

**THE TRADEMARK LAW OF THE REPUBLIC OF INDONESIA  
CONSOLIDATED TEXT OF LAW NO. 19/1992  
AS AMENDED BY LAW NO. 14/1997**

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**ELUCIDATION OF LAW OF THE REPUBLIC OF INDONESIA  
NUMBER 14 OF 1997  
ON AMENDMENT OF LAW NO. 19 OF 1992  
CONCERNING TRADEMARKS**

THE TRADEMARK LAW  
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CONSOLIDATED TEXT  
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CHAPTER I  
GENERAL PROVISIONS

Article 1

1. Mark means a sign in the form of a picture, name, word, letters, figures, colour composition, or a combination of said elements, having distinguishing features and used in the activities of trade in goods and services.
2. Trade Mark means a mark which is used on goods which are traded by a person or jointly by several persons or a legal entity to distinguish the goods from other similar goods.
3. Service Mark means a mark which is used for services traded by a person or jointly by several persons or a legal entity to distinguish the services from others similar services.
4. Collective Mark means a mark which is used on goods or services having the same characteristics which are traded jointly by several persons or legal entities to distinguish the goods or services from other similar goods or services.
5. License means a permit given by the owner of a registered mark to a person or jointly to several persons or a legal entity to use said mark. Either for all or a part of the kind of the goods or services which are registered.
6. Minister means the Minister whose scope of duties and responsibilities includes the guidance of marks.

7. Trademark Office means the organisational unit within the governmental department which executes duties and authorities in the field of marks.

## CHAPTER II

### SCOPE OF MARKS

#### Part One

#### General

#### Article 2

Marks as regulated by this Act shall include trademarks and service marks.

#### Article 3

The right to a mark is a special right which is granted by the State to the owner of a mark, which is registered in the General Register of Marks for a certain period of time, to himself use said mark or to grant permission to use it to a person or jointly to several persons or a legal entity.

#### Article 4

- (1) A mark may only be registered upon an application filed by the owner of the mark in good faith.
- (2) The owner of a mark referred to in paragraph (1) may consist of one person or several persons jointly, or a legal entity.

#### Part Two

Unregistrable Marks and Rejectable Marks

## Article 5

A mark may not be registered if it contains one of the following elements:

- a. offensive to morality and public order;
- b. having no distinguishing elements;
- c. having become public property; or
- d. constituting information or related to the goods or services for which registration is requested.

## Article 6

- (1) An application for registration of a mark shall be refused by the Trademark Office if it has a similarity in its essential part or in its entirety with a mark owned by another person which has previously been registered for the same kind of goods or services.
- (2) An application for registration of a mark shall also be refused by the Trademark Office if:
  - a. it constitutes the name of a famous person, photograph, and name of a legal entity belonging to another person except with a written consent of the entitled parties;
  - b. it constitutes an imitation or a resemblance of a name or abbreviation of a name, flag or coat of arms or a symbol, or an emblem of a state, or of a national or international institution except with a written consent of the competent authority;
  - c. it constitutes an imitation or a resemblance of an official sign or seal or stamp used by a state or a government institution, except with a written consent of the competent authority;
  - d. it constitutes or resembles to a creation of another person which is protected under copyright, except with a written consent of the copyright holder.
- (3) The Trademark Office may refuse an application for registration of a mark which has a similarity in its essential part or in its entirety with a mark which is already known

belonging to another person for the same kind of goods or services.

- (4) The provision referred to in paragraph (3) may also apply to any good and or service which is not of the same kind, provided that it fulfils certain requirements which shall be further regulated in a Government Regulation.

### Part Three

#### Period of Protection of Registered Marks

##### Article 7

A registered mark shall have legal protection for a period of 10 (ten) years retroactive to the filing date of the registration of the mark concerned.

## CHAPTER III

### APPLICATION FOR REGISTRATION OF MARK

#### Part One

##### General

##### Article 8

- (1) An application for registration of a mark for two or more classes of goods and or services may be filed in a single application.
- (2) The application referred to in paragraph (1) shall clearly mention the kinds of goods and or services which are covered by the class applied for registration.
- (3) The classes of goods or services referred to in paragraph (1) shall be further regulated in a Government Regulation

## Article 9

- (1) An application for registration of a mark shall be filed in writing in the Indonesian language to the Trademark Office.
- (2) An application for registration of a mark shall contain:
  - a. the date, month, and year;
  - b. the full name, citizenship and address of the owner of mark;
  - c. the full name and address of the proxy if the application for registration of a mark is filed through a proxy;
  - d. the address chosen in Indonesia, if the owner of mark resides outside the territory of the Republic of Indonesia;
  - e. the type of colour, if the mark for which registration is requested uses colour elements;
  - f. the class and kind of goods or services, for the mark for which registration is requested; and
  - g. the name of the state of the first application for registration of the mark, where the application for registration is filed with a priority right.
- (3) The letter of application for registration of a mark referred to in paragraph (2) shall be signed by the owner of the mark or his proxy.
- (4) Where an application for registration of a mark is filed by more than one person or legal entity which are jointly entitled to the mark, the name of the persons or legal entities which file the application shall be included by choosing one address as their address.
- (5) Where an application for registration of a mark is filed referred to in paragraph (4), said application shall be signed by one person or representative of the legal entity which is entitled to the mark by attaching a written consent of the other persons or legal entities.
- (6) Where an application for registration of a mark referred to in paragraph (4) is filed through a proxy, the power of attorney for this purpose must be signed by all who are entitled to said mark.

