
REGULATIONS

PRC LAWS AND REGULATIONS ON A WHOLLY FOREIGN-OWNED ENTERPRISE

The establishment, operation and management of corporate entities in China are governed by the Company Law of the PRC (中華人民共和國公司法) ("**PRC Company Law**"), which was adopted by the Standing Committee of the National People's Congress on 29 December 1993 and with effect from 1 July 1994. It was last amended on 27 October 2005 and with effect from 1 January 2006. Under the PRC Company Law, companies are generally classified into two categories, limited liability companies and companies limited by shares. The PRC Company Law also applies to foreign-invested limited liability companies. According to the PRC Company Law, where laws on foreign investment have other stipulations, such stipulations shall prevail.

The establishment procedures, approval procedures, registered capital requirements, foreign exchange, accounting practices, taxation and labour matters of a wholly foreign-owned enterprise are regulated by the Wholly Foreign-owned Enterprise Law of the PRC (中華人民共和國外資企業法) ("**Wholly Foreign-owned Enterprise Law**"), which was promulgated on 12 April 1986 and amended on 31 October 2000, and the Implementation Rules to the Wholly Foreign-owned Enterprise Law (中華人民共和國外資企業法實施細則) ("**Implementation Rules**"), which were promulgated on 12 December 1990 and amended on 12 April 2001.

Investment in the PRC conducted by foreign investors and foreign-owned enterprises is governed by The Catalogue of Industries for Guiding Foreign Investment (外商投資產業指導目錄) ("**Catalogue**"), which was amended and promulgated by the Ministry of Commerce of the PRC and the National Development and Reform Commission of the PRC on 31 October 2007, with effect from 1 December 2007. The Catalogue contains specific provisions guiding market access of foreign capital, stipulating in detail the rules of entry according to the categories of encouraged industries, restricted industries and prohibited industries. Industries not listed in the Catalogue are generally open to foreign investment unless specifically prohibited or restricted by other PRC laws and regulations. Foreign investment in the encouraged category is entitled to certain preferential treatment and incentives extended by the government, while foreign investment in the restricted category is permitted but subject to certain restrictions under PRC Law. Foreign investment in the prohibited category is not allowed. The development and production of software products falls into the encouraged category.

PRC GOVERNMENTAL REGULATIONS AND POLICIES TOWARDS THE SOFTWARE INDUSTRY AND COMPUTER INFORMATION SYSTEM INTEGRATION

Industry policy

The State Council promulgated Several Policies on Encouraging the Development of Software and Integrated Circuit Industries (鼓勵軟件產業和集成電路產業發展的若干政策) on 24 June 2000 and Several Policies on Further Encouraging the Development of Software and Integrated Circuit Industries (進一步鼓勵軟件產業和集成電路產業發展的若干政策) on 28 January 2011 to encourage the development of software and integrated circuit industries by a series of encouraging policies from many aspects including the investment and financing, taxation, industry technology, export and etc.. The financing of software enterprises through overseas listing is supported. The software enterprises also enjoy the preferential policies in value-add tax, business tax, enterprise income tax, import duty and import VAT.

REGULATIONS

The confirmation of software enterprises and registration and filing of software products is the basis to implement software industry policies, as set forth in the Criteria for Confirmation and Measures on Administration of Software Enterprises (Trial Implementation) (軟件企業認定標準及管理辦法(試行)) promulgated on 16 October 2000 and Measures on Administration of Software Products (軟件產品管理辦法) enacted on 27 October 2000 and amended on 5 March 2009 and effective on 10 April 2009. The Implementing Procedures on Confirmation of Software Enterprises and Registration of Software Products of Beijing Municipality (Trial Implementation) (北京市軟件企業認定和軟件產品登記管理實施辦法(試行)) promulgated on 26 February 2001 by Beijing Municipal Science and Technology Commission formulated the detailed rules in the work of confirmation of software enterprises and registration of software products in Beijing.

Computer Information System Integration Certification

Pursuant to the "Measures on Administration of Computer Information System Integration Certification (Trial)" (計算機信息系統集成資質管理辦法(試行)) issued on 7 December 1999 by the MII, any units to conduct computer information system integration business shall pass the Certification authentication and obtain the Computer Information System Integration Certification. The MII, now superseded by the MIIT, is responsible for the administration of computer information system integration certification authentication, including appointment and administration of certificate authentication institutions, issuance of administration measures and standards, approval and promulgation of results of authentication. The validity term of such certification is four years. The Certificate Authentication Working Office shall conduct biennial review on qualified units.

