

New Progress of Beijing IP Court in Facilitating the Filing of Foreign-Related Administrative IP Lawsuits

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I. Introduction

Currently, China has made great efforts to strengthen the comprehensive protection of intellectual property (IP)

rights. With the continuous deepening of reform and opening up, more and more foreign companies have entered into the Chinese market and foreign-related IP cases have gradually increased. From the end of 2014, when the Bei-

Beijing IP Court was established, to May 2021, the Beijing IP Court had accepted a total of 112,000 IP cases with an average annual increase of 20.9%, wherein the number of foreign-related cases was 21,900, accounting for approximately 19.5% of the total accepted cases. During the same period, 18,500 foreign-related cases were concluded, which made up 19% of the total concluded cases. These cases involved more than 90 countries and regions, wherein about 30% of the cases were related to the United States, 78% to G20 countries (excluding mainland China), 40% to EU countries, about 15% to the *Belt and Road* countries, and more than 10% to the Fortune Global 500 companies. The Beijing IP Court has exclusive jurisdiction over administrative cases concerning patent and trademark grant and validity in China. Many parties concerned apply for patents, trademarks and other IP rights in China or get involved in grant and validity disputes. The Beijing IP Court has always persisted with providing equal protection for domestic and foreign parties according to law.

In recent years, foreign right holders are increasingly concerned about the filing of IP disputes, especially the time limit for notarization and legalization, as well as that for submitting materials for case filing, in accordance with Chinese laws in IP grant and validity cases. The Beijing IP Court has always attached great importance to the parties' concerns and made enormous achievements. In particular during the COVID-19 pandemic, it has taken flexible and effective measures to substantially alleviate the pressure on foreign parties and lawyers and ensure that the parties from all over the world can file their cases successfully in the Beijing IP Court.

II. Provisions on requirements and time limits for submission of materials on the part of foreign-related litigation subjects

The provisions on the requirements to commence civil and administrative actions are stipulated in the Civil Procedure Law of the People's Republic of China and the Administrative Procedure Law of the People's Republic of China. Legally speaking, the requirements to commence an action are substantially the same for Chinese subjects and foreign subjects. When a Chinese party concerned initiates a lawsuit, it is required to submit corresponding identity docu-

ments, the Bill of Complaint, the proof of subject qualification of the plaintiff, evidence, etc. When an agent *ad litem* is authorized to file a lawsuit, proof of the agent's qualification is also required. If the plaintiff is a natural person, he or she should provide the original identity card (which will be returned after the verification of the photocopy thereof) and its photocopy; and if the plaintiff is a legal person, it should provide a sealed photocopy of its business license and the organization code certificate, and a certificate of legal representative.

According to the provisions of laws and judicial interpretations, such as Article 264¹ of the Civil Procedure Law of the People's Republic of China, Article 101² of the Administrative Procedure Law of the People's Republic of China, and Article 523³ of the Interpretation of the Supreme People's Court on Application of the Civil Procedure Law of the People's Republic of China, a foreigner who files an administrative lawsuit concerning IP grant and validity shall provide the Beijing IP Court with his/her passport or other documents to prove his/her identity. A foreign enterprise or organization intending to participate in a lawsuit shall provide its identity certificates, which shall be notarized by the notary public in the country of domicile and be legalized by the embassy/consulate of the People's Republic of China in the said foreign country, or be subject to certification formalities set forth in the relevant treaties signed by and between the People's Republic of China and the said foreign country. The person representing a foreign enterprise or organization to participate in a lawsuit shall submit to the court proof of his/her authority to participate in the lawsuit as a representative. Such proof shall be notarized by a notary public in the country of domicile of the foreign enterprise or organization and be legalized by the embassy/consulate of the People's Republic of China in the said foreign country, or be subject to certification formalities set forth in the relevant treaties signed by and between the People's Republic of China and the said foreign country.

