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## **Provisions on the Determination and Protection of Well-Known Trademarks (2014 Revision)[Effective] 驰名商标认定和保护规定(2014 修订) [现行有效]**

<b>Issuing authority:</b>	State Administration for Industry & Commerce	Order No. 66 of the State Administration for Industry and Commerce
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<b>Area of law:</b>	Trademark	

Order of the State Administration for Industry and Commerce

(No. 66)

The Provisions on the Determination and Protection of Well-Known Trademarks, as deliberated and adopted at the executive meeting of the State Administration for Industry and Commerce ("SAIC"), are hereby issued and shall come into force 30 days after its issuance.

Director: Zhang Mao

July 3, 2014

Provisions on the Determination and Protection of Well-Known Trademarks

(Issued by Order No. 5 of the SAIC on April 17, 2003 and revised by Order No. 66 of the SAIC on July 3, 2014)

Article 1 To regulate the determination of well-known trademarks, and protect the lawful rights and interests of well-known trademark holders, these Provisions are developed in accordance with the [Trademark Law of the People's Republic of China](#) (hereinafter referred to as the "[Trademark Law](#)") and the [Regulation on the Implementation of the Trademark Law of the People's Republic of China](#) (hereinafter referred to as the "[Implementation Regulation](#)").

Article 2 "Well-known trademarks" means the trademarks widely known by the relevant public in China.

"Relevant public" include the consumers related to certain kind of commodities or services indicated by a trademark, manufacturers of the aforesaid commodities or other operators providing relevant services, and the sellers and relevant people involved in marketing channels.

Article 3 The trademark office and the trademark review committee shall, based on the parties' requests and requirements for examining and handling cases, be responsible for determining and protecting well-known trademarks in the course of trademark registration examination, handling of trademark disputes, and the investigation and handling of cases on trademark-related violations of law by the administrative departments for industry and commerce.

Article 4 Well-known trademarks shall be determined under the principles of determination of individual cases and passive protection.

Article 5 Where a party raises an objection to the trademark office in accordance with [Article 33](#) of the [Trademark Law](#) and requests the protection of a well-known trademark in accordance with Article 13 of the [Trademark Law](#), it may file a written request for the protection of a well-known trademark with the trademark office and submit evidentiary materials proving that its trademark constitutes a well-known trademark.

Article 6 Where a party requests the protection of a well-known trademark in accordance with [Article 13](#) of the [Trademark Law](#) in a case on the review of disapproval of trademark registration or a case on the request for the declaration of invalidation, it may file a written request for the protection of the well-known trademark with the trademark review committee and submit evidentiary materials proving that its trademark constitutes a well-known trademark.

Article 7 A case on a trademark-related violation of law involving the protection of a well-known trademark shall be under the jurisdiction of the administrative department for industry and commerce at or above the city (prefecture or autonomous prefecture) level. Where a party requests the investigation and handling of a trademark-related violation of law by the administrative department for industry and commerce and requests the protection of a well-known trademark in accordance with [Article 13](#) of the [Trademark Law](#), it may lodge a complaint with the administrative department for industry and commerce at or above the city (prefecture or autonomous prefecture) level at the place where the violation of law occurs, file a written request for the protection of a well-known trademark, and submit evidentiary materials proving that its trademark constitutes a well-known trademark.

Article 8 A party that requests the protection of a well-known trademark shall follow the principle of good faith, and be responsible for the authenticity of the facts and the submitted evidentiary materials.

Article 9 The following materials may be taken as evidentiary materials proving the compliance with paragraph 1, [Article 14](#) of the [Trademark Law](#).

(1) Materials proving the extent of knowledge of the trademark by the relevant public.

(2) Materials proving the duration of use of the trademark, such as the materials involving the history and scope of the use and registration of the trademark. If the trademark is unregistered, the materials proving that its duration of use is not less than five years shall be submitted. If the trademark is registered, the materials proving that has been registered for not less than three years, or has been continually used for not less than five years shall be provided.

(3) Materials proving the duration, extent and geographic scope of any publicity work of the trademark, such as the materials on the manners of advertising and sales promotion activities, geographic scope, types of publicity media and the quantity of advertisements in the recent three years.

(4) Materials proving that the trademark has been protected as a well-known one in China, or in any other country or region.

(5) Other evidentiary materials proving that the trademark is well-known, such as the materials on the sales revenue, market share, net profits, tax amount and sales territory of the principal commodities using this trademark in the recent three years.

For the purpose of the preceding paragraph, "three years" or "five years" means three years or five years before the date of application for the registration of a trademark against which an objection is raised, or the date on which the trademark registration application on the request for the declaration of invalidation is filed, and three years or five years before the request for the protection of a well-known trademark is filed in the investigation and handling of a case on a trademark-related violation of law.

Article 10 Where a party requests the protection of a well-known trademark in accordance with Articles 5 and 6 of these Provisions, the trademark office and the trademark review committee shall handle the request in a timely manner within the time limit prescribed in [Articles 35, 37](#) and [45](#) of the [Trademark Law](#).

