

LAW OF THE REPUBLIC OF INDONESIA

NO. 19 YEAR 1992

CONCERNING

TRADEMARKS

(UNOFFICIAL TRANSLATION)

OF THE REPUBLIC OF INDONESIA  
NUMBER 19 OF 1992  
CONCERNING

## T R A D E M A R K S

BY THE GRACE OF THE ONE AND ONLY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

- Considering: a. that the Republic of Indonesia is a constitutional state based on the Pancasila principles and the 1945 Constitution, which is pursuing a materially and spiritually just and prosperous society;
- b. that in light of carrying out the national development in general and development in the economic sector in particular, trademarks as a manifestation of intellectual work possess a significant role in the smooth conduct of business and in the improvement of trade in goods or services;
- c. that with due regard to such important role of trademarks, measures are deemed necessary to improve the regulation and protection thereof, which so far is being regulated by Law No.21 of 1961 concerning Company Marks and Trademarks, as it is no longer appropriate to the developing circumstances and needs;
- d. that in relation to the considerations referred to above, it is deemed necessary to improve the regulation of trademarks by law.

- Recalling :
1. Article 5 paragraph (1), article 20 paragraph (1), and article 33 of the 1945 Constitution;
  2. Law No.8 of 1981 on Criminal Procedural Law (Statute Book of 1981 No.76, Supplement to the Statute Book No. 3209).

With the consent of  
THE PEOPLE'S REPRESENTATIVES ASSEMBLY  
OF THE REPUBLIC OF INDONESIA.

HAS DECIDED:

To enact: THE LAW ON TRADEMARKS.

CHAPTER I  
GENERAL PROVISIONS

Article 1

As defined under this Law:

1. Mark is a sign in the form of a picture, name, words, letters, numbers, color arrangement or a combination of such elements, having distinguishable characteristics and is used in trade activities of goods or services;
2. Trademark is a mark used on goods traded by a person or by several persons jointly, or by a legal entity, in order to distinguish them from other similar kinds of goods;
3. Service mark is a mark used on services traded by a person or by several persons jointly, or by a legal entity, in order to distinguish them from other similar kinds of services;

4. Collective mark is a mark used on goods or services with the same characteristics as jointly traded by several persons or legal entities, in order to distinguish them from other goods or services of the same kind;
5. License is a permit given by the proprietor of the registered mark to another person or several persons jointly or a legal entity to use such mark, either for the entire or for part of the type of registered goods or services;
6. Minister is the minister whose scope of tasks and responsibilities cover the establishment and administration of trademarks;
7. Trademark Office is an organizational unit within a governmental department exercising the tasks and authorities in the field of trademarks.

## CHAPTER II COVERAGE OF TRADEMARKS

### First part General

#### Article 2

Marks as regulated in this Law shall cover Trademarks and Service Marks.

#### Article 3

The right to a trademark is an exclusive right conferred by the State to the proprietor of the trademark, registered in the General Register of Trademarks, for a specified period of time, to be used by himself or to be licensed to another person or to several other persons jointly or to a legal entity for its use.

- (1) A trademark can only be registered based on an application submitted with good intentions by the proprietor of the trademark.
- (2) The proprietor of the trademark referred to in paragraph (1) may comprise one person or several persons jointly, or a legal corporate body.

## Second Part

### Marks Which Cannot Be Registered and Which Will Be Refused

#### Article 5

A trademark cannot be registered if it is bearing one of the following elements:

- a. it is in contradiction with ethical norms and public order;
- b. it does not bear distinguishable features;
- c. it has become public property; or
- d. it constitutes an explanation of or is related to the goods or services being applied for registration.

#### Article 6

- (1) An application for the registration of a trademark will be refused by the Office of Marks if it shows a similarity in its basic elements or in its entirety with a trademark owned by other people which has already been registered prior to this application for the same kind of goods or services and which are categorized within one class.
- (2) An application for registration of a trademark will also be refused by the Office of Mark if:
  - a. it constitutes the name of a famous person, photograph, the trademark and name of a legal corporate body belonging to another person which is already renowned, unless upon written approval of the parties entitled thereto;

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- b. it constitutes an imitation or a resemblance of a name or abbreviation of a name, flag or coat of arms, a symbol, or an emblem of a country, or of national as well as international institutions, unless upon written approval of the authorized party;
  - c. it constitutes an imitation or a resemblance of an official sign or seal or stamp used by a country or government organization, unless upon written approval of the authorized party; or
  - d. it constitutes a creation of another person which is protected by Copyright, unless upon written approval of the holder of said Copyright.

Third Part  
Protection Period  
Registered Marks

Article 7

A registered mark shall be valid for a period of ten years as of the date of its registration and shall be retroactively valid as of the receipt date of the application for registration of the trademark concerned.

CHAPTER III  
APPLICATION FOR REGISTRATION OF A MARK

First part  
General

Article 8

- (1) An application for registration of a trademark may only be submitted for one class of goods or services.
- (2) The application as referred to in paragraph (1) shall clearly mention the kind of goods or services belonging to a specific class.

- (3) The classes of goods and services as referred to in paragraph (1) shall be established by Government Regulation.