## Article 10

- (1) An application for registration of a mark referred to in Article 9 shall be furnished with:
  - a. a written statement that the mark being filed for registration is the property of the applicant;
  - b. 20 (twenty) specimens of labels of the mark concerned;
  - c. supplement to the State Gazette containing the of establishment of the legal entity or a valid copy of the deed, if the owner of the mark is a legal entity;
  - d. a power of attorney, if the application for registration of a mark is filed through a proxy; and
  - e. the payment of all fees for registration of a mark, the kind and amount of which shall be stipulated in a Ministerial Decree.
- (2) Any label of mark which uses a foreign language and or containing any letter other than Latin alphabets, or numerals which are not commonly used in Indonesian language shall be furnished with its translation into Indonesian language using Latin alphabets, and numerals commonly used in Indonesian language, and its pronunciation in Latin spellings.
- (3) Provisions regarding application for registration of a mark shall be further regulated in a Government Regulation.

## Article 11

- (1) An application for registration of a mark which is filed by an owner or by persons entitled to the mark residing or domiciled outside the territory of the Republic of Indonesia must filed through a proxy in Indonesia.
- (2) The owner or persons entitled to the mark referred to in paragraph (1) must state and choose the domicile of the proxy as their address in Indonesia.

## Part Two

### Application for Registration of a Mark with Priority Right

## Article 12

An application for registration of a mark which is filed with a priority right as provided for in the international convention on mark protection to which the Republic of Indonesia adheres shall be filed within a period of 6 (six) months at the latest, commencing from the filing date of the application for mark registration filed for the first time in another member country to the international convention or in a country which is a member of the World Trade Organisation.

## Article 13

- (1) In addition to fulfilling the provisions referred to in Part One of this Chapter, an application for registration of a mark with a priority right must also include evidence of the receipt of the application for registration for the first time which gives rise to said priority right.
- (2) The Trademark Office may request that the evidence of the priority right referred to in paragraph (1) be translated into Indonesian language.
- (3) Where the provisions referred to in paragraphs (1) and (2) are not fulfilled within a period of at most 3 (three) months after the expiry of the right to file an application for registration of a mark by using a priority right referred to in Article 12, the application for registration of a mark by using a priority right shall be deemed to have been withdrawn.
- (4) The Trademark Office shall notify the person or legal entity or the proxy who filed the application for registration of a mark which is deemed to have been withdrawn referred to in paragraph (3) in writing, stating the reasons therefor.

## Part Three

### Examination of the Completeness of Requirements



## Article 14

- (1) The Trademark Office shall conduct an examination of the completeness of requirements for registration of a mark referred to in Article 9, Article 10, Article 12, and Article 13.
- (2) Where there are deficiencies in the completeness of requirements referred to in paragraph (1), the Trademark Office shall request that such deficiencies be remedied within a period of at the latest two months from the date of receipt of the letter from the Trademark Office requesting the completion of such deficiencies.
- (3) Where such deficiencies pertain to the requirements referred to in Article 13, the period of remedying the deficiencies in said requirements shall be at the latest 3 (three) months from the date of expiry of the period of filing of an application for registration of a mark by using a priority right.

## Article 15

- (1) Where deficiencies in the requirements have not been fulfilled within the respective period referred to in Article 14 paragraph (2) or paragraph (3), the application for registration of a mark shall be deemed to have been withdrawn.
- (2) The Trademark Office shall notify the person or legal entity or the proxy who filed the application for registration of a mark deemed to have been withdrawn, stating the reasons therefor.

## Part Four

### The Period for Receipt of an Application for Registration of Mark

## Article 16

- (1) Where all requirements referred to in Article 9, Article 10, Article 12 and Article 13 have been fulfilled, the date of receipt of the application document of a mark shall be stipulated as the filing date of the application for registration of a mark.

- (2) The Trademark Office shall record the filing date of the application for registration of a mark referred to in paragraph (1).

## Part Five

### Amendment and Withdrawal of an Application for Registration of a Mark

#### Article 17

- (1) Amendment of an application for registration of a mark shall only be allowed by withdrawal of the initial application and filing of a new an application for registration of a mark.
- (2) The provisions on amendment and withdrawal of an application referred to in paragraph (1) shall be regulated further in a Government Regulation.

#### Article 18

- (1) As long as a decision of the Trademark Office has not been obtained, the person or legal entity or proxy who filed an application for registration of a mark may withdraw the application for registration of a mark.
- (2) Where the withdrawal of the application referred to in paragraph (1) is made by a proxy, it must be made on the basis of a power of attorney for the purpose of said withdrawal.
- (3) Where an application for registration of a mark is withdrawn, all fees which have already been paid to the Trademark Office cannot be withdrawn.

## CHAPTER IV

### REGISTRATION OF MARKS

## Part One Announcement

### Article 19

Within a period of at the latest 14 (fourteen) days after the filing date of an application for registration of a mark, the Trademark Office shall announce the application for registration of a mark that has fulfilled the requirements referred to in Article 9 and Article 10, and in case of filing by using a priority right, the provisions in Article 12 and Article 13 must also be fulfilled.

### Article 20

- (1) Announcement shall last for 6 (six) months and shall be made by
  - (a) placement on the announcement board, which is specially provided for this purpose and which can be easily and clearly seen by the public; and
  - (b) placement in the Official Gazette of Marks, which is published periodically by the Trademark Office.
- (2) The date of commencement of announcement of an application for registration of a mark shall be recorded by the Trademark Office.

### Article 21

Announcement shall be made by mentioning:

- a. the full name and address of the owner of the mark, as well as the full name and address of the proxy, if the application for mark registration is filed through a proxy;
- b. the class and kind of goods and or services for which registration of the mark has been requested;
- c. the filing date of the application for registration of the mark;
- d. the name of the country and the filing date of the first application for the registration of the mark. if the application for registration is filed with a priority right.

