

TRADEMARK ACT

Wholly Amended by Act No. 4210, Jan. 13, 1990

Amended by Act No. 4541, Mar. 6, 1993

Act No. 4597, Dec. 10, 1993

Act No. 4895, Jan. 5, 1995

Act No. 5083, Dec. 29, 1995

Act No. 5329, Apr. 10, 1997

Act No. 5355, Aug. 22, 1997

Act No. 5576, Sep. 23, 1998

Act No. 6414, Feb. 3, 2001

Act No. 6626, Jan. 26, 2002

Act No. 6765, Dec. 11, 2002

Act No. 7289, Dec. 31, 2004

Act No. 7290, Dec. 31, 2004

Act No. 8190, Jan. 3, 2007

Act No. 8458, May17, 2007

Act No. 8852, Feb. 29, 2008

Act No. 9230, Dec. 26, 2008

Act No. 9678, May21, 2009

Act No. 9987, Jan. 27, 2010

Act No. 10012, Feb. 4, 2010

Act No. 10358, Jun. 8, 2010

Act No. 10811, Jun. 30, 2011

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of this Act is to contribute to the development of industry and to protect the interests of consumers by maintaining the business reputation of those persons using trademarks through the protection of trademarks.

Article 2 (Definitions)

(1) The terms used in this Act shall be defined as follows: *<Amended by Act No. 5083, Dec. 29, 1995; Act No. 5355, Aug. 22, 1997; Act No. 7290, Dec. 31, 2004; Act No. 8190, Jan. 3, 2007; Act No. 11113, Dec. 2, 2011>*

1. The term "trademark" means any of the following items (hereinafter referred to as "mark") that is used by a person who produces, processes or sells goods as a business, in order to distinguish the goods related to his/her business from those of another person:
 - (a) Any sign, letter, figure, three-dimensional shape or the combination thereof or the combination of them and colors;
 - (b) Any color that is not combined with others, the combination of colors, any hologram, movement or other item that can be visually recognized;
 - (c) Any sound, odor or others that expressed realistically with a sign, letter, figure, or by any other visual means among sounds, odors and others that cannot be recognized visually;
2. The term "service mark" means a mark which is used by a person who carries on service business for the purpose of distinguishing his/her service business from those of others;
3. The term "collective mark" means a mark which is intended to be used directly by a corporation jointly founded by the persons who produce, manufacture, process, or sell goods as a business or the persons who carry on service business or which is intended to be used with respect to the goods or services of

members of the corporation who are controlled by it;

3-2. The term "geographical indication" means an indication which identifies goods as being produced, manufactured, or processed in a region or locality where a given quality, reputation or any other characteristic of the goods is essentially attributable to their geographical origin;

3-3. The term "homonymous geographical indication" means a geographical indication which has the same sound as another person's geographical indication for the same goods, but is different in region or locality;

3-4. The term "geographical collective mark" means a collective mark which is intended to be used directly by a corporation composed solely of the persons who produce, manufacture, or process goods eligible for geographical indication as a business or which is intended to be used with respect to the goods of members of the corporation who are controlled by it;

4. The term "certification mark" means a mark which is intended to be used by a person who carries on the business of certifying the quality, origin, mode of production, or other characteristics of goods or service business in order to certify whether the goods of a person who carries on the business of producing, manufacturing, processing or selling goods or service business of a person who carries on service business satisfies the specified quality, origin, mode of production or other characters;

4-2. The term "geographical certification mark" means a certification mark with geographical indication used by a person who carries on the business of certifying the quality, origin, mode of production, or other characters of goods in order to certify whether the goods of a person who carries on the business of producing, manufacturing or processing goods satisfy specified geographical characters;

5. The term "business emblem" means a mark which is used by a person who carries on nonprofit business for the purpose of indicating his/her business;

6. The term "registered trademark" means a trademark for which a trademark registration has been granted;

7. The term "use of a trademark" means an act falling under any of the following items:

(a) Indicating a trademark on goods or packages of goods;

- (b) Transferring or delivering goods or packages of goods on which a trademark is indicated, or displaying, exporting or importing them for such purpose;
- (c) Indicating a trademark on advertisements on goods, price lists, transaction documents, signboards, or tags and displaying or distributing it.
- (2) An act of indicating a trademark on goods, packages of goods, advertisements, signboards, or tags under paragraph (1) 7 (a) through (c) shall include an act of using goods, packages of goods, advertisements, signboards, or tags as shapes, sounds or odorsof marks. *<Newly Inserted by Act No. 5355, Aug. 22, 1997; Act No. 11113, Dec. 2, 2011>*
- (3) Except as otherwise prescribed by this Act, the provisions of this Act concerning trademarks shall apply to service marks, collective marks, certification marks and business emblems. *<Amended by Act No. 11113, Dec. 2, 2011>*
- (4) Except as otherwise provided by this Act, the provisions of this Act concerning geographical collective marks shall apply to geographical collective marks. *<Newly Inserted by Act No. 11113, Dec. 2, 2011>*

Article 3 (Persons Entitled to Have Trademark Registered)

Any person who uses or intends to use a trademark in the Republic of Korea, may be entitled to have his/her trademark registered: Provided, That an employee of the Korean Intellectual Property Office or an employee of the Intellectual Property Tribunal shall not have a trademark registered during his/her tenure of office, except in cases of inheritance or bequest. *<Amended by Act No. 4895, Jan. 5, 1995>*

Article 3-2 (Persons Entitled to Have Collective Mark Registered)

Any corporation jointly founded by the persons who produce, manufacture, process, or sell goods as a business or by the persons who carry on service business (in cases of a geographical collective mark, it is limited to a corporation comprised solely of the persons who produce, manufacture, or process goods eligible for the geographical indication as a business) may be entitled to have its collective mark registered. *<Amended by Act No. 11113, Dec. 2, 2011>*

[This Article Newly Inserted by Act No. 7290, Dec. 31, 2004]

Article 3-3 (Persons Entitled to Have Certification Mark Registered)

- (1) Any person who can, as a business, certify and manage the quality, origin, mode of production or other characteristics of goods or service business may be entitled to have his/her certification mark registered in order to allow a person who carries on the business of producing, manufacturing, processing or selling goods or a person who carries on a service business to use as a means of certifying that goods or service business related to their business satisfies specified quality, origin, mode of production or other characteristics: Provided, That where he/she intends to use a certification mark for goods or service business related to his/her own business, such certification mark shall not be registered.
- (2) Notwithstanding paragraph (1), any person who applies for registration of a trademark, service mark, collective mark or business emblem or any person whose trademark, service mark, collective mark or business emblem is registered shall not apply for registration of any mark identical or similar to such applied trademark, service mark, collective mark or business emblem or such registered trademark, service mark, collective mark or business emblem, as a certification mark, for goods or service business identical or similar to such designated goods or service business.
- (3) Any person who applies for registration of a certification mark or whose certification mark is registered shall not apply for registration of any mark identical or similar to such certification mark, as a trademark, service mark, collective mark or business emblem for goods or service business identical or similar to such designated goods or service business.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 4 (Persons Entitled to Have Business Emblem Registered)

Any person who carries on nonprofit business in the Republic of Korea may be entitled to have his/her business emblem registered.

Article 5 (Legal Capacity of Minors, etc.)

- (1) A minor, quasi-incompetent or incompetent may not file an application or request for trademarks or take other procedures (hereinafter referred to as "trademark-related procedures") without a legal representative:

Provided, That this shall not apply where a minor or quasi-incompetent can perform a juristicact for himself/herself independently.

- (2) A legal representative as referred to in paragraph (1) may take proceduresforan objection, trial or retrial on a trademark raised by the other party, without the consent ofthefamily council of a minor, quasi-incompetent or incompetent.

[This Article Wholly Amended by Act No. 11113, Dec. 2, 2011]

Article 5-2 (Associations, etc. which are not Corporations)

Where a representative or administrator has been determined for an association or foundation that is not a corporation, he/she may become a person raising an objection to a trademark registration, or appear as a requester or respondent in a trial or a retrial in its association or foundation name.

a person opposition to the registration of trademark / opponent

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-3 (Trademark AdministratorsforNonresidents)

- (1) A person who does not have an address or place of business in the Republic of Korea (hereinafter referred to as "nonresident") may not, except where such nonresident (referring to a representative in cases of a corporation) is sojourningin the Republic of Korea, take trademark-related procedures or file an action against any disposition issued by an administrative agency pursuant to this Act or an order under this Act, without a representative for trademarks who has an address or place of business in the Republic of Korea (hereinafter referred to as "trademark administrator").