#### Article 9

- (1) The application for registration of a trademark shall be submitted in writing in the Indonesian language to the Office of Marks.
- (2) The application for registration of a trademark shall contain:
- a. the date, month and year;
  - b. the full name, citizenship and address of the proprietor of the trademark;
  - c. the full name and address of the proxy, when such application for registration of the trademark is submitted through a proxy;
  - d. the specified address in Indonesia, when the proprietor of the trademark does not reside in Indonesia;
  - e. the specification of colors, when the trademark applied for registration contains color elements;
  - f. the class and type of goods and services where for registration is applied;
  - g. country and date of the first time application for registration of the trademark, in case the application has been submitted under the right of priority.
- (3) The application letter for registration of a trademark referred to in paragraph (2) shall be signed by the proprietor of the trademark or his/her proxy.
- (4) If the application for registration of a trademark is applied for by several persons or legal corporate bodies jointly entitled to such trademark, all the names of the persons or legal corporate bodies submitting the application shall be stated, and one particular address shall be specified as their address.

- (5) If the application for registration of a trademark is submitted as referred to in paragraph (4), such application shall be signed by one of the persons or by the representative of the legal corporate body entitled to the trademark, and by enclosing written approvals of the other persons or legal corporate bodies entitled thereto.
- (6) In the event the application referred to in paragraph (4) is submitted through a proxy, a Power of Attorney therefor must be signed by all individuals entitled to the trademark concerned.

#### Article 10

- (1) The application for registration of a trademark as referred to in article 9 shall be furnished with:
  - a. a written statement that the trademark being submitted for registration is his/her property;
  - b. 20 (twenty) specimens of labels of the pertinent trademark;
  - c. a Supplement to the State Bulletin containing the deed of incorporation of the legal corporate body or a valid copy of the deed, if the proprietor of the trademark is a legal corporate body;
  - d. a power of attorney, if the application for registration is submitted through a proxy; and
  - e. the full payment of the fee for the application for registration of a trademark, the kind and amount whereof shall be stipulated by the Minister.
- (2) The label of a trademark, using a foreign language or containing other than Roman characters or numerals which are commonly used in the Indonesian language, shall be furnished with its translation into Indonesian using Roman characters, and numerals commonly used in the Indonesian language.
- (3) Additional provisions concerning the application for registration of a trademark shall be further stipulated by Government Regulation.



## Article 11

- (1) The application for registration of a trademark submitted by the proprietor or the entitled person thereto, while not being a resident or not having a permanent domicile in the territory of the Republic of Indonesia, shall be submitted through a proxy in Indonesia.
- (2) The proprietor or the person entitled to the trademark as referred to in paragraph (1) above, shall state and choose a domicile of his proxy as his/her address in Indonesia.

## Second Part

Application for Registration  
Under the Right of Priority

## Article 12

The application for registration of a trademark under the right of priority, as provided for in the international convention concerning the protection of trademarks, which is adhered to by the State of the Republic of Indonesia; shall be submitted within the period of six months computed from the date of the receipt of the first time application for registration of the trademark in another country, which also adheres to such convention.

## Article 13

- (1) In addition to the requirements called for in article 9 and article 10, the application for registration of a trademark under the right of priority shall be furnished with a proof of the receipt of the first time application for registration, from which such right of priority originates.
- (2) If it is deemed necessary, the Office of trademarks may request, that the proof related to the right of property as referred to in paragraph (1), be translated into the Indonesian language.

- (3) If the requirements referred to in paragraph (1) and paragraph (2) are not being met within a period of ~~not~~ longer than three months after expiration of the right to submit the application for registration under the right of priority as referred to in Article 12, the application for registration of a trademark under the right for priority shall be assumed as having been withdrawn.
- (4) The Office of Marks shall notify such assumption of withdrawal, as referred to in article (3), in writing to the person or legal entity or its proxy, being the applicant for registration of the trademark, by stating the reasons of said withdrawal.

### Third Part

#### Examination on the Completeness of the Requirements For the Registration of Trademarks

#### Article 14

- (1) The Office of Marks shall conduct an examination on the completeness of the requirements for the registration of trademarks as referred to in Article 9, article 10, article 12 and article 13.
- (2) In the event of any deficiency in complying with the requirements as referred to in paragraph (1), the Office of Marks shall request that such deficiency be removed within three months as of the receipt date of the request for removal of such deficiency by the Office of Marks.
- (3) If such deficiency is related to the requirements as referred to in article 13, the period of time for removal of deficiencies shall not exceed three months as of the date of expiration of the period of time for the submission of the application for registration of the trademark under the right of priority.

- (1) If such deficiency has not been removed in the respective period of time as referred to in article 14, paragraph (2) or paragraph (3), the application for registration of the trademark shall be assumed as having been withdrawn.
- (2) The Office of Trademarks shall inform the applicant for registration of the trademark, in writing, of such assumption of withdrawal, by stating the reasons thereof.

Fourth Part

Receipt of the Application  
for Registration of Trademarks

Article 16

- (1) If the examination proves that all the requirements as called for in Article 9, article 10, article 12 and article 13 have been fulfilled, the date of receipt of the documents of application for registration of the trademark shall be established as the date of receipt of the application.
- (2) The date of receipt of the application for registration of a trademark as referred to in paragraph (1) above, shall be recorded by the Office of Trademarks.

Fifth Part

Changes on and Withdrawal of  
the Application for Registration of Trademarks

Article 17

- (1) Any change on the application for registration of a trademark will only be allowed by withdrawing the previous application and submitting a new application for registration.

- (2) Additional provisions on changes and withdrawals<sup>12 of 39</sup> of applications as referred to in paragraph (1) shall be regulated by Government Regulation.

