

Complaint and Settlement Provisions for Suspected Intellectual Property Infringement in the Canton Fair

(Amended in 2017)

Chapter One General Provisions

Article 1 In order to strengthen the protection of intellectual property rights (hereinafter referred to as “IPR”) during the China Import and Export Fair (hereinafter referred to as “the Canton Fair” or “the Fair”), maintain the normal trading, and protect the legitimate rights and interests of exhibitors and IPR holders, the Provisions are formulated in accordance with relevant national laws, administrative regulations and rules.

Article 2 The Provisions are only applied to the complaint and settlement of suspected infringement of IPR (hereinafter referred to as “suspected infringement”) within the exhibition hall during the Canton Fair.

Article 3 The “Responsibility Document for Using Booths in the Canton Fair” should be signed between the exhibitor and the affiliated trading delegation before the Fair to stipulate the IPR protecting obligations of both parties. And the exhibitor at the Fair shall strictly fulfill the obligations as he promises in the forementioned document.

Chapter Two Complaint Management

Article 4 The Business Office of the Canton Fair sets up the Complaint Station for Intellectual Property Rights and Trade Dispute (hereinafter referred to as the Complaint Station), and sets up sub-stations at different areas of the exhibition hall, which are responsible for accepting suspected infringement complaints within the area during the phase of the session.

Article 5 The Canton Fair invites officials from government departments related to IPR to work as experts and staff of the Complaint Station, guiding and assisting the Station to investigate and settle complaints about alleged infringement of IPR in accordance with the relevant provisions of the Fair.

The trading delegations, chambers (associations) of commerce shall check their respective exhibits, the exhibits’ packaging, promotional materials and any parts in display before and during the exhibition in accordance with the relevant provisions and requirements of the Canton Fair, to prevent the alleged infringement behavior.

They should actively cooperate with the Complaint Station to educate and deal with the exhibitors, who are suspected of infringement and refuse to cooperate with the investigation.

Article 6 The exhibitors in the Canton Fair, whose exhibits and their packaging, promotional materials and any parts in display having IPR or authorized, should take corresponding supporting documents in case of examination from the Fair.

Article 7 If the complainant makes a complaint to the Canton Fair in accordance with the Provisions, and requires that the respondent shall be handled in accordance with the Provisions, the complainant should agree to pay the relevant departments of Canton Fair for expenses incurred by the handling of the complaint, and indemnify the respondent against any loss in case of improper complaint.

Chapter Three Complaint Procedures

Article 8 Participants with the valid documents of the current session of the Canton Fair, if they find any suspected infringement in the exhibits and their packaging, promotional materials and any parts in display, can make on-site complaints to the corresponding sub-station of the Complaint Station, which, however, must comply with the Canton Fair's acceptance conditions for complaints about patent, trademark and copyright, or they will not be accepted. Those who negotiate with the infringing party directly and disturbs the order in the exhibition hall rather than make complaints to the Complaint Station shall be settled with violating the on-site order.

The conditions for acceptance of complaints are stipulated in the *Procedure of Complaint and Settlement for Patent Infringement in Canton Fair*, the *Procedure of Complaint and Settlement for Trademark Infringement in Canton Fair*, and the *Procedure of Complaint and Settlement for Copyright Infringement in Canton Fair* at the Canton Fair's "Exhibition Manual" and official website (www.cantonfair.org.cn).

Article 9 In complaint, the complainant shall first submit relevant materials and evidence to the Complaint Station according to the requirements. After being checked as valid by the staff of the Station, the complainant shall fill in the "Letter of Complaint Submission".

The Complaint Station shall not accept the complaints in forms of telephone, e-mail or others.

Article 10 The Agency for handling alleged infringement complaints about IPR stationed in the exhibition hall during the Canton Fair shall apply for the special intermediary agency license, receive the guidance from the Complaint Station, and

consciously abide by relevant regulations of the Fair. The Complaint Station shall not accept the complaints from those agencies without the intermediary agency license.

For the application of the intermediary agency license, please refer to the “Notice on the Application of the Intermediary Agency License for Handling Complaints about Intellectual Property Rights and Trade Disputes in the Canton Fair”.

Article 11 For the alleged infringement complaint concerning product structure and manufacturing methods, when putting on record, the Complaint Station can require the complainant to submit further proof of suspected infringement in addition to the materials stipulated in the provisions. If the complainant fails to submit, the Complaint Station may not accept it.

For the patent complaint which is difficult to determine on the spot, such as large mechanical equipment, internal structure of precision instruments and manufacturing methods of products, the Complaint Station may not accept it.

Article 12 Generally speaking, the Complaint Station does not accept the same complainant's repeated complaints on the same IPR to the same respondent. For the infringement case of IPR which had been settled before but is occurred again, the complainant shall present the effective administrative decisions, civil judgments or arbitration documents which are obtained through legal way after the closing of the previous Fair. If the complainant fails to present relevant documents, the Complaint Station may not accept the complaint; except those cases in which the respondent has malicious infringement though they have been tracked ,dealt with by the complainant but not been concluded yet, or those cases which has a significant social influence.

