

# **Order on Application and Registration etc. of Trade Marks and Collective Marks, National and International**

Pursuant to sections 17, 48 and 60 of the Trade Marks Act No. 341, 6th June 1991, as amended by Act No. 1201 of 27th December 1996, and [section 4\(3\) of the Collective Marks Act](#) No. 342, 6th June 1991, and by order pursuant to [section 1 of the Ministry for Business and Industry Order](#) No. 416, 27th May 1992, the following shall hereby be laid down:

## **Part I National Trade Mark Applications and Registrations**

### **Chapter 1 Trade Marks**

#### *Section 1*

(1) Application for registration of trade marks shall be filed with the Patent Office. The application shall be in Danish. Forms shall be supplied free of charge by the Office.

(2) If the applicant is not domiciled in this country, he must have an agent resident in this country who shall represent him in all matters relating to the application and subsequent registration.

#### *Section 2*

- (1) The application shall be signed by the applicant or his agent stating:
  - (i) the applicant's name or firm and postal address and where the applicant is represented by an agent, the agent's name and postal address,
  - (ii) the class or the classes comprised by the registration. Under each class shall be indicated the goods and/or the services for which registration of the trade mark is requested. Indication of goods and/or services shall be in compliance with the classification in the Nice Agreement of 1957 with subsequent amendments concerning international classification of goods and services for the purpose of the registration of trade marks and shall be in compliance with the list of classes of goods and services annexed to this Order, and
  - (iii) the registration number in the home country which is to form the basis for registration in Denmark in the event that registration pursuant to [section 35](#) of the Trade Marks Act is only possible, if registration has taken place in the applicant's home country.
- (2) The application shall include a reproduction of the mark.
- (3) The following annexes shall be included:

- (i) an exact picture of the mark on durable paper in 5 copies which shall be no more than 8 cm by 8, either mounted or reproduced on an A-4 sheet of paper, unless the mark solely consists of words expressed by ordinary letters,
  - (ii) power of attorney for an agent, if any, and
  - (iii) proof of registration of the trade mark in the home country in the cases referred to in [subsection 1, item \(iii\)](#) hereof.
- (4) The prescribed fees shall accompany the application.

### *Section 3*

(1) Claim of priority for the application pursuant to the provisions in [section 18](#) or [section 19](#) of the Trade Marks Act shall be put forward in the application with information from which date and on which basis the priority is claimed or shall be submitted with the information mentioned not later than 1 month after the date of application.

(2) The Patent Office may demand that the applicant within a time limit fixed by the Office shall submit proof of priority.

### *Section 4*

(1) An application is furnished with an application date when including a reproduction of the trade mark and stating the applicant's name or firm and indicating the classes, goods or services to be registered.

(2) Where an application includes several goods and/or services it may, subject to request from the owner, be divided into several applications.

(3) A request for division of an application shall be filed with the Patent Office and shall indicate:

- (i) the goods and/or services which the initial application shall include after division, and
- (ii) the goods and/or services which the divisional application or each of the divisional applications shall include.

(4) A divisional application shall not include goods and/or services which were not included by the initial application at the time of request for division of this application. The initial application and the divisional application shall not concern the same goods and/or services.

(5) An application shall not be divided where there is cause for presuming that a division may lead to doubt as to the extent of the initial application and of the divisional application.

(6) The prescribed fees shall accompany the request for division.

(7) Where request for division has been examined and approved the divisional application shall be furnished with an independent application number. The divisional

application shall be furnished with the same application date and date of priority as that of the initial application.

(8) Powers of attorney, transfer documents and other documents concerning the initial application shall also be regarded as documents in each divisional application.

### *Section 5*

(1) When the application has been processed and accepted the trade mark shall be registered and the registration shall be published. The applicant shall be informed of the registration by means of a certified copy of the register.

(2) Where a registration includes several goods and/or services it may, subject to request from the owner, be divided into several registrations.

(3) For division of registrations the provisions in [section 4\(3-6](#) and [8](#)) of this Order shall similarly apply.

(4) Where the request for division has been processed and accepted the divisional registration shall be furnished with an independent registration number. The divisional registration shall be furnished with the same application date, date of priority, date of registration and date of termination of the registration procedure as those of the initial registration.