#### Article 18

- (1) As long as no decision of the Office of Trademarks has been received, an application for Trademark registration can be withdrawn by the person or legal entity or its proxy who has submitted the application for Trademark registration.
- (2) If such withdrawal as referred to in paragraph (1) is done by a proxy, it must be done based on a power of attorney especially prepared for such withdrawal.
- (3) In the event that an application for registration of a Trademark is withdrawn, all fees paid to the Office of Trademarks will not be refundable.

### CHAPTER IV

#### REGISTRATION OF A MARK

##### First part

##### Announcements

#### Article 19

The Office of Trademarks shall within 14 days at the latest as from the receipt of the application for registration of the trademark, announce the application for registration of a Trademark, which has complied with requirements as referred to in article 9 and article 10 and in the event that it has been applied for under the right of priority, it must also have complied with requirements as stipulated in article 12 and article 13.

#### Article 20

- (1) The announcement shall be for the duration of six months and shall be made by:

- a. placement on an announcement board specifically provided for such purpose, to be easily and clearly noticed by the public; and
  - b. placement in the Official Trademark Bulletin, which is periodically published by the Office of Trademarks.
- (2) The commencement date of announcement of the application for registration of the trademark will be recorded by the Office of Trademarks.

#### Article 21

The announcement will be conducted by stating:

- a. The name and address of the owner of the Trademark, as well as the name and address of his proxy when the application for registration of the Trademark was submitted through a proxy; c.
- b. The class and kind of goods or services for which an application of registration of its trademark has been submitted;
- c. The date of receipt of the application for registration of the trademark;
- d. The name of the country and date of receipt of the first registration of the Trademark, in the event that it was submitted under the right of priority; and
- e. a sample of trademark label, including information concerning its colors if the trademark uses color elements, and if the trademark label is using a foreign language it must be furnished with its Indonesian translation, using Roman letters and numerals commonly used in the Indonesian language.

Second Part  
Objections and Refutations

Article 22

- (1) During the period of announcement, any person or legal entity can submit his objections in writing to the Office of Trademarks against the application for registration of the trademark concerned.
- (2) Objections as referred to in paragraph (1) can be submitted, if there are adequate reasons along with evidence; that according to this law, the trademark for which registration is being applied, cannot be accepted for registration and must be refused.
- (3) Should there be objections being submitted as referred to in paragraph (1), the Office of Trademarks shall then within 14 days at the latest as from the date of receipt of the objections, send a copy with the content of the objections to the person or legal entity or his proxy being the applicant for registration of the mark concerned.

Article 23

- (1) The person or legal entity or his proxy, who has submitted an application for registration of the trademark is entitled to submit his refutations against objections as referred to in Article 22, to the Office of Trademarks.
- (2) Refutations as referred to in paragraph (1) shall be submitted in writing not later than two months as from the date of receipt of the the letter sent by the Office of Trademarks delivering the copy with the content of the objections.

Article 24

The Office of Trademarks shall use the objections and refutations as additional material in conducting its examination on the application for registration of the trademark concerned.

Third Part  
Substantive Examination

Article 25

- (1) Upon expiry of the announcement period as referred to in article 20, or in the event of objections during the announcement period, upon receipt of refutations received, the Office of Trademarks shall conduct a substantive examinations on the application for registration of the trademark.
- (2) Examination shall be conducted with due regard to article 5 and article 6, and to objections and refutations, if any.

Article 26

The examination shall be completed not later than nine months, computed as from:

- a. the date of expiry of the announcement period, or
- b. the date of expiry of the period for submission of refutations

Article 27

- (1) Examination shall be conducted by the Trademark Examiner, who has the required expertise and qualifications for a Trademark examiner at the Office of Trademarks.
- (2) The Trademark Examiner shall have the position of a functional officer and appointed and dismissed by the Minister on the basis of specific requirements.
- (3) To the Trademark Examiner shall be conferred a functional career and allowances additional to other rights in conformity with the prevailing regulatory legislation.

Article 28

- (1) In the event that the Trademark Examiner as referred to in Article 27, paragraph (1) is of the conclusion that the application for registration of the trademark can be approved, the Office for Trademarks will then:

- a. register such trademark in the General Register<sup>1969</sup> of Trademarks;
  - b. inform the person or legal entity or its proxy being the applicant for registration of the trademark, that the trademark concerned has been registered;
  - c. Issue a Trademark Certificate; and
  - d. announce said registration in the Official Bulletin of Trademarks.
- (2) In the event that the Trademark Examiner as referred to in Article 27 paragraph (1) is of the conclusion that the application for registration of the trademark should be refused, the Office for Trademarks will then stipulate a decision concerning the rejection of the application for registration of the trademark.
  - (3) The decision concerning the rejection as referred to in paragraph (2) above, shall be conveyed in writing to the person or legal entity or its proxy who had submitted the application for registration of the trademark, whereby the reasons for said rejection will also be stated.
  - (4) In the event that objections had been submitted, the Office for Trademarks will send a copy of the letter of notification concerning the registration or refusal of a trademark to the person or legal entity or its proxy who had submitted such objections.

