

**Measures for Handling of Intellectual Property Complaints at JINHAN FAIR****Part I Protection of Intellectual Property Rights at JINHAN FAIR**

Article 1 For the purpose of safeguarding the normal trading order of JINHAN FAIR, enhancing the awareness of intellectual property rights (hereinafter referred to as "IPR") protection and self-discipline of exhibitors, and protecting the legitimate rights and interests of exhibitors, the Measures for Handling of Intellectual Property Complaints during JINHAN FAIR (hereinafter referred to as "the Measures") are formulated in accordance with the *Measures for the Protection of Intellectual Property Rights during Exhibitions* issued by the Ministry of Commerce and the *Measures of Guangzhou Municipality for Protection of Intellectual Property Rights at Exhibitions* and other laws and regulations. The Measures are formulated by Guangzhou Poly Jinhan Exhibition Co., Ltd.

Article 2 JINHAN FAIR IPR Complaint Center (hereinafter referred to as "the Complaint Center") is located at the site of JINHAN FAIR (hereinafter referred to as "the Fair"), and is the only body that receives IPR complaints during the FAIR. The Complaint Center handles the complaints about suspected infringement of IPR (hereinafter referred to as "suspected IPR infringement") that occurred within the exhibition venue during the current session of the Fair. In case of complicated complaints that are difficult to determine, the Fair will ask IPR authorities in charge of trademark, patent, copyright, etc. to assist in handling such complaints.

Article 3 Complainants should be noted that any complaint about suspected IPR infringement occurred within the exhibition venue during the current session of the Fair must be filed to the Complaint Center. If any Complainant is involved in any unauthorized negotiations with the suspected Infringer, which causes chaos in the venue and disturbs the normal trading order, the security department, on behalf of the host of the Fair, has the right to revoke the Complainant's exhibitor pass and prohibit the Complainant's entry to the exhibition hall.

Article 4 Exhibitors' obligations:



(1) If IPR exhibits are involved, exhibitors are required to provide supporting documents and relevant certificates to the host 30 days before the Fair for putting them on record.

(2) The IPR marks and signs on the exhibits shall be labeled properly according to China's national rules.

(3) Exhibitors should proactively check the IPRs of their exhibits and shall not bring any exhibit suspected of infringing IPRs already held by others into the Fair. In no case may exhibitors display or sell exhibits that infringe IPRs held by others; in no case may exhibitors make quote and transaction for products/samples with registered trademarks, patents and copyrights owned by others; in no case may exhibitors display on booth or publicize products/samples and non-exhibits of uncertain IPR ownership, which are provided by clients, partners and/or any third parties.

(4) Exhibitors must guarantee that all the exhibits and their packings, as well as board, stand, product catalogue and the displayed parts of other publicity materials do not violate relevant laws and regulations nor infringe upon the legitimate rights and interests, including IPRs, of others in all respects.

(5) Exhibitors shall accept the supervision, inspection and resolution of JINHAN FAIR Complaint Center and the administrative departments of IPRs.

Article 5 Exhibitors agree to compensate the host, the organizer, the co-organizer and the venue management department of the Fair all the expenses and losses incurred by the third party's accusation against the host, the organizer, the co-organizer and the venue management department due to infringement.

Article 6 In case a complainant exhibitor files a complaint to the host of the Fair in accordance with the Measures and requests the host to take measures against the respondent exhibitor, the complainant and the respondent both agree that the host will be exempt from all responsibilities, legal actions, claims or other requests in respect of the complainant and the alleged infringement. In addition, the Complainant agrees to cover the costs of the host, the organizer, the co-organizer and the venue management department of the Fair, which are incurred during the handling of the



complaint, and to compensate any possible losses caused to the Respondent.

Article 7 The Measures are published on JINHAN FAIR's official website and are attached to the Exhibition Participation Contract between the Exhibitor and the Fair. By signing the above-mentioned Contract, the Exhibitor acknowledges that it has understood the contents of the Measures and agree to the IPR protection requirements therein. At the same time, the Exhibitor further acknowledges that

(1) all of its exhibits do not infringe on the IPRs already held by others;

(2) it will immediately cover or remove the suspected infringing exhibit in case the exhibit is considered by the host of the Fair as suspected of infringement and the exhibitor cannot provide valid proof of non-infringement;

(3) the Complaint Center has the right to temporarily detain/confiscate the suspected infringing exhibits, and JINHAN FAIR has the right to revoke the exhibitor's exhibitor pass and cancel its qualification for the current session of the Fair if the exhibitor refuses to cover or remove the suspected infringing exhibits that are identified as infringing according to the judgment of the people's court or the decision on settlement of infringement has been made by the administrative departments of IPRs.