- (2) A trademark administrator shall, within the extent of authority delegated to him/her, represent the principal in a trial ontrademark-related procedures or any disposition made by an administrative agency pursuant to this Act or an order under this Act.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-4 (Extent of Powers of Attorney)

No representative delegated with the power to take trademark-related procedures from a person who has an

address or place of business in the Republic of Korea (including trademark administrators; this shall apply hereinafter) shall conduct any of the following acts, unless expressly so empowered:

1. Conversion of application under Article 19;
2. Abandonment or withdrawal of application for trademark registration;
3. Withdrawal of application to register the renewal of the term of a trademark right, of application for additional registration of designated goods, or of application for registration to convert the goods classification;
4. Abandonment of a trademark right;
5. Withdrawal of application;
6. Withdrawal of request;
7. Request for a trial under Article 70-2 or 70-3;
8. Appointment of a sub-representative.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-5 (Proving Powers of Attorney)

The power of attorney of a representative who takes trademark-related procedures shall be proved in written form.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-6 (Ratification of Deficiencies of Legal Capacity, etc.)

Any procedure taken by a person who does not have legal capacity or right of legal representation or who fails to obtain appropriate delegation of authority necessary to take trademark-related procedures shall take effect retrospectively to the point of the relevant act if ratification is made by the corrected principal or legal representative.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-7 (Non-Extinction of Powers of Attorney)

A power of attorney of a representative delegated by a person who takes trademark-related procedures shall

not be extinguished due to the following grounds:

1. Death or loss of legal capacity of the principal;
2. Extinction through the merge of a corporation who is the principal;
3. Termination of trust duties of a trustee who is the principal;
4. Death or loss of legal capacity of a legal representative;
5. Extinction or alteration of the power of attorney of a legal representative.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-8 (Independence of Representation)

If the number of representatives who take trademark-related procedures is two or more, each representative shall independently represent the principal before the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-9 (Replacement, etc. of Representatives)

- (1) If a person who is to take trademark-related procedures is deemed inappropriate to take such procedures because, for example, he/she cannot perform such procedures in an efficient manner or does not have the ability to make statements in an oral proceeding, the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge may order his/her representative to take such procedures.
- (2) If the representative of a person who is to take trademark-related procedures is deemed inappropriate to take such procedures because, for example, he/she cannot perform such procedures in an efficient manner or does not have the ability to make statements in an oral proceeding, the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge may order that such representative be replaced.
- (3) In cases under paragraph (1) or (2), the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge may order a patent lawyer to represent the relevant person.
- (4) The Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property

Tribunal may invalidate all or some of the trademark-related procedures initiated with the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge by a person who takes trademark-related procedures under paragraph (1) or a representative under paragraph (2), after he/she issues an order pursuant to paragraph (1) or (2), but before a representative is appointed or replaced pursuant to paragraph (1) or (2).

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-10 (Representation of Two or More Persons)

(1) When two or more persons jointly apply for a trademark registration or request for a trial and take procedures related to such application or trial, each of them shall represent all the persons involved, except for any of the following matters: Provided, That if they select a representative and report thereon to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal, such representative shall represent all the persons involved:

1. Conversion of application under Article 19;
2. Abandonment or withdrawal of application for trademark registration;
3. Withdrawal of application to register the renewal of the term of a trademark right, of application for additional registration of designated goods, or of application for registration to convert the goods classification;
4. Withdrawal of application;
5. Withdrawal of request;
6. Request for a trial under Article 70-2 or 70-3.

(2) When persons involved have reported pursuant to the proviso to paragraph (1), they shall prove the appointment of a representative in written form.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-11 (Application Mutatis Mutandis of the Civil Procedure Act)

Except otherwise provided by this Act, the provisions of Section 4 of Chapter II of Part I shall apply mutatis

mutandis to representatives.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-12 (Trial Jurisdiction for Nonresidents)

With regard to the trademark right or rights concerning trademarks of a nonresident, where a trademark administrator exists, his/her address or place of business shall be deemed the location of property under Article 11 of the Civil Procedure Act, and where a trademark administrator does not exist, the location of the Korean Intellectual Property Office shall be deemed as such.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-13 (Calculation of Periods)

The calculation of a period pursuant to this Act or an order under this Act shall be made as follows:

1. The initial day of a period shall not be included: Provided, that this shall not apply where the period starts from midnight;
2. Where a period is determined in terms of month or year, such period shall be calculated based on calendar days;
3. Where a period is not calculated from the beginning of a month or year, such period shall expire on the day preceding the date in the last month or year of the period corresponding to the date on which the period started: Provided, That where a month or year is used and there is no corresponding day in the last month, the period shall expire on the last day of that month;
4. With regard to trademark-related procedures, if the last day of a period falls on a national holiday (including Saturdays and Workers' Day under the Designation of Workers' Day Act), such period shall expire on the following day.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-14 (Extension, etc. of Periods)

- (1) For persons in areas with poor transportation service, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may, upon request or ex officio, extend the period

for amending the reasons, etc. mentioned in the written objection to a trademark registration under Article 26 and the period for requesting a trial under Article 70-2 or 70-3.

- (2) When having determined the period for taking trademark-related procedures pursuant to this Act, the Commissioner of the Korean Intellectual Property Office, the President of the Intellectual Property Tribunal, the presiding administrative patent judge or examiner may, upon request, shorten or extend such period, or may extend such period ex officio. In such cases, the Commissioner of the Korean Intellectual Property Office, etc. shall determine whether to shorten or extend the period so as not to unduly infringe the interest of any interested party in the relevant procedures.
- (3) When having determined the deadline for taking trademark-related procedures pursuant to this Act, the presiding administrative patent judge or examiner may change the deadline upon request or ex officio.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-15 (Invalidation of Procedures)

- (1) If a person who is ordered to make an amendment pursuant to Article 13 fails to make such amendment within a fixed period, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may invalidate the trademark-related procedures.
- (2) Where the trademark-related procedures are invalidated pursuant to paragraph (1) and it is deemed that the person who is ordered to make an amendment fails to do so within a fixed period due to a ground not attributable to him/her, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal may revoke the disposition of invalidation upon request by the person who is ordered to make the amendment within 14 days of the extinguishment of such ground: Provided, That this shall not apply where one year has passed from the expiration date of the fixed period.
- (3) When the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal intends to issue the disposition of invalidation under paragraph (1) or revoke the disposition of invalidation under the main sentence of paragraph (2), he/she shall serve notice of revocation of disposition on a person who is ordered to make an amendment.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-16 (Subsequent Completion of Procedures)

When a person who has taken trademark-related procedures is not able to comply with the period for requesting a trial under Article 70-2 or 70-3 or the period for requesting a retrial under Article 84-2 (1) due to a ground not attributable to him/her, he/she may complete the unfinished procedures within 14 days of the extinguishment of such ground: Provided, That this shall not apply where one year has passed from the expiration date of such period.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-17 (Succession of Effects of Procedures)

The effects of procedures taken in regard to trademark right or rights concerning trademarks shall extend to the successor of such trademark right or rights concerning trademarks.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-18 (Continuation of Procedures)

If trademark right or rights concerning trademarks are transferred during the time the trademark-related procedures are pending at the Korean Intellectual Property Office or the Intellectual Property Tribunal, the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge may require the successor to such trademark right or rights concerning trademarks to continue such procedures.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-19 (Suspension of Procedures)

Where trademark-related procedures fall under any of the following, the procedures pending at the Korean Intellectual Property Office or the Intellectual Property Tribunal shall be suspended: Provided, That this shall not apply where there exists a representative empowered to take the procedures:

1. Where the principal has died;
2. Where a corporation that is the principal has ceased to exist due to a merger;
3. Where the principal has lost the ability to take relevant procedures;

4. Where the legal representative of the principal has died or lost the power of attorney;
5. Where the duty of a trustee entrusted by the party involved has terminated;
6. Where the representative under the proviso to Article 5-10 (1) has died or lost his/her qualification;
7. Where a person who becomes the principal for and on behalf of another person in his/her own name based on specific qualification, such as a bankruptcy trustee, has lost his/her qualification or died.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-20 (Resumption of Suspended Procedures)

When the procedure pending at the Korean Intellectual Property Office or the Intellectual Property Tribunal are suspended pursuant to Article 5-19, any of the following persons shall resume such procedures:

1. In cases under subparagraph 1 of Article 5-19: The inheritor, administrator of inherited property, or a person to resume the procedures pursuant to Acts: Provided, That the inheritor shall not resume the procedures until he/she may renunciate his/her succession;
2. In cases under subparagraph 2 of Article 5-19: The corporation established as a result of a merger or surviving the merger;
3. In cases under subparagraphs 3 and 4 of Article 5-19: The principal who has recovered the ability to take the procedures or a person who has become his/her legal representative;
4. In cases under subparagraph 5 of Article 5-19: The new trustee;
5. In cases under subparagraph 6 of Article 5-19: The new representative or each principal;
6. In cases under subparagraph 7 of Article 5-19: A person who has the same qualification.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-21 (Request for Resumption)

- (1) A request for resumption of procedures suspended pursuant to Article 5-19 may be made by a person falling under any subparagraph of Article 5-20 and the other party.
- (2) When a request for resumption of procedures suspended pursuant to Article 5-19 is made, the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge shall

notify the other party of such fact.

