

Decree of the General Administration of Customs Decree of the General Administration of Customs No.183

Rules of the General Administration of Customs of the People's Republic of China for Implementation of the Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights, which were deliberated and adopted at the executive meeting of the General Administration of Customs on February 17, 2009, are hereby promulgated and shall come into force as of July 1, 2009. Rules of the General Administration of Customs of the People's Republic of China for Implementation of the Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights promulgated in the form of Decree No. 114 of the General Administration of Customs on May 25, 2004 shall be abolished simultaneously.

Sheng Guangzu

Minister

General Administration of Customs

March 3, 2009

Rules of the General Administration of Customs of the People's Republic of China for Implementation of the Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights

(Adopted at the Executive Meeting of the General Administration of Customs on February 17, 2009, promulgated by Decree No. 183 of the General Administration of Customs of the People's Republic of China on March 3, 2009, and effective as of July 1, 2009)

Chapter I General Provisions

Article 1 These Rules are formulated in accordance with the Customs Law of the People's Republic of China and other laws and administrative regulations for the purpose of effectively implementing the Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights (hereinafter referred to as the Regulations).

Article 2 Where an intellectual property right holder requests Customs to take measures to protect his/her intellectual property right, or goes through recordation formalities with the General Administration of Customs for Customs protection of his/her intellectual property right, he/she may, in the case of an intellectual property right holder located in the Chinese mainland, lodge an application directly or by entrusting an agent established in the Chinese mainland or, in the case of an intellectual property right holder located

outside the Chinese mainland, lodge an application by entrusting his/her representative office or agent established in the Chinese mainland.

Where an intellectual property right holder files an application by entrusting his/her agent established in the Chinese mainland in accordance with the provisions of the preceding paragraph, he/she shall produce a power of attorney in the prescribed format.

Article 3 Where an intellectual property right holder or the agent thereof (hereinafter referred to collectively as the intellectual property right holder) requests Customs to detain any goods pending importation or exportation that are suspected of infringement, he/she shall, in accordance with the relevant provisions of these Rules, file an application with Customs for detention of such goods.

Article 4 The consignee or consignor of import or export goods or the agent thereof, (hereinafter referred to collectively as the consignee or consignor) shall, to a reasonable extent, have knowledge of the status of intellectual property rights of the goods imported or exported by him/her. Where Customs asks him/her to declare the status of the intellectual property rights of the import or export goods, he/she shall, within the time limit specified by Customs, make a faithful declaration to Customs and submit relevant evidentiary documents.

Article 5 Where any business secret is involved in the relevant documents or evidence submitted to Customs by the intellectual property right holder or the consignee or consignor, an explanation of such secrets in writing shall be presented to Customs by the intellectual property right holder or the consignee or consignor.

When providing protection for intellectual property rights, Customs shall keep the confidentiality of the business secrets of the interested parties unless Customs has the legal obligation to make the information public as prescribed by law.

Chapter II Recordation of Intellectual Property Rights

Article 6 In applying to the General Administration of Customs for recordation of his/her intellectual property right for Customs protection, an intellectual property right holder shall file a written application with the General Administration of Customs, which shall include the following particulars:

(a) the name, place of registration or nationality, and postal address of the intellectual property right holder, the name, telephone and fax numbers, and e-mail address of the contact person, etc.;

(b) the name of the registered trademark, the classification and name of the commodities in respect of which the use of the trademark has been approved, the device of the trademark, the term of validity of the registration, the status of assignment, alteration and renewal of the registered trademark; the name of the work, the date of completion of creation, the classification of the work, the pictures of the work and the status of

assignment and alteration of the work; the name, classification, date of application, and status of assignment and alteration of the patent, etc.;

(c) the name of the licensees, the commodities in respect of which the license is given, the term of validity of the license, etc.;

(d) the name, origin, importers or exporters, main features and prices of the goods on which the intellectual property right holder lawfully exercises his/her right, the Customs at the place of entry or exit of the goods, etc.; and

(e) the known manufacturers, importers or exporters, main features and prices of the goods that have infringed the intellectual property right, the Customs at the place of entry or exit of the goods, etc..

