademark Review and Adjudication Board makes a decision to approve of the registration of the marks after the implementation of the decision for amending the Trademark Law, the administrative proceedings instituted by the parties concerned shall not be accepted;

if the Trademark Review and Adjudication Board makes a decision to refuse the registration of the marks after the implementation of the decision for amending the Trademark Law, and the parties concerned institute administrative proceedings, the amended Trademark Law shall apply during examination over *the litigious rights and capacity as a subject of the parties concerned* by the people's court.

Article 7

As for the trademarks which have already been approved of registration before the implementation of the decision for amending the Trademark Law, if the Trademark Review and Adjudication Board accepts the case before the implementation of the decision for amending the Trademark Law and makes a review decision or ruling after the implementation of the decision for amending the Trademark Law, in the case the parties concerned institute administrative proceedings, the amended Trademark Law shall apply in the examination by the peoples' court in respect of procedural issues and the Trademark Law before amendment shall apply in the examination of the peoples' court in respect of substantial issues.

Article 8

As for the trademark cases accepted before the implementation of the decision for amending the Trademark Law, if the Trademark Office or the Trademark Review and Adjudication Board makes a decision or a ruling after the implementation of the decision for amending the Trademark Law, in the case the parties concerned institute administrative proceedings, and when the people's court decides whether the decision or ruling is in conformity with the regulations about examination time limit, the examination time limit shall be counted from the implementation date of the decision to amend the Trademark Law.

Article 9

Unless specified otherwise, for the civil trademark cases accepted by the people's court after the implementation of the decision for amending the Trademark Law, the Trademark Law before amendment shall apply to the acts that occurred before the implementation of the decision for amending the Trademark Law; the amended Trademark Law shall apply to the acts that occurred before the implementation of the decision for amending the Trademark Law and lasted after the implementation date of the decision.