As for the time limits, in the light of the provisions of the Patent Law of the People's Republic of China and the Trademark Law of the People's Republic of China, the time limits for initiating administrative proceedings in relation to patent and trademark grant and validity are respectively three months and thirty days, calculated from the date when the party receives the ruling or decision issued by the China National Intellectual Property Administration. Both Chinese and foreign parties should submit the above-men-

tioned materials within the said time limit.

Accordingly, while accepting such cases, the Beijing IP Court shall examine whether the materials submitted by the parties meet the legal requirements. Some foreign parties stated that due to the large amount of time required for the preparation of materials for transnational litigation, there are objective difficulties to submit full materials within the prescribed time limit, which is one of the issues that have been plaguing foreign parties in recent years.

III. Grace-period and extension provide dual protection for case filing

The Beijing IP Court has placed great importance on and actively promoted the resolution of case filing issues on the part of foreign parties. By utilizing various channels and opportunities, such as receiving foreign visitors, visiting lawyers and IP agent associations and holding open - day events for lawyers, the Beijing IP Court is open to opinions and suggestions from right holders, agents and relevant industrial organizations of various countries. With the reform of the case-filing registration system, a “preliminary case-filing registration” mechanism has been set up to facilitate foreign parties’ case filing within the prescribed time limit.⁴

Under the “preliminary case-filing registration” mechanism, within the three-month or thirty-day period as stipulated by law, if a foreign party does have difficulties in completing formalities for providing the proof of subject qualification, he or it may submit to the Beijing IP Court other litigation materials (such as the Bill of Complaint and evidence), and then the Beijing IP Court will preliminarily register the case and grant a grace period. Once the party has completed the notarization and legalization of all the materials about its subject qualification and filed the same within the grace period, the Beijing IP Court will formally accept and register the case. The grace period usually lasts for three months to provide sufficient time for parties from foreign countries, as well as Hong Kong, Macau and Taiwan, to go through the notarization and legalization procedures, which is essential to protect their legitimate litigation rights and interests.

The Beijing IP Court also extensively introduces the above - mentioned measures through press conferences, WeChat and Weibo, to enable more and more foreign parties to effectively access judicial services. In regard to the issues that foreign parties often meet in the preliminary reg-

istration, the Beijing IP Court specifically issued six tips:

First, when a foreign litigation subject authorizes another person to participate in a lawsuit on its behalf, he or it cannot authorize a legal person or organization, but only a lawyer or other natural person of the People’s Republic of China to act as an attorney thereof. Second, the title of the identity document of the foreign litigation subject is not limited to “legal representative”, and may be anything showing that the representative has the right to participate in the lawsuit on behalf of the litigation subject, such as “the identity certificate of the authorized representative”. Third, the submitted notarial statement shall show that the subject exists and is in good standing with a genuine intention. Fourth, the notarized and legalized documents submitted by the foreign litigation subject shall be compliant with formal requirements, and the situations where the judges cannot confirm the authenticity of the documents due to, for example, unbinding of the documents, lack of a seal on the edges of all sheets of a document, removal of a seal, etc., shall be avoided. Fifth, the submitted documents shall be translated by a translation agency designated by the Beijing High People’s Court. The translation shall be objective, authentic and accurate and comply with formal requirements. Defects, such as lack of a seal on the edges of all sheets of the translated document, shall be avoided. Sixth, necessary documents shall be timely notarized and legalized and then submitted, so as to avoid losing the opportunities for remedy in the case of flawed formalities. At present, with the help of the Beijing IP Court, most foreign parties can complete the notarization and legalization within the prescribed time limit, which has effectively promoted the litigation proceedings and safeguarded their own litigation rights and interests.