### *Section 6*

In the Register of Trade Marks shall be entered:

- 1) date of application and number of application and date and number of registration,
- 2) the name and postal address of the owner,
- 3) the name and postal address of the agent,
- 4) a reproduction of the trade mark,
- 5) the classes, goods and services mentioned under [section 2\(1\) item \(ii\)](#) of this Order,
- 6) claimed priority for the application,
- 7) disclaimers, notification of registration of the trade mark on the basis of incorporation or other observations relating to the trade mark or the extent of the registration, including the remark that on request of the trade mark proprietor it shall be specified that the trade mark is three-dimensional or is a sound mark,
- 8) information on license, mortgage or execution proceedings, if any, and
- 9) information on division, if any.

### *Section 7*

(1) Subsequent to the publication of the registration in Dansk Varemærketidende (The Danish Trade Marks Gazette) an opposition may be filed against the validity of the registration. The opposition, which must be reasoned, shall be filed with the Patent Office within 2 months from the date of publication. The prescribed fee shall accompany the opposition.

(2) The proprietor of the registered right shall be notified of the opposition and shall have the right to make a statement.

(3) The opponent and the proprietor of the registered right shall be notified of the decision of the Patent Office.

(4) If the registration is repealed in full or in part, the decision hereof shall be published when it has become final.

(5) The decision of the Patent Office may be brought before the Patent Board of Appeal and the courts in accordance with [section 46](#) of the Trade Marks Act.

### *Section 8*

(1) Subsequent to termination of the registration period any person may request the Patent Office to repeal a registration of a trade mark. The request shall be accompanied by a reasoned statement which falls within [section 28](#) of the Trade Marks Act. The prescribed fee shall accompany the request.

(2) The proprietor of the registered right shall be notified of the request and shall have the right to make a statement.

(3) The decision of the Patent Office shall be notified to the person requesting the repeal and to the proprietor of the registered right.

(4) If the registration is repealed in full or in part, the decision hereof shall be published when it has become final.

(5) The decision of the Patent Office may be brought before the Patent Board of Appeal and the courts in accordance with [section 46](#) of the Trade Marks Act. Either of the parties may, however, at any time bring an action against the other party regarding issues raised in the case, irrespective of whether the Patent Office has made a decision regarding the case or not.

### *Section 9*

(1) A request for the amendment of trade marks pursuant to [section 24](#) of the Trade Marks Act shall be filed with the Patent Office.

(2) Where the amendment concerns a trade mark which does not exclusively consist of words reproduced by ordinary letters 5 reproductions of the trade mark shall be enclosed

### *Section 10*

In case of application for renewal pursuant to [section 27](#) of the Trade Marks Act, any changes in ownership or agency shall be notified. Notification hereof shall be filed and be accompanied by proper documentation for the change.

### *Section 11*

(1) A request for entry in the Register of Trade Marks concerning transfer of the right to a registered trade mark, entry concerning a license to, mortgage of or execution levied on such a trade mark shall be filed and it shall be accompanied by proper documentation for the established right.

(2) A request for entry of an agent or a new agent or for entry of other amendments in conditions previously registered shall be filed and it shall be accompanied by proper documentation for the amendment.

(3) A request made pursuant to [subsection 1](#) and [2](#) of this Order shall be accompanied by power of attorney for the signatory, if the signatory does not appear to the Patent Office as being entitled to submit such a request.

### *Section 12*

Powers of attorney, transfer documents and other documents referred to in this Order shall, where they are in a foreign language, on request from the Patent Office be furnished with a translation which is certified by an official translator.

### *Section 13*

Registrations, divisions of registrations and entries in the Register including cancellations of registered trade marks shall be published in Dansk Varemærketidende (The Danish Trade Marks Gazette).

## **Chapter 2 Collective Marks**

### *Section 14*

(1) The rules laid down in [sections 1-11](#) of this Order shall apply to collective marks to the extent they may apply according to their nature.

(2) Apart from the information referred to in section 6 of this Order, the rules laid down concerning the use of the collective mark shall be entered in the Register of collective Marks.