The intellectual property right holder shall submit a copy of the written application for each item of his/her intellectual property rights for which recordation is applied for. Where the intellectual property right holder applies for recordation of an international registered trademark, he/she shall submit a copy of the written application for each class of commodities covered by the application.

Article 7 In submitting a written application for recordation to the General Administration of Customs, an intellectual property right holder shall attach the following documents or evidence accordingly:

(a) the photocopy of the personal identity certificate of the intellectual property right holder, and the photocopy of the business license for industry and commerce or the photocopies of other registration documents;

(b) the photocopy of the Trademark Registration Certificate as issued by the Trademark Office of the administrative authority for industry and commerce under the State Council (if the applicant has been permitted to alter any of the contents of the trademark registration, renew the trademark registration, assign the registered trademark, or apply for recordation of an international registered trademark, he/she shall also submit the relevant proof given by the Trademark Office of the administrative authority for industry and commerce under the State Council in relation to the above matters of trademark registration.); the photocopy of the Certificate of Voluntary Copyright Registration as issued by the authority for copyright registration and the photographs of the work that are certified by that authority (if the applicant has not gone through the procedures of voluntary copyright registration, he/she shall submit a sample of his/her works that can prove he/she is the copyright holder, and other relevant evidence of the copyright ownership); and the photocopy of the Patent Certificate as issued by the State Council's patent authority (if the patent has been issued for more than one year, calculated from the date of announcement, the applicant shall also submit a duplicate of the patent register given, within six months prior to the applicant's application for recordation, by the State Council's patent authority; if the applicant applies for recordation of a utility model

patent or a design patent, he/she shall also submit the search report on the patent made by the State Council's patent authority.);

(c) the photocopy of the license contract if the intellectual property right holder has licensed another party to use any of his/her registered trademarks, works or patents, and has entered into a license contract; or a written statement on the licensee, scope and term of the license, etc., if no license contract is concluded;

(d) the photographs of the goods and their packaging on which the intellectual property right holder has lawfully exercised his/her rights;

(e) known evidence of importation or exportation of infringing goods (if the infringement dispute between the intellectual property right holder and another party has been handled by a people's court or the competent authority for the intellectual property right, the photocopies of the relevant legal instruments shall also be submitted); and

(f) any other documents or evidence that the General Administration of Customs considers necessary to present.

The documents and evidence submitted to the General Administration of Customs by the intellectual property right holder in accordance with the provisions of the preceding paragraph shall be complete, truthful and valid. Where the relevant documents and evidence are in a foreign language, a Chinese translation shall be attached. Where the General Administration of Customs deems necessary, it may ask the intellectual property right holder to submit the notary or authentication certificates of the relevant documents or evidence.

Article 8 In applying to the General Administration of Customs for recordation of an intellectual property right for Customs protection, or reapplying to the General Administration of Customs after the expiry of the previous recordation, the intellectual property right holder shall pay a recordation fee. The intellectual property right holder shall remit the recordation fee through a bank to the account number designated by the General Administration of Customs. In receiving the recordation fee, the General Administration of Customs shall produce a receipt. The rate of the recordation fee is to be set down separately by the General Administration of Customs in conjunction with the relevant authorities of the State and shall be publicized thereby.

No recordation fee is required when an intellectual property right holder applies for renewal or alteration of a recordation.

Where an intellectual property right holder withdraws his/her recordation application before the General Administration of Customs approves it, or his/her recordation application is rejected, the General Administration of Customs shall refund the recordation fee. Where a recordation approved by the General Administration of Customs is deregistered or revoked by the General Administration of Customs, or becomes invalid due to any other reason, the recordation fee shall not be refunded.

Article 9 The recordation of an intellectual property right for Customs protection shall take effect as from the date of approval by the General Administration of Customs and be valid for a term of 10 years. Where the term of validity of an intellectual property right is less than 10 years as from the effective date of recordation, the term of validity of the recordation shall be subject to the term of validity of the intellectual property right.