#### Article 29

- (1) The Certificate of Trademark shall be issued to the applicant for registration of the trademark within a period of not later than thirty days computed from the date such trademark was registered in the General Register for Trademarks.
- (2) In the event that the application for registration of the trademark was submitted through a proxy, the Certificate of Trademark referred to in paragraph (1) shall be conveyed in writing to the proxy, with a copy of the letter to the proprietor of the trademark.
- (3) The Certificate of Trademark as referred to in paragraph (1) shall contain :



- a. the full name and address of the proprietor of the registered trademark;
  - b. the full name and address of the proxy, in the event that the application for registration of the trademark was submitted according to Article 11;
  - c. the date of submission and the date of receipt of the application for registration of the trademark;
  - d. the name of the the country and the date of application for registration of the trademark for the first time, in the event that the application for registration was submitted under the right of priority;
  - e. the label of the registered trademark, including information of the kind of colour if such trademark uses colour elements and if the trademark label is using a foreign language it should be furnished with its Indonesian translation, in Roman characters and numerals, as commonly used in the Indonesian language;
  - f. the number and date of registration;
  - g. the class and kind of goods and services for which the trademark was registered; and
  - h. the validity period of the Trademark registration;
- (4) Any person can submit a request for an excerpt of the official registration of Trademarks as published in the General Register for Trademarks.
- (5) Such a request for an official excerpt as referred to in paragraph (4) will be subject to a payment of which the amount will be determined by a Minister's decision.

#### Article 30

It is an obligation to always state the registration number of a Trademark whenever using a registered trademark, of which its execution will be further regulated by a Government Regulation.

Fourth Part  
Petition for Appeal

Article 31

- (1) A Petition for Appeal may be submitted against the refusal of an application for registration of a trademark, stating the reasons and basic considerations regarding substantive matters, as referred to in article 5 and article 6.
- (2) A Petition for Appeal shall be submitted in writing to the Appeal Commission for Trademarks by the applicant for registration of the trademark, or legal entity or its proxy, and a copy thereof should be sent to the Office for Trademarks.
- (3) The Appeal Commission on Trademarks shall be a special agency, permanently chaired by a Chairman, who is concurrently a member of the Commission, and shall be positioned within the department headed by the Minister.
- (4) The members of the Appeal Commission on Marks shall be in an uneven number, comprising not less than three persons, and shall be composed of the required experts and/or several Senior Trademark Examiner, who will not conduct substantive examination on the application for registration of the trademark concerned.
- (5) The chairman and members of the Appeal Commission on Marks shall be appointed and dismissed by the Minister.

Article 32

- (1) A Petition for Appeal shall be submitted with a complete description of the objections on the refusal of the application for registration of the trademark, and the reasons thereof.
- (2) The reasons as referred to in paragraph (1) shall not constitute corrections or improvements on the application for the registration of the trademark that has been refused.

### Article 33

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- (1) A Petition for Appeal shall be submitted not later than three months as from the date of receipt of the notification letter of refusal of the application for registration of the trademark.
- (2) When the period of time for the submission of a Petition for Appeal has expired without any Petition for Appeal being submitted, the refusal of the application for registration of the trademark shall be considered as accepted by the person, legal entity or its proxy, who applied for registration of the trademark.
- (3) In the event that the refusal of the application for registration of the trademark has been considered as accepted by the person, legal entity or its proxy as referred to in paragraph (2), the Office of Trademarks shall record it in the General Register for Trademarks.

### Article 34

- (1) The decision of the Appeal Commission on Trademarks shall be made not later than six months computed from the date of receipt of the Petition for Appeal.
- (2) The decision of the Appeal Commission on Trademarks shall be final, administratively as well as substantively.
- (3) In the event that the Appeal Commission on Trademarks approves the Petition for Appeal, the Office of Trademarks shall execute the registration and issue the Certificate of Trademark in the way as referred to in article 29.
- (4) If the Appeal Commission on trademarks refuses the Petition for Appeal, the Office of Marks shall within thirty days at the latest as from that date of receipt of the decision of the Appeal Commission, notify said refusal to the person or legal entity or its proxy as referred to in Article 33, paragraph (2).

### Article 35

The organization structure, the working procedures of the Appeal Commission on Trademarks, the procedures of petition, the examination of appeals, and the settlement thereof shall be further regulated by Government Regulation.

Fifth Part  
Extension of the validity Period  
for Registered Trademarks

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Article 36

- (1) Upon request of the proprietor of the trademark, the validity period for the registered trademark may be extended repeatedly for a similar period of time.
- (2) The application for extension of the validity period of a registered trademark shall be submitted in writing to the Office of Trademarks within a period of not more than twelve months and not less than six months prior to the expiration date of the validity period of the registered Trademarks.
- 03) The application for extension of the validity period of a registered trademark as referred to in paragraph (2) shall be submitted to the Office for Trademarks.
- (4) The application for extension of the validity period of a registered Trademark as referred to in paragraph (2) shall be subject to a payment of which the amount shall be determined by a Minister's decision.

Article 37

The application for extension of the validity period of a registered trademark shall be approved if:

- a. the pertinent trademark is still being used on the goods and services as stated in its Certificate of Trademark.
- b. the goods and services referred to in point a. above, are still being produced and traded.

Article 38

- (1) A request for extension of the validity period of a registered Trademark shall be refused by the Office for Trademarks, if requirements as stipulated in Article 26 and Article 37 are not being met.
- (2) A refusal of of a request for extension of the validity period of a registered Trademark shall be notified in writing to the proprietor of the Trademark or his proxy, whereby the reasons for said refusal will be stated.