- (3) When the Commissioner of the Korean Intellectual Property Office or an administrative patent judge examines, ex officio, a request for resumption of procedures suspended pursuant to Article 5-19 and recognizes that no ground exists to accept the request, he/she shall dismiss the request by decision.
- (4) In regard to a request for resumption of procedures suspended after service of a certified copy of decision or trial decision, the Commissioner of the Korean Intellectual Property Office or an administrative patent judge shall decide whether to allow the resumption.
- (5) If a person as referred to in Article 5-20 fails to resume the suspended procedures, the Commissioner of the Korean Intellectual Property Office or an administrative patent judge shall determine a period ex officio and order the resumption.
- (6) If the procedures are not resumed within the period under paragraph (5), it shall be deemed that they are resumed on the date following the expiration date of such period.
- (7) Where the Commissioner of the Korean Intellectual Property Office or the presiding administrative patent judge deems that the procedures have been resumed, he/she shall notify the parties of such fact.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-22 (Suspension of Procedures)

- (1) When the Commissioner of the Korean Intellectual Property Office or an administrative patent judge is not able to perform his/her duties due to force majeure or other inevitable grounds, the procedures pending at the Korean Intellectual Property Office or the Intellectual Property Tribunal shall be suspended until such grounds cease to exist.
- (2) Where an obstructive ground arises to any of the party that makes him/her unable to resume the procedures pending at the Korean Intellectual Property Office or the Intellectual Property Tribunal for an unspecified period, the Commissioner of the Korean Intellectual Property Office or an administrative patent judge may order the resumption of such procedures by decision.
- (3) The Commissioner of the Korean Intellectual Property Office or an administrative patent judge may revoke

the decision under paragraph (2).

- (4) When suspension under paragraph (1) or (2) or revocation under paragraph (3) is made, the Commissioner of the Korean Intellectual Property Office or an administrative patent judge shall notify each party of such fact.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-23 (Effects of Suspension or Discontinuance)

Where trademark-related procedures are suspended or discontinued, the relevant period shall be discontinued; the entire period shall newly begin from the time notice on resumption of such procedures is served or such procedures are resumed.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-24 (Legal Capacity of Foreigners)

Any foreigner who is a nonresident shall not enjoy trademark right or rights concerning trademarks, except in any of the following cases:

1. Where the country of such foreigner allows nationals of the Republic of Korea to enjoy trademark right or rights concerning trademarks under the same conditions as their own nationals;
2. If the Republic of Korea allows such foreigner to enjoy trademark right or rights concerning trademarks, where the country of such foreigner allows nationals of the Republic of Korea to enjoy trademark right or rights concerning trademarks under the same conditions as their own nationals;
3. Where trademark right or rights concerning trademarks are allowed to be enjoyed pursuant to a treaty or any other agreement corresponding thereto (hereinafter referred to as "treaty").

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-25 (Effective Date of Submitted Documents)

- (1) Written applications, written requests or other documents submitted to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal pursuant to this Act or an order under this Act (including articles; hereafter the same shall apply in this Article) shall take effect from

the date they are delivered to the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal.

(2) Where written applications, written requests or other documents as referred to in paragraph (1) are submitted to the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal by mail, they shall be deemed delivered to the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal on the date as stamped by mail if the stamped date is clear, or on the date proved by a receipt of mail if the stamped date is not clear: Provided, That this shall not apply where written applications for registration of trademark right or rights concerning trademarks and documents for international application (hereinafter referred to as "international application") under Article 2 (2) of the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as "Agreement") are submitted by mail.

(3) In addition to matters prescribed in paragraphs (1) and (2), matters necessary for submitting documents due to delay of mail delivery, loss of mail, or suspension of mail service shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-26 (Entry of Identification Numbers)

(1) Any person who takes trademark-related procedures as prescribed by Ordinance of the Ministry of Knowledge Economy shall apply for the issuance of his/her own identification number to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal.

(2) Where an application under paragraph (1) is filed, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal shall issue an identification number to the applicant and notify him/her of such fact.

(3) The Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal shall, ex officio, issue an identification number to a person who fails to apply for the issuance of an identification number pursuant to paragraph (1) and notify the person of such fact.

- (4) Where a person who has obtained an identification number pursuant to paragraph (2) or (3) takes trademark-related procedures, he/she shall enter his/her identification number in the document prescribed by Ordinance of the Ministry of Knowledge Economy. In such cases, he/she may choose not to enter his/her address (referring to the location of place of business in cases of a corporation) in the relevant document.
- (5) Paragraphs (1) through (4) shall apply mutatis mutandis to the representative of a person who takes trademark-related procedures.
- (6) Application for the issuance of identification numbers, issuance and notification of identification numbers, and other matters necessary for identification numbers shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-27 (Taking Trademark-Related Procedures through Electronic Documents)

- (1) A person who takes trademark-related procedures may convert written applications for trademark registration to be submitted to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal pursuant to this Act and other documents into electronic documents as prescribed by Ordinance of the Ministry of Knowledge Economy and submit them by using an information and communications network or by recording them in electronic recording media, such as a floppy disk or optical disk.
- (2) Electronic documents submitted pursuant to paragraph (1) shall have the same effect as documents submitted pursuant to this Act.
- (3) Electronic documents submitted through an information and communications network pursuant to paragraph (1) shall be deemed accepted as the entries made recorded in a file of an electronic information processing system for acceptance operated by the Korean Intellectual Property Office or the Intellectual Property Tribunal as at the time the person who has submitted such documents confirms the acceptance number through the information and communication network.
- (4) Types of documents that may be submitted as electronic documents pursuant to paragraph (1), the method

of submitting such documents, and other matters necessary for the submission of documents in electronic form shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-28 (Report to Use Electronic Documents and Electronic Signature)

- (1) A person who intends to take trademark-related procedures using electronic documents shall in advance report on the use of electronic documents to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal and shall render electronic signature on the electronic documents submitted to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal for identifying the person submitting the documents
- (2) Electronic documents submitted pursuant to Article 5-27 shall be deemed submitted by a person who renders electronic signature under paragraph (1).
- (3) Necessary matters relating to the procedures for reporting on the use electronic documents under paragraph (1), the method of rendering electronic signature, etc. shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 5-29 (Notification, etc. through Information and Communications Networks)

- (1) The Commissioner of the Korean Intellectual Property Office, President of the Intellectual Property Tribunal, presiding administrative patent judge, administrative patent judge, presiding examiner or examiner may notify and deliver serve documents to a person who has reported to use electronic documents pursuant to Article 5-28 (1) (hereinafter referred to as "notification, etc.") through an information and communications network.
- (2) Notification, etc. of documents through an information and communications network under paragraph (1) shall have the same effect as in writing.
- (3) Notification, etc. of documents under paragraph (1) shall be deemed delivered as the entries recorded in a file of an electronic information processing system for delivery operated by the Korean Intellectual Property

Office or the Intellectual Property Tribunal as at the time such documents are recorded in the file of an electronic information processing system used by the person who receives such notification, etc.