Where a recordation or the renewal of a recordation was approved by the General Administration of Customs prior to the effectiveness of the Regulations, the term of validity of the recordation shall be calculated according to the original term of validity.

Article 10 An intellectual property right holder may, within six months prior to the expiry of the recordation of his/her intellectual property right for Customs protection, file a written application with the General Administration of Customs, with the relevant documents attached, for renewing the recordation. The General Administration of Customs shall, within 10 working days as from the date of receipt of all the documents of renewal application, make a decision of approval or disapproval and notify the intellectual property right holder of the decision in writing. In the case of disapproval, it shall state the reasons therefor.

The term of validity of a renewed recordation shall be 10 years, calculated from the day following the expiry date of the previous recordation. Where the term of validity of the intellectual property right is less than 10 years, calculated from the day following the expiry date of the previous recordation, the term of validity of the renewed recordation shall be subject to the term of validity of the intellectual property right.

Article 11 After the General Administration of Customs has approved the recordation of an intellectual property right for Customs protection, if any change occurs to any of the contents of the written application submitted to Customs in accordance with the requirements of Article 6 of these Rules, the intellectual property right holder shall, within 30 working days as from the date of occurrence of the change, file an application with the General Administration of Customs, with the relevant documents attached, for alteration of the recordation.

Article 12 Where, prior to the expiry of its recordation, an intellectual property right is no longer subject to protection by laws and administrative regulations or is assigned, the original intellectual property right holder shall, within 30 working days as from the date of cessation of protection by laws and administrative regulations or the effective date of assignment, file an application with the General Administration of Customs, with the relevant documents attached, for deregistration of the Customs protective recordation of his/her intellectual property right. Where an intellectual property right holder renounces a recordation still within its term of validity, he/she may apply to the General Administration of Customs for deregistration of the recordation.

If no application is made to the General Administration of Customs for alteration or deregistration of the recordation in accordance with Article 11 of these Rules and the provisions of the preceding paragraph of this Article, and grave consequences have

therefore been caused to the legitimate importation or exportation activities of another party, the General Administration of Customs may deregister the recordation of the relevant intellectual property right on its own initiative or upon the application of any interested party.

Where the General Administration of Customs deregisters a recordation, it shall notify the relevant intellectual property right holder in writing. The recordation of the intellectual property right for Customs protection shall become invalid as from the date of deregistration by the General Administration of Customs.

Article 13 Where the General Administration of Customs revokes the recordation of an intellectual property right for Customs protection in accordance with Article 9 of the Regulations, it shall notify the intellectual property right holder in writing.

Where the General Administration of Customs revokes a recordation, and the intellectual property right holder reapplies, within one year as from the date of revocation of the recordation, for recordation of the identical intellectual property right whose original recordation has been revoked, the General Administration of Customs may reject the reapplication.

Chapter III Detention upon Application

Article 14 Where an intellectual property right holder discovers that some goods suspected of infringement are about to be imported or exported, and requests Customs to detain them, he/she shall, in accordance with the provisions of Article 13 of the Regulations, file a written application with the Customs at the place of entry or exit of the goods. If the relevant intellectual property right is not recorded at the General Administration of Customs, the intellectual property right holder shall, in addition to the application, present the documents and evidence as prescribed in items (a) and (b), paragraph 1, Article 7 of these Rules.

Where an intellectual property right holder requests Customs to detain goods suspected of infringement, he/she shall, in addition to the application, submit to Customs evidence sufficient to prove the obvious existence of the fact of infringement. The evidence submitted by the intellectual property right holder shall be able to prove the following facts:

- (a) The goods that he/she requests Customs to detain are about to be imported or exported; and
- (b) In the absence of any license, a trademark logo infringing his/her exclusive right to use a trademark, his/her work or his/her patent has been used on the goods.