Relevant qualification certificate is classified into four different grades which are determined in accordance with the capabilities of the applicants to carry out computer information system integration business. Certificate for Grade 1 CISI Qualification will be granted to enterprises which can independently carry out relevant business at state level whereas certificate for Grade 2 CISI Qualification will be granted to those which can independently carry out relevant business at provincial level or those which can carry out the same at state level by cooperating with other entities. Certificate for Grade 3 CISI Qualification will be granted to enterprises which can independently complete medium sized computer information system integration projects or those which can complete large sized projects by cooperating with other entities. Certificate for Grade 4 CISI Qualification will be granted to enterprises which can independently complete small sized projects or those which can complete medium sized projects by cooperating with other entities. Below is a table setting out the respective eligibility requirements for obtaining Grade 1 to 4 CISI Qualification certificate according to the Assessment Requirements of Qualification of Computer Information System Integration (Revised) (Xin Bu Gui (2003) No. 440) 《計算機信息系統集成資質等級評定條件(修訂版)》 (信部規[2003]440號), in terms of the level of expertise and industry experience, the value of completed project and the requirement on the amount of revenue generated from system integration.

REGULATIONS

	Level of expertise and industry experience	Value of completed project	The amount of revenue generated from system integration	Number of qualified industry players as at the Latest Practicable Date	
				PRC	Beijing
Grade 1	Management possesses not less than five years of experience in managing information technology enterprises. Main personnel responsible for technical aspect of the business possesses not less than five years of experience in system integration. Having not less than 150 employees who engage in software development and the affairs relating to system integration. Having not less than 25 project managers qualified by MIIT.	For the last three years, the aggregated value of completed projects (each valued over RMB2 million) is over RMB300 million.	For the last three years, the average amount of revenue generated from system integration is over RMB100 million per year.	[238]	[81]
Grade 2	Management possesses not less than four years of experience in managing information technology enterprises. Main personnel responsible for technical aspect of the business possesses not less than four years of experience in system integration. Having not less than 100 employees who engage in software-development and the affairs relating to system integration. Having not less than 15 project managers qualified by MIIT.	For the last three years, the aggregated value of completed projects (each valued over RMB0.8 million) is over RMB150 million.	For the last three years, the average amount of revenue generated from system integration is over RMB50 million per year.	[586]	[153]

REGULATIONS

	Level of expertise and industry experience	Value of completed project	The amount of revenue generated from system integration	Number of qualified industry players as at the Latest Practicable Date	
				PRC	Beijing
Grade 3	Management possesses not less than three years of experience in managing information technology enterprises. Main personnel responsible for technical aspect of the business possesses not less than three years of experience in system integration. Having not less than 50 employees who engage in software-development and the affairs relating to system integration. Having not less than six project managers qualified by MIIT.	For the last three years, the aggregated value of completed projects is over RMB45 million.	For the last three years, the average amount of revenue generated from system integration is over RMB15 million per year.	[2,275]	[424]
Grade 4	Management possesses not less than two years of experience in managing information technology enterprises. Main personnel responsible for technical aspect of the business possesses not less than two years of experience in system integration. Having not less than 15 employees who engage in software-development and the affairs relating to system integration. Having not less than three project managers qualified by MIIT.	For the last three years, the aggregated value of completed projects is over RMB10 million.	30% of the aggregated value of completed projects is generated from system integration and software development.	[644]	[41]

The Vix Group possesses the ACC technology for the project relating to the ACC System of the Beijing Subway. [Other than ERG BJ, ERG HK and BII ERG, the Vix Group has not granted the licensed technology to any other companies in the Greater China region.] So far as our Directors are aware, as at the Latest Practicable Date, none of the qualified industry players possesses such ACC technology. Our Directors consider we can easily find partners who possess requisite qualification certificate to cooperate with in the event that our former business partners do not work with us in future projects.