Since the Spring Festival of 2020, the COVID-19 pandemic broke out and has spread all over the world. For this reason, the litigation activities of the parties and prosecution works of the courts have been subjected to varying degrees of restriction. Especially in some countries, relevant offices were temporarily closed, and the parties could not complete the notarization and legalization within the prescribed time limit, which hindered the legal proceedings. By the second half of 2020, over 50% of foreign parties have applied for extension on the basis of preliminary registration with the Beijing IP Court. To tackle the difficulties facing foreign parties, the Beijing IP Court promptly took more flexible and friendly measures for the sake of safeguarding

the legitimate rights and interest of the parties to the largest extent and quickly responding to the needs of the parties:

First is to adjust the starting date of the grace period after the preliminary registration. Before the outbreak of the COVID-19 pandemic, the Beijing IP Court calculated the three-month period for supplementing materials from the date when the plaintiff's agent *ad litem* first submitted the litigation materials. As for the incomplete materials that needed to be supplemented or rectified, after the supplement or rectification made by the plaintiff's agent, the three-month period was still calculated from the date when the materials were first submitted. After the outbreak of the pandemic, it is not convenient for agents and parties to communicate with each other and prepare for the litigation, nor is it easy for the agents to go to the court for on-site preliminary registration. Due to, among other things, pandemic control, the agents are encouraged to file cases by mail. The starting date of the three-month period for supplementing materials is adjusted to the date when the plaintiff's agent *ad litem* completes the materials and the court finishes the preliminary registration review and sends a text message to the agent.

Second is to accept supplementary materials in various forms. Before the outbreak of the pandemic, the court only accepted supplementary notarization and legalization materials on the spot. In doing so, on the one hand, the judges can examine the authenticity of the materials on the spot, and on the other hand, the plaintiffs may also take the originals back on the same date after the examination and keep them on their own. Thus, the case filing and prosecution work would be safer and more convenient. After the outbreak of the pandemic, the Beijing IP Court has promptly adjusted the method for receiving supplementary materials. The parties may mail their notarized and legalized documents to the court from extraterritorial jurisdictions, or communicate with the judges remotely by means of, for example, videophone or telephone, so as to promote the case filing and online review. The above measures facilitate the filing of supplementary materials by the parties and allow the parties to have sufficient time to make preparation.

The third is to lower the requirements for time extension. According to law, an application for extension of a statutory time limit shall be filed together with corresponding evidence showing the existence of objective difficulties that render it impossible to file the required documents within the statutory or prescribed time limit. During the pandemic,

the Beijing IP Court offers about two weeks for an applicant to explain why an extension of a time limit is necessary without submitting conclusive evidence in writing. That is to say, the Beijing IP Court will grant an extension as long as the party submits evidence proving that the notarization and legalization are in progress, explains the difficulties encountered, and has applied for the expedited process with the relevant offices according to the guidance of the court. The review standards will not be raised for the supplementary evidence submitted within the extended period, and the party can still file a case with the notarized true copy of an original document and will get the original one back after verification.

Meanwhile, the judges will also proactively remind the lawyers of the method for applying for extension again when the extended period expires, as well as the main factors to be considered by the court during review. In addition, as for the common problems facing Chinese agents and their foreign clients during communication, the Beijing IP Court also, based on practical experiences, provides the parties or agents with effective suggestions on how to apply for expedited authentication with relevant foreign offices and how to timely clarify the following four basic points to the next office in the certification procedure: 1. the case is filed in China; 2. the case is an administrative IP lawsuit; 3. Chinese courts set time limits for filing the certified documents; and 4. the parties may lose their substantive rights if the documents are filed overdue. The judges even provide lawyers and agents with email templates for urging notarization and authentication offices to speed up relevant formality process, in the hope of providing comprehensive, refined guidance for the parties. Judging from the current judicial practice, the vast majority of the parties can complete the notarization and legalization and submit the same to the court within three months after extension, i.e., six months after the preliminary registration, and the Beijing IP Court has officially registered and accepted those cases.