## **Part II European Community Trade Marks**

### **Chapter 3**

### *Section 15*

For an application for registration of a Community trade mark filed with the Patent Office a fee shall be paid for the Office's acceptance and transmission of the application to the Harmonisation Office.

### *Section 16*

(1) Where the Patent Office from the Harmonisation Office receives an applicant's or proprietor's request for transfer of a Community trade mark application or a Community trade mark registration to application for national registration, cf. Council Regulation (European Community) No. 40/94, 20th December 1993 on European Community Trade Marks, article 108-110, and Commission Regulation (European Community) No. 2868/95, 13th December 1995 on the implementation of Council Regulation (European Community) No. 40/94, 20th December 1993 on Community trade marks rule 44-47, the request shall be complied with and it shall be considered as a national trade mark application provided that the applicant within two months from the Patent Office's acceptance of the request:

- (i) pays the prescribed fee for Danish applications,
- (ii) files a translation of the request and its annex's into Danish,
- (iii) states an address selected in Denmark, and
- (iv) encloses a reproduction of the trade mark.

(2) Where the requirements in [subsection 1](#) of this Order are not complied with, the request shall be rejected.

## **Part III**

### **International Registration of Trade Marks**

#### **Chapter 4**

#### **International Application**

### *Section 17*

(1) Application for international registration of a trade mark pursuant to the Madrid Protocol and [section 55](#) of the Trade Marks Act shall be filed with the Patent Office on an earmarked official form or a form with the same format and contents.

(2) The application shall be in English. The form shall be in typescript.

(3) The prescribed fee for the handling by Patent Office shall accompany the application.

### *Section 18*

(1) An application for international registration of a trade mark shall be stamped with the date of acceptance in the Patent Office and the file number of the Office.

(2) The application shall include the following:

- (i) the name and postal address of the applicant,
- (ii) a reproduction of the trade mark,
- (iii) an indication of the States and organisations designated by the applicant,
- (iv) an indication of the goods and/or services for which the trade mark is required to be registered, grouped in classes according to the international classification of goods and services (the Nice Agreement), and
- (v) an indication of date and number of the application or of date and number of the registration for the basic application or basic registration, respectively.

(3) If the applicant is represented by an agent his name and postal address shall appear from the application.

(4) The application shall, moreover, be in accordance with [articles 3, 3bis](#) and [3ter](#) in the Madrid Protocol and the provisions in the implementation regulations for this.

## **Chapter 5**

### **Examination and other Processing of Applications**

#### *Section 19*

(1) Where the application complies with [section 17](#) and [18](#) of this Order, including the provisions in [section 55](#), [56](#) and [57](#) of the Trade Marks Act, and if there is compliance between the information in the international application and the information in the basic application or the basic registration, the Office shall transfer the international application to the International Bureau.

(2) Where there is anything to hinder a transmission of the application, the Office shall notify the applicant hereof and shall lay down a time limit for the applicant to rectify the application.

(3) If the applicant does not rectify the application within the time limit, the Office shall take a position on whether the application shall be shelved or sent to the International Bureau as it is. The applicant is notified of the decision of the Office.

## **Chapter 6**

### **Subsequent Designation**

#### *Section 20*

(1) Request for subsequent designation pursuant to the Madrid Protocol and [section 56](#) of the Trade Marks Act shall, if the proprietor is resident in Denmark, be filed with the Patent Office. The request shall be filed on an earmarked official form or a form with the same format and contents.

(2) The provisions in [section 17\(2\)](#) of this Order shall similarly be applicable.

(3) Request for subsequent designation shall be carried out in accordance with the provisions in the implementation regulations.

(4) Where the request is in accordance with the provisions of [sections 1, 2](#) and [3](#) of this Order, the Office shall transmit the request to The International Bureau.

## **Chapter 7**

### **Processing of Designation of Denmark**

#### *Section 21*

(1) Where the Patent Office receives notification from The International Bureau that Denmark is designated in an international registration of trade marks, the Office shall investigate whether there is anything to hinder the validity of the registration in Denmark.

(2) Where the Office finds that the international registration, as it is, cannot obtain validity in Denmark notification of complete or partial rejection to The International Bureau shall be given with a time limit for the proprietor to make a statement to the Office.