- (4) Necessary matters relating to the type, method, etc. of notification, etc. through an information and telecommunication network under paragraph (1) shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

CHAPTER II REQUIREMENTS AND APPLICATION FOR TRADEMARK REGISTRATION

Article 6 (Requirements for Trademark Registration)

- (1) A trademark registration may be granted, except a trademark falling under any of the following subparagraphs: *<Amended by Act No. 5355, Aug. 22, 1997>*
1. A trademark consisting solely of a mark indicating, in a common way, the ordinary name of the goods;
 2. A trademark used customarily on the goods;
 3. A trademark consisting solely of a mark indicating in a common way the origin, quality, raw materials, efficacy, use, quantity, shape (including shapes of packages), price, producing method, processing method, using method or time of the goods;
 4. A trademark consisting solely of a conspicuous geographical name, the abbreviation thereof or a map;
 5. A trademark consisting solely of a mark indicating in a common way a common surname or name;
 6. A trademark consisting solely of a simple and ordinary mark;
 7. A trademark, other than those as referred to in subparagraphs 1 through 6, which does not enable consumers to recognize whose goods it indicates in connection with a person's business.
- (2) Even though it falls under any of paragraph (1) 3 through 6, a trademark which is recognized remarkably

among consumers whose goods it indicates in connection with his/her business as a result of using the trademark before the application for trademark registration under Article 9, may be registered with any goods using the trademark as designated goods (referring to the goods designated under Articles 10 (1) and 47 (2) 3 and those designated additionally; hereinafter the same shall apply). *<Amended by Act No. 6414, Feb. 3, 2001>*

(3) Even if it falls under paragraph (1) 3 (limited to the place of origin) or 4, a mark which is composed of a geographical indication for specific goods may be registered as a geographical collective mark with the goods using the geographical indication as designated goods. *<Newly Inserted by Act No. 7290, Dec. 31, 2004>*

Article 7 (Unregistrable Trademark)

(1) Notwithstanding Article 6, a trademark falling under any of the following subparagraphs shall be unregistrable: *<Amended by Act No. 4597, Dec. 10, 1993; Act No. 5355, Aug. 22, 1997; Act No. 6414, Feb. 3, 2001; Act No. 7290, Dec. 31, 2004; Act No. 8190, Jan. 3, 2007; Act No. 9987, Jan. 27, 2010; Act No. 10811, Jun. 30, 2011; Act No. 11113, Dec. 2, 2011>*

1. Trademarks which are identical or similar to the national flag, the national emblem, colors, medals, decorations or badges of the Republic of Korea or seals or signs used for indicating supervision or certification by the Republic of Korea or public institutions;

1-2. Trademarks which are identical or similar to the national flags of allied nations of the Paris Convention for the Protection of Industrial Property (hereinafter referred to as the "Paris Convention"), member nations of the World Trade Organization, or contracting parties to the Trademark Law Treaty (hereafter referred to as "allied nations, etc." in this paragraph);

1-3. Trademarks which are identical or similar to the titles, abbreviated names or marks of the Red Cross, the International Olympic Committee, or renowned international organizations: Provided, That where the Red Cross, the International Olympic Committee, or renowned international organizations have applied for trademark registration of its title, abbreviated name or mark, the same shall not apply;

1-4. Trademarks which are identical or similar to armorial bearings, flags, medals, decorations or badges of

allied nations, etc. designated by the Commissioner of the Korean Intellectual Property Office after being notified from the World Intellectual Property Organization under Article 6-3 of the Paris Convention or to titles, abbreviated names, armorial bearings, flags, medals, decorations or badges of inter-governmental international organizations in which allied nations, etc. join: Provided, That where an inter-governmental international organization in which an allied nation or allied nations, etc. join applies for trademark registration of its title, abbreviated name (limited to an inter-governmental international organization in which allied nations, etc. join) or mark, the same shall not apply;

- 1-5. Trademarks which are identical or similar to seals or signs used for indicating supervision or certification by allied nations, etc. designated by the Commissioner of the Korean Intellectual Property Office after being notified from the World Intellectual Property Organization under Article 6-3 of the Paris Convention or their public organizations and used for the goods identical or similar to those for which such seals or signs are used;
2. Trademarks which falsely indicate a connection with a State, race, ethnic group, public organization, religion or famous deceased person, or which criticize, insult or are liable to defame them;
3. Trademarks which are identical or similar to famous marks indicating nonprofit business of the State, a public organization or its agencies or public corporations, or indicating nonprofit public services: Provided, That this shall not apply where the State, public organization or its agencies or public corporations, or the body of nonprofit public services, applies for trademark registration of such marks;
4. Where the trademark itself or the trademark is used for any goods, the meaning and contents, etc. of such trademark conveyed to consumers, are feared to be contrary to the virtuous customs that are deemed the prevailing moral sense of the ordinary people or to contravene public order;
5. Trademarks comprising of a mark which is identical or similar to, a medal, certificate of merit or decoration awarded at an exhibition held by or with approval by the Government of the Republic of Korea or at an exhibition held by or with approval by the government of a foreign country: Provided, That this shall not apply where a person who has been awarded a medal, certificate of merit or decoration has

used it as part of his/her trademark on the same goods for which such medal, certificate of merit or decoration was awarded at the exhibition;

6. Trademarks containing the name, title or trade name, portrait, signature or seal, famous pseudonym, professional name or pen name of wellknown other persons, or an abbreviation thereof: Provided, That this shall not apply where the consent of the person concerned has been obtained;

7. Trademarks which are identical with or similar to another person's registered trademark (excluding any registered geographical collective mark), the registration of which was made by an earlier application, and which are to be used on goods identical with or similar to the designated goods;

7-2. Trademarks which are identical with or similar to another person's registered geographical collective mark, the registration of which was made by an earlier application, and which are to be used on goods identical or recognized as identical with the designated goods;

8. Trademarks which are identical with or similar to another person's registered trademark (excluding any registered geographical collective mark), where one year has not elapsed since the date of extinguishment of the trademark right (in cases of a trial decision invalidating the trademark registration, the date when the trial decision became final and conclusive) and which are to be used on goods identical with or similar to the designated goods;

8-2. Trademarks which are identical with or similar to another person's registered geographical collective mark, where one year has not elapsed since the date of extinguishment of the geographical collective mark right (in cases of a trial decision invalidating the collective mark registration, the date when the trial decision became final and conclusive) and which are to be used on goods identical or recognized as identical with the designated goods;

9. Trademarks which are identical with or similar to another person's trademark (excluding any geographical indication) which is well known among consumers as indicating the goods of that other person and which are to be used on goods identical with or similar to such goods;

9-2. Trademarks which are identical with or similar to another person's geographical indication which is well

- known among consumers as indicating the goods of a specific region or locality and which are to be used on goods identical or recognized as identical with the goods using such geographical indication;
10. Trademarks which are liable to cause confusion with goods or services of another person because the trademark is recognized among consumers as designating the goods or services of the person;
 11. Trademarks which are liable to mislead or deceive consumers as to the quality of the goods;
 12. Trademarks which are identical or similar to any trademark (excluding any geographical indication) which is recognized as indicating the goods of a particular person by customers in the inside or outside of the Republic of Korea, and which are used for unjust purposes, such as obtaining unjust profits or inflicting harms on the particular person;
 - 12-2. Trademarks which are identical or similar to a geographical indication which is recognized as indicating the goods of a specific region or locality by customers in the inside or outside of the Republic of Korea, and which are used for unjust purposes, such as obtaining unjust profits or inflicting harms on the person entitled to use such geographical indication;
 13. Trademarks consisting solely of three-dimensional shapes, colors, the combination of colors, sound or odor essential (in cases of service business, referring to the cases in which it is essential to the use and purpose of the service business) to secure the functions of goods requiring trademark registration or their packaging;
 14. Trademarks consisting of geographical indications or including such indications with regard to the origin of wines or spirits in a member nation of the World Trade Organization, and which are to be used in connection with wines, spirits, or other similar goods: Provided, That where the persons entitled to use the geographical indications make an application for geographical collective mark registration of the goods concerned as designated goods under Article 9 (4), the same shall not apply;
 15. Trademarks which are identical or similar to variety denominations registered under Article 111 of the Seed Industry Act and used for goods identical or similar to such variety denominations;
 16. Trademarks which are identical or similar to geographical indications of other persons registered

pursuant to Article 8 of the Agricultural Products Quality Control Act or Article 9 of the Quality Control of Fishery Products Act and used for goods identical or recognized as identical to the goods using such geographical indications;

17. Trademarks which are identical or similar to geographical indications of other persons protected pursuant to free trade agreements that have been concluded between the Republic of Korea and foreign countries in a bilateral or multilateral manner and come into effect, or trademarks which consist of such geographical indications or include such geographical indications, and used for goods identical or recognized as identical to the goods using such geographical indications.