The Beijing IP Court analyzed the cases in which the notarization and legalization documents could not be filed within six months after preliminary registration, finding that the major reasons are that (1) subauthorization leads to poor communication between the end agent and the party; (2) some parties fail to attach due importance to the laws and regulations of China, causing the delay without any justifiable reasons; and (3) the relevant offices in some countries require a longer time for handling the relevant formal-

ties due to the pandemic or other domestic situations.

The Beijing IP Court has proactively tried various means to provide effective guidance to foreign parties having difficulties in litigation. The number of administrative IP grant and validity cases filed during the pandemic in 2020 was little affected. Xu Jie, a lawyer from the Global Law Office, said that:

As the Chinese agent *ad litem* of Avomex, Inc. (U.S.) and the Smiley Company Sprl (Belgium) in administrative trademark litigations, we, on behalf of clients, shall submit notarized and legalized documents about subject qualification and the Powers of Attorney with the Beijing IP Court to complete the case filing. However, ever since the COVID-19 outbreak, foreign notarization and authentication offices are often unable to finish their work within the statutory time limit due to the pandemic, rendering our clients at the risk of losing their trademark rights.

After we reported such circumstances to the Beijing IP Court, the judges of the Case Filing Chamber expressed their understandings and informed us that due to this unusual pandemic, if we can submit the original or scanned copy of the documents that had been notarized and legalized, and the emails sent by the agent to urge the relevant foreign offices, we can obtain an extension so that the parties can complete the notarization and legalization in relation to the subject qualification and the Powers of Attorney. The judges also guided us on the emails to be sent to the foreign offices by advising us to include the following four items in the emails: information about the case, the filing of case in a Chinese court, the deadlines, and the consequences of the loss of rights that would result from the expiration of the time limits.

After submitting the relevant documents under the guidance of the court, we finally obtained the court's permission for time extension. At the same time, since the emails fully expressed the urgency, the foreign offices took such matters seriously and therefore accelerated the related procedures within their capabilities. Eventually, we submitted all the materials within the time limit as required by the court and assisted our clients in successfully filing the cases with the Beijing IP Court.

IV. Supporting the Beijing Lawyers Association to provide case filing guidance for foreign parties

Due to the differences in the legal systems of various countries, the specific form of the proof of signing authority should be determined according to foreign corporate laws. Companies in some countries or regions do not designate a legal representative in their registration documents, while those in other countries or regions cannot organize the general meeting of shareholders to designate someone as a representative in litigation. Laws vary greatly from country to country. How to figure out the governing laws within limited time and prepare and submit valid litigation materials such as a proof of signing authority is another problem that bothers foreign parties and their Chinese agents. Meanwhile, it also costed the court lots of efforts in reviewing the filed documents. The court must study foreign laws to confirm that the person who signed on a company's Power of Attorney is legally authorized to act in the name of the company, thereby ensuring the authenticity and validity of the lawsuit.

In order to help parties from various countries to file cases efficiently, the Beijing IP Court has proactively supported legal communities, and solicited opinions and conducted researches many times from lawyers associations and industry associations on matters such as filing of foreign-related cases, on-line case filing and electronic delivery. It also supported the Trademark Law Committee of the Beijing Lawyers Association to compile the Guidelines for Lawyers on Obtaining a Proof of Signing Authority for Filing Foreign-Related IP Cases in Beijing (hereinafter referred to as the "Guidelines"). The Guidelines cover the trial and case-filing experiences of the Beijing IP Court and are compiled based on relevant foreign laws by lawyers familiar with them so as to serve as a reference for foreign parties and lawyers in the foreign-related IP field. The Guidelines include the signing authority proof templates and examples from major countries and regions, including Delaware, California, Michigan, New Jersey, Minnesota, etc. of the United States, as well as other countries and regions such as the United Kingdom, France, Germany, Russia, Italy, Spain, Belgium, Switzerland, Finland, Japan, South Korea, India, Singapore, Australia, and can be supplemented and adjusted at any time according to changes in judicial practice.

