

## **General Principles Of the Civil Law Of the People's Republic Of China (2009 Amendment)**

### **Article 4**

In civil activities, the principles of voluntariness, fairness, making compensation for equal value, honesty and credibility shall be observed.

### **Article 99**

Citizens shall enjoy the right of Personal name and shall be entitled to determine, use or change their Personal names in accordance with relevant provisions. Interference with, usurpation of and false representation of Personal names shall be prohibited.

## **Tort Law of the People's Republic of China**

### **Article 2**

Those who infringe upon civil rights and interests shall be subject to the tort liability according to this Law.

“Civil rights and interests” used in this Law shall include the right to life, the right to health, the right to name, the right to reputation, the right to honor, right to self image, right of privacy, marital autonomy, guardianship, ownership, usufruct, security interest, copyright, patent right, exclusive right to use a trademark, right to discovery, equities, right of succession, and other personal and property rights and interests.

### **Article 20**

Where any harm caused by a tort to a personal right or interest of another person gives rise to any loss to the property of the victim of the tort, the tortfeasor shall make compensation as per the loss sustained by the victim as the result of the tort. If the loss sustained by the victim is hard to be determined and the tortfeasor obtains any benefit from the tort, the tortfeasor shall make compensation as per the benefit obtained by it. If the benefit obtained by the tortfeasor from the tort is hard to be determined, the victim and the tortfeasor disagree to the amount of compensation after consultation, and an action is brought to a people's court, the people's court shall determine the amount of compensation based on the actual situations.

## **Trademark Law of the People's Republic of China (2001 Amendment)**

### **Article 10**

The following marks may not be used as trademarks:

- 1) those identical with or similar to the national name, national flag, national emblem, military flag or medals of the People's Republic of China, as well as those identical with the names of the specific sites or the names and designs of the symbol buildings of the places where the central government agencies are located;
- 2) those identical with or similar to the national name, national flag, national emblem or military flag of any foreign country, except with the consent of the government of that country;
- 3) those identical with or similar to the name, flag, or emblem of any intergovernmental international organization, except with the consent of that organization and those

- unlikely to mislead the public;
- 4) those identical with or similar to the official marks, inspection marks that indicate the controlling or providing guarantee, except with authorization;
  - 5) those identical with or similar to the name or symbol of the Red Cross or the Red Crescent;
  - 6) those having the nature of discrimination against any nationality;
  - 7) those constituting exaggerated advertising and are deceitful; and
  - 8) those detrimental to socialist morality or customs, or having other harmful influences.

The place names of the administrative districts at the level of county or above or the foreign place names known by the public may not be used as trademarks. However, the place names that have other meanings and those used as part of a collective mark or certification mark are exceptional; the registered trademarks that use place names shall continue to be valid.

### **Article 31**

Anyone applying for trademark registration may not damage the existing rights of others obtained by priority, neither may it register, in advance, the trademark that has been used by others and has become influential.

### **Article 41**

If a trademark that has been registered violates the provisions of Article 10, Article 11, and Article 12 of this Law, or the registration of the trademark is obtained by deceitful means or other illicit means, the Trademark Office shall cancel that registered trademark; and other units or individuals may request the Trademark Review and Adjudication Board to cancel that registered trademark.

If a trademark that has been registered violates the provisions of Article 13, Article 15, Article 16 and Article 31 of this Law, the owner or the interested persons of the trademark may, within 5 years from the day on which the trademark is registered, request the Trademark Review and Adjudication Board to revoke that registered trademark. And the owner of a well-known trademark shall not be subject to the limit of 5 years to request the revocation of bad-faith registration.

Apart from the circumstances prescribed in the two preceding paragraphs, if there is any dispute over a registered trademark, an application may be filed with the Trademark Review and Adjudication Board for a ruling within 5 years from the day on which that trademark was registered upon approval.

The Trademark Review and Adjudication Board shall notify the parties concerned after receiving the application for ruling and request them to reply within a specified period.