REGULATIONS

According to Circular of Relevant Administrative Issues on Qualification of Computer Information System Integration Enterprises and Qualification of Information System Engineering Supervision Enterprises (Gong Xin Ji Zi (2011) No. 3) 《關於計算機信息系統集成企業資質和信息系統工程監理單位資質管理有關事項的通知》(工信計資[2011]3號) promulgated on 8 March 2011, MIIT is now amending the assessment requirements on the Grade 1, Grade 2 and Grade 3 of CISI Qualification. The said circular also published the amended assessment requirements on Grade 4 CISI Qualification.

PRC LAWS AND REGULATIONS ON ENVIRONMENTAL PROTECTION

Our operations are subject to PRC environmental laws and regulations, which include the Environmental Protection Law of the PRC (中華人民共和國環境保護法), the Law on Prevention and Control of Atmospheric Pollution of the PRC (中華人民共和國大氣污染防治法), the Law on Prevention and Control of Water Pollution of the PRC (中華人民共和國水污染防治法), the Law on Prevention and Control of Environmental Pollution by Solid Wastes of the PRC (中華人民共和國固體廢物污染環境防治法), the Law on Prevention and Control of Environmental Noise Pollution of the PRC (中華人民共和國環境噪聲污染防治法), the Administrative Regulations on Environmental Protection for Construction Projects (建設項目環境保護管理條例), the Administrative Regulations on Levy and Utilisation of Sewage Charge (排污費徵收使用管理條例) and the Law on Appraising of Environment Impacts of the PRC (中華人民共和國環境影響評價法).

According to the environmental laws and regulations, all business operations that may cause environmental pollution and other public hazards are required to incorporate environmental protection measures into their plans and establish a reliable system for environmental protection. These operations must adopt effective measures to prevent and control pollution levels and harm caused to the environment in the form of waste gas, liquid and solid waste, dust, malodorous gas, radioactive substances, noise, vibration, and electromagnetic radiation generated in the course of production, construction, or other activities.

According to the environmental laws and regulations, companies are also required to carry out an environmental impact assessment before commencing construction of production facilities and must also install pollution treatment facilities that meet the relevant environmental standards to treat pollutants before discharge.

If a company fails to report and/or register in respect of any environmental pollution caused by it, it will be warned or subject to penalties. If the company then fails to restore the environment to its original state or improve the environment as affected by the pollution within the time limit, it will be penalised, and its business license may be suspended. Companies or enterprises causing environmental pollutions and hazards are responsible for taking actions to remedy the hazards and consequences caused by the pollutions, and compensation for any loss or damages caused by the environmental pollutions.

Enterprises are required to comply with the applicable national and local environmental laws and regulations.

PRC LAWS AND REGULATIONS ON TAX

The PRC taxes that are levied on our subsidiary in the PRC mainly include enterprise income tax ("EIT"), value added tax ("VAT"), business tax, urban maintenance and construction tax and educational surtax. Under PRC law, our PRC subsidiary is also required to withhold taxes on dividends payable to us.

REGULATIONS

According to the PRC EIT Law and the implementation rules of the PRC EIT Law, a non-resident enterprise shall pay tax on the income which is generated from the PRC; the withholding obligor shall be the entity or individual that is directly liable for the payment of relevant prices to a non-resident enterprise in accordance with applicable laws or stipulations of a contract, and the withholding obligor shall withhold the income tax from such payment, when making such payment or when such payment is due. According to the Regulations on the Implementation of the PRC EIT law, the rate of EIT for such non-resident enterprise shall be 10%.

EIT

Prior to 1 January 2008, the foreign-invested enterprises shall pay EIT pursuant to the Foreign-Invested Enterprise and Foreign Enterprise Income Tax Law of the PRC (中華人民共和國外商投資企業和外國企業所得稅法) promulgated by the National People's Congress Standing Committee in 1991 ("**Prior EIT Law**") and related implementation regulations. Pursuant to the Prior EIT Law, except for the preferential tax rates, a foreign-invested enterprise was subject to EIT at a statutory rate of 33%. In addition, certain foreign-invested enterprises were exempted from EIT for two years starting from the first profit-making year and followed by a fifty percent reduction of the EIT in the next three consecutive years.

