

THE TRADEMARK LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

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and by Decree No. 2614 of the Presidium of the Supreme People's Assembly on March 11, Juche 97(2008).*

Chapter 1. Fundamentals

Article 1. (Mission of the Trademark Law)

The Trademark Law of the DPRK aims to protect the interests of institutions, enterprises, organizations or citizens by establishing the strict order and system in the application and examination for trademark registration and the protection of trademark right.

Article 2. (Definition and kind of trademark)

A trademark is a sign capable of distinguishing the goods produced by one enterprise from those of other enterprises. The verbal trademarks, graphic trademarks, symbolic trademarks, three-dimensional trademarks and service marks constitute main kinds of trademark.

Article 3. (Principle of application for trademark registration)

Application for trademark registration is the first step in the trademark administration.

The state shall establish proper procedure of application for trademark registration and ensures its accurate observance.

Article 4. (Principle of examination for trademark registration)

It is the basic duty of the Trademark Registration Office to properly make examination for trademark registration.

The state shall enhance the responsibility and role of the Trademark Registration Office to ensure objectivity and impartiality in trademark examination.

Article 5. (Principle of protection for trademark right)

To protect the trademark right is the consistent policy of the DPRK.

The state shall protect by law the trademark rights owned by institutions, enterprises, organizations or citizens.

Article 6. (Principle of modernization and scientification of trademark administration)

The state shall ensure the modernization and scientification of trademark administration in accordance with the development of the national economy and increase of commodity production.

Article 7. (Exchange and cooperation in the field of trademark)

The state shall promote exchange and cooperation with international organizations and foreign countries in the field of trademark.

Chapter 2. Application for trademark registration

Article 8. (Filing an application for trademark registration)

Proper application for trademark registration is an important condition for the improvement of trademark examination.

Institutions, enterprises, organizations or citizens that wish to apply for trademark registration shall prepare the application and submit it to the Trademark Registration Office.

Article 9. (Items of form and annexable documents)

The application for trademark registration shall contain correct indication of name and address of the applicant and goods or services duly classified, and annexed by the reproduction of trademark and the notarized business certificate.

Article 10. (Ways of filing application for trademark registration)

The application for trademark registration may be filed directly or by post with the Trademark Registration Office.

If necessary, the application for trademark registration may be filed by means of telecommunication such as e-mail or fax.

Article 11. (Filing an application for trademark registration by foreigner)

Foreign institutions, enterprises, organizations or citizens wishing to register their trademark in the DPRK shall file an application written in Korean with the Trademark Registration Office through the agency of attorneys. In this case, the attorneys shall present a power of attorney.

Article 12. (Filing an application for trademark registration to foreign country)

The institutions, enterprises, organizations or citizens that have registered their trademark with Trademark Registration Office may register it in a foreign country through the international organization concerned or attorneys. In this case, the approval of the Trademark Registration Office shall be obtained.

Article 13. (Notification of receipt of the application for trademark registration)

The Trademark Registration Office shall inform the institutions, enterprises, organizations or citizens of its receipt of their application for trademark registration.

Article 14. (Remedying of irregularities of application)

If the Trademark Registration Office considers that the application is irregular, the Trademark Registration Office shall send it back or invite applicant to remedy it within 3 months after the acceptance of the application.

If the irregularities are not corrected within 3 months for an unavoidable reason, two months, grace period may be allowed.

Article 15. (Date of application for trademark registration)

The filing date of an application for trademark registration shall be the date when the application form is received by the Trademark Office.

Even in case where the irregularities of the application for trademark registration are remedied, the filing date of the application for trademark registration shall be the date when the initial application form is received by the Trademark Registration Office.

Article 16. (Priority of the application for the trademark registration)

The institutions, enterprises, organizations or citizens that have presented their trademark to an exposition or exhibition, shall have a priority in the application for trademark registration.

The documents claiming priority shall be submitted to the Trademark Registration Office within 3 months from the date when the trademark has been presented to the exposition or exhibition.

Article 17. (Validity of priority regarding the application for trademark registration of the foreign legal entity and citizen)

The priority of the institutions, enterprises, organizations or citizens of foreign countries resulting from their national applications for trademark registration filed with their own country or any other country is valid on condition that the relevant document is presented to the Trademark Registration Office of the DPRK within 6 months from the date of obtaining the priority.

Article 18. (Reapplication for trademark registration)

As regards the trademark registration cancelled or non-renewed, the application for registration may be filed again.

Chapter 3. Examination for trademark registration

Article 19. (Period of examination for trademark registration)

Examination for trademark registration is an important work of checking and dealing with the applications for trademark registration.

The Trademark Registration Office shall examine the application for trademark registration within 6 months from the date of its receipt.

Article 20. (Materials necessary for examination for trademark registration)

The Trademark Registration Office may demand the institutions, enterprises, organizations or citizens that have filed the application for trademark registration to provide the materials necessary to the examination for trademark registration.