## **Interpretation of the Supreme People's Court on Some Issues Concerning the Application of Law in the Trial of Civil Cases Involving Unfair Competition**

### **Article 6**

An enterprise name registered by the enterprise registration authority, and a foreign enterprise name used within the territory of China for commercial use shall be affirmed as an “enterprise name” prescribed in Item (3) of Article 5 of the Anti-unfair

Competition Law. A business name in the enterprise name that has certain market popularity and is known by the relevant public may be affirmed as a “enterprise name” prescribed in Item (3) of Article 5 of the Anti-unfair Competition Law.

The name of any natural person used in the business operation of commodities shall be affirmed as a “name” prescribed in Item (3) of Article 5 of the Anti-unfair Competition Law. The pen name or stage name of any natural person that has certain market popularity and is known by the relevant public may be affirmed as a “name” prescribed in Item (3) of Article 5 of the Anti-unfair Competition Law.

## **Administrative Litigation Law of the People's Republic of China (2014 Amendment)**

### **Article 70**

Where the alleged administrative action falls under any of the following circumstances, a people's court shall enter a judgment to entirely or partially revoke the alleged administrative action, and may enter a judgment to require the defendant to take an administrative action anew:

- (1) Insufficiency in primary evidence.
- (2) Erroneous application of any law or regulation.
- (3) Violation of statutory procedures.
- (4) Overstepping of power.
- (5) Abuse of power.
- (6) Evident inappropriateness

### **Article 89**

A people's court trying an appeal case shall:

- (1) enter a judgment or ruling to dismiss the appeal and sustain the original judgment or ruling, if the original judgment or ruling is clear in fact finding and correct in application of laws and regulations;
- (2) enter its own judgment or ruling, revoke the original judgment or ruling, or enter a modification judgment or ruling according to the law, if the original judgment or ruling is erroneous in fact finding or application of laws and regulations;
- (3) remand the case to the people's court conducting the original trial for retrial or enter its own judgment after fact finding, if the original judgment is unclear in the finding of the basic facts; or
- (4) enter a ruling to revoke the original judgment and remand the case to the people's court conducting the original trial for retrial, if the original judgment omits a party, is a default judgment illegally entered, or otherwise seriously violates the statutory procedures.

Where, after the people's court conducting the original trial enters a judgment for a case remanded for retrial, a party appeals, the people's court of second instance shall not remand the case for retrial again.

Where a people's court trying an appeal case needs to change the original judgment, its own judgment shall also contain a determination regarding the alleged administrative action.

**The Interpretation of the Supreme People's Court on Several Issues concerning  
the Enforcement of the Administrative Litigation Law of  
the People's Republic of China**

(No official translation; translated by myself)

**Article 76**

For the case which the court retrials under the procedure for trial supervision, if the legally effective judgment or ruling is made by the first instance court, then the case shall be trialed according to the first instance procedure. Parties can appeal against the judgment or the ruling. If the legally effective judgment or ruling is made by the second instance court, then then the case shall be trialed according to the second instance procedure, and the judgment or ruling will be legally effective. If the case is reviewed by a higher court, then the case shall be trialed according to the second instance procedure, and the judgment or ruling will be legally effective.

When the people's court retrials the case, new collegiate bench shall be formed.

**Article 78**

When the court retrials the case, if court holds that the original judgment or ruling is erroneous, then the court can revoke the original effective judgment or ruling, and at the same time, the court can either make judgment on the effective judgment or ruling, or make revocation ruling to the effective judgment or ruling and remand the case to the court who made the effective judgment or ruling for retrial.

**Advertising Law of the People's Republic of China (2015 Revision)**

**Article 2**

This Law shall apply to commercial advertising activities in which commodity dealers or service providers directly or indirectly introduce, via certain media and in certain forms, goods or services marketed by them within the territory of the People's Republic of China.

For the purposes of this Law, “advertiser” means a natural person, a legal person, or any other organization that designs, produces, and publishes advertisements or authorizes any other person to do so for the purpose of marketing its goods or services.

For the purposes of this Law, “advertising agent” means a natural person, a legal person, or any other organization that accepts authorization to provide advertisement design, production, and agency services.

For the purposes of this Law, “advertisement publisher” means a natural person, a legal person, or any other organization that publishes advertisements for an advertiser or an advertising agent authorized by the advertiser.

For the purposes of this Law, “endorser” means a natural person, a legal person, or any other organization, other than the advertiser, that recommends or certifies goods or services in an advertisement in its own name or image.