Article 11 Where a party requests the investigation and handling of a trademark-related violation of law by the administrative department for industry and commerce in accordance with Article 7 of these Provisions, the administrative department for industry and commerce shall verify the complaint materials, and decide whether to docket the case or not in accordance with the relevant provisions of the [Provisions on the Procedures for the Imposition of Administrative](#)

[\*\*Penalties by the Administrative Authorities for Industry and Commerce.\*\*](#) If the administrative department for industry and commerce decides to docket the case, it shall conduct preliminary verification and examination on whether the request for the protection of a well-known trademark and the relevant evidentiary materials submitted by the party comply with [Articles 13](#) and [14](#) of the [Trademark Law](#), [Article 3](#) of the [Implementation Regulation](#) and Article 9 of these Provisions. If the request complies with the relevant provisions upon preliminary examination, the administrative department for industry and commerce shall, within 30 days after docketing the case, submit the request for the determination of the well-known trademark and the duplicates of case materials to the administrative department for industry and commerce at the higher level. If the request fails to comply with the relevant provisions upon examination, the request shall be handled in a timely manner in accordance with the [Provisions on the Procedures for the Imposition of Administrative Penalties by the Administrative Authorities for Industry and Commerce.](#)

Article 12 The administrative department for industry and commerce of a province (autonomous region or municipality directly under the Central Government) shall verify and examine whether the materials on the determination of a well-known trademark submitted by the administrative department for industry and commerce at the city (prefecture or autonomous prefecture) level within its jurisdiction comply with [Articles 13](#) and [14](#) of the [Trademark Law](#), [Article 3](#) of the [Implementation Regulation](#) and Article 9 of these Provisions. If the materials comply with the relevant provisions upon examination, the administrative department for industry and commerce shall, within 30 days as of receipt of the materials on the determination of a well-known trademark, submit the request for the determination of a well-known trademark and the duplicates of case materials to the trademark office. If the materials fail to comply with the relevant provisions upon examination, the administrative department for industry and commerce shall return the relevant materials to the original authority docketing the case, which shall handle the request in a timely manner in accordance with the [Provisions on the Procedures for the Imposition of Administrative Penalties by the Administrative Authorities for Industry and Commerce.](#)

Article 13 The trademark office and the trademark review committee shall, when determining a well-known trademark, comprehensively consider all factors listed in paragraph 1 of [Article 14](#) of the [Trademark Law](#) and Article 9 of these Provisions, but a precondition shall not be set to require the trademark to satisfy all the factors.

When the trademark office and the trademark review committee determine a well-known trademark, if the verification of relevant information by the local administrative department for industry and commerce is required, the relevant local administrative department for industry and commerce shall provide assistance.

Article 14 Where the trademark office determines the constitution of a well-known trademark after examining the materials on the determination of a well-known trademark submitted by the administrative department for industry and commerce of a province (autonomous region or municipality directly under the Central Government), it shall give an official reply to the administrative department for industry and commerce of the province (autonomous region or municipality directly under the Central Government) that files the request.

The administrative department for industry and commerce that docketed the case shall handle the case in accordance with law within 60 days after the trademark office gives an official reply on the determination, and send a copy of the written decision on administrative penalty to the local administrative department for industry and commerce of the province (autonomous region or municipality directly under the Central Government), which shall report the case handling information and send the duplicate of the written decision on administrative penalty to the trademark office within 30 days as of the receipt of the copy of the written decision on administrative penalty.

Article 15 The administrative departments for industry and commerce at all levels shall strengthen the protection of well-known trademarks in the registration and management of trademarks, and protect the lawful rights and interests of right holders and consumers. Where a trademark-related violation of law is suspected of any crime, the case shall be transferred to the judicial authority in a timely manner.

Article 16 In the course of trademark registration examination, handling of trademark-related disputes or the investigation

and handling of a trademark-related violation of law by the administrative department for industry and commerce, when a party requests the protection of a well-known trademark in accordance with [Article 13](#) of the [Trademark Law](#), the party may provide records that this trademark has been protected as a well-known one in China.

Where the protection scope of a well-known trademark upon request is almost the same as that of the case in which the trademark has already been protected as a well-known one, and both parties raise no objection to the fact that the trademark is well-known, or any party raises an objection, but the reason for objection and the evidence provided are evidently insufficient to support the objection, the trademark office, the trademark review committee, and the department that accepts the case on the trademark-related violation of law may protect the trademark as a well-known one according to the protection records and in light of relevant evidence.

Article 17 Where, in a case on a trademark-related violation of law, the party defrauds the protection of a well-known trademark by practicing fraud, providing false evidentiary materials or any other illegal means, the trademark office shall revoke the determination made on the case-involved trademark, and notify the administrative department for industry and commerce of the province (autonomous region or municipality directly under the Central Government) that files the request for the determination of the well-known trademark.

Article 18 Where a local administrative department for industry and commerce fails to verify or examine the relevant materials on the determination of a well-known trademark in accordance with Articles 11 and 12 of these Provisions, fails to provide assistance or perform verification functions in violation of paragraph 2 of Article 13 of these Provisions, or fails to handle a case on a trademark-related violation of law or report handling information within the prescribed time limit in violation of paragraph 2 of Article 14 of these Provisions, the administrative department for industry and commerce at the next higher level shall circulate a notice on criticism of it and order it to make rectification.

Article 19 The administrative departments for industry and commerce at all levels shall establish and improve the rules for the supervision and inspection of the determination of well-known trademarks.

Article 20 Where any staff member participating in the determination and protection of well-known trademarks neglects duties, abuses powers, practices favoritism, makes falsification, handles any matter relating to the determination of a well-known trademark in violation of any law, receives any property from a party, or seeks any inappropriate benefits, he or she shall be punished in accordance with the relevant provisions.

Article 21 These Provisions shall come into force 30 days after its issuance. The [Provisions on the Determination and Protection of Well-Known Trademarks](#) issued by the SAIC on April 17, 2003 shall be repealed concurrently.