The institutions, enterprises, organizations or citizens that have filed the application for trademark registration shall provide in time the materials required by the Trademark Registration Office.

Article 21. (Signs and indications which cannot be registered as trademark)

The following signs and indications cannot be registered as a trademark.

1. The sign identical with or similar to the trademark already registered
2. The sign made of a country name or its abbreviation and the sign identical or similar to the national emblem, national flag, decoration or medal
3. The sign contrary to the laws, public morality, good manners and customs of the DPRK
4. The sign reflecting the false information concerning the goods or services
5. The indication suggesting only name, composition or specification of goods.
6. The hallmark indicating control or the simple numerals or geometrical signs
7. The sign identical with or similar to the trademark that has been displayed in the exhibitions or shows
8. The sign of the international organization to which the DPRK has acceded or sign contrary to the international law and practice
9. The sign identical with or similar to well-known or famous trademark
10. The sign or indication filed by the applicant from the country or region which is inimical to the DPRK

Article 22. (Examination for trademark registration)

The Trademark Registration Office shall examine the trademark applied for registration and make a decision either on registration or refusal.

The result of examination for trademark registration shall be notified to the institutions, enterprises, organizations or citizens that have filed the application for trademark registration.

Article 23. (Issue and re-issue of trademark registration certificate, publication of trademark)

The trademark of which registration has been decided shall be registered in the state trademark register and the trademark registration certificate shall be issued to institutions, enterprises, organizations or citizens that have filed the application for trademark registration.

In case where the trademark registration certificate is lost or soiled, it shall be reissued.

The registered trademark shall be published in the trademark gazette.

Article 24. (Filing an opposition against the registered trademark)

The institutions, enterprises, organizations or citizens that disagree to the filed or registered trademark, may file an opposition to the Trademark Registration Office within one year from the date when the application for trademark has been filed.

The Trademark Registration Office shall examine the filed an opposition and notify its result in written statement to the relevant institutions, enterprises, organizations or citizens --the opposition applicant or the trademark applicant and the trademark owner.

Article 25. (Filing an application for reexamination of trademark whose registration has been refused)

The institutions, enterprises, organizations or citizens that have filed an application for trademark registration may file an application for reexamination within 6 months from the date when the trademark registration has been refused.

The Trademark Registration Office shall examine the application and notify its result to the relevant institutions, enterprises, organizations or citizens.

The decision of Trademark Registration Office on reexamination shall be confirmed, provided that no appeal has been lodged within 2 months from the date of its decision.

Article 26. (Lodging an appeal against the decision of reexamination)

The institutions, enterprises, organizations or citizens that disagree to the decision of reexamination for trademark registration may lodge an appeal to the State Trademark Examination Committee within 2 months from the date of the decision of reexamination.

The State Trademark Examination Committee shall examine the appeal and notify its result to the Trademark Registration Office and the institutions, enterprises, organizations or citizens that have lodged the appeal.

Chapter 4. Protection of trademark right

Article 27. (Basic requirements for the protection of trademark right)

The protection of trademark right is an important part of the trademark administration.

The Trademark Registration Office and the relevant institution shall thoroughly prevent the interests of the institutions, enterprises, organizations or citizens bestowed with trademark right from being infringed.

Article 28. (Owner of trademark right)

The trademark right shall be held by the institutions, enterprises, organizations or citizens that have registered their trademark at the Trademark Registration Office.

The trademark right which has been registered under the joint name shall be shared by co-owners.

Article 29. (Rights of trademark owner)

The trademark right owner shall have the following rights.

1. The right to use the registered trademark
2. The right to assign or license the registered trademark wholly or partially
3. The right to cease trademark infringement and to claim compensation for damages
4. The right to cancel the registered trademark

Article 30. (Assignment of trademark right)

The institutions, enterprises, organizations or citizens that wish to be assigned the trademark right shall submit an application for assignment of trademark right to the Trademark Registration Office. In this case, the consent of trademark right owner shall be obtained and the trademark registration certificate shall be attached with the application.

The Trademark Registration Office shall record the assignment in the State Trademark Register and issue the trademark registration certificate to the institutions, enterprises, organizations or citizens in respect of which the assignment is granted.

The assignment of trademark right shall take effect from the date of recording to the Trademark Registration Office.

Article 31. (Licence of trademark)

The institutions, enterprises, organizations or citizens that owned the trademark right may license the registered trademark to other institutions, enterprises, organizations or citizens. In this case, the licensing contract shall be made and the required document shall be submitted to the Trademark Registration Office.

The Trademark Registration Office shall record the licence in the State Trademark Register and issue the trademark licence certificate to the institutions, enterprises, organizations or citizens in respect of which the licence is granted.

Article 32. (Right of supervision on quality of goods or services covered by trademark)

The quality of goods or services covered by trademark that the use has been authorized shall be guaranteed by the institutions, enterprises, organizations or citizens that use the trademark.