On 16 March 2007, the National People's Congress passed the PRC EIT Law, with effect from 1 January 2008. The PRC EIT Law adopted a uniform tax rate of 25% for all enterprises (including foreign-invested enterprises) and revoked the current tax exemption, reduction and preferential treatments applicable to foreign-invested enterprises. However, according to the Notice of the State Council on the Implementation of the Enterprise Income Tax Transitional Preferential Policy (國務院關於實施企業所得稅過渡優惠政策的通知) issued on 26 December 2007 and effective on 1 January 2008, there is a transition period for enterprises, whether foreign-invested or domestic, that received preferential tax treatments granted by relevant tax authorities prior to the effectiveness of the PRC EIT Law. Enterprises that were subject to an enterprise income tax rate lower than 25% before the effectiveness of the PRC EIT Law may continue to enjoy the lower rate and gradually transit to the new tax rate within five years after the effective date of the PRC EIT Law. Enterprises that were granted preferential EIT treatments before the effectiveness of the PRC EIT Law may continue to enjoy the preferential EIT treatments until their expiration.

Under the PRC EIT Law, enterprises are classified as either "resident enterprises" or "non-resident enterprises." Pursuant to the PRC EIT Law and its implementation rules, besides enterprises established within the PRC, enterprises established outside China whose "de facto management bodies" are located in China are considered "resident enterprises" and subject to the uniform 25% EIT rate for their global income. According to the implementation rules of the PRC EIT Law, "de facto management body" refers to a managing body that exercises, in substance, overall management and control over the manufacture and business, personnel, accounting and assets of an enterprise. In our circumstance, substantially our management is currently based in China and is expected to remain in China in the future. It is not clear whether we would be deemed as "resident enterprises" or not. In addition, although the PRC EIT Law provides that dividend income between "qualified resident enterprises" is exempted income, and the implementing rules refer to "qualified resident enterprises" as enterprises with "direct equity interest", it is not clear whether dividends we receive from our subsidiary are eligible for such exemption if we are deemed to be a PRC "resident enterprise." If we are considered a PRC "resident enterprise" and thus required to withhold income tax for any dividends we pay to our non-PRC resident enterprise

REGULATIONS

investors, the amount of dividends we can pay to our Shareholders could be materially reduced. In addition, any gain realised on the transfer of ordinary shares by our non-PRC resident investors is also subject to 10% PRC income tax if such gain is regarded as income derived from sources within the PRC.

Furthermore, the PRC EIT Law provides that a non-resident enterprise refers to an entity established under foreign law whose "de facto management bodies" are not within China but which have an establishment or place of business in the PRC, or which do not have an establishment or place of business in the PRC but have income sourced within the PRC. The implementation rules of the PRC EIT Law provide that after 1 January 2008, an income tax rate of 10% will normally be applicable to dividends declared to non-PRC resident investors which do not have an establishment or place of business in the PRC, or which have such establishment or place of business but the relevant income is not effectively connected with the establishment or place of business, to the extent such dividends are derived from sources within the PRC. The income tax on the dividends may be reduced pursuant to a tax treaty between China and the jurisdictions in which our non-PRC Shareholders reside.

The PRC EIT Law also provides that "High and New Technology Enterprises" will be subject to an income tax rate of 15%. On 14 April 2008, the Ministry of Science and Technology, the Ministry of Finance and the State Administration of Taxation of the PRC promulgated the Measures for the Administration of Recognition of Technologically Advanced Enterprises (高新技術企業認定管理辦法), which stipulates the conditions and procedures for companies to be recognised as "High and New Technology Enterprises." Pursuant to the Several Policies on Encouraging the Development of Software and Integrated Circuit Industries, software enterprises may list the entire amount of their actual personnel remuneration and training expenses as a before tax expense for enterprise income tax purposes.

VAT

Pursuant to the Provisional Regulations on Value-added Tax of the PRC (中華人民共和國增值稅暫行條例) last amended on 5 November 2008 and with effect from 1 January 2009 and its implementation rules, all entities or individuals in the PRC engaging in the sale of goods, the provision of processing services, repairs and replacement services, and the importation of goods are required to pay VAT.

Pursuant to the Several Policies on Encouraging the Development of Software and Integrated Circuit Industries, until 2010, VAT will be levied at the statutory rate of 17% on an ordinary VAT payer's sale of software products developed and produced by itself. The portion of the tax burden in excess of 3% shall be refunded upon collection and used by the enterprise to research and develop software products and to expand reproduction. The Several Policies on Further Encouraging the Development of Software and Integrated Circuit Industries decided that the VAT preferential policy continues to be implemented after 2010.