#### Article 39

- (1) The extension of the validity period of a registered Trademark shall be recorded in the General Register of Trademarks and shall be published in an Official Announcement for Trademarks.
- (2) The extension of the validity period of a registered Trademark shall be made known in writing to the proprietor of said Trademark or his proxy.

#### Sixth Part

##### Change of Name and/or Address of the Proprietor of A Registered Mark

#### Article 40

- (1) Any change of name and/or the address of the proprietor of a registered Trademark shall be notified to the Office for Trademarks in order that it be recorded on the General Register for Trademarks along with valid copies being the evidence of such changes.
- (2) Any change of name and/or address of the proprietor of a registered Trademark shall be recorded by the Office for Trademarks and published in the Official Announcement of Trademarks.
- (3) The administration of the change of the name and/or the address of the proprietor of a registered trademark shall be subject to a payment of which the amount will be determined by a Minister's decision.

#### CHAPTER V

##### ASSIGNMENT OF RIGHT ON A TRADEMARK

#### First Part

##### Assignment of Right

#### Article 41

- (1) Right on a registered trademark may be transferred by way of:

- a. inheritance;
  - b. a testament;
  - c. a gift;
  - d. an agreement; or
  - e. other causes justified by law.
- (2) The transfer of right on a trademark as referred to in paragraph (1) shall be accompanied by supporting documents.
  - (3) In the event that a transfer of right on a registered trademark has taken place, it is obligated to submit an application to the Office of Trademarks for the registration of said transfer in the General Register for Trademarks.
  - (4) The transfer of right on the trademark which has been registered at the Office of Trademarks shall be announced in the Official Bulletin of Trademarks.
  - (5) The legal consequences of the transfer of right on a trademark shall be in force to all related parties as well as to third parties, when said transfer has been recorded in General Register of Trademarks.
  - (6) The registration of a transfer of right on a trademark as referred to in paragraph (1) above, shall be subject to a payment of which its amount shall be determined by means of a Minister's decision.

#### Article 42

- (1) The transfer of right on a trademark may be accompanied by the transfer of a good name or reputation or other matters related to such trademark.
- (2) The transfer of right on a trademark, shall only be registered by the Office of Trademarks if it is furnished with a written statement from the beneficiary of said right that the trademark concerned shall be utilized for trading activities of the related goods or services.

## Article 43

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The right on a registered service trademark of which the method of rendering the services and the results thereof is very closely related to or even determined by the personal ability or skill of the individual who renders the services concerned, cannot be transferred in whatever form or way.

## Second Part, L i c e n s e

### Article 44

- (1) The proprietor of a registered trademark is entitled to extend a license to another person, based on an agreement, to use his/her trademark partly or wholly, for the type of goods or services belonging to a specific class.
- (2) The license agreement is valid for the entire territory of the Republic of Indonesia, unless otherwise stated, for a period of time not exceeding the validity period of the registered trademark concerned.
- (3) An application for registration must be sent to the Office of Trademarks, in order to have a license agreement registered.
- (4) A license agreement as referred to in paragraph (3) shall be recorded in the General Register for Trademarks and shall be published in the Official Bulletin of Trademarks.
- (5) Conditions and procedures for the application for registration of a license agreement shall be further stipulated by means of Government Regulations.
- (6) The registration of a License agreement as referred to in paragraph (3) shall be subject to a payment of which the amount shall be determined by a Minister's decision.

### Article 45

The proprietor of the registered trademark who has extended a license to other people as referred to in Article 44, paragraph (1) shall remain entitled to use his trademark for himself or extend a license to another third party to use said trademark, unless otherwise stipulated in the agreement.

#### Article 46

It can be stipulated in the license agreement that the licensee can further extend a license to a third party.

#### Article 47

The use of a trademark registered in Indonesia by the trademark licensee, is considered the same as the use of said trademark by its proprietor in Indonesia.

#### Article 48

- (1) It is prohibited to include provisions in the license agreement, which may directly or indirectly cause detrimental effects on the Indonesian economy, or contain limitations which obstruct the ability of the Indonesian nation in its efforts to master and develop its technology in general.
- (2) The Trademarks office is obligated to refuse any application for registration of a license agreement, which contains limitations as referred to in paragraph (1).
- (3) The Trademarks Office shall inform the proprietor of the trademark and the licensee or his proxy, in writing, of the refusal as referred to in paragraph (2), whereby stating the reasons for said refusal.

#### Article 49

- (1) The licensee, in good faith, of a trademark which is later revoked based on the existence of similarities in its principles or in its entirety with another registered trademark, shall remain entitled to utilize such license as being a license on a trademark which was not revoked, until the expiry date of said license agreement.



- (2) The licensee as referred to in paragraph (1) is then not any more obligated to continue payment of royalties which he would have to make to the licensor of the revoked trademark, but he will be obligated to pay royalties to the proprietor of the trademark that has not been revoked.
- (3) In the event that the licensor has already received all royalties at once from the licensee, the licensor is then obligated to pay royalties to the proprietor of the unrevoked license, of which the amount should be proportional to the remaining validity period of the license agreement.

#### Article 50

Further provisions concerning license agreements as referred to in Chapter V, Second Part, this law shall be further stipulated by means of Government Regulation.

