

GRAND COLLECTION OF CHINESE PRODUCT TRADEMARKS

中国言实出版社

中国产品商标大典

广东卷(一)

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中国言实出版社

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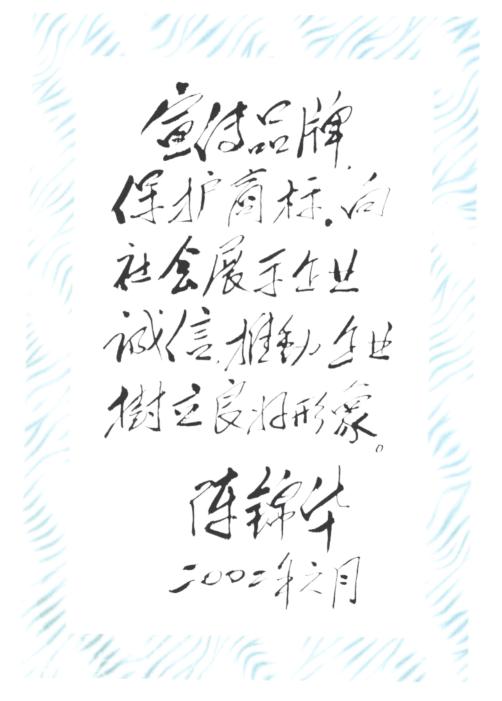
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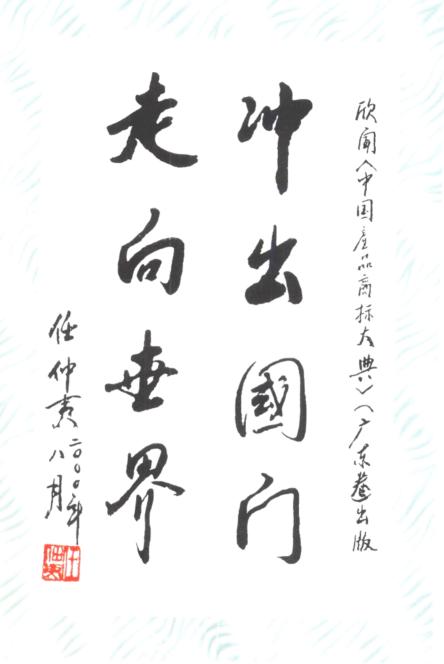
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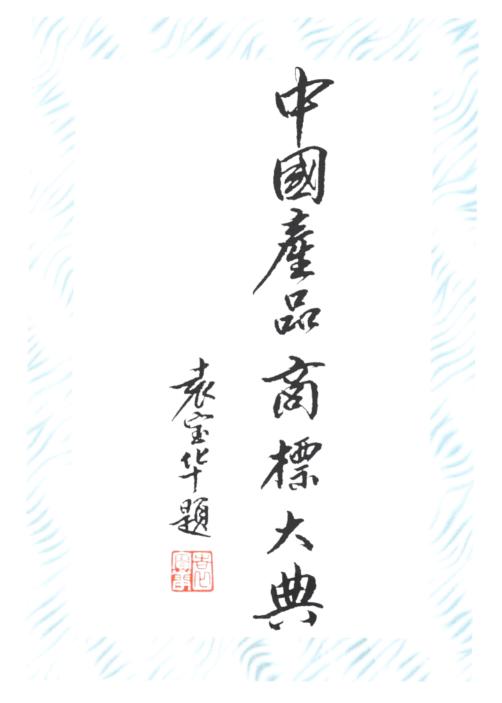




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2003年3月是商标法实施二十周年。我国企业的商标意识是随着改革开放的历史 进程同步提高的。从二十年前用在产品包装上的小组扣商标、到今天人们常常耳闻目 睹的各类商标争夺战、乃至现在出版《中国产品商标大典》、中国人的商标意识在二 十年间已经有了一个质的飞跃。

社会主义市场经济体制的发展与完善,使我国告别了商品短缺时代,市场的丰富与繁荣令人目不暇接。社会主义的发展目标是满足广大人民群众目益增长的物质和精神需求。在解决了温饱问题之后,人们对生活有了更高的要求,他们不但消费商品,同时还注重商品所代表的文化。而商标在这个历史时期很好地承担起了这个使命。它不但能代表产品或服务的来源、技术质量、信誉等,还包含了企业的文化、理念、价值取向和个人品位等精神层面的追求,能够从物质和精神两个方面给人们带来满足和愉悦,是企业竞争力的综合反映。