- e. a sample of the mark labels, including information concerning its colours, if the mark contains colour elements, and the mark label uses foreign language and or letters other than the Latin alphabet and or numerals which are not commonly used in Indonesian language, it must be furnished with its Indonesian translation, using the Latin alphabet or numerals which are commonly used in Indonesian language, as well as its pronunciation in the Latin spellings.

## Part Two

### Objection and Rebuttal

#### Article 22

- (1) During the period of announcement, any person or legal entity may file objections to an application for registration of the mark concerned, in writing to the Trademark Office.
- (2) Objections referred to in paragraph (1) may be filed where there is sufficient reason accompanied by evidence that the mark for which registration is requested is a mark which on the basis of this Act is unregistrable or must be rejected.
- (3) Where there are objections referred to in paragraph (1), the Trademark Office shall within a period of at the latest 14 (fourteen) days from the date of receipt of the objections send a copy of the letter containing said objections to the person or legal entity or the proxy who filed the application for registration of the mark.

#### Article 23

- (1) A person or legal entity or proxy who has filed an application for registration of a mark shall be entitled to file rebuttals to the objections referred to in Article 22 to the Trademark Office.
- (2) Rebuttals referred to in paragraph (1) shall be filed in writing within a period of at the latest 2 (two) months from the date of

receipt of the copy of the objections delivered by the Trademark Office.

#### Article 24

The Trademark Office shall use the objections and rebuttals as additional material in the examination of the application for registration of the mark concerned.

#### Part Three

#### Substantive Examination

#### Article 25

- (1) The Trademark Office shall conduct a substantive examination of the application for registration of a mark after the expiry of the announcement period referred to in Article 20 or where there are objections during the period of announcement, after receipt of the rebuttals.
- (2) The examination shall be conducted with due regard to the provisions of Article 5 and Article 6 and whether there are objections or rebuttals.

#### Article 26

The examination shall be completed within a period of at the latest 9 (nine) months from:

- a. the expiry date of the announcement; or
- b. the expiry date of the period for filing of rebuttals

#### Article 27

- (1) The examination shall be conducted by a Trademark Examiner who possesses the skills and qualifications as a Trademark Examiner of the Trademark Office
- (2) A Trademark Examiner shall have the status of a functional official appointed and dismissed by the Minister on the basis of certain requirements.

- (3) A Trademark Examiner shall be given a functional rank and allowances in addition to other rights in accordance with prevailing laws and regulations.

#### Article 28

- (1) Where a Trademark Examiner referred to in Article 27 paragraph (1) concludes that an application for registration of a mark can be approved, the Trademark Office shall:
  - a. register the mark in the General Register of Marks;
  - b. notify the person or legal entity or proxy who filed the application for registration of the mark;
  - c. issue a Mark Certificate; and
  - d. announce said registration in the Official Gazette of Marks.
- (2) Where a Trademark Examiner referred to in Article 17 paragraph (1) concludes that an application for registration of a mark is unregistrable or must be rejected, the Trademark Office shall issue a decision on the rejection of said application for registration of a mark.
- (3) A decision on rejection referred to in paragraph (2) shall be made known in writing to the person or legal entity or proxy who filed the application for registration of the mark, stating the reasons therefor.

#### Article 29

- (1) The Mark Certificate shall be issued to the applicant for registration of the mark within a period of 30 (thirty) days at the latest commencing from the date of such mark is registered in the General Register of Marks.
- (2) Where an application for registration of the mark was filed through a proxy, the Mark Certificate referred to in paragraph (1) shall be conveyed to the proxy, with a copy to the owner of the mark.
- (3) The Mark Certificate referred to in paragraph (1) shall contain:

- a. the full name and address of the owner of the registered mark;
  - b. the full name and address of the proxy, if the application for registration of the mark was filed on the basis of Article 11;
  - c. the date of submission and the filing date of application for registration of a mark;
  - d. the name of the country and the filing date of the first application for registration of a mark, where the application for registration was filed with a priority right;
  - e. label of the registered mark, including information concerning its colours, if the mark contains colour elements, and the mark label uses foreign language and or letters other than the Latin alphabet and or numerals which are not commonly used in Indonesian language, it must be furnished with its Indonesian translation, using the Latin alphabet or numerals which are commonly used in Indonesian language, as well as its pronunciation in the Latin spellings;
  - f. number and date of registration;
  - g. the class and kind of goods and or services for which the mark has been registered;
  - h. the validity period of the mark registration.
- (4) Any person may submit a request for a certified copy of the mark registration as registered in the General Register of Marks.
- (5) The request referred to in paragraph (4) is subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

### Article 30

The mark registration number must be set forth on any use of a registered mark, the implementation of which shall be regulated further in a Government Regulation.

## Part Four Appeal Petitions

### Article 31

- (1) A petition for appeal may be submitted against the refusal of an application for registration of a mark, for reasons and consideration pertaining to substantive matters, referred to in Article 5 or Article 6.
- (2) A petition for appeal shall be submitted in writing to the Trademark Appeal Commission by the applicant, or a legal entity or its proxy for registration of a mark, and a copy thereof shall be sent to the Trademark Office.
- (3) The Trademark Appeal Commission is a special body, permanently presided over by a chairman, who also serves as a member of the Commission, and shall be within the Department headed by the Minister.
- (4) The members of the Trademark Appeal Commission shall be in an odd number, comprising at least 3 (three) persons, consisting of the required experts and or senior Trademark Examiners, who did not carry out the substantive examination on the application for mark registration concerned.
- (5) The chairman and members of the Trademark Appeal Commission shall be appointed and dismissed by the Minister.