### CHAPTER VI ABOLITION AND ANNULMENT OF REGISTRATION OF A MARK

#### First Part Abolition

#### Article 51

- (1) Abolition of registration of a trademark from the General Register of Trademarks shall be done by the Office of Trademarks, either on her own initiative or based on a request of the proprietor of the trademark concerned.
- (2) Abolition of registration on the initiative of the Office of Marks may be done if sufficient evidence is found that:

- a. the pertinent trademark has not been used consecutively for three years or more in the trade of goods and services, computed from the date of registration or from the date of last usage; or
  - b. the pertinent trademark has been used for types of goods or services which is not in line with the kind of goods or services for which the application for registration was submitted.
- (3) Request for the abolition of registration of a trademark by the proprietor of the trademark, either for all or for part of the types of goods or services belonging to one class, shall be submitted to the Office of Trademarks.
  - (4) the abolition of the registration of a trademark as referred to in paragraph (3) shall be recorded in the General Register for Trademarks, and shall be published in the Official Trademark Bulletin.
  - (5) In the event that a trademark as referred to in paragraph (3) is still under obligations of a valid license agreement, abolition can only be done if it is supported by a written approval from the licensee.
  - (6) An exception to an agreement as referred to in paragraph (5) will only be possible when the licensee distinctly agrees on the renouncement of such approval as included in the license agreement.
  - (7) The registration of the abolition of a registered Trademark as referred to in paragraph (4) will be subject to a payment of which the amount will be determined by means of a Minister's decision.

## Article 52

Abolition of a registered trademark based on reasons as referred to in Article 51 paragraph (2) point a. and point b. can also be done by a third party in the form of a claim through :

- a. Central Jakarta District Court; or
- b. Another District Court, which shall be determined by a Presidential Decision.

## Article 53

- (1) Upon Judgment of the Court of First Instance as referred to in Article 52, a Petition for Appeal cannot be submitted.
- (2) A copy of the judgment of the judicature as referred to in paragraph (1) shall be immediately conveyed by the Registrar of the Court of First Instance of the district concerned to the Office of Trademarks, not later than fourteen days as from the date of said judgement.
- (3) The Office of Marks shall execute the abolition of the trademark concerned, from the General Register of Trademarks, and announce it in the Official Bulletin of Trademark, if such claim for the abolition of registration of the trademark has been accepted, and the judgement of the judicature, as referred to in paragraph (1), has acquired a definite legal power.

## Article 54

- (1) Abolition of registration of a trademark shall be conducted by the Office of Trademarks by crossing out the pertinent trademark from the General Register of Trademarks, and by providing a note regarding the reasons and date of such abolition.
- (2) Abolition of registration of the trademark as referred to in paragraph (1) shall be made known in writing to the proprietor of the trademark or his/her proxy, whereby mentioning the reasons therefor, and confirming that as of the date of the deletion from the General Register of Trademarks, the Certificate of Trademark concerned shall be declared as no longer valid.

## Article 55

The abolition of registration of a trademark shall have the effect that legal protection of the registered trademark concerned is thereby terminated:

## Second Part

## Annulment

## Article 56

- (1) Claim for annulment of the registration of a trademark may be made by the party having interest in the matter based on reasons as referred to in Article 5 and Article 6.
- (2) A claim as referred to in paragraph (1) cannot be made by the proprietor of an unregistered trademark.
- (3) The proprietor of a well-known but unregistered trademark can make a claim as referred to paragraph (1), upon having submitted an application for registration of his trademark to the Office of Trademarks.
- (4) The claim for annulment shall be submitted to the proprietor of the trademark and the Office of Trademarks, through the Court of First Instance as referred to in Article 52.
- (5) In the event that the proprietor of the trademark, to which the claim for annulment was made, does not reside in the territory of the Republic of Indonesia, such claim shall be submitted through the Central Jakarta District Court of First Instance.

## Article 57

- (1) A Claim for the annulment of the registration of a trademark shall be submitted within a period of five years computed from the date of registration of said trademark.
- (2) Excluded from the provision as referred to in paragraph (1), a claim for annulment may be submitted without time limit, if the pertinent trademark should not have been registered because of its containing elements which are in contradiction with ethics and public order.

- (1) On the judgment of the District Court of First Instance as referred to in Article 56 paragraph (4), a petition for appeal cannot be submitted.
- (2) A copy of the judgment of the judicature as referred to in paragraph (1) shall be forwarded to the Office of Trademarks by the Court of First Instance of the district concerned not later than within fourteen days as from the date of said judgement.
- (3) The Office of Trademarks shall execute the annulment of the registration of a pertinent trademark in the General Register of Trademarks and shall announce such matter in the Official Bulletin of Trademarks if such claim for annulment has been approved and the judgement of the judicature as referred to in paragraph (1) has acquired definite legal power.

## Article 59

- (1) The annulment of the registration of a trademark is executed by the Office of Trademarks, by crossing out the trademark concerned in the General Register for Trademarks, whereby providing notations as to the reasons and date of the annulment.
- (2) The annulment of the registration of a trademark, as referred to in paragraph (1) shall be made known in writing to the proprietor of the trademark or his proxy, whereby mentioning the reasons therefor, along with the confirmation that, as of the date of deletion of said trademark from the General Register for Trademarks, the related Certificate of Trademark is declared as void.
- (3) The removal of the registration of a certain trademark from the General Register of Trademarks, as referred to in paragraph (1) shall be published in the Official Bulletin of Trademarks.

## Article 60

The annulment of the registration of a trademark has the effect that legal protection of said trademark no longer exist.