## **Part II Procedures for Handling of IPR Complaints**

Article 8 Attendees with valid certificates of the current exhibition can file a complaint with the Complaint Center in case of any suspected infringement of legal rights as to exhibits and publicity materials displayed in the booths.

Article 9 when filing a complaint to the Complaint Center, the Complainant shall firstly show the certificates of legal rights owned by itself to the Complaint Center personnel, and then provide the basic information such as name, booth, etc. of the Respondent.

Article 10 After the staff members of the Complaint Center examine and verify the validity of the certificates provided by the Complainant, the Complainant is required to fill in a *Complaint Submission Form*, in which the Complaint shall clearly state the



name of the exhibit suspected of infringement, the reason why it is suspected of infringement and the evidence.

Article 11 On receiving the *Complaint Submission Form*, the Complaint Center will send personnel to handle the complaint. The exhibitor representative on the record of the Fair shall cooperate with the Complaint Center to handle the complaint on behalf of the Respondent.

Article 12 When filing a complaint, the Complainant shall submit the corresponding identity certificates and supporting documents for the record.

The IPR Complainant shall provide the documents listed in the attachment *Documents and Materials to be submitted for Patent, Trademark and Copyright Complaint at Fair*, and provide the originals of these documents for the Complaint Center to check and verify.

Article 13 After being informed that the displayed exhibits are suspected of infringement, the Respondent shall immediately present relevant supporting documents to prove its non-infringement, and assist the Complaint Center staff members to examine the suspected exhibits.

Article 14 If the Respondent fails to provide evidence of “non-infringement”, the Complaint Center has the right to legally require the Respondent to cover and withdraw its exhibits immediately and take at least three photos of the suspected exhibits or articles. The Respondent shall immediately sign a *Letter of Commitment* and promise that during the current session of the Fair, the Respondent will not manage, display or sell the suspected exhibits.

Article 15 If the Respondent refuses to remove its exhibits as required, the Complaint Center has the right to take photos of the suspected exhibits and the booth for taking the evidence. It will submit these photos to the Complainant, or cooperate with the notary organ to obtain evidence, and detain or confiscate the suspected exhibits and articles.

Article 16 If the Respondent holds disagreement to solution of the Complaint Center to the complaint, the Respondent shall provide supplementary evidence of non-infringement to the Complaint Center within 24 hours (according to the timetable at the venue of the Fair) after the Complaint Center gives its solution to the complaint. The Complaint Center will immediately return the detained exhibits and allow them to be further displayed, if the evidence provided by the Respondent is valid; if the evidence is invalid, overdue, or if the Respondent provides no supplementary evidence, the Fair has right to confiscate the detained exhibits.

Article 17 To maintain proper trading order of the Fair, the Complainant shall not take further legal measures toward the Respondent or other actions that may influence the normal order of the Fair during the period since the Complaint Center gives its solutions to the complaint in question which are accepted by the Respondent until the conclusion of the Fair.

Article 18 In case a complaint is accepted by the Complaint Center, the Complaint Center will not handle any other complaints filed by the Complainant with the same reasons and evidence.

Article 19 After the conclusion of every session of the Fair, JINHAN FAIR shall send a copy of the list of suspected infringing exhibitors handled by the Fair to relevant chambers of commerce and trading associations.

Article 20 The requirements and procedures concerning complaint receiving and handling mentioned above are drawn up on the basis of the *Requirements for Patent Complaint*, the *Administrative Procedures for Trademark Infringement during Exhibitions*, and the *Procedures for Receiving and Handling Copyright Complaints* (Chinese and English versions) formulated by administrative departments of IPRs in Guangzhou Municipality.