### Article 32

- (1) An appeal petition shall be filed describing in detail the objection to the rejection of the application for registration of a mark, stating the reasons therefor.
- (2) The reasons referred to in paragraph (1) must not constitute corrections or improvements of the rejected application for registration of a mark.

### Article 33

- (1) An appeal petition shall be filed within a period of at the latest 3 (three) months from the date of receipt of the notification of rejection of the application for registration of a mark.
- (2) Where said period for an appeal has lapsed without an appeal petition, the rejection of the application for registration of the



mark shall be deemed to have been accepted by the person or legal entity or proxy who filed the application for registration of the mark.

- (3) Where the rejection of the application for registration of the mark has been deemed to have been accepted by the person or legal entity or proxy referred to in paragraph (2), the Trademark Office shall record this fact in the General Register of Marks.

#### Article 34

- (1) The decision of the Trademark Appeal Commission shall be made within a period of 6 (six) months at the latest commencing from the date of receipt of the appeal petition.
- (2) The decision of the Trademark Appeal Commission is final, administratively as well as substantively.
- (3) In the event the Trademark Appeal Commission approves the appeal petition, the Trademark Office shall execute the registration and issue a Mark Certificate in manners referred to in Article 28 and Article 29.
- (4) In the event the Trademark Appeal Commission rejects the appeal petition, the Trademark Office shall within 30 (thirty) days at the latest as from the date of receipt of the decision of the Trademark Appeal Commission, notify said refusal to the person or legal entity or its proxy referred to in Article 31 paragraph (2).

#### Article 35

The organisational structure and the work methods of the Trademark Appeal Commission and the procedure for appeal petitions and examinations as well as settlements shall be regulated further in a Government Regulation.

#### Part Five

Extension of Period of Protection of a Registered Mark

### Article 36

- (1) Upon the request of a mark owner, the period of protection of a registered mark may be extended for additional periods of the same duration.
- (2) An application for extension of the period of protection of a registered mark referred to in paragraph (1) shall be filed in writing by the owner or his proxy within a period of not more than 12 (twelve) months and at least 6 (six) months prior to expiry of the period of protection of said registered mark.
- (3) An application for extension of the period of protection of a registered mark referred to in paragraph (2) shall be filed to the Mark Office.
- (4) An application for extension of the period of protection of a registered mark referred to in paragraph (2) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

### Article 37

An application for extension of the period of protection of a registered mark shall be approved if:

- a. the mark concerned is still used on the goods or services stated in the Mark Certificate.
- b. the goods or services referred to in letter a still produced and traded.

### Article 38

- (1) An application for extension of the period of protection of a registered mark shall be rejected by the Trademark Office if it does not fulfil the provisions referred to in Article 36 and Article 37.
- (2) The rejection of an application for extension of the period of protection of a registered mark shall be made known to the owner of the mark or his proxy, stating the reasons therefor.

## Article 39

- (1) An extension of the period of protection of a registered mark shall be recorded in the General Register of Marks and shall be announced in the Official Gazette of Marks.
- (2) An extension of the period of protection of a registered mark shall be made known in writing to the owner of the mark or his proxy.

## Part Six

### Change of Name or Address of a Registered Mark Owner

## Article 40

- (1) A change of name or address of a registered mark owner shall be made known to the Trademark Office accompanied by a valid copy of the evidence of said change.
- (2) A change of name or address of a registered mark owner which has been recorded by the Trademark Office shall be announced in the Official Gazette of Marks.
- (3) The recording of a change of name or address referred to in paragraph (1) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

## CHAPTER V

### TRANSFER OF RIGHTS OF A REGISTERED MARK

#### Part One

#### Transfer of Rights

## Article 41

- (1) The rights to a registered mark may be transferred by means of:
  - a. inheritance;
  - b. testament;
  - c. donation;

- d. agreement; or
  - e. other reasons recognised by law.
- (2) The transfer of rights to a registered mark referred to in paragraph (1) shall be accompanied by supporting documents.
  - (3) A request that the transfer of rights to a registered mark referred to in paragraph (1) be recorded in the General Register of Marks must be filed to the Trademark Office.
  - (4) A transfer of rights to a registered mark which has been recorded by the Trademark Office shall be announced in the Official Gazette of Marks.
  - (5) The legal consequences of a transfer of rights to a registered mark which has been recorded in the General Register of Mark shall apply to the parties concerned and to third parties.
  - (6) The recording of a transfer of rights to a registered mark referred to in paragraph (1) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

#### Article 42

- (1) A transfer of rights to a registered mark may be accompanied by the transfer of good will or reputation or other things related to the mark.
- (2) A transfer of rights to a registered mark shall only be recorded by the Trademark Office where it is accompanied with a written statement of the recipient that said mark will be used for trade in goods or services.

#### Article 43

The right on a registered service mark of which the method of rendering the service and the results thereof is very closely related to the personal ability or skill of the provider of the service concerned, may be transferred or licensed, provided that there is a guaranty on the quality of the rendering of the service and its result thereof.

## Part Two

### Licensing

#### Article 44

- (1) The owners of a registered mark shall be entitled to grant a license to another person to use all or part of the kinds which belong to one class by an agreement.
- (2) A licensing agreement shall be effective for the entire territory of the Republic of Indonesia, unless agreed otherwise, for a period not exceeding the period of protection of the registered mark concerned.
- (3) The recording of a licensing agreement must be requested of the Trademark Office.
- (4) A licensing agreement referred to in paragraph (3) shall be recorded by the Trademark Office in the General Register of Marks and shall be announced in the Official Gazette of Marks.
- (5) The requirements and procedures for an application to record a licensing agreement shall be further regulated in a Government Regulation.
- (6) The recording of a licensing agreement referred to in paragraph (3) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

#### Article 45

The owner of a registered mark who has given a license to another person referred to in Article 44 paragraph (1) shall continue to be allowed to himself use or to give a license to another third party to use said mark, unless agreed otherwise.