过去我国企业不太注意自己的品牌形象,不注意包装和推销自己,这是计划经济体制下的通病,使我们在这方面吃了很多亏。我们有很多产品,质量、技术都不错,但不注重树立自己的品牌。随着我国加入WTO,我国企业面临的已是一个全球化竞争的市场。每一个想在竞争中站稳脚跟并有所作为的企业家,都应当认真思索如何把握机遇,而对挑战。可喜的是,已经有越来越多的企业认识到了商标在市场竞争中的重要作用,把创立自己的品牌作为不渝的追求目标,这是一个历史的进步。

本书主编嘱我为《中国产品商标大典》作序,我认为编辑出版这本书是一件很有意义的事情。相信它能够很好地起到总结和展示中国企业风采,进一步增强全社会商标意识、促进保护企业商标专用权的积极作用。

如数学

Preface

The Trademark Law has been put into practice for twenty years by March 2003. The consciousness of brand name of the enterprises in China has been enhanced together with the reform and opening up of China. From the fastener trademark carried on the package of the products twenty years ago, to the contests about the trademarks, which are becoming more and more frequent, and even to the very publishing of Grand Collection of Chinese Product Trademarks, the consciousness of brand name of the Chinese people have step into a new era.

With the development and improvement of the socialist market economy system, we have left the era behind when we were short of all kinds of commodities. Nowadays, the market is so abundant and booming that we have too many things to see. The aim of socialist development is to meet the increasing substantial and spiritual requirements of the people. People ask for more in their life after the problem of dressing warmly and ear their fills have been settled. They not only consume the commodities but also pay attention to the culture which the commodities represent. Trademarks can fully serve the mission in the era rightly. Firstly, a trademark represents the source, quality of techniques, and reputation of the products or services. Secondly, it includes the spiritual aspects such as culture, ideal, value and personal taste that the enterprise seeks for. Trademark is the integrated reflection of the capability of competency of the enterprise and can satisfy and please people in both substance and spirit sides.

In the past, the Chinese enterprises paid little attention to their brand image, package and sales promotion of the brands, which is the common malpractice under the planning economy and made them suffer loses. We have many products which the quality and the technology aspects are fairly good; however, we attached no importance to the erecting of our brands. With China's accession to the WTO, what the enterprises in China face is a marketplace in which the global competition is undergoing. Every entrepreneur, whoever wants to stand firmly and play successfully under the market competition, should seriously consider how to grasp the opportunities and stand up to the challenges. Fortunately, more and more enterprises have realized the important roles of the brands in the market competition and have deemed the brand establishment as their persisting pursuit. It marks the great progress made by the Chinese companies.

The general editor request me to write a preface for the Grand Collection of Chinese Product Trademarks, and I think it is of significance to edit and publishing this book. I believe that it can quietly well contribute to the summarizing and exhibiting the splendor of the Chinese enterprises and further strengthening of the whole society's trademark awareness, and boosting of the protection of the exclusive use rights of the trademarks of the enterprises.

Liu Minxue December 26, 2002

前言

改革开放20多年来,中国的企业取得了长足的发展和进步,缩小了和世界发达国家的差距。江泽民同志"三个代表"重要思想的提出和贯彻实施,使全国人民再次投入到解放思想、与时俱进的洪流中,揭开了改革开放的新篇章。2001年11月11日,中国加入WTO,标志着中国经济发展跨入了一个新的阶段。党的十六大的召开,使中国人民有了崭新的目标,这就是:"全面建设小康社会,开创中国特色社会主义新局面"。在十六大精神鼓舞下,全国人民正以百倍的热情投入社会主义现代化建设之中。