Article 15 Where an intellectual property right holder requests Customs to detain goods suspected of infringement, he/she shall, within the time limit specified by Customs, provide a security equivalent to the value of the goods to Customs.

Article 16 Where an intellectual property right holder files an application that does not correspond with the provisions of Article 14 of these Rules, or he/she fails to provide a security in accordance with the provisions of Article 15 of these Rules, Customs shall reject the application and notify the intellectual property right holder in writing.

Article 17 Where Customs detains goods suspected of infringement, it shall notify the intellectual property right holder in writing of the description, quantity and value of the goods, the name of the consignee or consignor, the date of declaration of import or export, the date of detention by Customs, etc..

Upon the approval of Customs, the intellectual property right holder may check the relevant goods detained by Customs.

Article 18 Where, within 20 working days as from the date of detention of the goods suspected of infringement, Customs receives a written notice from a people's court asking it to provide assistance in detaining the relevant goods, Customs shall provide such assistance. If no notice is received from a people's court asking for detention assistance, or the intellectual property right holder asks Customs to release the relevant goods, Customs shall release the goods.

Article 19 Where Customs detains goods suspected of infringement, it shall serve the detention ticket of the goods on the consignee or consignor.

Upon the approval of Customs, the consignee or consignor may check the relevant goods detained by Customs.

Article 20 Where the consignee or consignor, in accordance with the provisions of Article 19 of the Regulations, requests Customs to release his/her goods suspected of infringement of patent that have been detained by Customs, he/she shall file a written application with Customs and provide a security equivalent to the value of the goods.

Where the consignee or consignor requests Customs to release goods suspected of infringing a patent, and the request corresponds with the provisions of the preceding paragraph, Customs shall release the goods and notify the intellectual property right holder in writing.

Where the intellectual property right holder has brought a lawsuit before a people's court in respect of the relevant dispute of patent infringement, he/she shall, within 30 working days as from the date of service of the written notification by Customs specified in the preceding paragraph, present to Customs a photocopy of the notice of accepting case issued by the people's court.

Chapter IV Ex Officio Action

Article 21 If, in exercising Customs control over import and export goods, Customs discovers any import or export goods involving an intellectual property right recorded

with the General Administration of Customs, and the use of the intellectual property right by the importer/exporter or by the manufacturer has not been recorded with the General Administration of Customs, it may ask the consignee or consignor to, within the time limit specified by Customs, declare the status of the intellectual property right of the goods and present relevant evidentiary documents.

Where the consignee or consignor fails to declare the status of the intellectual property right of the goods or present relevant evidentiary documents in accordance with the provisions of the preceding paragraph, or Customs has grounds to believe that the goods are suspected of infringing an intellectual property right recorded with the General Administration of Customs, Customs shall suspend the release of the goods and notify the intellectual property right holder in writing.

Article 22 The intellectual property right holder shall, within three working days as from the date of service of the written notification by Customs specified in Article 21 of these Rules, make a reply in accordance with the following provisions:

(a) Where the intellectual property right holder believes the goods have infringed his/her intellectual property right recorded with the General Administration of Customs and therefore requests Customs to detain the goods, he/she shall file a written application with Customs for detaining the goods suspected of infringement, and provide a security in accordance with Article 23 or 24 of these Rules; or

(b) Where the intellectual property right holder believes the goods haven't infringed his/her intellectual property right recorded with the General Administration of Customs, or does not request Customs to detain the goods suspected of infringement, he/she shall explain the reasons to Customs in writing.

Upon the approval of Customs, the intellectual property right holder may check the relevant goods.

Article 23 Where an intellectual property right holder requests Customs to detain goods suspected of infringement in accordance with the provisions of item (a), paragraph 1, Article 22 of these Rules, he/she shall provide a security to Customs in accordance with the following provisions:

(a) Where the value of the goods is less than RMB20,000 yuan, a security equivalent to the value of the goods shall be provided;

(b) Where the value of the goods is RMB20,000 yuan and above but no more than RMB200,000 yuan, a security equivalent to 50% of the value of the goods shall be provided, but the minimum amount of the security shall be no less than RMB20,000 yuan; or

(c) Where the value of the goods is more than RMB200,000 yuan, a security of RMB100,000 yuan shall be provided.