#### Article 46

A licensing agreement may provide that the licensee may give further licenses to third parties.

### Article 47

The use in Indonesia of a registered mark by a licensee shall be deemed to be the same as the use in Indonesia of said mark by the owner of the mark.

### Article 48

- (1) A licensing agreement shall be prohibited to contain provisions which may directly or indirectly give rise to effects which damage the Indonesian economy or to contain restrictions which obstruct the ability of the Indonesian people to master and develop technology in general.
- (2) The Trademark Office must reject an application for recording of a licensing agreement which contains prohibited provisions referred to in paragraph (1).
- (3) The Trademark Office shall notify the owner of the mark and the licensee or the proxy in writing of the rejection referred to in paragraph (2), stating the reasons therefor.

### Article 49

- (1) A good faith licensee of a mark that is subsequently cancelled on the basis of a similarity in principle or in its entirety with another registered mark, shall continue to carry out the licensing agreement as the licensee of an uncanceled mark until the expiry of the period of said licensing agreement.
- (2) A licensee referred to in paragraph (1) shall no longer be obligated to continue the payment of royalties, which would still properly be due to the licensor of the cancelled mark, but instead shall be obligated to make the payment of royalties to the owner of the mark that has not been cancelled.
- (3) Where a licensor has already received royalties as a lump sum from the licensee, said licensor shall be obligated to surrender a portion of the royalties he has received to the owner of the mark that has not been cancelled, in proportion to the remaining period of the licensing agreement.

## Article 50

Provisions regarding licensing agreements referred to in Chapter V Part Two of this Act shall be regulated further in a Government Regulation.

## CHAPTER VI

### DELETION AND CANCELLATION OF REGISTRATION OF A MARK

#### Part One

#### Deletion

#### Article 51

- (1) The deletion of mark registration from the General Register of Marks shall be done by the Trademark Office either at its own initiative or at the request of the owner of the mark concerned.
- (2) The deletion of the registration on the initiative of the Trademark Office may be done if:
  - a. the mark has not been used for 3 (three) consecutive years or more for trade in goods and or services from the date of registration or of the last use, except there is excuse which is acceptable to the Trademark Office; or
  - b. the mark is being used for the kind of goods and or services which is not in pursuant to the kind of goods and or services for which the mark application for registration was filed, including the use of mark which is not in accordance with the registered mark.
- (3) The reasons referred to in paragraph (2) letter a are:
  - a. import prohibition;
  - b. prohibition related to the permit for the distribution of goods using the mark concerned or any temporary decision from the competent authority;

- c. other similar prohibitions imposed by Government Regulation.
- (4) The decision of registration of a mark referred to in paragraph (2) shall be recorded in the General Register of Marks, and shall be announced in the Official Gazette of Marks.
  - (5) Objection to the decision to delete the registration of a mark referred to in paragraph (2) may be submitted to the District Court of Central Jakarta or any other district courts to be stipulated in a Presidential Decree.

#### Article 51A

- (1) A request for the deletion of registration of a mark by the owner of the mark, either for all or for part of the kinds of goods and or services belonging to one class, shall be submitted to the Trademark Office.
- (2) Where the mark referred to in paragraph (1) is still bound by a valid licensing agreement, deletion may only be done with a written consent of the licensee.
- (3) Exception as to the consent of the licensee referred to in paragraph (2) may only be made possible where the licensee clearly agrees to waive such consent in the licensing agreement.
- (4) The deletion of registration of a mark referred to in paragraph (1) shall be recorded in the General Register of Marks, and shall be announced in the Official Gazette of Marks.
- (5) The recording of deletion of a registered mark referred to in paragraph (4) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

#### Article 52

Third parties shall also be able to file a request for the deletion of the registration of a mark based on reasons referred to in Article 51 paragraph (2) letter a and letter b in the form of a claim filed at:

- a. The District Court of Central Jakarta; or



- b. Other District Courts to be stipulated in a Presidential Decree.

### Article 53

- (1) The decision of a District Court referred to in Article 52 may not be appealed, instead, a cassation or an application for a reconsideration may directly be submitted to the Supreme Court.
- (2) A copy of the decision of the Court referred to in paragraph (1) shall be forwarded by the Clerk of the District Court concerned to the Trademark Office within 14 (fourteen) days at the latest as from the date of said decision.
- (3) The Trademark Office shall execute the deletion of the mark concerned from the General Register of Marks and announce it in the Official Gazette of Marks if the lawsuit for the deletion of registration of a mark has been awarded and the decision of the Court referred to in paragraph (1) has become final and binding.

### Article 54

- (1) The deletion of the registration of a mark shall be carried out by the Trademark Office by crossing out the mark concerned in the General Register of Marks and noting the reasons for and the date of said deletion.
- (2) The deletion of the registration of a mark referred to in paragraph (1) shall be made known in writing to the owner of the mark or his proxy, stating the reasons therefor and stressing that as of the date of deletion from the General Register of Marks, the Mark Certificate concerned shall be declared to be null and void.

### Article 55

The deletion of the registration of a mark shall have the result that the legal protection of the mark concerned shall cease.