### **Part III Complaint Handling Regulations**

Article 21 If the business personnel (exhibitor) suspected of infringement refuse to cooperate with the Complaint Center in investigating and examining the suspected exhibits, under circumstances of ineffective persuasion, the Complaint Center staff



have the right to revoke the exhibitor certificate from the person in question and bring the person involved back to the Complaint Center for further handling.

Article 22 As to the exhibitor suspected of trademark infringement, the Complaint Center has the right to confiscate its exhibits involved in the case of infringement and ask the exhibitor to submit a written statement concerning the source, transaction and inventory of the suspected exhibits. The Complaint Center has the right to reduce the number of booths for the exhibitor at the subsequent session of the Fair.

Article 23 As to an exhibitor who displays exhibits distributed by personnel outside the exhibitor's company in question, which causes infringement of rights, or the exhibitor is unable to explain the source of the suspected exhibit, the Fair has the right to temporarily detain/confiscate the suspected exhibit.

Article 24 After the Complaint Center's handling of the complaint, if the Respondent Exhibitor in question displays again the suspected exhibits in the same booth, the Fair has the right to immediately confiscate the exhibitor certificates from the Respondent's personnel and deprive its quality as exhibitor for the current session of the Fair. The Respondent Exhibitor in question shall be criticized in public announcement and its exhibition charges will not be refunded.

Article 25 If an exhibitor is found displaying more than three (3) kinds of exhibits suspected of infringement, the Fair has the right to debar the exhibitor from attending the following session of the Fair, in addition to handle the suspected exhibits in accordance with the Measures.

Article 26 From the current session of the Fair, if an exhibitor is suspected of IPR infringement for an accumulated number of two (2) sessions, the Fair has the right to exclude the exhibitor in question from two successive sessions of the Fair; as to an exhibitor suspected of infringement for an accumulated number of three (3) sessions, the Fair has the right to exclude the exhibitor in question permanently from attending the Fair.

Article 27 In case any exhibits are counterfeited, which infringes upon others'IPRs and violates relevant laws, the Complaint Center personnel will voluntarily



cooperate with administrative departments of IPRs in investigating and handling, and may temporarily detain, confiscate, sequester the exhibits in question, or instruct the relevant exhibitor to remove them from the booth. In case of suspected crime, the Complaint Center shall bring the personnel involved to justice for criminal accountability.

Article 28 Any exhibitor that conducts a behavior mentioned in Part III of the Measures shall be put on record by the Complaint Center; if necessary, the Complaint Center will report to administrative departments of IPRs for record.

#### **Part IV Terms and Definitions**

Article 29 Intellectual Property Rights (IPRs) - according to World Trade Organization (WTO)'s Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the IPRs referred to in the Measures include: (1) copyright and related rights; (2) trademarks; (3) geographical indications; (4) industrial designs; (5) patents; (6) layout-designs (topographies) of integrated circuits; (7) protection of undisclosed information.

Article 30 Exhibitor - in the Measures, the exhibitor responsible for suspected infringement refers to the company with an officially allocated and recorded booth at the Fair (as written on the fascia). The punishment mentioned in the articles in Part III of the Measures, *Complaint Handling Regulations*, shall apply to the Exhibitor regardless of the identity of the alleged infringer being both the Exhibitor itself, or the Exhibitor's subsidiary, joint venture, supplier and partner.

Article 31 Supporting Documents - documents proving the ownership of IPRs, including documents required by relevant laws and regulations of the nation and documents required by the Complaint Center from the Complainant and Respondent according to the actual situation.

#### **Part V Others**

Article 32 Whether the Complaint Center gives primary settlement to the complaint or not, further measures taken by the Complainant toward the Respondent after the conclusion of the current session of the Fair bear no relations to the Fair.

The host of JINHAN FAIR owns the right of final interpretation of the Measures.

The Measures take effect from the date of its publication. In case of discrepancies with previous regulations, the Measures shall prevail.

Guangzhou Jinhan Fair for Home & Gifts

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***Appendix: Documents and Materials to be Submitted for Patent, Trademark and Copyright Complaint at Fair***

**(I) Documents to be Submitted in Patent Disputes**

1. Patent Dispute Complaint Form, in which the basic information of the suspected infringer, and the reasons and evidence of the alleged infringement must be provided

2. Letters Patent

3. Patent announcement documents issued by the China National Intellectual Property Administration or retrieved by the local patent information center

4. The patentee's identity certificate or industrial and commercial registration certificate

5. Where the patentee or interested party entrusts an attorney, the Power of Attorney shall be submitted, in which the scope of the mandate shall be clearly stated. As to complaints involving foreign parties, the Power of Attorney and business registration data notarized by the local notary office of the country (region) to which the complainant belongs and authenticated by the Chinese embassy or consulate shall also be submitted.