Take Delaware of the United States for example. Laws in the State of Delaware set no specific provisions on authorization on behalf of a company, but only stipulate that the rights and powers to manage and control the business and affairs of the company may be delegated to one or more of-

ficers of the company or other personnel as agreed in an agreement. Meanwhile, the General Corporation Law of Delaware requires that authorization should be granted in the certificate of formation, and the certificate of formation (including the restated certificate of formation) should be submitted to the court or other authorities as *prima facie* evidence after being recorded in the office of the Secretary of State and authenticated by the same. Thus, if authorization is not specified in the original certificate of formation of a company in the State of Delaware, a copy of Amended and Restated Certificate of Formation concerning authorization of a representative of a company, which has been recorded and authenticated by the Secretary of State, can be used as a proof of signing authority when filing a case in the court.

The document required and its template are presented as follows:

**STATE OF DELAWARE
AMENDED AND RESTATED
CERTIFICATE OF FORMATION OF [XXX, LLC.]**

This Amended and Restated Certificate of Formation has been executed and filed in accordance with the Section 18-208 of the Delaware Limited Liability Company Act for the purpose of amending and restating the Original Certificate of Formation of [XXX, LLC], which was filed on [date, e.g. March 5, 2007] under the name of [XXX, LLC], and as amended by the Certificate of Amendment filed on [date: ,] under File No. [XXXX]. (If there is no amendment filed before, please delete words underlined.)

First, the name of the limited liability company is [XXX, LLC] (the company).

Second, the address of the registered office of [XXX, LLC] in the State of Delaware is [your address] in the county of [your county]. The name of the registered agent at such address is the [your agent].

Third, the regulations and procedures for the governance of the company shall be set forth in signed limited liability company agreements excepts as they may be contradicted by the Delaware Limited Liability Company Act. In accordance with the Section 18-407 of the Delaware Limited Liability Company Act, the rights and powers to manage and control the business and affairs of the company may be delegated to one or more officers of the company. Subject to the provision of the Delaware Limited Liability Company Act and the company's limited liability company agreements, the following persons are presently serving as offi-

cers of the company with the titles set forth opposite their names, to hold such officers until their successors are duly elected and qualified or until their earlier death, resignation or removal:

[Your officer's name]	[His or her title]
[Your officer's name]	[His or her title]
[Your officer's name]	[His or her title]

All such officers of the company, including the [officers' titles, e.g. President, the CEO and CFO and VP and the Secretary] are hereby authorized and empowered to execute and deliver all instrument and documents in the name of and on behalf of the company, that, in their judgement, shall be necessary, proper or advisable except as they may be contradicted by the Delaware Limited Liability Company Act or the company's limited liability company agreements.

In witness whereof, the undersigned has executed the Amended and Restated Certificate of Formation as of this [date of signature].

[XXX, LLC]

[Signature]

[Title]

修訂和重述的

_____有限責任公司之註冊證明

本修訂和重述的註冊證明依據特拉華州有限責任公司法(“有限責任公司法”)第 18-208 條簽訂和歸檔,以修訂和重述_____有限責任公司(公司名稱)的原始註冊證明。該原始註冊證明於____年____月____日(原始證明存檔日)存檔,並已依據____年____月____日(修訂證明存檔日)歸檔的文件編號為_____的修訂和重述的註冊證明修訂。

本證明特此修改並重新聲明,內容如下:

1. 該有限責任公司的名稱是,_____有限責任公司(公司名稱)。
2. 有限責任公司法第 18-104 條要求保留的在特拉華州的為_____有限責任公司(公司名稱)提供程序服務的註冊辦事處地址和註冊代理人的名稱和地址為:_____。
3. 公司治理的法規和程序應在已簽署的有限責任公司章程中闡明,但與特拉華州有限責任公司法相抵觸的除外。依據有限責任公司法第 18-407 條,管理和控制公司業務和事務的權利和權力可以委託給該公司的一名或多名高級管理人員。依據有限責任公司法和該公司的有限責任公司章程,下列人員