(3) Where the proprietor of the international trade mark registration wants to make a statement on the decision of the Office, the proprietor shall appoint an agent, resident in this country and being able to represent the proprietor in all matters concerning the validity of the international registration in Denmark.

(4) Subsequent to expiry of the time limit mentioned in [subsection 2](#) of this Order the Office shall make a decision on whether the notified rejection shall be maintained.

(5) When the decision on the validity of the registration in Denmark has become final, notification to The International Bureau shall be given hereof.

#### *Section 22*

(1) Where there are no hinderances for the validity of registration in Denmark a publication of the registration shall take place in Dansk Varemarketidende (the Danish Trade Marks Gazette).

(2) The publication shall include an indication of the trade mark, the name and domicile of the proprietor, the class(es) included by the registration, the date of the international registration including the number of the issue of Den Internationale Gazette (the International Gazette) in which the registration has been published.

#### *Section 23*

(1) Subsequent to the publication of the international registration in Dansk Varemarketidende (the Danish Trade Marks Gazette) an opposition may be filed against the validity of the registration in Denmark. The opposition, which shall be reasoned, shall be filed with the Patent Office within 2 months from the date of publication. The prescribed fee shall accompany the opposition.

(2) Subsequent to the receipt of an opposition the Patent Office shall notify The International Bureau that the registration provisionally will not obtain validity in Denmark. The notification shall be accompanied by statement of reasons for the opposition.



(3) Where the proprietor of the international registration wants to make a statement on the opposition, [section 21\(3\)](#) of this Order shall similarly be applicable.

(4) The decision of the Patent Office regarding the opposition may be brought before the Patent Board of Appeal and the courts in accordance with [section 46](#) of the Trade Marks Act.

#### *Section 24*

(1) The opponent and the proprietor of the international registration shall be notified of the decision of the Patent Office regarding the opposition.

(2) When the decision has become final the Patent Office shall notify the International Bureau hereof.

(3) Where the opposition has been allowed the validity of the registration in Denmark shall be declared void in full or in part. The notification to the International Bureau shall include information hereof. The decision shall be published in Dansk Varemærketidende (the Danish Trade Marks Gazette).

### **Chapter 8 Continuation of an International Registration**

#### *Section 25*

(1) An application on continuation in Denmark pursuant to [section 53\(2\)](#) of the Trade Marks Act and **article 9** quinquies in the Madrid Protocol shall include a reference to the number of the international registration and information on the date and priority, if any, for the international registration or the date of the subsequent designation.

(2) The prescribed fees for such applications shall accompany the application.

(3) The filed application shall moreover be treated in accordance with the provisions applying for national applications.

### **Chapter 9 Licenses, Mortgages and Executions**

#### *Section 26*

The provisions in [sections 40](#) and [41](#) of the Trade Marks Act shall similarly be applicable for international registrations in which Denmark is designated. The entry shall take place in the Office's register of international registrations valid for Denmark.

### **Chapter 10 Collective Marks**

#### *Section 27*

(1) [Sections 17-26](#) of this Order shall also apply for international registrations of collective marks or certification marks to the extent that the regulations may find application according to their nature.

(2) Where an application on international registration of a collective mark or certification mark is filed, this must expressly appear from the application.

(3) Information on the rules laid down concerning the use of the collective mark shall either be under consideration or filed within a time limit laid down by the Office. The information shall be in English or Danish.

## **Part IV**

### **Chapter 11**

#### **Provisions as to Entry into Force**

##### *Section 28*

(1) This Order shall enter into force on 1st January 1997.

(2) At the same time Order No. 151, 20th March 1996 on Application and Registration of Trade Marks and Collective Marks shall be repealed.

##### *Section 29*

[Part II](#) and [III](#) shall not apply for the Faroe Islands and Greenland.

*The Danish Patent Office, 23th december 1996*

MOGENS KRING

**/ Randi Brønlund Jensen**

#### **List of Classes of Goods and Services**

##### *Goods:*

*Class 1.* Chemicals used in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; manures; fire extinguishing compositions; tempering and soldering preparations; chemical substances for preserving foodstuffs; tanning substances; adhesives used in industry.