Where an intellectual property right holder, in accordance with the provisions of item (a), paragraph 1, Article 22 of these Rules, requests Customs to detain goods suspected of infringing his/her exclusive right to use a trademark, he/she may provide a general security with the General Administration of Customs as prescribed in Article 24 of these Rules.

Article 24 A holder of the exclusive right to use a trademark recorded with the General Administration of Customs may, with the approval of the General Administration of Customs, present a letter of guarantee issued by a bank or a non-bank financial institution to the General Administration of Customs in order to provide a general security for the application for Customs protection of his/her exclusive right to use the trademark.

The amount of the general security shall be equivalent to the total sum of the warehousing, storage and disposal expenses incurred after the intellectual property right holder applied to Customs for detention of goods suspected of infringement in the previous year. Where the intellectual property right holder did not apply to Customs for detention of goods suspected of infringement in the previous year, or the warehousing, storage and disposal expenses are less than RMB200,000 yuan, the amount of the general security shall be RMB200,000 yuan.

From the date of approval by the General Administration of Customs of his/her application for using a general security to December 31 of the same year, if the intellectual property right holder, in accordance with the provisions of Article 16 of the Regulations, requests Customs to detain import or export goods suspected of infringing his/her exclusive right to use a trademark recorded with the General Administration of Customs, he/she does not need to provide additional security unless he/she fails to pay the relevant charges as prescribed in Article 25 of the Regulations, or fails to undertake the compensation responsibility as prescribed in Article 29 of the Regulations, and the General Administration of Customs has issued a notice to the guarantor for performance of security obligations.

Article 25 Where an intellectual property right holder has filed an application as prescribed in item (a), paragraph 1, Article 22 of these Rules and provided a security in accordance with Articles 23 and 24 of these Rules, Customs shall detain the goods suspected of infringement and notify the intellectual property right holder in writing. Where the intellectual property right holder fails to file an application or fails to provide any security, Customs shall release the goods.

Article 26 When detaining goods suspected of infringement, Customs shall serve the detention ticket of the goods on the consignee or consignor.

Upon the approval of Customs, the consignee or consignor may check the relevant goods detained by Customs.

Article 27 After detaining goods suspected of infringement, Customs shall, in accordance with law, conduct investigations on the goods and aspects related thereto. The

consignee or consignor and the intellectual property right holder shall cooperate in the Customs investigations and faithfully provide relevant information and evidence.

When conducting an investigation on goods suspected of infringement, Customs may request the relevant competent authorities for intellectual property right to provide advice.

Where the intellectual property right holder and the consignee or consignor have reached agreement on the goods detained by Customs that are suspected of infringement, and have filed a written application with Customs, with the relevant agreement attached, asking Customs to lift the detention of the goods, Customs may terminate the investigation unless it believes a crime may have been constituted.

Article 28 Where, after investigation on the detained goods suspected of infringement, Customs cannot determine whether the goods have infringed the relevant intellectual property right, it shall, within 30 working days as from the date of detention of the goods, notify the intellectual property right holder and the consignee or consignor in writing.

Where Customs cannot determine whether the goods have infringed the relevant patent, the consignee or consignor may, after providing a security equivalent to the value of the goods, request Customs to release the goods. Where Customs agrees to release the goods, it shall follow the procedures as prescribed in paragraphs 2 and 3 of Article 20 of these Rules.

Article 29 An intellectual property right holder may, in accordance with the provisions of Article 23 of the Regulations, apply to a people's court for an order to cease the infringing act or for preservation of property if Customs cannot determine whether the relevant goods have infringed his/her intellectual property right.

If, within 50 working days as from the date of detention of the goods suspected of infringement, Customs receives a written notice from a people's court requesting assistance in detaining the relevant goods, Customs shall provide such assistance. Where Customs has not received any notice from a people's court requesting assistance in detention, or the intellectual property right holder requests Customs to release the relevant goods, Customs shall release the goods.