現擔任該公司的高級管理人員,他們的職務列在他們的名字後面。他們將一直擔任該職務直到繼任者被正當選舉且具有任職資格,或他們在此前死亡、辭職或被罷免。

_____ (高管姓名) _____ (職位)

_____ (高管姓名) _____ (職位)

_____ (高管姓名) _____ (職位)

該公司的所有上述高級管理人員,包括_____ (上述高管的職位)特此被授權以公司的名義並代表公司簽署和交付所有的,根據他們判斷是必要的、適當的、明智的指示和文件,除非違反有限責任公司法或該公司的有限責任公司章程。

以下簽名人已經於_____ (簽署日期)簽署了該經修訂和重述的成立證明,以茲證明。

It shall be noted that if the authorization has been specified in the original certificate of formation of a client and the certificate of formation has never been revised, the underlined words shall be deleted from the template.

Another example is the Uniform Limited Liability Company Act of the State of California of the U.S., which stipulates that a written operating agreement may provide for the appointment of officers, including, but not limited to, a chairperson or a president, or both a chairperson and a president, a secretary, a chief financial officer, and any other officers with the titles, powers, and duties. Subject to the provisions of the articles of organization, any document executed or entered into between any limited liability company and any other person, when signed by the chairperson of the board, the president, or any vice president and any secretary, any assistant secretary, the chief financial officer, or any assistant treasurer of the limited liability company, is not invalidated as to the limited liability company by any lack of authority of the signing officers in the absence of actual knowledge on the part of the other person. Thus, the above-mentioned persons have the authority to sign. The names and addresses of those persons will be recited in the Statement of Information of the State of California. The Restated Articles of Incorporation will also certify that some officer of the company is authorized and empowered to execute documents on behalf of the company. In practice, when filing a case in the court, California companies may file the following documents: 1. the Certificate of Status issued and authenticated by the office of the Secretary of

State; 2. the Restated Articles of Incorporation issued and authenticated by the office of the Secretary of State; and 3. the Statement of Information issued and authenticated by the office of the Secretary of State. With the above documents ready, the signing authority can usually be recognized by a judicial authority.

In the State of Michigan of the U.S., the Michigan Business Corporation Act stipulates that the officers of a corporation shall consist of a president, secretary, treasurer, a chairperson of the board, or vice presidents, and any other officers as prescribed in the bylaws or determined by the board. The names thereof are shown in the copy of the record on file issued by the Corporations, Securities & Commercial Licensing Bureau under the Department of Licensing and Regulatory Affairs. Hence, the signing authority will be recognized by the court as long as the copy of the record on file issued and authenticated by the Department of Licensing and Regulatory Affairs of the State of Michigan is submitted.

In the United Kingdom, the law stipulates that a signing authority is granted by law, and each director of a company is entitled to the signing authority. The only thing to do is certify that the signature on the Power of Attorney belongs to the director of the company. Thus, parties from the United Kingdom may file the Identity Certificate of Director(s) issued and authenticated by the registration department of a company.

Similarly, the Guidelines provide proofs of signing authority that had been accepted in a number of cases, as well as specific samples and translated templates. These templates are acceptable proofs of signing authority, but not exhaustive. Therefore, the way of proving is not limited thereto. As long as the documents issued by government departments or judicial authorities can certify the identity of the person signing on the Power of Attorney and his or her authority to sign legal documents such as the Power of Attorney on behalf of the company, they, after legalization, can be submitted as a proof of signing authority, and the Beijing IP Court will accept the litigation materials on a case-by-case basis.

In addition, it is necessary to remind foreign parties and their agents *ad litem* to fully understand the laws and regulations, articles of incorporation, and case filing practices concerning the signing authority of a company representative in different countries, keep up with the latest information when handling a case, provide clients with complete,

accurate and detailed explanation about the proof of signing authority, and timely follow up with clients on documents preparation, so as to make sure that the documents finally submitted by the clients, such as the Power of Attorney, the proof of subject qualification, and the proof of signing authority, are accepted by the court to guarantee successful case filings.