## Part Two

### Cancellation

#### Article 56

- (1) A lawsuit for cancellation of a registered mark may be filed by an interested party based on the reasons referred to in Article 4 paragraph (1), Article 5 or Article 6.
- (2) A lawsuit referred to in paragraph (1) may not be submitted by the owner of an unregistered mark.
- (3) The owner of an unregistered well-known mark may file a lawsuit referred to in paragraph (1), after having filed an application for registration of his mark to the Trademark Office.
- (4) The lawsuit for cancellation referred to in paragraph (1) shall be filed against the owner of the mark and the Trademark Office through the District Court referred to in Article 52.
- (5) Where the owner of the mark against which the lawsuit for cancellation has been made is domiciled outside the jurisdiction of the Republic of Indonesia, the lawsuit shall be filed at the District Court of Central Jakarta.

#### Article 57

- (1) A claim for cancellation of the registration of a mark shall be filed within a period of 5 (five) years after the date of registration of the mark.
- (2) Exempted from the provision referred to in paragraph (1), a claim for the cancellation of a mark may be filed without a time limit if the mark concerned should have not been registered because it contains elements contrary to morality and the public order.

#### Article 58

- (1) The decision of the District Court for cancellation referred to in Article 56 paragraph (4) may not be appealed, instead, a

cassation or an application for a reconsideration may be directly be submitted to the Supreme Court.

- (2) A copy of the decision of the Court referred to in paragraph (1) shall be forwarded by the Clerk of the Court concerned to the Trademark Office within 14 (fourteen) days at the latest as from the date of said decision.
- (3) The Trademark Office shall execute the cancellation of the registration of the mark concerned from the General Register of Marks and shall announce the cancellation in the Official Gazette of Marks when the lawsuit for the cancellation of said mark has been awarded and the decision of the Court referred to in paragraph (1) has become final and binding.

#### Article 59

- (1) The cancellation of the registration of a mark shall be carried out by the Trademark Office by crossing out the mark concerned in the General Register of Marks and noting the reasons for and the date of said cancellation.
- (2) The cancellation of registration of a mark referred to in paragraph (1) shall be made known in writing to the owner of mark or his proxy, stating the reasons therefor and stressing that as of the date of deletion from the General Register of Marks, the Mark Certificate concerned shall be declared to be null and void.
- (3) The crossing out of the registration of a mark in the General Register of Marks referred to in paragraph (1) shall be announced in the Official Gazette of Marks.

#### Article 60

The cancellation of the registration of a mark shall have the result that the legal protection of the mark concerned shall cease.

### CHAPTER VII

### COLLECTIVE MARKS

## Article 61

- (1) An application for registration of a mark or a service mark as a collective mark shall only be accepted if it is clearly stated in said application for registration that the mark will be used as a collective mark.
- (2) In addition to the affirmation on the use of a collective mark as intended by paragraph (1), said application for registration must be accompanied by a copy to the regulation on the use of said mark as a collective mark, signed by the owner of the mark concerned.
- (3) The regulation on the use of a collective mark referred to in paragraph (2) must contain, among others:
  - a. the nature, the general characteristics, or the quality of the goods or services, the production and trading of which will use said collective mark;
  - b. provisions for the owner of the collective mark to conduct effective supervision of the use of said mark in accordance with the regulation; and
  - c. sanctions for violations of the regulation on use of the collective mark.

## Article 62

An application for registration of a collective mark shall be subject to an examination of the completeness of requirements referred to in Article 9, Article 10, Article 12, Article 13, and Article 61.

## Article 63

Where as a result of the examination of an application for registration of a collective mark, the Trademark Examiner concludes that the application for registration of a mark as a collective mark may be approved, the Trademark Office shall:

- a. register said mark in the General Register of Marks by attaching a copy of the regulation on use of said mark; and

- b. announce the registration of the collective mark together with the regulation on its use in the Official Gazette of Marks.

#### Article 64

- (1) A change in the regulation on the use of a collective mark must be filed to the Trademark Office for recording accompanied by a valid copy evidencing said change.
- (2) The Trademark Office shall record the change referred to in paragraph (1) in the General Register of Marks, and announce it in the Official Gazette of Marks.
- (3) A change in the regulation on the use of a collective mark shall be effective for third parties after it has been recorded in the General Register of Marks.
- (4) The recording of a change in the regulation on the use of a collective mark referred to in paragraph (1) shall be subject to a fee, the amount of which shall be further stipulated in a Ministerial Decree.

#### Article 65

The owner of a registered collective mark may only use said mark together with another person and or legal entity that also uses the collective mark concerned, where the conditions for such use are clearly stated in the regulation on the use of the collective mark.

#### Article 66

- (1) Ownership of a registered collective mark may be transferred only to recipients capable of conducting effective supervision in accordance with the regulation on the use of the collective mark.

- (2) The transfer of rights to a registered collective mark referred to in paragraph (1) must be filed to the Trademark Office for recording.
- (3) The Trademark Office shall record the transfer of rights referred to in paragraph (2) in the General Register of Marks and announce it in the Official Gazette of Marks.
- (4) The recording of the transfer of rights to a registered collective mark referred to in paragraph (2) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

#### Article 67

A registered collective mark may not be licensed to another person or legal entity.

#### Article 68

- (1) The Trademark Office may delete the registration of a collective mark on the basis of:
  - a. a request of the owner of the collective mark with a written consent of all users of the collective mark;
  - b. sufficient evidence that the collective mark has not been used for 3 (three) consecutive years or more after the date of its registration;
  - c. sufficient evidence that the collective mark is being used for kinds of goods or services which do conform with the types of goods or services for which registration was requested; or
  - d. sufficient evidence that the collective mark is not being used in accordance with the regulation on the use of the collective mark.
- (2) An application for deletion of a collective mark referred to in paragraph (1) letter 1 shall be filed to the Trademark Office.
- (3) The deletion of the registration of a collective mark referred to in paragraph (2) shall be recorded in the General Register of Marks and announced in the Official Gazette of Marks.

