

JINHAN FAIR Measures for Handling of Complaints Relating to Protection of Intellectual Property Rights

Part I Protection of Intellectual Property Rights at JINHAN FAIR

Article 1 With a view to maintaining normal trade order at JINHAN FAIR, enhancing the awareness of intellectual property (IP) rights protection and self-discipline of exhibitors, and protecting exhibitors' legitimate rights and interests, JINHAN FAIR Measures for Handling of Complaints Relating to Protection of Intellectual Property Rights are thus formulated according to *Protection Measures for Intellectual Property Rights during Exhibitions* and *Protection Measures for Intellectual Property Rights during Exhibitions in Guangzhou*.

Article 2 JINHAN FAIR Complaint Station (hereinafter referred to as Complaint Station) is located at the site of the Fair and is the only body that is responsible for IP rights complaints at JINHAN FAIR. The Complaint Station handles the suspected infringement on IP rights (hereinafter referred to as "suspected infringement on rights") within the pavilion, on site and during the current session of the Fair. In case of relatively complicated or difficult complaints, the Fair will ask IP right management departments in charge of trademark, patent and copyright to handle such cases.

Article 3 The Complainant shall file a complaint of suspected infringement on IP rights on site and during the current session of Fair via the Complaint Station mentioned above. If the Complainant is involved in any unauthorized negotiations with the party suspected of infringement on IP rights, which causes disputes within the pavilion and disturbs the normal trade order, the host of the Fair has right to revoke the Complainant's exhibitor document and prohibit the Complainant's entry to the pavilion.

Article 4 Exhibitors shall not display samples that violate the IP rights held by others, shall not make quote and transaction for other people's IP right exhibits, shall not display or publicize samples and non-exhibits of uncertain IP rights provided by clients.

Article 5 Exhibitors shall guarantee that all the exhibits and their packing, 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 IP rights, of others in all respects.

Article 6 Required preparations for the Fair on the part of exhibitors:

- (1) If IP right 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. The Complaint Station will give priority to complaints concerning those exhibits on record in case of suspected IP right violation on site within the pavilion during the current exhibition; in relatively complicated or uncertain cases, they will have the privilege to be reported by the Complaint Station to relevant departments ahead of other cases. In any case when false certificates or certification documents are provided, a settlement according to relevant laws and regulations will be applied;
- (2) The IP right marks and signs on the exhibits shall be labelled according to China's national rules;
- (3) Exhibitors should check the IP rights of their exhibits and shall not display any exhibit with IP rights already held by others;
- (4) Exhibitors shall cooperate with the host of the Fair, the court and administrative departments of IP rights.

Article 7 The Complainant exhibitor and the Respondent exhibitor shall both agree that the host of the Fair will be exempt from responsibilities, that they will not take any legal measures toward the host, that they will not claim for compensations from the host and that no other requests will be made toward the host, if the host is asked to take measures to handle the complaint filed according to this Measures. In addition,

the Complainant shall agree to cover the costs on the host, organizing body and management organizations of groups, teams and pavilions incurred during handling the complaint, and to compensate possible losses caused to the Respondent exhibitor.

Part II Procedures for IP Right Complaint Handling

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

Article 9 Complainants shall present the certificates of legal rights owned by themselves when filing a complaint to the Complaint Station.

Article 10 After the staff members of the Complaint Station examine and verify the validity of the certificates provided by the Complainant, the Complainant is required to fill in a “Complaint Submission Form” which can be found in attachment 1.

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

Article 12 The principle of reversing the burden of proof applies in handling a suspected patent right infringement case. After being informed that the displayed exhibits are suspected of patent infringement, the Respondent shall immediately present relevant certificates or other valid supporting documents to prove that the Respondent has the legal right to display or manage the exhibits in question, as evidence for innocence, and assist the Complaint Station to examine the suspected exhibits. The Complaint Station staff members have rights to take photos of the suspected exhibits.

Article 13 If the Respondent is neither able to provide evidence of “non-infringement” on site in terms of the suspected exhibits nor compliant with persuasion

to remove the suspected exhibits from the booth, the Complaint Station has the right to detain or confiscate the suspected exhibits. The Respondent shall immediately sign a “Deed of Commitment” and promise that during the current Fair, the Respondent will not manage or display the suspected exhibits. The “Deed of Commitment” shall be held by the Complainant and the Complaint Station respectively in duplicate. See attachment 2 for the sample.

