

China Trademark Office Published Notes on Division of Application

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According to Article 22 of the new Implementing Regulations of China Trademark Law which came into effect on May 1, 2014, if China Trademark Office rejects a trademark application in respect of partial designated goods, the applicant can request to have the application with the provisionally approved items divided to be another application with reserved original filing date.

On August 20, 2014, the China Trademark Office (CTMO) published notes to detail how division of application is implemented.

- The CTMO will attach a form of Division of Application when it issues Notification of Partial Rejection of Application.
- If the applicant requires a division, the executed Division of Application must be submitted to the CTMO within 15 days of the receipt of the CTMO's Notification of Partial Rejection of Application. If it is not submitted within the prescribed period, the applicant is deemed to disagree with the division.
- After the division, the application with the provisionally approved items will generate a new application to be published with a new filing number but reserved original filing date; and the original filing number will be reserved for the application in respect of the blocked items due to the partial rejection, for the purpose of appeal proceeding before China Trademark Review and Adjudication Board (TRAB) or other subsequent proceedings.
- Each application for registration can be divided once only in the proceeding of rejection in respect of partial designated goods or services. Division is not applicable in other proceedings.
- There is no official fee for division of application.
- Once filed, the divisional application is irrevocable.

Additionally, we would like to mention that, if the applicant does not want a division but file an appeal against the partial rejection within 15 days of the receipt of the notification, the application with the provisionally approved items cannot move forward to publication and registration before the TRAB makes a decision on the appeal. However, if no appeal is lodged within the prescribed period, the application with the provisionally approved items will be automatically arranged for publication and registration.

Therefore, whether to file a divisional application and/or an appeal against the partial rejection will mainly depend on an analysis of what is approved and what is blocked on the specification when the partial rejection is issued.

For more information on patents, please contact:



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