V. Conclusion

In the past six years, with the steady and rapid growth in the number of accepted IP cases in various fields, the Beijing IP Court has constantly optimized its working procedures and resource allocation in an effort to provide high-quality and convenient litigation services for domestic and foreign parties. As for substantive review at the case filing stage, comprehensive consideration is given to the actual situations of foreign parties and conveniences are provided as appropriate. As for the case filing methods, a plurality of flexible manners, such as case filing on line, by mail or over the telephone, are promoted. Even since the outbreak of the COVID-19 pandemic, a full-process on-line trial mechanism is established to handle the whole proceeding, such as a notice of responding to a lawsuit, service of documents, exchange of evidence, court trial and announcement of judgments, of administrative patent and trademark grant and validity cases on line, so that the parties can participate in the case trial from beginning to end without going to the court. The Beijing IP Court strives to provide domestic and foreign parties with an efficient, convenient and professional judicial solution mechanism for IP disputes. ■

The author: President of the Beijing IP Court

¹ Article 264 reads: When an alien, stateless person or foreign enterprise or organization without a domicile within the territory of the People's Republic of China appoints a lawyer or another person of the People's Republic of China as his or its agent *ad litem*, the Power of Attorney sent or forwarded from outside the territory of the People's Republic of China shall become effective only after it has been notarized by a notary public of his or its state and either has been legalized by the embassy or a consulate of the People's Republic of China in that state or certification procedures provided for in the relevant treaty between the People's Republic of China and that state have been carried out.

² Article 101 reads: Where this law lacks provisions such as on the

time limits, service of documents, property preservation, trial, mediation, stay of proceedings, halting proceedings, simplified procedures, and execution during the trial of administrative cases by people's courts, as well as those on the people's procuratorate's supervision of the acceptance, trial, judgment, and execution of these cases, the relevant provisions of the Civil Procedure Law shall be applied.

³ Article 523 reads: A foreigner intending to participate in a lawsuit shall provide the people's court with his/her passport and other documents to prove his/her identity. A foreign enterprise or organization intending to participate in a lawsuit shall provide the people's court with its identity certificates, which shall be notarized by the notary office in the country of domicile of the foreign enterprise or organization and be certified by the embassy/consulate of the People's Republic of China in the said foreign country, or be subject to certification formalities set forth in the relevant treaties signed by and between the People's Republic of China and the said foreign country. The person representing a foreign enterprise or organization to participate in a lawsuit shall submit to the people's court evidence to prove that he/she has the authority to participate in the lawsuit as a representative. Such evidence shall be notarized by the notary office in the country of domicile of the foreign enterprise or organization and be certified by the embassy/consulate of the People's Republic of China in the said foreign country, or be subject to certification formalities set forth in the relevant treaties signed by and between the People's Republic of China and the said foreign country. The "country of domicile" in this Article shall mean the country of incorporation and registration of the foreign enterprise or organization, and may also refer to a third country in which the foreign enterprise or organization has handled business registration formalities.

⁴ Article 16 of the Beijing High People's Court's Answers (III) to Issues Concerning the Application of Law in Administrative Trials: How to calculate the time limit for filing an action when a foreign natural person or legal person authorized a Chinese law firm or other agency to participate in an administrative litigation?

Answer: where a law firm or other agency is authorized by a foreign natural person or legal person to participate in an administrative litigation, if the law firm or agency submits the Bill of Complaint and *prima facie* evidence, such as the fax copy or email of the Power of Attorney executed by the client, to the court within the statutory time limit, and the notarized and legalized Power of Attorney within three months since the lawsuit is filed (explanation shall be made to the court timely where the formalities cannot be completed as scheduled due to special difficulties), it can be deemed that the documents are filed within the time limit for filing an action.