Article 61

- (1) An application for registration of a trademark on goods or services as a Collective Trademark can only be accepted, if such application for registration explicitly states that such trademark will be used as a Collective Trademark.
- (2) Additional to the stipulation concerning the use of a Collective Trademark as referred to in paragraph (1), such an application for registration shall also be furnished with a copy of the regulation on the use of a trademark as a Collective Trademark, signed by the proprietor of the trademark concerned.
- (3) The regulation on the use of Collective Trademarks as referred to in paragraph (2) should among others contain the following:
  - a. the nature, general characteristics or quality of the goods and services, of which its production and trade will be using the abovementioned Collective Trademark.
  - b. stipulations to be adhered to by the proprietor that he will conduct effective supervision on the use of said trademark in accordance with prevailing regulations.; and
  - c. sanctions in the event of violation of regulations on the use of such Collective Trademark.

Article 62

On the application for registration of a Collective Trademark, an examination shall be conducted on the completeness of the requirements as referred to in article 9, article 10, article 12, article 13 and article 60.

## Article 63

In the event that, from the findings of the examination on the application for registration of a Collective Trademark, the Office of Trademarks concludes such application can be approved, the Office of Trademarks shall then:

- a. register such trademark in the General Register of Trademarks whereby enclosing a Copy of the Regulation on the use of such trademark; and
- b. announce the registration, of the Collective Trademark in the Official Bulletin of Trademarks, together with the Regulation on the use of such trademark.

## Article 64

- (1) Any changes on the regulation for the use of a Collective Trademark, must be submitted to the Office of Trademarks for registration along with valid copies of documents being evidence of said changes.
- (2) Changes as referred to in paragraph (1) shall be recorded by the Office of Trademarks, and shall be announced in the Official Bulletin of Trademarks.
- (3) Changes on regulations on the use of a Collective Trademark, after being recorded in the General Register for Trademarks, shall be valid for third parties as well.
- (4) The registration of amendments on a regulations on the use of Collective Trademarks as referred to in paragraph (1) shall be subject to a payment of which the amount will be determined by a Minister's decision.

## Article 65

The proprietor of a registered Collective Trademark may only use such trademark collectively with other companies, organizations or other associations which are also using the Collective Trademark concerned, if the terms and conditions for such collective use have been expressly stated in the agreement on the use of said Collective Trademark.

- (1) Proprietorship of a registered Collective Trademark can only be assigned to a beneficiary if he is capable of conducting effective supervision on its use according to regulations on the use of Collective Trademarks.
- (2) The assignment of the right on a registered Collective Trademark as referred to in paragraph (1) must be submitted for registration at the Office of Trademarks.
- (3) The assignment of a right on a Trademark as referred to in paragraph (2) shall be registered in the General Register of Trademarks and shall be published in the Official Bulletin of Trademarks.
- (4) The registration of an assignment of a right on a registered Collective Trademark as referred to in paragraph (2), will be subject to a payment of which the amount will be determined by a Minister's decision.

## Article 67

A registered Collective Trademark cannot be licensed to other people or corporate bodies.

## Article 68

- (1) The Office of Trademarks may abolish the registration of a Collective Trademark on the basis of:
  - a. the request of the proprietor of such Collective Trademark upon a written approval of all users of the Collective Trademark;
  - b. sufficient evidence that such Collective Trademark has not been used for three successive years or more, computed from the date of its registration;
  - c. sufficient evidence that the Collective Trademark has been used for kinds of goods or services which are not in accordance with the kind of goods and services that were submitted for registration.
  - d. sufficient evidence that the Collective Trademark concerned has not been used in accordance with regulations on the use of Collective Trademarks.



- (2) A request for abolition of the registration of a Collective Trademark as referred to in paragraph (1), point a. should be submitted to the Office of Trademarks.
- (3) The abolition of the registration of a Collective Trademark as referred to in paragraph (2), will be recorded in the General Register of Trademarks, and published in the Official Bulletin of Trademarks.
- (4) The registration of the abolition of a registered Collective Trademark as referred to in paragraph (3) will be subject to a payment of which the amount will be determined by a minister's decision.

#### Article 69

A request for the abolition of the registration of a Collective Trademark may also be submitted by a third party in the form of a claim, through the Court of First Instance, as referred to in Article 52 based on reasons as referred to in Article 68, point h., point c., or point d.

#### Article 70

Apart from the reasons for abolition as referred to in Article 56 paragraph (1), a registered Collective Trademark can also be submitted for abolition to the District Court of First Instance as referred to in Article 52, if the use of such Collective Trademark has been contradictive to regulations as referred to in Article 61 paragraph (1).

#### Article 71

The entire provisions of this law shall be applicable to Collective Trademarks, unless otherwise explicitly stated in this Chapter.

CHAPTER VIII  
CLAIMS OF INDEMNITY

Article 72

- (1) The proprietor of a registered trademark may make a claim against a person or legal entity who illegally uses his trademark, either in its basic elements or in its complete entity, which claim can be in the form of a demand for indemnity and termination of the illegal use of such trademark.
- (2) The claim as referred to in paragraph (1) shall be submitted through the District Court of first Instance as referred to in Article 52.

Article 73

Claims of indemnity as referred to in article 70 may also be submitted by the licensee of a registered trademark, either individually or jointly with the proprietor of the pertinent trademark.

