

New Trademark Law Will Enter Into Force From November 1, 2019

On April 23, 2019, the Decision on Revising the Trademark Law of the People's Republic of China was adopted at the 10th session of the Thirteenth Standing Committee of the National People's Congress (NPC), which put an end to the fourth amendment to the Trademark Law. The amendment will enter into force as of November 1, 2019.

Please see the major amendments in the comparative table as below:

Trademark Law 2013 Version	Trademark Law 2019 Version
<p>Article 4.1</p> <p>Any natural person, legal person or other organization that needs to obtain the exclusive right to use a trademark for its goods or services during production and business operations shall apply for trademark registration with the trademark office.</p>	<p>Article 4.1</p> <p>Any natural person, legal person or other organization that needs to obtain the exclusive right to use a trademark for its goods or services during production and business operations shall apply for trademark registration with the trademark office. Any bad faith application for the registration of a trademark that is not intended for use shall be rejected.</p>
<p>Article 19.3</p> <p>A trademark intermediary shall not accept the entrustment of a principal if it knows or should have known that the trademark entrusted by the principal for registration application falls under any of the circumstances as prescribed by Article 15 and Article 32 of this Law.</p>	<p>Article 19.3</p> <p>A trademark intermediary shall not accept the entrustment of a principal if it knows or should have known that the trademark entrusted by the principal for registration application falls under any of the circumstances as prescribed by Article 4, Article 15 and Article 32 of this Law.</p>
<p>Article 33</p> <p>If a holder..... Any party that is of the opinion that the aforesaid trademark is in violation of Article 10, Article 11 or Article 12 of this Law may raise objections to the trademark office within the same three-month period. If no objection is raised upon expiry of the announcement period, the trademark office shall approve the registration application, issue the certificate of trademark registration, and make an announcement thereon.</p>	<p>Article 33</p> <p>If a holder..... Any party that is of the opinion that the aforesaid trademark is in violation of Article 4, Article 10, Article 11, Article 12 or the fourth paragraph of Article 19 of this Law may raise objections to the trademark office within the same three-month period. If no objection is raised upon expiry of the announcement period, the trademark office shall approve the registration application, issue the certificate of trademark registration, and make an announcement thereon.</p>
<p>Article 44.1</p> <p>A registered trademark shall be declared invalid by the trademark office if it is in</p>	<p>Article 44.1</p> <p>A registered trademark shall be declared invalid by the trademark office if it is in</p>

<p>violation of Article 10, Article 11 or Article 12 of this Law, or its registration is obtained by fraudulent or other unfair means. Other entities or individuals may request the trademark review and adjudication board to declare the aforesaid registered trademark invalid.</p>	<p>violation of Article 4, Article 10, Article 11, Article 12 or the fourth paragraph of Article 19 of this Law, or its registration is obtained by fraudulent or other unfair means. Other entities or individuals may request the trademark review and adjudication board to declare the aforesaid registered trademark invalid.</p>
<p>Article 63</p> <p>The amount of damages for infringement....., the amount of damages may be determined as not less than one time but not more than three times the amount that is determined according to the aforesaid methods. The amount of damages shall cover the reasonable expenses paid by the right holder for stopping the infringing act.</p> <p>Where the right holder....., the people's court shall render a judgment awarding damages in an amount not more than RMB three million yuan based on the circumstances of the infringing acts.</p>	<p>Article 63</p> <p>The amount of damages for infringement....., the amount of damages may be determined as not less than one time but not more than five times the amount that is determined according to the aforesaid methods. The amount of damages shall cover the reasonable expenses paid by the right holder for stopping the infringing act.</p> <p>Where the right holder....., the people's court shall render a judgment awarding damages in an amount not more than RMB five million yuan based on the circumstances of the infringing acts.</p> <p>Except under exceptional circumstances, the people's court, in adjudicating cases involving trademark disputes, shall order, at the request of the right owner, the destruction of the commodities bearing counterfeit trademarks; the people's court shall order the destruction of the materials and tools mainly used for manufacturing commodities bearing counterfeit registered trademarks, without granting any indemnity, or under exceptional circumstances, shall forbid such materials or tools from re-entering the business channel, without granting any indemnity.</p> <p>The commodities bearing counterfeit trademarks shall not enter the business channel with the mere removal of the counterfeit trademarks from such products.</p>
<p>Article 68</p> <p>A trademark intermediary.....shall be given sanctions by the trade association of the trademark intermediaries pursuant to its articles of association.</p>	<p>Article 68</p> <p>A trademark intermediary.....shall be given sanctions by the trade association of the trademark intermediaries pursuant to its articles of association.</p>

	The trademark intermediaries filing for the registration of trademarks in bad faith shall be subject to warnings, fines or other administrative punishment, based on the circumstances of the acts. Those initiating trademark proceedings in bad faith shall be subject to the sanctions of the people's courts in accordance with laws.
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For further information, please contact the attorney listed below. General e-mail messages may be sent using LTBJ@lungtin.com which also can be found at www.lungtin.com