Article 13 After receiving complaints, the Complaint Station issues to the complainant the acceptance number, with which the complainant can query the handling of complaints and access to the results of the treatment. The Complaint Station arranges the staff to deal with the complaint cases according to the acceptance sequence and the priority of case.

Article 14 In the case investigation by the Complaint Station, the respondent should appoint a special person to assist the Complaint Station staff to check the goods complained. After being initially identified as suspected infringement by the Complaint Station, the respondent shall immediately present evidence to prove that it has the legitimate right of the complaint goods, which do not cause infringement.

Article 15 The respondent who can't present effective evidence for suspected goods of infringement shall cooperate with the Complaint Station by stopping exhibition.

At the same time, the respondent shall immediately sign the “Notice on the Settlement” and the “Letter of Commitment”, promising that since being identified as alleged infringement, if unable to provide valid proof, the respondent will no longer exhibit the goods of alleged infringement. The “Letter of Commitment” is in duplicate, which will be preserved by the respondent and the Complaint Station respectively.

If the respondent refuses to cooperate to sign on the “Notice on the Settlement” and the “Letter of Commitment”, and it does not affect the results to be identified, the Complaint Station can inform to the trading delegation; if the rejection leads to an adverse effect, the respondent shall be dealt with in accordance with the provisions of Article 24.

Article 16 If the respondent disagreed with the processing results of the Complaint Station, the respondent shall defense itself and provide relevant evidence to the Complaint Station within one working day (based on the schedule of the Canton Fair). If the defense is established, the Complaint Station immediately allows the respondent to continue to display the complaint items; if the respondent doesn’t defense itself within the specified time or the defense is not established, the Complaint Station will still deal with the case according to relevant provisions of suspected infringement.

Article 17 The evidence required by the Complaint Station according to the case includes documents proving the ownership and other effective evidence, such as documents related to import and export customs, delivery contract or agreement, invoice, inspection report, publications (patent documents, textbooks, magazines).

Article 18 The Complaint Station can obtain on-site evidence from the booth in alleged infringement through photographs, audio and video, etc., or cooperate with the administrative departments and judicial departments to obtain on-site evidence, or cooperate with the notary department for notarization, during which the exhibitors shall cooperate with the notarization. The Complaint Station shall be responsible for keeping confidential the information obtained by taking pictures, audio and video recordings, and shall not provide to others without going through legal procedures.

Article 19 After the Canton Fair, the Complaint Station shall promptly notify the trading delegation of the list of suspected infringing exhibitors who are handled by the Canton Fair.

Article 20 To withdraw a complaint, the complainant should submit in a written form in the current phase, or the Complaint Station will not accept if the application has exceeded the deadline.

Chapter Four Settlement Provisions

Article 21 For any alleged infringement act that takes place at the booth, the exhibitor who is formally assigned to use the booth at the Canton Fair shall undertake the responsibilities and shall accept the punishment of the Fair.

The responsibilities of the associated enterprises for alleged infringement act shall be borne by the corresponding exhibitors, and the name list shall all be sent to the trading delegation.

Article 22 The Complaint Station handles the IPR complaints based on the established procedures of the Provisions. For the respondents who cannot provide a “non-infringement” valid proof or fail to defense for themselves, and should be identified as “allegedly infringing” enterprises, the staff of the Complaint Station shall make a “self-withdrawal” or “temporary holding” decision on the relevant exhibits.

Self-withdrawal means that the Complaint Station requires exhibitors to immediately withdraw their allegedly infringing exhibits from the booth, and promise no longer to display them. For those allegedly infringing items, the Complaint Station may cover them or affix seals to them, and make a “self-withdrawal” decision.

Temporary holding means that the staffs of the Complaint Station hold back and register the allegedly infringing exhibits which the exhibitors display at the booth. The respondent may take them back on the afternoon of the last day of current phase of this session’s Canton Fair. If overdue, the Complaint Station may dispose of them.

Article 23 An enterprise that allegedly infringes more than 3 ownerships in a session at the Canton Fair shall be notified by the trading delegation. Exhibitor shall be notified by the trading delegation, who has alleged patent or copyright infringement in the same exhibition area for two consecutive sessions or accumulative three sessions within two years, or who has alleged trademark infringement for accumulative two sessions.

(I) Exhibitors receiving the notification of the trading delegation twice shall be notified by the Fair and accept the following decisions:

For the allegedly infringing enterprise using the general booth, the number of general booths for the next session in the infringing area (subject to the last allegedly infringing exhibition area) is arranged by the affiliated trading delegation and shall not exceed the upper limit, namely the number of general booths in the exhibition area within the session when the suspected infringement occurred minus one.