6. The legal status certification of the patent (in the form a copy of the Patent Register or a retrieval certificate issued by the patent information center)

7. Where the complaint is a licensee of a patent licensing contract, the licensing contract and the licensee's identity certificate or industrial and commercial registration certificate must be submitted when a complaint is filed.





8. Where the complaint is a rightful heir of patent rights, relevant certification documents must be provided.

9. As to complaints involving design patents, documents proving the respondent's sale of the alleged infringing products at the Fair shall be submitted;

10. As to complaints involving patented inventions or products directly obtained according to a patented method, the proof that the production method adopted by the respondent falls within the scope of patent protection shall be submitted;

11. As to complaints involving chemical formulas, evidence or test report that can prove the accurate chemical composition of the product accused of infringement shall be submitted;

12. As to complaints involving patents for utility models and inventions of large machinery, equipment or precision instrument, which are difficult to judge whether they fall within the scope of patent protection during the Fair, evidence or appraisal reports that can prove that they do fall within the scope of patent protection shall be submitted.

13. The above-mentioned documents shall be submitted in duplicate

## **(II) Documents to be Submitted for Trademark Infringement Complaints**

1. The original of the *Application for Investigation and Handling of Suspected Trademark Infringement* submitted to the Administration for Industry and Commerce with the signature or seal of the trademark registrant;

2. Reasons and evidence of suspected infringement, including physical samples or photos of the infringing products;

3. Basic information of the suspected infringer;

4. Where the Complainant is a Chinese trademark registrant, the copies of the trademark registrant's business license or ID card shall be submitted;

5. Where the trademark registrant entrusts an attorney to file a complaint, the attorney shall submit a copy of the Power of Attorney signed or stamped by the trademark registrant and submit the original for verification; for foreign-related cases with long authorization term, the copy of the Power of Attorney shall be submitted together with its original and the original of the notary certificate issued by the Chinese embassy in the country where the registrant is located for verification; where it is difficult to provide the original of the Power of Attorney, the copies of the Power of Attorney and the notary document issued by the Chinese notary office, proving that



the copy is consistent with the original, shall also be submitted;

6. Where the trademark registrant authorizes an attorney to file a complaint, the attorney shall submit copies of its business license, lawyer's qualification certificate and ID card, and submit the original for verification.

7. Copy of the trademark registration certificate shall be submitted, as well as the original for verification; for foreign-related cases where it is difficult to provide the original of the certificate, the original of the notary certificate issued by the Chinese embassy in the country where the registrant is located shall be submitted for verification, and the copy of the notary document issued by the Chinese notary office, proving that the copy is consistent with the original, shall also be submitted;

8. For registered trademarks that are internationally registered but have a territorial extension to China, a copy of the certificate issued by the Trademark Office of the State Administration for Industry and Commerce shall be submitted together with a copy of the international trademark registration certificate, and the originals shall also be submitted for verification;

9. Other documents required by the Administration for Industry and Commerce shall be submitted.

### **(III) Documents to be Submitted for Copyright Infringement Complaints**

Complainant:

1. The copyright holder and/or its authorized attorney, rightful heir or entrusted attorney of the heir;

2. As to a foreign complainant, the identity certificate of the complainant and the notary document issued by the foreign government and the Chinese embassy, which can prove the ownership of the copyright, shall be provided. The documents submitted, whose originals are in foreign languages, shall be translated into both Chinese and English.

3. Attendees with valid certificates of the current session of the Fair.

Documents to be submitted:

1. Voluntary Registration Certificate of Works (the copies submitted shall be consistent with the original);

2. The ID card of the copyright holder and the business license (the copies submitted shall be consistent with the originals);

3. The Power of Attorney and the ID card of the authorized attorney;

4. Where the complaint is a rightful heir of the copyright holder, relevant certification documents must be provided.