REGULATIONS

PRC business tax

Pursuant to the Provisional Regulations on Business Tax of the PRC (中華人民共和國營業稅暫行條例) issued on 13 December 1993 and amended on 10 November 2008 with effect on 1 January 2009, all units and individuals engaged in the provision of services as prescribed in these regulations, the transfer of intangible assets or the sale of immovable properties within the territory of the PRC shall pay the business tax in accordance with these regulations. Taxpayers who engaged in the sales of immovable properties are subject to the tax rate of 5%.

Urban maintenance and construction tax as well as education surtax

Pursuant to Circular of the State Council on Unifying the System of Urban Maintenance and Construction Tax and Education Surtax Paid by Domestic and Foreign-invested Enterprises and Individuals (國務院關於統一內外資企業和個人城市維護建設稅和教育費附加制度的通知), which was promulgated on 18 October 2010, and with effect from 1 December 2010, the Tentative Regulations of the PRC on Urban Maintenance and Construction Tax (中華人民共和國城市維護建設稅暫行條例) promulgated in 1985 and amended on 8 January 2011 and the Tentative Provisions on the Collection of Educational Surtax (徵收教育費附加的暫行規定) promulgated in 1986 by the State Council and subsequently amended in 1990, 2005 and 2011 shall be applicable to foreign-invested enterprises, foreign enterprises and individual foreigners. The rates of urban maintenance and construction tax shall be 7% for a taxpayer in a city. The educational surtax rate is 3% of the amount of value-added tax, business tax and consumption tax actually paid by each unit or individual.

REGULATION OF FOREIGN CURRENCY EXCHANGE AND DIVIDEND DISTRIBUTION

Foreign currency exchange

Pursuant to the Foreign Currency Administration Rules of the PRC (中華人民共和國外匯管理條例) promulgated by State Council on 29 January 1996 and amended on 1 August 2008 and various regulations issued by SAFE and other PRC regulatory agencies, Renminbi is freely convertible only to the extent of current account items, including the distribution of dividends, interest payments, trade and service-related foreign exchange transactions. Capital account items, such as direct equity investment, loans and repatriation of investment, require the prior approval from or registration with the SAFE or its local branch for conversion of Renminbi into a foreign currency, and remittance of the foreign currency outside the PRC.

Dividend distribution

The principal regulations governing distribution of dividends of foreign holding companies include the PRC Company Law promulgated by the National People's Congress Standing Committee in 1993 and amended in 1999, 2004 and 2005, the Wholly Foreign-owned Enterprise Law promulgated by the National People's Congress Standing Committee in 1986 and amended in 2000, and the Implementation Rules promulgated by the State Council in 1990 and amended in 2001.

REGULATIONS

Under these laws and regulations, foreign investment enterprises in China may pay dividends only out of their accumulated profits, if any, determined in accordance with PRC accounting standards and regulations. In addition, wholly-foreign-owned enterprises in China, like our PRC subsidiary, are required to allocate at least 10% of their respective accumulated profits after tax each year, if any, to fund certain reserve funds unless these accumulated reserves have reached 50% of the registered capital of the enterprise. These reserves are not distributable as cash dividends.

Circular 75

On 21 October 2005, the SAFE issued the “Notice on Relevant Issues Relating to the Administration of Foreign Exchange of Financing and Return Investment Activities by Domestic Residents Conducted via Offshore Special Purpose Vehicles” (國家外匯管理局關於境內居民通過境外特殊目的公司融資及返程投資外匯管理有關問題的通知) (“Circular 75”), which became effective as of 1 November 2005. According to Circular 75, (a) a PRC citizen (a “PRC Citizen”) must register with the local SAFE branch before he or she establishes or controls a SPV for the purpose of conducting overseas equity financing; (b) when a PRC Resident contributes assets or equity interests to an overseas SPV, or engages in overseas financing after contributing assets or equity interests in a domestic enterprise to an overseas SPV, such PRC Citizen must register his or her interest in the overseas SPV or any change to his or her interest in the overseas SPV with the local SAFE branch; and (c) when the overseas SPV undergoes a material change in capital outside the PRC, such as a change in share capital or merger and acquisition, the PRC Citizen must, within thirty days after the occurrence of such event, register such change with the local SAFE branch. Moreover, Circular 75 applies retroactively.