中国企业面临着千载难逢的良好发展机遇,同时也必须接受严峻的挑战。加入WTO,中国面向世界的大门全面打开,众多的国际名牌产品蜂拥而入,纷纷抢占我国市场。中国企业,无论是国有,还是民营,不仅要平等地在国内市场竞争,而且要并肩面对国外企业的竞争。中国企业面临着重大考验。保持与创造全国乃至世界知名企业与产品品牌,将使中国的企业与产品在激烈的国际竞争中立于不败之地。中国的产品历经20多年的市场洗礼,质量和技术已目趋成熟,但仍有很多产品竞争力不强,质量较低。在商标意识方面,中国企业普遍低于西方发达国家,表现为:只生产产品,不注册商标;不知怎样制定和实施商标战略;只在国内注册,没有申请国际注册,导致屡屡发生著名商标被国外抢注事件(如"同仁堂"在日本被抢注,"阿诗玛"在菲律宾被抢注等)。这些都对我国经济的发展造成十分不利的影响。

商标是产品的旗帜,是企业跨入市场的"通行证"。为了宣传企业的商标和产品,扩大企业的知名度、树立企业的良好形象,为企业创立品牌提供切实的帮助;为了增强企业的商标意识,保护企业的商标权利,保护知识产权;同时也为了给供需双方提供商业信息,促进物流渠道畅通,给经济发展注入活力,我们精心策划、慎密选材、细致编辑、终于隆重推出了《中国产品商标大典》丛书。这是我国历史上第二次出版《中国产品商标大典》(第一次是1932年出版的《民国商标大典》,现珍藏于上海图书馆,已成为珍贵历史资料)。我们力求编纂出当代中国第一套权威、完善、具有珍藏价值的丛书、以奉献给孜孜以求的中国企业家、奉献给中国的建设者们、奉献给充当桥梁媒介作用的购销商。同时,我们也要把这套丛书推向世界,展示中国企业风采、诠释中国经济的发展、吸引欲在中国有所作为的外国企业和友好人上,促进中国企业适应经济全球化和加入世贸组织后的新形势,在更大范围、更广领域和更高层次上参与国际经济技术合作和竞争,拓宽发展空间。

本书广东卷(一) 共收录广东省顺德市800多家企业的资料, 千余个商标图案, 采用国际商标分类法进行编排。书中千余个鲜明的标志, 代表着各个企业的形象, 定会给读者留下难以磨灭的印象, 同时也告诫人们: 保护商标权利, 保护知识产权。

与时俱进,不断创新,才能弄潮商海,成就伟业。我们期待中国的企业多出精品,创立名牌,跻身世界优秀企业行列。

Preamble

In the past 20 years ever since China's reform and opening up, the Chinese enterprises have made significant development and progress, and the gaps between China and the developed country in the world have been shortened. The "Three Represents" theory, put forward by Mr. Jiang Zemin and implemented in China nowadays, has once more led the Chinese people into a tide of thoughts liberation and keeping the same pace with times, and unveils a new chapter of the reform and opening up. On November 11, 2001, China formally gained her accession to the WTO and it marks the beginning of a new stage of the economic development of the nation. The 16th CPC (Communist Party of China) Party Congress brought the Chinese people a brand-new goal - "to build a well-off society in an all-round way and create a new situation in building socialism with Chinese characteristics". Under the inspiration of the spirits of the 16th CPC Party Congress, the Chinese people are now engaged in the socialist modernization construction with much zeal.

At present, the Chinese enterprises are now confronted with the unprecedented development opportunities; meanwhile, they are exposed to the severe challenges. With China's accession to the WTO, the door of China is open to the world and innumerous products of international brands will enter the Chinese market in clusters and squeeze the market shares of the Chinese enterprises. Chinese enterprises, either the state-owned or the privately-run, will not only compete fairly in the domestic market but also face the competition from the foreign rivals, which means really severe challenges to them. To maintain and create the nationally or even the internationally renowned enterprises and products brand names will enable the Chinese enterprises and their products stand up to the international competition and succeed. The products made in China have experienced more than 20 years of market ablution; the quality and the technology have become more and more mature. However, many products still haven't strong competitiveness and the quality is not so good. With regard to the awareness of the trademark, the Chinese enterprises commonly have lower level of awareness compared with their counterparts in the western developed countries, which can be observed from the facts: the Chinese enterprises only produce the products and don't register trademarks; they don't how to produce and implement trademark strategy; they only register in the domestic market and they don't apply for the international registration. This has led to the occurrence of other's preempted registration of China's renowned trademarks in foreign countries (for example, "Tong Ren Tang" was registered in Japan and "Ashima" was registered in the Philippines, preempted by other parties, etc). All of these have imposed on negative impacts on China's economy development.