(2) Even if a trademark falls under any of paragraph (1) 6, 9, 9-2, and 10, unless it falls thereunder (excluding the matters concerning whether the applicant for the trademark registration falls under any other person provided for in the relevant provisions) at the time of the application for trademark registration, the related provisions shall not apply. *<Amended by Act No. 7290, Dec. 31, 2004; Act No. 8190, Jan. 3, 2007>*

(3) Paragraph (1) 7, 7-2, 8, and 8-2 shall apply to a trademark which falls thereunder at the time of the application for trademark registration: Provided, That with respect to whether the applicant for the trademark registration (hereinafter referred to as "applicant") falls under any other person provided for in the relevant provisions shall not be determined on the base of the time when the application is filed for the trademark registration. *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 7290, Dec. 31, 2004; Act No. 8190, Jan. 3, 2007; Act No. 9987, Jan. 27, 2010>*

<This paragraph which was decided unconstitutional by the Constitutional Court on April 30, 2009 is amended pursuant to Act No. 9987, promulgated on January 27, 2010. >

(4) Paragraph (1) 8 and 8-2 shall not apply to any of the following cases: *<Amended by Act No. 4597, Dec. 10, 1993; Act No. 5355, Aug. 22, 1997; Act No. 7290, Dec. 31, 2004; Act No. 8190, Jan. 3, 2007; Act No. 9987, Jan. 27, 2010>*

1. Where a registered trademark has not been used for not less than one year retrospectively after the trademark right became invalid;

2. Where an appropriate applicant makes an application for a trademark registration, after a trial decision on

invalidation or cancellation becomes final and conclusive by reason that a registered trademark is inconsistent with paragraph (1) 6, 9, 9-2, 10, 11, 12, and 12-2 of this Article or Article 8 or 73 (1) 7;

3. Where an application for trademark registration is made after the period of six months under the proviso to Article 43 (2) expires without any application for registration of renewal of term for the right to the registered trademark;

4. Where the applicant for cancellation trial files an application for the registration of his/her trademark pursuant to Article 8 (5) and (6);

5. Where a case falling under any subparagraph of Article 8 (5) occurs, and an application for trademark registration is made after the lapse of the period during which the applicant for the cancellation trial is eligible to have his/her trademark registered pursuant to the same paragraph.

(5) Where an application for the trial on the cancellation of trademark registration is filed on the grounds that it falls under Article 73 (1) 2, 3, and 5 through 13, and where any of the following subparagraphs applies after the date of the filing of application, an owner of trademark right and any other person using the trademark may not have a trademark identical with or similar to an extinguished registered trademark registered for goods identical with or similar to the designated goods (in cases of a geographical collective mark, referring to goods identical or recognized as identical to the designated goods) unless they make an application for trademark registration after the elapse of three years from the date on which any of the following subparagraphs applies: *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 7290, Dec. 31, 2004; Act No. 10811, Jun. 30, 2011; Act No. 11113, Dec. 2, 2011>*

1. Where a trademark right is extinguished due to the expiration of the term;

2. Where an owner of trademark right abandons some of trademark rights or designated goods;

3. Where a trial decision on the cancellation of trademark registration becomes final and conclusive.

(6) The provisions of paragraph (1) 7-2, 8-2, and 9-2 shall not apply between homonymous geographical collective marks. *<Newly Inserted by Act No. 7290, Dec. 31, 2004>*

[Enforcement Date: Jun. 2, 2013]

Article 8 (First-to-File Rule)

- (1) If two or more applications for a trademark registration are filed on different days with respect to the same or similar trademark to be used on the same or similar goods, only one person who files an application earlier than others, shall be entitled to have the trademark registered.
- (2) If two or more applications for a trademark registration are filed on the same day with respect to the same or similar trademark to be used on the same or similar goods, only one applicant designated by agreement among applicants shall be entitled to have the trademark registered. If they fail to reach any agreement, or they are unable to do so, only one applicant determined by lot drawn by the Commissioner of the Korean Intellectual Property Office shall be entitled to have the trademark registered.
- (3) If an application for a trademark registration is abandoned, withdrawn or invalidated, or a decision or trial decision to reject trademark registration becomes final and conclusive, the application shall, in application of paragraphs (1) and (2), be considered not to have existed from the beginning. *<Amended by Act No. 6414, Feb. 3, 2001>*
- (4) In cases of paragraph (2), the Commissioner of the Korean Intellectual Property Office shall order an applicant to report the result of agreement in a fixed period, and if no report is made in such period, the agreement under paragraph (2) shall be considered not to have been made.
- (5) Where the trial on cancellation of trademark registration is requested on the grounds that it falls under Article 73 (1) 3, and where any of the following subparagraphs applies after the date of such request, only the person who requests the trial of cancellation may file an application for trademark registration for six months from the date (in cases of subparagraph 3, when a trial decision on the cancellation of the trademark registration becomes final and conclusive on the grounds that the action is withdrawn or the appeal is withdrawn after the action has been brought against a trial decision on the cancellation of the trademark registration, refers to the date on which such action or appeal is withdrawn) on which any of the following subparagraphs falls and may have a trademark identical with or similar to extinguished registered trademark registered for goods identical with or similar to such designated goods: *<Amended by Act No. 5355, Aug. 22,*

1997; Act No. 8190, Jan. 3, 2007>

1. Where the period under the proviso to Article 43 (2) expires;
2. Where an owner of trademark right abandons some of trademark rights or designated goods;
3. Where a trial decision on the cancellation of trademark registration becomes final and conclusive.

(6) In cases where a trial on cancellation of a registered trademark is requested on the grounds that the registered trademark falls under Article 73 (1) 3 and an application is filed for trademark registration, which falls under any of the following subparagraphs, after the date on which such request is made, only the person requesting a trial on cancellation of the registered trademark is eligible to have his/her trademark registered: *<Newly Inserted by Act No. 8190, Jan. 3, 2007>*

1. Where the registered trademark for which a cancellation trial is requested is extinguished after the expiration of its term and an application is filed for the registration of the trademark that is identical or similar to the extinguished trademark and the goods that are identical or similar to the designated goods during the period provided for in the proviso to Article 43 (2);
2. Where a trial decision on the cancellation of the trademark registration becomes final and conclusive on the grounds that the action is withdrawn or the appeal is withdrawn after an action is filed on the trial decision on the cancellation of the trademark registration and the registered trademark the cancellation trial therefor is filed, application is filed for the registration of the trademark that is identical or similar to the extinguished trademark and the goods that are identical or similar to the designated goods during the period from the date on which the cancellation trial decision becomes final and conclusive to the date on which the action is withdrawn or the appeal is withdrawn.

(7) The provisions of paragraphs (1) and (2) shall not apply to the following cases: *<Newly Inserted by Act No. 7290, Dec. 31, 2004; Act No. 10811, Jun. 30, 2011>*

1. Where two or more applications for geographical collective mark registration or for geographical collective mark registration and trademark registration are filed with respect to the same or similar marks to be used on the goods which are not identical (including cases in which such goods are recognized as

identical);

2. Where two or more applications for registration of geographical collective marks which fall within homonymous geographical indications are filed.

(8) The provisions of paragraph (5) shall not apply to the following cases: *<Newly Inserted by Act No. 7290, Dec. 31, 2004; Act No. 10811, Jun. 30, 2011>*

1. Where an application for registration of a trademark is filed with respect to a mark identical with or similar to an extinguished registered geographical collective mark, which is to be used on the goods not identical (including cases in which such goods are recognized as identical) with the designated goods;
2. Where an application for registration of a geographical collective mark which has homonymous relation to an extinguished registered geographical collective mark is filed.

Article 9 (Application for Trademark Registration)

(1) Any person intending to have a trademark registered shall submit to the Commissioner of the Korean Intellectual Property Office, an application for trademark registration specifying the following matters:

<Amended by Act No. 4541, Mar. 6, 1993; Act No. 5083, Dec. 29, 1995; Act No. 6414, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008>

1. The name and address of an applicant for trademark registration (if the applicant is a corporation, its title and place of business);
2. The name, address, or place of business, if any, of an agent (if the agent is a patent corporation, its title and place of office and the name of its designated patent attorney);
3. The trademark;
4. The designated goods and the classified list thereof;
5. Matters prescribed by Article 20 (3) (limited to cases where he/she intends to make a priority claim);
6. Deleted; *<by Act No. 6414, Feb. 3, 2001>*
7. Matters prescribed by Ordinance of the Ministry of Knowledge Economy.