- (4) The recording of the deletion of the registration of a collective mark referred to in paragraph (3) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

#### Article 69

Third parties shall be able to file a request for the deletion of the registration of a collective mark to a District Court referred to in Article 25 based on grounds as referred to in Article 68 letter b, letter c, or letter d.

#### Article 70

In addition to reasons for cancellation referred to in Article 56 paragraph (1), cancellation of the registration of a registered collective mark may also be requested of a district court as referred to Article 52 for the cancellation of a registered collective mark, where the use of the collective mark is contrary to the provisions referred to in Article 61 paragraph (1).

#### Article 71

All provisions in this Act shall be effective with respect to a collective mark, except to the extent stipulated otherwise in this Chapter.

### CHAPTER VIII

#### LAWSUIT FOR INFRINGEMENT OF MARK

#### Article 72

- (1) The owner of a registered mark may file a lawsuit against a person or legal entity who unlawfully uses his mark for goods and services which has similarity in its essential part or its entirety with his mark.

- (2) The lawsuit referred to in paragraph (1) shall be filed at the District Court referred to in Article 52.

### Article 73

The lawsuit referred to in Article 72 may also be filed by a licensee of a registered mark either alone or together with the owner of the pertinent mark.

### Article 74

- (1) Upon a request of the owner of a registered mark or the licensee of a registered mark as the plaintiff, a judge may order the defendant to cease the trade in goods or services which use the said mark without right thereto during the hearings and to prevent greater damages.
- (2) Where the defendant is also demanded to surrender the goods which use the mark without right thereto, a judge may order that the surrender of the goods or the value of the goods be carried out after the decision of the Court has become final and binding, and after the plaintiff has paid the price thereof to the defendant.

### Article 75

No appeal may be filed against a decision of the District Court referred to in Article 72 paragraph (2).

### Article 76

The right to file a claim as regulated in this Chapter shall not detract from the right of the State to prosecute criminal offences in this field of marks.

## CHAPTER IX

## ADMINISTRATION OF MARKS



### Article 77

The Trademark Office shall conduct the administration of marks as regulated in this Act.

### Article 78

The Trademark Office shall implement a national documentation of marks and information network system capable of providing information to the public as widely as possible.

### Article 79

In implementing the administration of marks, the Trademark Office shall receive guidance from and shall be responsible to the Minister.

## CHAPTER IXA

### GEOGRAPHICAL INDICATION AND SOURCE OF ORIGIN

#### Part One

#### Geographical Indication

#### Article 79A

- (1) Geographical indication shall be protected as a sign which indicates the place of origin of goods, which due to its geographical environment factors, including the factor of the nature, the human or the combination of the two factors, gives a specific characteristics and quality on the goods produced therein.
- (2) Geographical indication shall be protected after registration, based on the application filed by:
  - a. an institution that represents the society in the area which produces the goods concerned, which consists of.

- 1) parties who undertake business on goods of natural products or natural resources;
  - 2) producers of agricultural products;
  - 3) people who make handicraft or industrial products;
  - 4) merchants who sell the goods concerned;
- b. an institution that is given the authority to do so;
  - c. groups of consumers of the goods concerned.
- (3) Provisions concerning announcement referred to in Article 19, Article 20, Article 21, Article 22, Article 23, Article 24, and Article 25 shall be applicable to announcement of application for registration of geographical indication.
- (4) An application for registration of a geographical indication shall be refused by the Trademark Office, if the sign concerned:
- a. is against ethics, public order, likely to deceive or mislead people as of the characteristics, such as features, quality, source of origin, process of production or the usage;
  - b. does not qualify to be registered as a geographical indication.
- (5) Provisions concerning appeal shall be applicable to refusal of registration of geographical indication referred to in paragraph (4).
- (6) A registered geographical indication enjoys a legal protection which persists as far as the features and or the quality on which the protection has been conferred still exist.
- (7) If prior to or on the date of application for registration of a geographical indication as sign has been used in good faith by another party who has no right to register pursuant to the provisions referred to in paragraph (2), the party who has been acting in good faith may continue to use the sign concerned for a period of 2 (two) years as from the date of its registration as a geographical indication.

- (8) Further provisions concerning procedures for registration of geographical indication shall be stipulated in a Government Regulation.

#### Article 79B

- (1) The right holder of a geographical indication may file a lawsuit against an unlawful user of the geographical indication, such as to claim for damages, injunction order as well as disposal of labels of the geographical indication concerned which have been unlawfully used.
- (2) To prevent any further loss on the party whose right has been infringed, a judge may order the defendant to cease any activities of producing, multiplying, and may order to destroy labels of the geographical indication which have been unlawfully used.

#### Article 79C

Provisions referred to in Article 80 shall also be applicable in the implementation of the rights on geographical indication.

#### Part Two

#### Source of Origin

#### Article 79D

Source of origin shall be protected as a sign which:

- a. complies with the provisions of Article 79A paragraph (1), but it has been registered; or
- b. solely indicates the origin of certain goods or services.

#### Article 79E

Provisions referred to in Article 79B and Article 79C shall be applicable on the holder of rights on source of origin.