Article 30 Where Customs makes a decision to confiscate infringing goods, it shall notify the intellectual property right holder in writing of the following known particulars:

- (a) Description and quantity of the infringing goods;
- (b) Name of the consignee or consignor;
- (c) Date of import or export declaration of the infringing goods, date of detention by Customs and date of effectiveness of Customs' decision of punishment;
- (d) Place of departure and destination of the infringing goods; and
- (e) Any other information relating to the infringing goods that Customs can provide.

If, in handling an infringement dispute between the interested parties, a people's court or a competent authority for intellectual property right requests assistance from Customs in taking evidence related to the relevant import or export goods, Customs shall provide such assistance.

Article 31 Where Customs discovers that certain inward or outward articles carried or mailed by individuals are both suspected of infringing an intellectual property right specified in Article 2 of the Regulations and in excess of the reasonable quantity for personal use, it shall detain the articles unless the passenger, or the sender or recipient of the mail, provides Customs with a statement of renouncement and obtains approval from Customs.

Intellectual property right holders shall provide assistance to Customs when Customs conducts investigations on infringing articles. Where an inward or outward passenger, or a sender or recipient of inward or outward mails, believes that the articles detained by Customs haven't infringed the relevant intellectual property right or that the articles are for personal use, he/she may make a written explanation to Customs and provide the relevant evidence.

Article 32 If, after investigation, Customs determines that the import/export goods, or the inward/outward articles, have infringed an intellectual property right, the goods or articles shall, as prescribed in paragraph 1 of Article 27 and Article 28 of the Regulations, be confiscated by Customs. Where it is hard to determine who the interested parties are, the goods or articles may be expropriated by Customs three months after the issuance of an announcement by Customs.

Where the import or export infringement act is suspected of constituting a crime, Customs shall transfer the case to the public security authority.

Chapter V Disposal of Goods and Relevant Expenses

Article 33 The confiscated infringing goods shall be disposed of by Customs in accordance with the following provisions:

- (a) Where the relevant goods can be directly used for public welfare undertakings or the intellectual property right holder has the intention of purchasing the goods, they shall be handed over to the relevant public welfare organizations for use in public welfare undertakings or transferred to the intellectual property right holder with compensation;
- (b) Where the relevant goods cannot be disposed of in accordance with item (a) but the infringing features can be removed, the goods shall be auctioned in accordance with law after removal of the infringing features. The proceeds from the auction of the goods shall be turned over to the State treasury; or
- (c) Where the relevant goods cannot be disposed of in accordance with item (a) or (b), they shall be destroyed.

Before proceeding with the auction of the infringing goods, Customs shall first seek the opinion of the intellectual property right holder. The intellectual property right holder shall provide necessary assistance when Customs destroys infringing goods. Where the relevant public welfare organizations use the infringing goods confiscated by Customs in public welfare undertakings, or the intellectual property right holder, as entrusted by Customs, destroys the infringing goods, Customs shall exercise necessary supervision.

Article 34 Where Customs assists a people's court in detaining goods suspected of

infringement or releases the detained goods, the intellectual property right holder shall pay the expenses for warehousing, storage, disposal, etc. of the goods incurred during the period of detention by Customs.

Where Customs confiscates infringing goods, the intellectual property right holder shall pay the expenses for warehousing, storage, disposal, etc. of the goods according to the actual period of storage after detention by Customs. However, if Customs fails to complete the disposal of the goods within three months as from the date of service of the decision of confiscation of the infringing goods on the consignee or consignor, and such a failure is not due to the consignee or consignor applying for administrative reconsideration, filing administrative proceedings or other special reasons relating to the disposal of the goods, the intellectual property right holder does not need to pay the relevant expenses incurred after the three months.

Where Customs auctions the infringing goods in accordance with item (b), paragraph 1, Article 33 of these Rules, the outlay of auction expenses shall be handled in accordance with relevant regulations.