Article 14 If the Respondent holds disagreement to solution of the Complaint Station to the complaint, the Respondent shall provide supplementary evidence of non-infringement to the Complaint Station within half a working day (according to the timetable at the venue of the exhibition) after the Complaint Station gives its solution to the complaint. the Complaint Station 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 15 To maintain proper 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 Station gives its solutions to the complaint in question which are accepted by the Respondent until the conclusion of the Fair.

Article 16 In case a complaint is accepted by the Complaint Station, the Complaint Station will not handle any other complaints filed by the Complainant with the same reasons and evidence.

Article 17 After the conclusion of every session of the Fair, the Complaint Station shall send a copy of the list of exhibitors suspected of infringement handled by the Fair to relevant chambers of commerce and trading associations.

Article 18 The procedures concerning complaint accepting and handling mentioned above are drawn up according to the *Requirements for Patent Complaint*, *Administrative Procedures for Trademark Infringement during Exhibition* and

Procedures for Accepting and Handling Copyright Complaint (Chinese and English versions) formulated by administrative departments of intellectual property rights of Guangzhou.

Part III Complaint Handling Regulations

Article 19 If the business personnel (exhibitor) refuse to cooperate with the Complaint Station in investigating and examining the suspected exhibits, under circumstances of ineffective persuasion, the Complaint Station staff have right to confiscate the exhibitor certificate from the person in question and bring the person involved back to the Complaint Station for further handling.

Article 20 As to the exhibitor suspected of infringement, the Complaint Station has 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 Station has right to reduce the number of booths for the exhibitor at the subsequent session of the Fair.

Article 21 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 exhibits, the Fair shall report its name for public notice.

Article 22 After the Complaint Station's handling of the complaint, if the Respondent in question displays again the suspected exhibits in the same booth, the Fair has right to immediately confiscate the exhibitor certificates from the company's personnel and remove its quality as exhibitor for the current session of the Fair. The exhibitor in question shall be criticized in public announcement and there will be no reimbursement for exhibition charges to the exhibitor in question.

Article 23 If an exhibitor is found displaying more than three kinds of exhibits suspected of infringement, the Fair has right to debar the exhibitor from attending the following session of the Fair, in addition to handling procedures mentioned in

the Regulations.

Article 24 From the current session of the Fair, if an exhibitor is suspected of intellectual property rights infringement for an accumulated number of two sessions, the Fair has 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 sessions, the Fair has right to exclude the exhibitor in question permanently from attending the Fair.

Article 25 If the exhibits are counterfeited, which infringes upon others' intellectual property rights and violates relevant laws, the Complaint Station personnel shall voluntarily cooperate with administrative departments of intellectual property rights in investigating and handling, and in taking measures toward the products in question such as detaining, confiscating, sequestration, and withdrawal from the booth. In case of suspected crime, the Complaint Station shall transfer the personnel involved to departments for criminal accountability.

Article 26 Any exhibitor that conducts a behavior mentioned in Part III of these Measures shall be put on record by the Complaint Station; if necessary, the Complaint Station will report the exhibitor to administrative departments of intellectual property rights for record.

Part IV Glosses

Article 27 Intellectual Property Rights—according to Trade-Related Aspects of Intellectual Property Rights Agreement of the WTO, the Intellectual Property Rights referred to in the Measures include: (1) Copyright and Related Rights; (2) Trademarks; (3) Geographical Indications; (4) Industrial Designs; (5) Patents; (6) Integrated Circuits (Topographies); (7) protection of confidential information.

Article 28 Exhibitor—the exhibitor responsible for suspected infringement mentioned in these Measures refers to the company with an officially allocated booth at the Fair (as written on the fascia). The Articles in Part III of the Measures shall apply to the

Exhibitor regardless of the identity of the alleged infringer being either the Exhibitor proper, or the Exhibitor's subsidiary company, joint venture, supplier and partner.

Article 29 Supporting Documents—documents of intellectual property rights, including documents required by relevant laws and regulations of the nation and documents required by the Complaint Station from the Complainant and Respondent according to the actual situation.

Part V Others

Article 30 Whether the Complaint Station 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 Measures take effect from the date of its publication. In case of discrepancies with previous regulations, these Measures shall prevail.

The host and organizer of JINHAN FAIR reserve the right of final decision on the interpretation of these Measures.

Guangzhou Jinhan Fair for Home & Gifts