



Enforcement Decree of the Trademark Act

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As last amended by Presidential Decree No. 15578, Dec. 31, 1997

Matters Concerning Use of Collective Mark to be Inserted in Articles of Association

1. For the purpose of Article 9 (3) of the Trademark Act (hereinafter referred to as the “Act”), the term “matters concerning the use of the collective mark as prescribed by the Presidential Decree” means the following matters:

1. Matters concerning the scope of persons using the collective mark;
2. Matters concerning the conditions to use the collective mark;
3. Matters concerning the sanction against those violating the provisions of subparagraph 2; and
4. Other matters necessary for using the collective mark.

Transfer of Collective Mark Registration Application, etc.

2. Any person who desires to obtain permission on transfer of a collective mark registration application as prescribed in the proviso of Article 12 (9) of the Act and that on transfer of the collective mark right as prescribed in the proviso of Article 54 (9) of the Act, shall file an application for permission on transfer as prescribed by the Ordinance of the Ministry of Industry and Energy, with the Commissioner of the Korean Industrial Property Office together accompanied by the following documents:

1. Documents certifying the merger of corporations; and
2. Articles of association of the corporation existing after the merger. In this case, the articles of association shall include such matters as referred to in subparagraphs of Article 1.

Standards, etc. for Specialized Investigation Institution

2-2.—(1) The Commissioner of the Korean Industrial Property Office may designate a juristic person who possesses literature, manpower and equipment, etc. necessary to retrieve trademarks under Article 22-2 (3) of the Act as a specialized investigation institution referred to in Article 22-2 (1) of the Act (hereinafter referred to as a “specialized investigation institution”).

(2) Any specialized investigation institution designated under paragraph (1) shall, in carrying out business other than retrieval business, ensure that retrieval business should not be impartial by discharging its business.

(3) Any person who desires to be designated as a specialized investigation institution shall submit an application for specialized investigation institution accompanied by documents which state the present conditions of literature, manpower and equipment which the institution possesses to the Commissioner of the Korean Industrial Property Office.

Procedures, etc. for Request of Trademark Retrieval

2-3.—(1) The Commissioner of Korean Industrial Property Office may request a specialized investigation institution to retrieve a trademark for an application for a trademark which, he deems, requires retrieval.

(2) Where the head of a specialized investigation institution has received a request for trademark retrieval referred to in paragraph (1) from the Commissioner of the Korean Industrial Property Office, he shall notify promptly the results of the retrieval in writing to the Commissioner of the Korea Industrial Property Office.

(3) Where the results of a retrieval referred to in paragraph (2) are deemed unsatisfactory, the Commissioner of the Korean Industrial Property Office may request the specialized investigation institution for a new retrieval thereon by specifying the scope, etc. of retrieval.

(4) The provisions of paragraph (2) shall apply *mutatis mutandis* to a new retrieval listed in paragraph (3).

Trademark Gazette

3. The Trademark Gazette as prescribed in Article 89 (1) of the Act shall include the following matters:

1. For the public notice on application as prescribed in Article 24 (2) of the Act (including the case where it is applicable *mutatis mutandis* under Articles 49 (2) and 81 (1) of the Act), the following matters:

(a) Name and address of the applicant (in case of a juristic person, its title and place of business, and the name of its representative);



- (b) Trademark;
 - (c) Designated goods and classification of categories thereof;
 - (d) Number and date of the application;
 - (e) Number and date of the public notice on application;
 - (f) Indications which identify colors or three-dimensional trademarks;
 - (g) Registration number of registered trademark to which designated goods are to be added, or number of the trademark registration application (limited to an additional registration application for designated goods);
 - (h) Matters other than those as referred to in items (a) through (g), which are related to a trademark registration application or additional registration application for designated goods; and
 - (i) Where it has been made a decision of publication by reason that it falls under Article 6 (2) of the Act, its purport.
2. Matters other than those as referred to in subparagraph 1, which are to be inserted under the Act and this Decree; and
 3. Matters concerning the trademark, which are deemed necessary to be inserted by the Commissioner of the Korean Industrial Property Office.

Imposition of Fine for Negligence

4.—(1) When the Commissioner of the Korean Industrial Property Office imposes the fine for negligence under Article 98 (2) of the Act, he shall investigate and confirm the offense, and notify in writing the person who is subject to the disposition of the fine for negligence, of payment thereof with the fact of offense and the amount of the fine for negligence specified.

(2) If the Commissioner of the Korean Industrial Property Office desires to impose the fine for negligence under paragraph (1), he shall give the person who is subject to the disposition of the fine for negligence, an opportunity to state orally or in writing his opinion in a fixed period of ten or more days. In this case, if he fails to state his opinion by the designated time without any justifiable reason, he shall be considered to have no opinion.

(3) In determining the amount of the fine for negligence, the Commissioner of the Korean Industrial Property Office shall take into consideration the motive and consequence of the offense.

(4) The collection procedure of the fine for negligence shall be determined by the Ordinance of the Ministry of Industry and Energy.



Provisions to be Applied *Mutatis Mutandis*

5.—(1) The provisions of Articles 1, 17 and 18 of the Enforcement Decree of the Patent Act shall apply *mutatis mutandis* to the application, requests and other procedures relating to the trademark registration.

(2) The provisions of Article 8 of the Enforcement Decree of the Patent Act shall apply *mutatis mutandis* to the examiner, the trial examiner, the chief examiner and the Director of the Patent Tribunal.

Addendum

This Decree shall enter into force on March 1, 1998.