(2) Where the trademark to obtain registration is composed of a three-dimensional shape under Article 2 (1) 1 (a)

or a mark under Article 2 (1) 1 (b), the essentials and explanation thereof (excluding explanation in cases of a three-dimensional shape), in addition to the matters falling under each subparagraph of paragraph (1), shall be entered in a written application filed for its registration, as prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 11113, Dec. 2, 2011>*

(3) Where the trademark to obtain registration is a trademark falling under Article 2 (1) 1 (c), the essentials and explanation thereof and realistic expression of the relevant mark as a sign, letter, shape or in another visual manner (hereinafter referred to as "visual expression"), in addition to the matters falling under each subparagraph of paragraph (1), shall be entered in the application filed for registration, as prescribed by Ordinance of the Ministry of Knowledge Economy. *<Newly Inserted by Act No. 11113, Dec. 2, 2011>*

(4) Any person intending to have a collective mark registered, shall file an application for collective mark registration together with the articles of association stating the matters concerning the use of collective marks prescribed by Presidential Decree, in addition to matters as referred to in subparagraphs of paragraph (1). In such cases, a person who intends to have a geographical collective mark under Article 2 (1) 3-4 registered shall state such purport in the application for collective mark registration and submit the application it together with a document proving that the geographical collective mark corresponds to the definition of geographical indication under Article 2 (1) 3-2 prescribed by Presidential Decree. *<Amended by Act No. 7290, Dec. 31, 2004; Act No. 11113, Dec. 2, 2011>*

(5) Any person intending to have a certification mark registered shall file an application for certification mark registration together with a document stating matters concerning the use of certification marks prescribed by Presidential Decree (referring to the articles of association in cases of a corporation and referring to the agreement in cases of a non-corporation; hereinafter referred to as "articles of association or agreement") and a document proving that he/she can verify and manage the quality, origin, mode of production or other characteristics of the goods or service business subject to verification in addition to the matters falling under any subparagraph of paragraph (1). *<Newly Inserted by Act No. 11113, Dec. 2, 2011>*

(6) Any person intending to have a business emblem registered shall file an application for business emblem

registration together with a document proving the operation of the business in addition to matters as referred to in subparagraphs of paragraph (1). *<Amended by Act No. 11113, Dec. 2, 2011>*

Article 9-2 (Recognition, etc. of Filing Date)

(1) The Commissioner of the Korean Intellectual Property Office shall recognize the date on which an application for trademark registration is received by the Korean Intellectual Property Office as the filing date of application for trademark registration except in cases falling under any of the following subparagraphs:

<Amended by Act No. 11113, Dec. 2, 2011>

1. Where the reason for seeking to obtain a trademark registration is not clearly stated;
 2. Where the name or the title of the applicant is not indicated, or where the indication of the applicant is not clearly specified;
 3. Where the trademark for which registration is being sought is not indicated in the application or where the indication is not clearly discernable;
 - 3-2. Where visual expression is not entered in a written application for trademark registration (limited to marks under Article 2 (1) 1 (c));
 4. Where the designated goods are not indicated;
 5. Where the application is not filed in the Korean language.
- (2) Where an application for trademark registration falls under any subparagraph of paragraph (1), the Commissioner of the Korean Intellectual Property Office shall designate a deadline, and order a person intending to obtain a trademark registration to supplement the application within such deadline.
- (3) Where a person supplements an application for trademark registration pursuant to an order to supplement under paragraph (2), he/she shall submit a document concerning the supplement of procedure (hereinafter referred to as "document of procedure supplement").
- (4) Where a person who has received an order to supplement under paragraph (2) has done so within the designated deadline, the Commissioner of the Korean Intellectual Property Office shall recognize the date on which a document of procedure supplement was received by the Korean Intellectual Property Office as

the filing date of application for trademark registration.

- (5) Where a person who has received an order to supplement under paragraph (2) has not done so within the designated deadline, the Commissioner of the Korean Intellectual Property Office may return the application for trademark registration on the ground that the application is defective.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 10 (One Application for One Trademark)

- (1) Any person who intends to make an application for a trademark registration, shall designate one or more category of goods in the classification of goods as prescribed by Ordinance of the Ministry of Knowledge Economy, and apply for each trademark. In such cases, the goods and the service business may be simultaneously designated in a single written application, as prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 4541, Mar. 6, 1993; Act No. 5083, Dec. 29, 1995; Act No. 5355, Aug. 22, 1997; Act No. 6414, Feb. 3, 2001; Act No. 8190, Jan. 3, 2007; Act No. 8852, Feb. 29, 2008>*
- (2) Specific goods that are subject to the classification of the goods referred to in paragraph (1) shall be determined and published by the Commissioner of the Korean Intellectual Property Office. *<Newly Inserted by Act No. 8190, Jan. 3, 2007>*
- (3) The classification of goods as referred to in paragraph (1) shall not be construed to limit the extent of similarity of the goods.

Article 11 Deleted. *<by Act No. 5355, Aug. 22, 1997>*

Article 12 (Succession to and Divided Transfer, etc. of Application)

- (1) No succession to an application for trademark registration shall take effect unless an applicant makes a notice of change of applicant, except in cases of inheritance and other general succession. *<Amended by Act No. 6414, Feb. 3, 2001>*
- (2) Any application for trademark registration may be transferred with each kind of designated goods divided. In such cases, the similar designated goods shall be transferred en bloc.
- (3) Deleted. *<by Act No. 5355, Aug. 22, 1997>*

- (4) If any application for trademark registration is inherited or succeeded in general, the successor shall promptly report it to the Commissioner of the Korean Intellectual Property Office.
- (5) If an application for trademark registration is owned jointly, each joint owner may not transfer his/her share without the consent of all the other joint owners. *<Amended by Act No. 5355, Aug. 22, 1997>*
- (6) Any application for trademark registration transferred as divided one under paragraph (2), shall be considered to have been filed at the time the initial application for trademark registration was filed: Provided, That this shall not apply to cases where Article 20 (3) and (4) or 21 (2) is applied.
- (7) Any application for business emblem registration shall be inalienable: Provided, That this shall not apply to cases where it is transferred together with the business.
- (8) Any application for trademark registration under the provisos to Article 7 (1) 1-3, 1-4 and 3 shall be inalienable: Provided, That this shall not apply to cases where it is transferred together with the business related to the titles, abbreviated names or marks under Article 7 (1) 1-3, 1-4 and 3. *<Amended by Act No. 9987, Jan. 27, 2010>*
- (9) Any application for collective mark registration shall not be transferred: Provided, That in cases of a merger of corporations, it may be transferred with the permission from the Commissioner of the Korean Intellectual Property Office.
- (10) Any application for certification mark registration shall not be transferred: Provided, That it may be transferred upon permission from the Commissioner of the Korean Intellectual Property Office, where it is transferred with its business to a person who may have such certification mark registered pursuant to Article 3-3. *<Newly Inserted by Act No. 11113, Dec. 2, 2011>*

Article 13 (Amendment of Procedure)

Where any application, request, or other procedures for a trademark falls under any of the following subparagraphs, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal shall order an applicant to amend it within a fixed period: *<Amended by Act No. 6414, Feb. 3, 2001; Act No. 6765, Dec. 11, 2002; Act No. 8190, Jan. 3, 2007; Act No. 11113, Dec. 2, 2011>*

1. Where it violates Article 5 (1) or 5-4;
2. Where it is contrary to the form as determined by this Act or an order issued under this Act;
3. Where any official fee to be paid under Article 37 is not paid.

Article 14 (Amendments before Decision to Publish Application)

- (1) Except as provided for in Article 15, any applicant may make amendments to the designated goods and the trademark as to an application for trademark registration to the extent that the essentials of the initial application for trademark registration are not modified.
- (2) No amendments under paragraph (1) may be made after a notification of decision to grant or reject a trademark registration (hereinafter referred to as "decision to grant or reject a trademark registration") is served: Provided, That if a trial is requested against a decision of rejection under Article 70-2, the amendments may be made within thirty days from such request was made, or within the period for submitting an argument under Article 23 (2), 46-4 (2) or 48 (2) which is applicable mutatis mutandis under Article 81. *<Amended by Act No. 4597, Dec. 10, 1993; Act No. 5329, Jan. 5, 1995; Act No. 6414, Feb. 3, 2001; Act No. 9987, Jan. 27, 2010>*

Article 15 (Amendments after Decision to Publish Application)

Where an applicant, after the service of a certified copy of decision to publish an application under Article 24, falls under any of the following, he/she may make amendments to the designated goods and the trademark to the extent that the essentials of the first application for trademark registration are not modified within the period prescribed in the relevant subparagraph:

1. Where he/she is notified of the grounds for rejection under Article 23 (2) or 48 (2) and intends to amend the matters indicated in such grounds for rejection: The period for submitting an argument;
2. Where he/she has filed an application to raise an objection to a trademark registration pursuant to Article 25 and intends to amend matters indicated in the grounds for raising the objection: The period for submitting a written response under Article 27 (1);
3. Where a decision is rendered to reject a trademark registration under Article 23 (1) or an additional

registration of designated goods under Article 48 (1), and he/she requests a trial on the decision of rejection under Article 70-2 for matters indicated in the grounds for decision to reject the trademark registration or additional registration of designated goods: 30 days from the date on which such trial is requested.