*Class 2.* Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants; mordants; raw natural resins; metals in foil and powder form for painters, decorators, printers and artists.

*Class 3.* Bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations; soaps; perfumery, essential oils, cosmetics, hair lotions; dentifrices.

*Class 4.* Industrial oils and greases; lubricants; dust absorbing, wetting and binding compositions; fuels (including motor spirit) and illuminants; candles, wicks.

*Class 5.* Pharmaceutical, veterinary and sanitary preparations; dietetic substances adapted for medical use, food for babies; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

*Class 6.* Common metals and their alloys; metal building materials; transportable buildings of metal; materials of metal for railway tracks; non-electric cables and wires of common metal; ironmongery, small items of metal hardware; pipes and tubes of metal; safes; goods of common metal not included in other classes; ores.

*Class 7.* Machines and machine tools; motors and engines (except for land vehicles); machine coupling and transmission components (except for land vehicles); agricultural implements; incubators for eggs.

*Class 8.* Hand tools and implements (hand operated); cutlery; side arms; razors.

*Class 9.* Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire-extinguishing apparatus.

*Class 10.* Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; orthopedic articles; suture materials.

*Class 11.* Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

*Class 12.* Vehicles; apparatus for locomotion by land, air or water.

*Class 13.* Firearms; ammunition and projectiles;

*explosives; fireworks.*

*Class 14.* Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes; jewellery, precious stones; horological and chronometric instruments.

*Class 15.* Musical instruments.

*Class 16.* Paper, cardboard and goods made from these materials, not included in other classes; printed matter; bookbinding material; photographs; stationery; adhesives for stationery or household purposes; artists' materials; paint brushes; typewriters and office requisites (except furniture); instructional and teaching material (except apparatus);

plastic materials for packaging (not included in other classes); playing cards; printers' type; printing blocks.

*Class 17.* Rubber, gutta-percha, gum, asbestos, mica and goods made from these materials and not included in other classes; plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal.

*Class 18.* Leather and imitations of leather, and goods made of these materials and not included in other classes; animal skins, hides; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery.

*Class 19.* Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

*Class 20.* Furniture, mirrors, picture frames; goods (not included in other classes) of wood, cork, reed, cane, wicker, horn, bone, ivory, whalebone, shell, amber, mother-of-pearl, meerschaum and substitutes for all these materials, or of plastics.

*Class 21.* Household or kitchen utensils and containers (not of precious metal or coated therewith); combs and sponges; brushes (except paint brushes); brush-making materials; articles for cleaning purposes; steelwool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

*Class 22.* Ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

*Class 23.* Yarns and threads, for textile use.

*Class 24.* Textiles and textile goods, not included in other classes; bed and table covers.

*Class 25.* Clothing, footwear, headgear.

*Class 26.* Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers.

*Class 27.* Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (nontextile).

*Class 28.* Games and playthings; gymnastic and sporting articles not included in other classes; decorations for Christmas trees.

*Class 29.* Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies, jams, fruit sauces; eggs, milk and-milk products; edible oils and fats.

*Class 30.* Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals, bread, pastry and confectionery ices; honey, treacle; yeast, baking powder; salt, mustard; vinegar, sauces (condiments); spices; ice.

*Class 31.* Agricultural, horticultural and forestry products and grains not included in other classes; live animals; fresh fruits and vegetables; seeds, natural plants and flowers; foodstuffs for animals, malt.

*Class 32.* Beers; mineral and aerated waters and other nonalcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

*Class 33.* Alcoholic beverages (except beers).

*Class 34.* Tobacco; smokers' articles; matches.

*Services:*

*Class 35.* Advertising; business management; business administration; office functions.

*Class 36.* Insurance; financial affairs; monetary affairs; real estate affairs.

*Class 37.* Building construction; repair; installation services.

*Class 38.* Telecommunications.

*Class 39.* Transport; packaging and storage of goods; travel arrangement.

*Class 40.* Treatment of materials.

*Class 41.* Education; providing of training; entertainment; sporting and cultural activities.

*Class 42.* Providing of food and drink; temporary accommodation; medical, hygienic and beauty care; veterinary and agricultural services; legal services; scientific and industrial research; computer programming; services that cannot be placed in other classes.