As the flag of the product, trademark is the "passport" of a certain enterprise when it wants to enter the marketplace. In order to publicize the trademark and the products of the enterprise, erect the good image of the enterprise and provide the real help for the establishment of the enterprise; also in order to strengthen the trademark awareness of enterprises, protect the trademark rights of the enterprises as well as the intellectual property rights; as well as in order to provide the commercial information for the suppliers and the purchasers, guarantee the smooth operation of the commodities flows and activate the economic vitality, we edit and compile the Grand Collection of Chinese Product Trademarks with dedication and meticulous selection; and now we render it to the vast readers. This is the second time in China's history that a china product trademarks thesaurus goes into publication (the first time was in 1932, when China published the National Trademarks Thesaurus, which was collected in Shanghai Library and became a piece of precious historic transcript.) We are striving to compile China's first modern authoritative, consummate and precious collection to render the coveted Chinese entrepreneurs, the constructors of China and the intermediary purchasers. At the same time, we want to push the collection to the world, so that we can exhibit the splendor of the Chinese enterprises and explain the economic development in China, attract the foreign enterprises and friends from the abroad, which want to play a successful part in the Chinese market, thus boosting the Chinese enterprises to adapt to the economic globalization and the new situation post China's accession to the WTO, and to participate in the international economic and technological cooperation and competition in a broader scope, wider domain and higher level, and further widen the development space.

The Thesaurus' Guangdong Volume (I) totally collects the information of more than 800 enterprises in Shunde City, Guangdong Province, more than 1000 trademark logos, which are arranged according to the international trademark taxonomy. The marked designs in this book represent the images of the enterprises, and will surely impress the readers effectively. At the same time they also warn us of protecting the trademark right and intellectual asset.

Only by keeping pace with the times and innovating ceaselessly, can we make great achievements in business. We are expecting Chinese enterprises to produce many more elaborate works, create many more name brands and ascend the range of excellent enterprises in the world.

商标的价值及其保护

一. 商标的价值

商标作为知识产权,是一种思维劳动的成果,是一个企业全体员工智慧与劳动的凝结,代表着企业的形象。所以,商标的价值,除了包含独特的创意、巨大的广告投入、严密的企业管理外,还具有无形的价值。这些无形的价值就是企业的名誉度、产品的可靠度,以及消费者对企业产品的认可。企业、产品具有广泛的知名度,才能使产品畅销,财源滚滚,提高企业自身的价值。如世界驰名商标"可口可乐",它的商标价值高达244亿美元。世界性的商标是一个国家的瑰宝,哪个国家拥有更多的世界性商标,它就是未来的世界经济强国。

所以,商标与企业的动产、不动产一样,是一种物质财富和无形资产,是工业产权的一部分。在当前国企改革、产权变动中,我们评估、清算财产时,除了严格计算动产、不动产外,绝不能忽视商标所代表的无形的价值,以防资产流失。

二.商标的保护

知识产权是指在科学、技术、文化、艺术、工商等领域内,人们基于自己的智力创造性成果和经营管理活动中的标记、信誉、经验、知识等而依法享有的专有权利。知识产权作为 无形财产权,包括智力成果权、商业标识权、经营资信权等。

知识产权的保护随着发明、作品等智力成果在社会经济中地位的目益增强,受到了前所未有的重视、特别是中国加入WTO以后、中外贸易更加频繁、跃上了一个新的台阶。但是,其中有关知识产权方面的纠纷也层出不穷。各国都在调整本国的知识产权法律、把其作为和其他国家进行经济往来的筹码、以最大限度地保护本国企业、争取更多的权利和利益。同时,而对国内目益纷繁复杂的知识产权纠纷、出台相关的法律和保护措施也刻不容缓。

1.司法保护

我国相继出台了《专利法》、《商标法》、《著作权法》等相关的知识产权法律,还参加了有关知识产权的国际公约,建立了完善的知识产权立法体系。当知识产权所有人的权利受到侵害时,可依法向人民法院提起诉讼、享受有效的司法保护。鉴于审理知识产权案件专业性强、技术含量高的特点,近年来一些省和直辖市(如广东省、福建省、北京市、上海市等)高级人民法院根据实际需要,建立了知识产权审判庭,北京市、上海市和各经济特区中级人民法院也设立了知识产权审判庭,专门受理和审判有关知识产权的民事纠纷案件。人民法院除依法责令侵权人承担停止侵害、消除影响、赔礼道歉、赔偿损失等民事责任外,对侵犯他人知识产权情节严重、构成犯罪的,还依法追究其刑事责任。