[This Article Wholly Amended by Act No. 11113, Dec. 2, 2011]

Article 16 (Modification to Essentials of Application)

(1) If any amendment as prescribed by Articles 14 and 15 falls under any of the following subparagraphs, the essentials of application for trademark registration shall be considered not to be modified:

1. Reduction of the scope of designated goods;
2. Rectification of any clerical error;
3. Explanation of any obscure entry;
4. Deletion of part of any supplementary note in the trademark.

(2) If any amendment of a trademark or designated goods concerning an application for trademark registration made before the service of a certified copy of the decision to publish an application is recognized to have modified the essentials after the registration of the establishment of a trademark right, the application for trademark registration shall be deemed to have been made at the time the written amendment thereof is submitted. *<Amended by Act No. 5329, Apr. 10, 1997>*

(3) If any amendment of a trademark or designated goods concerning an application for trademark registration made after the service of a certified copy of the decision to publish an application is recognized to have violated Article 15 after the registration of the establishment of a trademark right, the trademark right relating to the application for trademark registration which is not amended shall be deemed established and registered. *<Newly Inserted by Act No. 5329, Apr. 10, 1997>*

Article 17 (Dismissal of Amendment)

(1) If any amendment as prescribed by Article 14 as to an application for trademark registration modifies the essentials of the application, an examiner shall dismiss the amendment by decision.

- (2) Upon a decision of dismissal under paragraph (1), no examiner shall make a decision to grant or reject a trademark registration on the application for trademark registration until thirty days expire from the date a certified copy of the decision is served, and, if any decision of dismissal is made under paragraph (1) before the publication of the application is decided, no examiner shall decide to publish the application. *<Amended by Act No. 6414, Feb. 3, 2001>*
- (3) If any applicant requests a trial on a decision to dismiss an amendment under Article 70-3 on a decision to dismiss an amendment under paragraph (1), an examiner shall suspend the examination of application for trademark registration until the trial decision becomes final and conclusive. *<Amended by Act No. 4895, Jan. 5, 1995>*
- (4) If any amendment as prescribed by Article 15 as to an application for trademark registration modifies the essentials of the application, an examiner shall dismiss such amendment by decision.
- (5) The decision of dismissal as referred to in paragraphs (1) and (4) shall be made in writing with the grounds therefor specified.
- (6) No decision of dismissal under paragraph (4) shall be disobeyed: Provided, That this shall not apply in cases of a request for trial on a decision of rejection under Article 70-2. *<Amended by Act No. 4895, Jan. 5, 1995; Act No. 6414, Feb. 3, 2001>*

Article 17-2 (Submission of Amended Articles of Association, etc.)

- (1) When it is needed to amend the articles of association referred to in Article 9 (4), an applicant for a collective mark registration concerned may submit amended articles of association to the Commissioner of the Korean Intellectual Property Office within the period set in Article 14 (2) or 15. *<Amended by Act No. 11113, Dec. 2, 2011>*
- (2) When the articles of association or agreement prescribed in Article 9 (5) requires amendment, an applicant for certification mark registration may submit amended articles of association or amended agreement to the Commissioner of the Korean Intellectual Property Office within the period set forth in Article 14 (2) or 15. *<Newly Inserted by Act No. 11113, Dec. 2, 2011>*

Article 18 (Division of Application)

- (1) Where an applicant files an application for trademark registration of two or more goods as designated goods, the application for trademark registration may be divided into two or more within the period during which the amendments under Articles 14 and 15 may be made. *<Amended by Act No. 5355, Aug. 22, 1997>*
- (2) Where an application for trademark registration is divided into two or more pursuant to paragraph (1) (hereinafter referred to as "divisional application"), the divisional application shall be deemed filed when the initial application for the trademark registration is filed: this shall not apply to cases where Article 20 (3) and (4) or 21 (2) is applied. *<Amended by Act No. 8190, Jan. 3, 2007>*

Article 19 (Conversion of Application)

- (1) Any applicant who files an application falling under any of the following subparagraphs may convert such application into any other application falling under any of the following subparagraphs: *<Amended by Act No. 11113, Dec. 2, 2011>*
 1. An application for registering a trademark;
 2. An application for registering a service mark;
 3. An application for registering a collective mark (excluding applications for registering a geographical collective mark);
 4. The application for registering a certification mark (excluding applications for registering a geographical certification mark).
- (2) Any applicant who files an application for additional registration of designated goods may convert such application into an application for trademark registration: Provided, That the same shall not apply to cases where an invalidation trial or cancellation trial is requested in relation to a registered trademark that provides the basis for filing an application for additional registration of the designated goods or where the registered trademark is extinguished by an invalidation trial, cancellation trial, etc. *<Amended by Act No. 9987, Jan. 27, 2010>*

- (3) In cases of an application converted under paragraph (1) or (2) (hereinafter referred to as "converted application"), such converted application shall be deemed filed at the time when an initial application is filed as specified in any subparagraph of paragraph (1) or in paragraph (2): Provided, That the same shall not apply to cases where Article 20 (3) and (4) or 21 (2) is applied thereto. *<Amended by Act No. 9987, Jan. 27, 2010>*
- (4) No conversion of application pursuant to paragraphs (1) and (2) shall be made after a decision to grant or reject a registration as applied for by an initial application as specified in any subparagraph of paragraph (1) or in paragraph (2) or a trial decision thereon becomes final and conclusive. *<Amended by Act No. 9987, Jan. 27, 2010>*
- (5) In cases of a converted application, the initial application filed as specified in any subparagraph of paragraph (1) or in paragraph (2) shall be deemed withdrawn. *<Amended by Act No. 9987, Jan. 27, 2010>*
- [This Article Wholly Amended by Act No. 8190, Jan. 3, 2007]*

Article 20 (Priority Claim under Treaty)

- (1) Where a citizen of a State party which recognizes the priority of any application for trademark registration by a citizen of the Republic of Korea by virtue of a treaty, files an application for trademark registration in the State party or another State party and thereafter files an application for trademark registration of the same trademark in the Republic of Korea and claims the priority thereof, the date on which the application was filed in the State party shall, in application of Article 8, be deemed the date on which the application for trademark registration is filed in the Republic of Korea. The same shall also apply in cases where a citizen of the Republic of Korea files an application for trademark registration in a State party which recognizes the priority of any application for trademark registration by a citizen of the Republic of Korea by virtue of a treaty and thereafter files an application for trademark registration of the same trademark in the Republic of Korea. *<Amended by Act No. 11113, Dec. 2, 2011>*
- (2) Any person who intends to claim priority under paragraph (1) may not claim priority unless the person files an application within six months after the date of the initial application which would be the basis of the

priority claim.

- (3) Any person who intends to claim priority under paragraph (1) shall specify the purport, the name of the country in which the application was initially filed, and the filing date of the application in the application for trademark registration at the time of filing the application.
- (4) Any person who claims priority under paragraph (3) shall submit to the Commissioner of the Korean Intellectual Property Office the certified copies of documents indicating the date of the application for trademark registration recognized by the government of the country in which the initial application is filed, trademark, and designated goods within three months after the filing date of the application for trademark registration.
- (5) If a person who claims priority under paragraph (3) fails to submit the documents referred to in paragraph (4) within the period referred to in paragraph (4), the priority claim shall lose its effect.