Article 35 Where the intellectual property right holder fails to pay the relevant expenses as prescribed in Article 34 of these Rules, Customs may deduct the relevant expenses from the security provided by the intellectual property right holder or demand that the guarantor perform its security obligations.

In confiscating infringing goods, Customs shall refund the security to the intellectual property right holder or lift the guarantor's security liabilities after the disposal of the goods has been completed and the relevant expenses have been settled.

Where Customs assists a people's court in detaining goods suspected of infringement, or releases detained goods in accordance with items (a), (b) and (d), Article 24 of the Regulations, the consignee or consignor may apply to the people's court for preservation of property against the security provided by the intellectual property right holder. If, within 20 working days as from the date of detention by Customs of the goods suspected of infringement upon the request of the people's court or from the date of release of the goods, Customs has not received any notice from the people's court for assistance in enforcing measures of property preservation against the security provided by the intellectual property right holder, it shall refund the security to the intellectual property right holder or lift the guarantor's security liabilities. If it receives a notice from the people's court for assistance in enforcement, it shall provide such assistance.

Article 36 After Customs has, in accordance with Article 19 of the Regulations, released the goods it detained due to suspicion of infringement of a patent, if the intellectual property right holder, in accordance with paragraph 3 of Article 20 of these Rules, presents to Customs a photocopy of a notice of accepting case from a people's court, Customs shall dispose of the security provided by the consignee or consignor in accordance with the relevant verdict of the people's court. Where the intellectual property right holder fails to present the photocopy of the notice of accepting case from the people's court, Customs shall refund the security to the consignee or consignor. The consignee or consignor may apply to the people's court for preservation of property against the security provided to Customs by the intellectual property right holder. If Customs has not received any notice from the people's court for assistance in enforcing measures of property preservation against the security provided by the intellectual

property right holder, it shall, after 20 working days as from the date of disposal of the security provided by the consignee or consignor, refund the security to the intellectual property right holder or lift the guarantor's security liabilities. If it receives a notice from the people's court for assistance in enforcement, it shall provide such assistance.

Chapter VI Supplementary Provisions

Article 37 Customs protection of the Olympic symbols and the World Expo logo marks shall be handled in reference to these Rules.

Article 38 In these Rules, the term "security" refers to a cash deposit as a guarantee or a letter of guarantee provided by a bank or a non-bank financial institution.

Article 39 The value of goods in these Rules shall be assessed and determined by Customs on the basis of the transaction value of the goods. Where the transaction value cannot be determined, the value of the goods shall be assessed by Customs in accordance with law.

Article 40 The written notifications by Customs specified in Articles 17, 21 and 28 of these Rules may be served directly, posted, faxed or served in any other appropriate way.

Article 41 The time limits as prescribed in paragraph 3 of Article 20 and paragraph 1 of Article 22 of these Rules shall be calculated from the day following the date of service of the written notification by Customs. The starting and ending point of the time limits shall be determined in accordance with the following provisions:

- (a) Where an intellectual property right holder submits the relevant documents or provides the security through a postal office or a bank, the ending point of the time limit shall be 24:00 of the due date; or
- (b) Where an intellectual property right holder submits the relevant documents or provides the security vis-à-vis, the ending point of the time limit shall be the end of the normal office hours of Customs of the due date.

Article 42 Where an intellectual property right holder or a consignee or consignor presents a photocopy of a relevant document to Customs pursuant to these Rules, he/she shall verify the photocopy against the original. Once the photocopy has been verified as being in order, the words "TRUE COPY" shall be noted on the photocopy, which shall then be signed and/or sealed in confirmation.

Article 43 These Rules shall go into effect as of July 1, 2009. Rules of the General Administration of Customs of the People's Republic of China for Implementation of the Regulations of the People's Republic of China on Customs Protection of Intellectual Property Rights promulgated in the form of Decree No. 114 of the General Administration of Customs on May 25, 2004 shall be abolished simultaneously.