Article 74

- (1) Upon request of the proprietor of a trademark or the licensee of a registered trademark, in his/her capacity of plaintiff, during the examination period and to prevent more substantial damages, the judge may instruct the defendant to terminate the trade of goods and services with unauthorized use of such trademark.
- (2) If on the unauthorized use of such registered trademark is also claimed the surrender of goods or of the value of goods which bear such trademark, the judge may instruct that such surrender of goods or of the value of goods shall only be executed after the judgement of the court has acquired definite legal power, and after the plaintiff has paid indemnity to the defendant.

On the judgment of the Court of the First Instance, as referred to in Article 72 paragraph (2), a petition for appeal cannot be submitted.

## Article 76

The right to submit claim, as regulated in this Chapter, shall not be to the prejudice of the State's right to prosecute crime in the field of trademarks.

CHAPTER IX  
MANAGEMENT OF MARKS

## Article 77

The administration of trademarks as referred to in this law shall be carried out by the Office of Trademarks.

## Article 78

The Trademarks Office shall maintain a nationwide documentation and information network on Trademarks, in order to be able to provide information concerning Trademarks to the public at large.

## Article 79

In carrying out the management of trademarks, the Trademarks Office shall obtain directives from and be responsible to the Minister.

CHAPTER X  
INVESTIGATION

## Article 80

(1) Apart from Investigators from the State Police Force of the Republic of Indonesia, civil servants from Departments whose scope of duties and responsibilities concerns

Trademark matters, can be given the authority of conducting investigations on criminal actions in the field of Trademarks, as referred to in Law No. 8 of 1981, concerning Criminal Procedural Law.

- (2) A civil servant investigator as referred to in paragraph (1) is authorized:
- a. to conduct investigations as to the truth of reports and informations concerning criminal actions in the field of trademarks.
  - b. to conduct investigations on persons or institutions who are being suspected of having committed criminal actions in the field of trademarks.
  - c. to collect information and exhibits from people or institutions in connection with criminal actions in the field of trademarks;
  - d. to conduct investigations on bookkeepings, records and other documents related to criminal actions in the field of trademark;
  - e. to conduct investigations at certain locations where it is suspected that exhibits can be found, such as bookkeepings, records and other documents and confiscate goods as well as other items being results of criminal actions which can be used as exhibits in a criminal case in the field of trademarks.; and
  - f. to request the assistance of experts in order to carry out their duties in investigations on criminal actions in the field of trademarks
- (3) A civil servant being authorized to conduct investigations as referred to in paragraph (1) shall inform the Public Prosecutor of the commencement of an investigation and send him a report on the result of such investigation, pursuant to stipulations in Article 107 of Law No. 8 of 1981 concerning the Criminal Procedural Law.

CHAPTER XI  
PENAL PROVISIONS

Article 81

Anybody who intentionally and without due authorization uses a trademark, similar with the complete entity of a registered trademark which is the property of another person, for the same types of goods or services being produced and/or traded, shall be subject to imprisonment for a maximum period of seven years and a fine of a maximum amount of Rp. 100.000.000 (one hundred million rupiahs).

Article 82

Anybody who intentionally and without due authorization uses a trademark, similar to the basic elements of a registered trademark being the property of another person or legal entity, for the same types of goods or services being produced and traded, shall be subject to imprisonment for a maximum period of seven years and a fine of a maximum amount of Rp. 50,000,000.- (fifty million rupiahs).

Article 83

A criminal action as referred to in Article 81 and and Article 82 is a felony.

Article 84

- (1) Anybody who is trading goods or services which are known or ought to be known as goods and services that are using a registered trademark being the property of another person without authority, shall be subject to imprisonment for a maximum period of one year and a fine of a maximum amount of Rp. 10,000,000.- (ten thousand rupiahs).
- (2) The criminal action as referred to in paragraph (1) is a misdemeanor.

CHAPTER XII  
TRANSITIONAL PROVISIONS

Article 85

All trademarks which have been registered on the basis of Law No. 21 of 1961, concerning Company Marks and Trade Marks, and which are still valid at the time of enforcement of this Law, shall be declared to remain valid according to this Law, for the remaining validity period of its registration.

Article 86

- (1) Against a trademark as referred to in Article 85 a claim for abolition can be submitted through the District Court of First Instance as referred to in Article 52, based on reasons as referred to in Article 5 and Article 6.
- (2) A claim for abolition of the registration of a trademark as referred to in paragraph (1), can only be submitted within the validity period of the registration of the trademark concerned.

Article 87

The application for registration, extension of registration, registration of the assignment of right, the registration of changes in name and address, requests for deletion or abolition of the registration of a trademark, which is submitted based on Law No. 21 of 1961 concerning Company Mark and Trademark, but which has not been finalized at the date of enforcement of this law, shall be further processed based on this law.

Article 88

All implementary regulations which are formulated based on Law No. 21 of 1961 concerning Company marks and trademarks which already existed on the date of enforcement of this law shall be declared as to remain valid in so far it is not in contradiction or replaced with new provisions based on this law.

CHAPTER XIII  
CLOSING PROVISIONS

Article 89

With this Law coming into force, Law number 21 of 1961, concerning Company Marks and Trademarks, shall be declared as no longer valid.

Article 90

This Law shall come into force on April 1, 1993.  
In order to make this Law public, the promulgation thereof shall be instructed to be done by an insertion thereof in the Statute Book of the Republic of Indonesia.

Ratified in Jakarta  
On 28 August 1992  
PRESIDENT OF THE R.I.

SOEHARTO

Promulgated in Jakarta  
On 28 August 1992  
THE MINISTER/STATE SECRETARY

MOERDIONO

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