For the allegedly infringing enterprises using the brand booth, the number of brand booths in the infringing area (subject to the last allegedly infringing exhibition area)

from the next session on shall not exceed the upper limit, namely the number of brand booths in the exhibition area within the session when the suspected infringement occurred minus two until the next business review of brand booths. If the remaining number of booths after deduction is less than the lower limit of regulated brand booths in the corresponding areas, these enterprises, from the next session on, shall be disqualified to use brand booths in this exhibition area until the next business review of brand booths. The brand and general adhesion booth infringement is treated the same as the brand booth infringement ,accordingly deducting the number of brand booths.

(II) If the exhibitors involved in the preceding subsection are notified by the trading delegation again, they shall be disqualified to attend the following six sessions of the Canton Fair. After reinstatement, those who are suspected of infringement again shall be permanently disqualified to attend the Canton Fair.

Article 24 The respondent shall actively cooperate with the staff of the Complaint Station to investigate and handle the cases of alleged infringement complaints. For the respondent, exhibitor and relevant personnel of the case under the following circumstances, the Complaint Station may work together with the Guard Room of the Fair to collect the exhibition certificates of interested parties, cancel their participation qualifications, and, depending on the severity of the case, let them be notified by the trading delegation or the Fair, deduct their number of booths in the next session of Canton Fair or directly disqualify them from attending the next session of the Canton Fair.

(I) Those who ignore the rules set by the Fair, refuse to cooperate, show bad manners and persuasion fails when the Complaint Station investigates the case;

(II) Those who, by means of blatant violence, threatening or anything else, hamper or prevent the staff of the Complaint Station from investigating and handle the case.

Article 25 For exhibitors who fail to comply with the Letter of Commitment and display the withdrawn allegedly infringing items again without a successful defense in the Canton Fair , the staff of the Complaint Station may confiscate those items and directly dispose of them after exhibition. If the circumstances are serious, they shall be handled in accordance with Article 24 of the Provisions.

Article 26 If the exhibitor is identified as infringed by a valid judicial decision or administrative ruling, and still displays its infringing exhibits, product packages and promotional materials at the Canton Fair booth, the exhibitor shall be permanently disqualified to participate in the Canton Fair and be notified by the Fair.

Article 27 Large-scale complaints during the same period of the Canton Fair, with the consent of the complainant, may be transferred to the Chamber of Commerce for quick processing. Those respondents who actively cooperate with handling of the case, and take the initiative to withdraw the allegedly infringing exhibits, may not be recorded in the complaints system of the Fair; for those respondents who refuse to cooperate with the Chamber of Commerce or display the allegedly infringing exhibits again after withdrawal with serious circumstances, the Complaint Station shall handle the case according to procedures and record the alleged infringement in the complaints system of the Fair.

If the complainant does not agree to transfer the case to the Chamber of Commerce for quick processing, it will be handled by the Complaint Station through the normal procedure.

Chapter Five Terminology

Article 28 “The Intellectual Property Rights” referred to in the Provisions include patents, trademarks and copyrights.

Article 29 “Exhibitors” referred to in the Provisions are the exhibitors officially recorded to use the booth in the Canton Fair (namely the enterprises in the list of booth sign). If the allegedly infringing enterprise is the exhibitor itself / its subsidiaries / associated enterprises / suppliers / cooperators, the settlement of allegedly infringing enterprises listed in Chapter 4 shall be borne by the exhibitor.

Article 30 “The associated enterprises” referred to in the Provisions are non-circulating enterprises with joint operation or supply relationship with the circulation enterprises participating in the Canton Fair.

Article 31 “The notification of the trading delegation” referred to in the Provisions means the Complaint Station notify relevant trading delegations of the list of enterprises when the allegedly infringing acts reach a certain number, and the relevant trading delegation shall, in accordance with the Provisions of the Canton Fair, circulate a notice of criticism of allegedly infringing enterprises.

Article 32 “The notification of the Fair” referred to in the Provisions means the Complaint Station, according to the severity of the alleged infringement of the exhibitors and their attitude of accepting punishment, publishes the name of the enterprises suspected of infringement, the infringement situation and settlement opinions on the “Canton Fair News” to warn all the exhibitors.

Article 33 “The same exhibition area” referred to in the Provisions is the exhibition area based on the major categories of exhibits in the Canton Fair.

Article 34 “Large-scale complaints” referred to in the Provisions means the complaints that the complainant complaint against more than 10 exhibitors on the same IPR during the same period in the Canton Fair at one time or more than 10 ownership complaint the same enterprise.

Article 35 “More than” referred to in the Provisions covers the number itself.

Chapter Six Supplementary Articles

Article 36 The Complaint Station shall establish a file system to conduct a statistical analysis of complaints data of the Canton Fair each session and inform relevant departments of the results.

Article 37 The right of interpretation of these Provisions shall be owned by China Foreign Trade Center.

Article 38 These Provisions shall come into force on the date of this release and the “Implementation Details for the Complaints about and Settlement Provisions for Infringement of Intellectual Property Rights” shall be invalidated. If the previous relevant provisions of the Canton Fair are in conflict with this Provisions, the Provisions shall prevail.