Under the relevant rules, failure to comply with the registration procedures set forth in Circular 75 may result in restrictions being imposed on the foreign exchange activities of the relevant onshore company, including the increase of its registered capital, the payment of dividends and other distributions to its offshore parent or affiliate and the capital inflow from the offshore entity, and may also subject relevant PRC residents to penalties under PRC foreign exchange administration regulations.

OTHER RELEVANT LAWS AND REGULATIONS

Bid and Tender Law

Under the “Bid and Tender Law of the People’s Republic of China” (中華人民共和國招標投標法) promulgated by the Standing Committee of the National People’s Congress dated 30 August 1999 and implemented on 1 January 2000, tender is compulsory with respect to following projects such as large-scale infrastructure facilities and public utilities relating to social public interests and public security, or projects which are, completely or partly, invested by the state-owned funds or funded through state financing. Tender and bid activities for a project subject to tender according to law shall not be restricted by areas or departments. No unit or person may illegally restrict or exclude legal persons or other organisations from other areas or systems to take part in bidding or interfere in tender and bid activities in any form.

REGULATIONS

Tenders include public tenders and invitational tenders. A public tender means that a tenderee, in the form of tender announcement, invites unspecified legal persons or other unspecified organisations to submit their bids; an invitational tender means that a tenderee, in the form of invitation for submission of bid, invite specified legal persons or other specified organisation to submit their bids. A tenderee who adopts the public tender method shall issue a tender announcement. The tender announcements of projects subject to tender according to law must be issued in newspaper, periodicals, information network or other media designated by the state. A tenderee who adopts the invitational tender method shall issue invitations for submission of bids to three more specified legal persons or other specified organisations capable of undertaking the project subject to tender and having a good reputation and creditworthiness. A tender announcement shall clearly contain such particulars as the name and address of the tenderee, nature of the project subject to tender, quantity, place and time of implementation and methods to acquire the tender documents.

Production safety

The Production Safety Law of the PRC (中華人民共和國安全生產法) promulgated on 29 June 2002 and became effective since 1 November 2002, is the principal law governing the supervision and administration of production safety and labour protection. The law requires that construction units shall set up organisations or be manned with full-time persons for the control of work safety. Safety facilities of new construction, re-construction or expansion projects shall be designed, constructed, and put into production and used simultaneously with main construction area of the projects.

Intellectual property laws and regulations

China has adopted legislation related to intellectual property rights, including trademarks, patents and copyrights. China is a signatory to all major intellectual property conventions, including the Paris Convention for the Protection of Industrial Property, Madrid Agreement on the International Registration of Marks and Madrid Protocol, Patent Cooperation Treaty, Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure and the Agreement on Trade-Related Aspects of Intellectual Property Rights.

Regulations on copyright for computer software

The computer software, as one form of works enjoy the copyright in accordance with the Copyright Law of the PRC (中華人民共和國著作權法) which became effective on 1 June 1991 and was amended on 27 October 2001 and 26 February 2010 respectively. Pursuant to the Regulations on the Protection of Computer Software (計算機軟件保護條例) promulgated on 20 December 2001 and amended on 8 January 2011, the computer software copyright shall come into being on the day of the completion of development. For the computer software copyright of a legal person or other organisation, the term of protection is 50 years, ending on 31 December of the fiftieth year after the first publication of the computer software, however, these regulations will no longer protect the computer software if it has not been published within 50 years since the completion of development.

REGULATIONS

The software copyright owners may make registration at the software registration organs accredited by the administrative department of copyright under the State Council. The certificates of registration issued by the software registration organs shall be the preliminary certification of the registered matters. The Measures on Registration of Copyright for Computer Software (計算機軟件著作權登記辦法) promulgated on 20 February 2002, which applies to the registration of copyright for computer software, the licensing contract of exclusive exploitation of computer software copyright and the transfer contract of computer software copyright, sets forth the application, examination, approval and notice of registration of computer software copyright.

Regulations on patents

Under the revised Patent Law of the PRC (中華人民共和國專利法) promulgated on 27 December 2008 and effective on 1 October 2009, there are three types of patents, including invention patents, design patents and utility model patents. Invention patents are valid for twenty years, while design patents and utility model patents are valid for ten years, in each case commencing on their respective application dates. Persons or entities who use patents without the consent of the patent owners, make counterfeits of patented products, or engage in activities that infringe upon patent rights are held liable to the patent owner for compensation and may be subject to fines and even criminal punishment.