The institutions, enterprises, organizations or citizens that owned the trademark rights can supervise the quality of goods or services covered by the licensed trademark.

Article 33. (Prohibition on assignment and licence of trademark)

The institutions, enterprises, organizations or citizens that have no due entitlement can not be the assignee or licensee of the registered trademark.

Article 34. (Period of trademark protection)

The period of trademark protection shall be 10 years from the date of application for trademark registration.

The period of trademark protection is renewable for every 10 years upon the request of the institutions, enterprises, organizations or citizens that own the trademark.

Article 35. (Renewal for the period of trademark protection)

The institutions, enterprises, organizations or citizens that wish to renew the period of the trademark protection shall file the application for renewal with the Trademark Registration Office.

Article 36. (Term for presentation of application for renewal of trademark protection period)

The application for renewal of the trademark protection shall be filed within 6 months before the expiry of the term.

If necessary, the application aforementioned may be filed within 6 months after the expiry.

Article 37. (Changes of trademark registration)

In case of changing name and address during the trademark protection, the institutions, enterprises, organizations or citizens that owned trademark right shall file an application of changing for trademark registration with the Trademark Registration Office.

In this case the trademark registration certificate shall be attached.

The Trademark Registration Office shall record the change in the State Trademark Register and re-issue the trademark registration certificate.

Article 38. (Cancellation of registered trademark)

The institutions, enterprises, organizations or citizens that wish to cancel their registered trademark shall file an application for the trademark cancellation with the Trademark Registration Office. In this case, their trademark registration certificate shall be attached.

Article 39. (Invalidation of trademark right)

If trademark registration has been cancelled or a trademark is not used for 5 years from the date of registration, the trademark right shall be invalid.

Chapter 5. Guidance and control over trademark administration

Article 40. (Basic requirements for guidance and control over trademark administration)

To strengthen the guidance and control over trademark administration is an indispensable requirement for the improvement of the quality of goods and the protection of the trademark right.

The State shall strengthen the guidance and control over trademark administration.

Article 41. (Leading organ of trademark administration)

The guidance over trademark administration shall be exercised by the state leading organ of trademark administration under the unified direction of the Cabinet.

The state leading organ of trademark administration shall exercise its guidance over trademark administration and settle the opinions and disputes related to trademark examination and registration by the State Trademark Examination Committee.

Article 42. (Publication of trademark-related records)

The Trademark Registration Office shall see that trademarks are made good to look at, convenient to use and proper to the characteristics of the goods and the taste of the user. It also periodically shall publish the trademark related records such as the application for registration, registration and its change, renewal, assignment, licence, cancellation and etc.

Article 43. (Consolidation of material and technical foundation, training of personnel in the trademark administration)

The Trademark Registration Office, the scientific research and educational institutions concerned shall conduct in a far-sighted way the work of laying a strong material and technical foundation of the trademark registration office and train systematically the personnel needed in the field of trademark examination and registration.

Article 44. (Prohibition of illegal acts concerning trademark)

The institutions, enterprises, organizations or citizens are prohibited to illegally publish, print, sell or buy trademarks. They are also prohibited to sell or export the goods with trademarks made in foreign country, the goods with false or counterfeited trademarks or the goods without trademarks.

Article 45. (Fees concerning trademark administration)

The institutions, enterprises, organizations or citizens concerned shall pay in time the fees fixed in relation with the trademark administration.

The fees concerning the trademark administration shall be fixed by the central price-assessing organ.

Article 46. (Supervision and control over trademark administration)

Supervision and control over trademark administration shall be undertaken by the Trademark Registration Office and the supervision and control organs concerned.

The Trademark Registration Office and the supervision and control organs concerned shall strictly supervise and control the institutions, enterprises, organizations or citizens in observing order concerning application and examination for trademark registration and in refraining from infringing trademark right.

Article 47. (Compensation for damages, seizure, suspension of business)

Where the interests relating the trademark rights of the institutions, enterprises, organizations or citizens that hold the trademark rights are infringed, compensation for the relevant damages shall be made and the trademarks and goods used for illegal acts shall be seized or business activities suspended.

Article 48. (Suspension of production and service, cancellation of registration)

Where trademark right is illegally assigned or licensed, or a registered trademark is used in a changed form, the production of goods or services concerned can be suspended or the registration of trademark cancelled.

Article 49. (Administrative or penal responsibility)

The leading officials of the institutions, enterprises and organizations as well as individual citizens responsible for violation of this law causing grave consequences to the trademark administration shall be subject to an administrative or penal responsibility according to the gravity.

Article 50. (Settlement of dispute)

Any dispute concerning trademark is settled through consultation.

In case of failure in consultation, it shall be submitted to the Trademark Registration Office or the State Trademark Examination Committee for settlement.

In case the dispute is not settled by the Trademark Registration Office or the State Trademark Examination Committee, it shall be submitted to a Court or an arbitration organ for settlement.