2.行政保护

我国的《专利法》、《商标法》、《著作权法》等知识产权法律中规定了知识产权保护的行政途经。其中、商标管理实行中央统一注册、地方分级管理的原则,从中央到省、市、县级的工商行政管理局,都内设商标管理机构,县以下还设有工商行政管理所。全国商标管理专职人员达7000多名,兼职人员近40万名。知识产权行政管理机关依据法律规定的职权、维护知识产权法律秩序,鼓励公平竞争、调解纠纷、查处知识产权的侵权案件、保障了广大人民群众的利益、维护了社会经济秩序。《商标法》实施十余年来、全国工商行政管理机关共查处商标侵权假冒案件16万件、有效地保护了商标注册人的合法权益。

THE VALUE AND PROTECTION OF TRADEMARK

1. Value of Trademark

Trademark as a kind of intellectual property is the production of brainwork and the fruit of the labor and wisdom of the stuff that visualize the enterprise it represents. Thus besides the inimitable originality, tremendous advertising investment and the rigorous enterprise management, the value of the trademark also contains the value which untouchable--the reputation of the enterprise, the credibility of the its products and the acknowledge by the customer. With the well-known fame the enterprise can make its products move off, double its revenue and enhance the importance of itself. For instance, the world-famous trademark "Coca Cola" counts for 244 million dollars. An international trademark is the treasure of the nation, for the nation who holds more international trademark than other nations is sure to be the Titan in future economy world.

Then, as well as the chattel and real property of the enterprise, trademark is both material treasure and immaterial capital and part of the industrial property right. When we are evaluating and reckoning the belongings of a company in the currently reformation of the state enterprise and the alternation of the property rights, none of the immaterial value the trademark represents can be neglected in case any state property be lost, and at the same time, the real value of the chattel and the real property should be bring to account strictly.

2. The protection of the trademark

The intellectual property is the legal proprietary right in the scopes of science, technology, cultural, art, industry and commerce which is taken on the base of intellectual creativity and the badge, credibility, experience and knowledge in management and administration, which include intellectual production right, trade mark right, information about the management right, and so on.

The protection of the intellectual right is being paid more attention with intellectual creativity such as invention and works are more important in the economy, and especially after China's joining in WTO, steps on a new stage with the trades between China and foreign countries carry on more frequently. But at the same time the dissensions about intellectual rights emerge in endlessly too. Countries are regulating their laws about intellectual right and take them as the jetton of trade to protect their own enterprises in the maximum and strive for more rights and benefit. Meanwhile, faced with the intellectual right dissensions which is increasingly numerous and complicated, there is no time to delay for the correlative laws and protections to come on.

(1) Legal Protection

China has consecutively enacted the Patent Law, Trademark Law and Copyright Law, and related laws governing the intellectual property rights, and has also participated in the related international treaties regarding the intellectual property rights and established the consummate intellectual property rights protection system. When the rights of the owner of the intellectual properties are infringed, lawsuits can be filed to the People's Court and seek the relief from the legal protection. In view of the professionalism and high technology content characteristics of the intellectual property rights judgments, the superior courts in some provinces and municipalities directly under the Central Government (for instance, Gungdong Province, Fujian Province, Beijing City and Shanghai City, etc) have in recent years set up the special intellectual property rights courts in line with the actual needs. The Intermediate Courts in the cities such as Beijing City, Shanghai City and all special economic zones have also established the same institutions to be in charge of and settle the civil disputes lawsuits related with the intellectual property rights. The People's Court should order the infringing parties to carry out the civil obligations such as to stop the infringement and eliminate the impacts, make apologies and reimburse the damages. In addition, it should also impose the criminal responsibilities on the infringing party if the latter infringes the intellectual property rights severely and constitutes the crimes.