The patent prosecution system in China is different in many ways from that in other countries. The patent system in China uses the “first to file” principle, which means when more than one person files a patent application for the same invention, the patent will be granted to the person who files the application first. In addition, China requires absolute novelty for the sake of an invention to be patentable. Therefore, in general, a patent will be denied if it is publicly known in or outside of China. Furthermore, patents issued in China are not enforceable in Hong Kong, Taiwan or Macau, each of which has an independent patent system.

Although patent rights are national rights, the Patent Cooperation Treaty to which China is a signatory, allows applicants in one country to seek patent protection for an invention that may simultaneously exist in a number of other member countries by filing a single international patent application. The fact that a patent application is pending is no guarantee that a patent will be granted, and even if granted, the scope of a patent may not be as broad as the subject of the initial application.

Regulations on trademarks

Both Trademark Law of the PRC (中華人民共和國商標法) promulgated by the National People’s Congress Standing Committee in 1982 and amended in 2001, and the Regulation on Implementation of Trademark Law of the PRC (中華人民共和國商標法實施條例) (“**Trademark Law**”) promulgated by the State Council in 2002 give protection to the holders of registered trademarks. In the PRC, registered trademarks include commodity trademarks, service trademarks, collective marks and certificate marks.

The Trademark Office under the State Administration for Industry and Commerce (國家工商行政管理總局商標局) handles trademark registrations and grants a term of ten years to registered trademarks, renewable every ten years where a registered trademark needs to be used after the expiration of its validity term, a registration renewal application shall be filed within six months prior to the expiration of the term.

REGULATIONS

Under the Trademark Law, any of the following acts may be regarded as an infringement upon the right to exclusive use of a registered trademark, including (i) using a trademark which is identical with or similar to the registered trademark on the same or similar commodities without authorisation; (ii) selling the commodities that infringe upon the right to exclusive use of a registered trademark; (iii) forging, manufacturing the marks of a registered trademark of others without authorisation, or selling the marks of a registered trademark forged or manufactured without authorisation; and (iv) causing other damage to the right to exclusive use of a registered trademark of another person.

Violation of the Trademark Law may result in the imposition of fines, confiscation and destruction of the infringing commodities.

Trademark license agreements must be filed with the Trademark Office under the State Administration for Industry and Commerce or its regional counterparts. The licensor shall supervise the quality of the commodities on which the trademark is used, and the licensee shall guarantee the quality of such commodities.

Labour protection

The Employment Contract Law of the PRC (中華人民共和國勞動合同法) was promulgated on 29 June 2007 and became effective on 1 January 2008 and the Implementing Regulations of the PRC Employment Contracts Law (中華人民共和國勞動合同法實施條例) promulgated and became effective on 18 September 2008. This law and its implementation govern the establishment of employment relationships between employers and employees, and the conclusion, performance, termination of, and the amendment to, employment contracts. To establish an employment relationship, a written employment contract shall be signed. In the event that no written employment contract was signed at the time of establishment of an employment relationship, a written employment contract shall be signed within one month after the date on which the employer first engages the employee.

Under applicable PRC laws, rules and regulations, including the Social Insurance Law of the PRC (中華人民共和國社會保險法), promulgated by the Standing Committee of the National People's Congress on 28 October 2010 which became effective on 1 July 2011, the Interim Regulations on the Collection and Payment of Social Security Funds (社會保險費徵繳暫行條例) promulgated by the State Council and became effective on 22 January 1999, Interim Measures concerning the Maternity Insurance (企業職工生育保險試行辦法) promulgated by the Ministry of Labour on 14 December 1994 which became effective on 1 January 1995, the Regulations on Occupational Injury Insurance (工傷保險條例) promulgated by the State Council on 27 April 2003 which became effective on 1 January 2004 and amended on 20 December 2010, and the Regulations on the Administration of Housing Accumulation Funds (住房公積金管理條例) promulgated by the State Council and become effective on 3 April 1999 which was amended on 24 March 2002, employers are required to contribute, on behalf of their employees, to a number of social security funds, including funds for basic pension insurance, unemployment insurance, basic medical insurance, occupational injury insurance, maternity leave insurance, and to housing accumulation funds. These payments are made to local administrative authorities and any employer who fails to contribute may be fined and ordered to make good the deficit within a stipulated time limit.