## CHAPTER X INVESTIGATION

### Article 80

- (1) In addition to investigating officers at the State Police of the Republic of Indonesia, certain civil servants from the department whose scope of duties and responsibilities concern marks shall be granted special authority as investigators referred to in Act No. 8 of 1981 on Criminal Proceedings, to conduct an investigation of criminal offences in the field of marks.
- (2) The civil servant investigator referred to in paragraph (1) shall be authorised to:
  - a. conduct examination of the truth of reports or information relating to criminal offences in the field of marks;
  - b. conduct examination of a person or legal entity suspected of committing criminal offences in the field of marks;
  - c. collect information and evidence from persons or legal entities in connection with incidents of criminal offences in the field of marks;
  - d. conduct examination of the books, records and other documents relating to criminal offences in the field of marks;
  - e. inspect locations on which evidence, books, records, and other documents to be found, as well as to confiscate materials and goods resulting from infringements which can used as evidence in the criminal trials in the field of marks;
  - f. request expert assistance in the scope of carrying out the duties of investigation of criminal offences in the field of marks;
- (3) The civil servant investigator referred to in paragraph (1) shall inform the investigating officers at the State Police of

the Republic of Indonesia about the initiating and the result of an investigation.

- (4) The civil servant investigator referred to in paragraph (1) shall forward the results of an investigation to the Public Prosecutor through the investigating officers at the State Police of the Republic of Indonesia in view of Act No. 8 of 1981 on Criminal Proceedings.

## CHAPTER XI CRIMINAL PROVISIONS

### Article 81

Any person who deliberately and without right uses a mark which is similar in its entirety to a registered mark owned by another person or another legal entity for the same kind of goods or services produced and or traded shall be sentenced to imprisonment for a maximum period of 7 (seven) years and a fine of a maximum amount of Rp.100,000,000.00 (one hundred million rupiah).

### Article 82

Any person who deliberately and without right uses a mark which is similar in its essential part to a registered mark owned by another person or another legal entity for the same kind of goods or services produced and or traded shall be sentenced to imprisonment for a maximum period of 5 (five) years and a fine of a maximum amount of Rp.50,000,000.00 (fifty million rupiah).

### Article 82A

- (1) Any person who deliberately and without right uses a mark which is similar in its entirety to a geographical indication owned by another person or another legal entity for the same kind of goods shall be sentenced to imprisonment for a

maximum period of 7 (seven) years and a fine of a maximum amount of Rp.100,000,000.00 (one hundred million rupiah).

- (2) Any person who deliberately and without right uses a mark which is similar in its essential part to a geographical indication owned by another person or another legal entity for the same kind of goods or services produced and or traded shall be sentenced to imprisonment for a maximum period of 5 (five) years and a fine of a maximum amount of Rp.50,000,000.00 (fifty million rupiah).
- (3) Provisions referred to in paragraph (1) and paragraph (2) are not applicable to any party who complies with the provisions referred to in Article 79A paragraph (7).
- (4) The representation of actual origin of goods which result from an infringement or words which indicate that the goods concerned are the imitation of registered goods and protected under geographical indication shall not prejudice the applicability of provisions referred to in paragraph (1) and paragraph (2).

#### Article 82B

Any person who deliberately and without right uses a sign which is protected under source of origin on goods or services that is likely to deceive or mislead people as to the origin of the goods or services concerned shall be sentenced to imprisonment for a maximum period of 5 (five) years and a fine of a maximum amount of Rp.50,000,000.00 (fifty million rupiah).

#### Article 83

The criminal offences referred to in Article 81, Article 82, Article 82A and Article 82B shall be felonies.

#### Article 84

- (1) Any person trades in goods and or services that are known or reasonable to be known that the good and or services concerned result from infringement an infringement referred

to in Article 81, Article 82, Article 82A and Article 82B shall be sentenced to imprisonment of a maximum period of 1 (one) year and or a fine of a maximum amount of Rp.10,000,000.00 (ten million rupiah).

- (2) Criminal offences referred to in paragraph (1) shall be felonies.

## CHAPTER XII TRANSITIONAL PROVISIONS

### Article 85

All marks that have been registered on the basis of Act No. 21 of 1961 on Company Marks and Marks and which remain valid on the effective date of this Act shall be declared to continue to be valid in accordance with this Act for the remainder of the period of their registration.

### Article 85A

- (1) An application for renewal of a mark and for the transfer of a mark which has been registered shall be refused by the Trademark Office if the mark concerned has a similarity in its essential part or in its entirety to a well-known mark owned by another person, in accordance with the provisions of Article 6 paragraph (3) and paragraph (4).
- (2) An objection against refusal of the decision referred to in paragraph (1) shall be filed to the District Court referred to in Article 52.

### Article 86

- (1) A claim for cancellation against a mark referred to in Article 85 may be filed at a District Court referred to in Article 52, based on the reasons referred to in Article 5 and Article 6.

- (2) A claim for the cancellation of the registration of a mark referred to in paragraph (1) shall be filed during the period of validity of the registration of said mark.

#### Article 87

An application for registration of a mark, extension of the registration of a mark, registration of the transfer of rights, recording of changes in name and or address, an application for the deletion or cancellation of the registration of a mark that was submitted on the basis of Act No.21 of 1961 on Company Marks and Trademarks, but which has not yet been completed on the effective date of this Act, shall be completed on the basis of this Act.

#### Article 88

All implementing regulations issued on the basis of Act No.21 of 1961 on Company Marks and Trademarks in existence on the effective date of this Act shall be declared to be valid as long as they are not in contradiction to this Act or have not been replaced by new ones on the basis of this Act.

### CHAPTER XIII CONCLUDING PROVISIONS

#### Article 89

Upon the effectiveness of this Act, Law Number 21 of 1961 on Company Marks and Trademarks are declared to no longer be in effect.