(2) Administrative Protection

The Patent Law, Trademark Law and Copyright Law, and related laws governing the intellectual property rights in China have regulated the administrative means for the property rights protection. Among them, the trademarks administration is carried out under the principles of "the central government administrates the registration and level-by-level administration at the local governments", from the central to the provincial, municipal and county Industrial and Commercial Administration Bureau, have all establish the trademarks administration institutions; in addition, below the county level, there is Industrial and Commercial Administration House. There are more than 7,000 heads of specialized trademarks administration staff and nearly 400,000 heads of part-time ones across China. The intellectual property rights administration institutions exercise their functions and rights regulated by the laws to maintain the legal order with regard to intellectual property rights, encourage the fair competition, mediate the disputes and prosecute the intellectual property rights infringement cases, thus guaranteeing the benefits of the mass people and maintaining the social economic order. In the past ten years in which the Trademark Law has been put into practice, the national industrial and commercial administration institutions in China have prosecuted about 160,000 cases regarding the trademarks infringement and counterfeit commodities and effectively protected the legal rights of the trademark registrants.

商标简史

商标是区别商品和服务的标志、是社会商品经济发展到一定阶段必然出现的产物。我国古代的许多产品如丝绸、瓷器、茶叶等行销全球,也出现了一些原始的商标。但所谓的近现代意义上的商标、是随着资本主义经济的产生、发展而逐步发展起来的,是在18世纪末到19世纪初欧洲产业革命以后出现的(商标是舶来语、英文为 trademark)。

一、古代商标发展概况

解放后在陕西咸阳、河南长葛和北京市郊等地出土的一些西汉铁器上,均发现有"川"、"渔"等字。根据考古学家考证,"川"字代表颖川郡阳城,"渔"字则代表渔阳郡。它们表明这是当地铸铁作坊制造的产品,是西汉时期用商品产地名称作了商品的标记。用现在的话来讲,是一种地名商标。它是我国古代人们使用商标的雏形。据《汉书·王遵传》一书记载:"箭张禁,酒赵放",意思是张禁造的箭,赵放造的酒。这是将生产者的姓名同商品联系起来,形成商品的标记,是一种以人名作商标的例子。这实际上是我国古代人们在产品上使用商标的一种最简单、最原始的作法。

到了唐代、手工业生产已相当发达。为了提高和保证产品质量、一些官府曾规定某些产品必须做到注明工匠姓名或店铺、作坊名称、然后才准于上市销售。如唐代法律文献《唐律疏方议》记载: "物勒工名、以考其诚。功有不当、必行其罪"。

宋代以后,社会商品生产更加繁荣,商标的使用也相当完备。这一时期,由原来用地名、 人名、店铺名称作商品标记的纯文字商标外,进一步发展演变成文字加图形,形成图文并 茂的组合性商标,即形成了较为完整的近似现代商标样式,如宋代湖州、杭州等地生产的 铜镜、漆器以及济南一店铺门前的白兔商标。

明清时期,我国手工业和商业都获得了极大的发展,其技术水平、生产规模等均超过了以往任何朝代,名牌产品、驰名商标也层出不穷。如中国的四大名绣——"苏"、"湘"、"蜀"、"粤";景泰蓝;"六必居"酱菜;"同仁堂"虎骨酒;"丁娘子"布等。

二、近现代商标发展概况

1840年鸦片战争后,外国洋货大量倾销中国。由于当时我国工商业发展缓慢,资金少,技术水平低,所以无力和洋货竞争,致使很多洋货几乎占领了我国市场,大到轮船小到圆钉。商标这一词汇,最早见于清政府和列强所签定的一系列不平等条约中。清光绪二十八年(1902)九月五日在上海签定的《中英续议通商行船条约》(又称《马凯条约》)第七款,是最早涉及有关商标名称和商标内容的条文。

清政府于咸丰十一年(1861)始设南、北洋通商大臣、兼管国家沿海通商事务并代管商标工作。这是我国中央政府最早管理商标的机构。光绪十六年(1890)、上海燮昌火柴公司使用的"渭水"牌火柴商标、是至今为止发现的最早经中央政府批准使用的商标。

清光绪三十年(1904)六月二十三日,清政府颁布了我国第一部经光绪皇帝钦定的商标法规——《商标注册试办章程》。与此同时,天津、上海商标挂号分局正式开始受理中外厂商的商标挂号事务。至民国十二年(1923)五月,津沪两海关商标挂号分局共受理中外厂商商标挂号3万余件。