Article 21 (Special Cases upon Application)

- (1) Where any person who is entitled to have a trademark registered, files an application for registration of a trademark used on the goods as sent to any of the following exhibitions, with the goods designated as the designated goods within six months from the date of displaying them, the application for trademark registration shall be considered to have been filed at the time of display:
 1. An exhibition to be held by the Government or a local government;
 2. An exhibition to be held by a person who obtains approval from the Government or a local government;
 3. An exhibition to be held outside the Republic of Korea with the approval from the Government;
 4. An international exhibition to be held by the government of a State party to a treaty or by any person who obtains approval from such government in the territory of the State party.
- (2) Any person who desires to be governed by the provisions of paragraph (1) shall submit an application for trademark registration stating such purport to the Commissioner of the Korean Intellectual Property Office and submit a document proving the relevant facts to the Commissioner of the Korean Intellectual Property Office within 30 days from the filing date of application for trademark registration. *<Amended by Act No. 10358,*

CHAPTER III EXAMINATION

Article 22 (Examination by Examiners)

- (1) The Commissioner of the Korean Intellectual Property Office shall have applications for trademark registration and objection to trademark registration examined by examiners.
- (2) Necessary matters regarding qualifications for examiners shall be prescribed by Presidential Decree.
- (3) Where an application for trademark registration is deemed to fall under any subparagraph of Article 23 (1), any person may inform the Commissioner of the Korean Intellectual Property Office of such fact, together with the evidence supporting it. *<Amended by Act No. 5355, Aug. 22, 1997>*

Article 22-2 (Request, etc. for Search of Trademark by Specialized Search Agency)

- (1) The Commissioner of the Korean Intellectual Property Office may designate a specialized search agency and request it to search trademarks and grant the classifications of goods, where deemed necessary for the examination of an application for trademark registration. *<Amended by Act No. 6414, Feb. 3, 2001; Act No. 8190, Jan. 3, 2007; Act No. 10811, Jun. 30, 2011>*
- (2) The Commissioner of the Korean Intellectual Property Office may request assistance or hear opinions from the relevant administrative authorities, persons with vast knowledge and experience in trademarks, or interested parties, where it is deemed necessary for the examination of an application for trademark registration.
- (3) Where an application for registration of a geographical collective mark is filed with respect to items entitled for registration of geographical indication under the Agricultural Products Quality Control Act or the Quality Control of Fishery Products Act, the Commissioner of the Korean Intellectual Property Office shall hear opinions from the Minister for Food, Agriculture, Forestry and Fisheries about whether it falls under geographical indication. *<Newly Inserted by Act No. 7290, Dec. 31, 2004; Act No. 8190, Jan. 3, 2007; Act No. 8852, Feb. 29, 2008>*

(4) Necessary matters concerning standards for designating specialized search agencies and the request for the search of trademarks, etc. pursuant to paragraph (1) shall be prescribed by Presidential Decree.

<Amended by Act No. 8190, Jan. 3, 2007; Act No. 10811, Jun. 30, 2011>

[This Article Newly Inserted by Act No. 5355, Aug. 22, 1997]

Article 22-3 (Revocation, etc. of Designation of Specialized Search Agency)

(1) Where any specialized search agency provided for in Article 22-2 (1) falls under subparagraph 1, the Commissioner of the Korean Intellectual Property Office shall revoke the designation thereof and where any specialized search agency falls under subparagraph 2, he/she may revoke the designation thereof or order the specialized search agency to suspend its work for a fixed period of up to six months:

1. Where the specialized search agency has obtained its designation by fraud or other illegal means;
2. Where the specialized search agency is not in conformity with the designation standards provided for in Article 22-2 (4).

(2) The Commissioner of the Korean Intellectual Property Office shall, when he/she intends to revoke the designation of any specialized search agency pursuant to paragraph (1), hold a public hearing thereon.

(3) Standards for revoking the designations of specialized search agencies pursuant to paragraph (1) and suspending their works as well as other necessary matters shall be prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 8852, Feb. 29, 2008>*

[This Article Newly Inserted by Act No. 8190, Jan. 3, 2007]

Article 22-4 (Order of Examinations and Accelerated Examinations)

(1) The examination of applications for trademark registration shall be made in the order the applications are filed.

(2) The Commissioner of the Korean Intellectual Property Office may have an examiner examine an application for trademark registration falling under any of the following subparagraphs before other applications, notwithstanding paragraph (1):

1. Where a person, other than an applicant, is deemed using, as a business, a trademark identical or similar

to that, the application of trademark registration of which is filed, for designated goods identical or similar thereto without reasonable grounds, after the application for trademark registration is filed;

2. Applications for trademark registration prescribed by Presidential Decree which are deemed requiring urgent disposal, including cases where an applicant for the trademark registration is using the trademark, the application of trademark registration of which was filed, for all of the designated goods.

[This Article Newly Inserted by Act No. 9987, Jan. 27, 2010]

Article 23 (Decision to Reject Trademark Registration and Notification of Grounds for Rejection)

(1) Where an application for trademark registration falls under any of the following subparagraphs, an examiner shall make a decision to reject trademark registration with respect to such application: *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 6414, Feb. 3, 2001; Act No. 7290, Dec. 31, 2004; Act No. 8190, Jan. 3, 2007; Act No. 11113, Dec. 2, 2011>*

1. Where a trademark is not registerable under Articles 3, 5-24, 6 through 8, 10 (1), the latter part of Article 12 (2), Article 12 (5) or (7) through (10);
2. Where a trademark is in violation of the provisions of a treaty;
3. Where a trademark is identical, or similar to a trademark registered in the territory of a State party to a treaty and has been filed by a person who is or was an agent or a representative of the owner of the trademark, within one year prior to the filing date, without such owner's authorization, for designated goods which are identical, or similar to the designated goods covered by the owner's trademark: Provided, That this shall apply only where an objection to trademark registration has been filed or information has been furnished under Article 22 (3) by the owner;
4. Where a trademark is not consistent with the definition of the mark under Article 2 (1) 1 through 3, 4 and 5 or where, in cases of a geographical collective mark or geographical certification mark, the geographical indication and mark are not in accord with the definitions of the geographical indication and mark under Article 2 (1) 3-2, 3-4 and 4-2;
5. Where, in cases of an application for registration of a geographical collective mark, the articles of

association of the organization concerned prohibit any other person who produces, manufactures, or processes goods entitled for the geographical indication as a business, from joining the organization, or the articles of association include very strict conditions of entry into the organization, which do not substantially allow any other person to join the organization;

6. Where the articles of association under Article 9 (4) lack all or some of the matters concerning the use of collective marks prescribed by Presidential Decree, or where the articles of incorporation or agreement under Article 9 (5) lacks all or some of the matters concerning the use of certification marks prescribed by Presidential Decree;

7. Where the applicant is not a person entitled to have a collective mark, certification mark or business emblem registered under Article 3-2, 3-3 or 4;

8. Where the application for registering certification mark does not allow a person who carries on the business of producing, manufacturing, processing or selling goods that may use such certification mark or carries on a service business to use such certification mark by means of the articles of incorporation or agreement without justifiable grounds or does not in effect allow the use by prescribing conditions for use that are impossible to be met in the articles of incorporation or agreement or taking other measures.

(2) If an examiner intends to make a decision to reject trademark registration under paragraph (1), he/she shall notify an applicant of the grounds for rejection and provide him/her an opportunity to submit an argument within a fixed period. In such cases, there is a ground to reject all or some of two or more designated goods, the examiner in charge shall specifically clarify the ground and the basis for rejecting them by each of the relevant designated goods. *<Amended by Act No. 6414, Feb. 3, 2001; Act No. 8190, Jan. 3, 2007>*

Article 24 (Publication of Application)

(1) When any examiner fails to find any ground for rejecting any application filed for trademark registration, he/she shall decide to publish such application: Provided, That in cases falling under any of the following subparagraphs, he/she may omit his/her decision to publish the application: *<Amended by Act No. 8190, Jan. 3, 2007>*

1. Where the applicant divides his/her application for the trademark registration that is already published into not less than two applications for the trademark registrations pursuant to the provisions of Article 18 after a certified copy of the decision to publish his/her application is served on the applicant, it is impossible to find any ground for rejecting the divisional application;
 2. Where a trial decision is made on the cancellation of a decision to reject the application filed for the trademark registration, the application filed for the relevant trademark registration is already published and it is impossible to find any ground for rejecting the application.
- (2) Where a decision under paragraph (1) is made, the Commissioner of the Korean Intellectual Property Office shall serve a certified copy of the decision on the applicant and publish the application in the Trademark Gazette.
- (3) The Commissioner of the Korean Intellectual Property Office shall make the application documents and attached application materials available for public inspection at the Korean Intellectual Property Office for the period of two months from the date of publication of the application. *<Amended by Act No. 8190, Jan. 3, 2007>*

Article 24-2 (Right to Demand Compensation for Loss)

- (1) After an application is published under Article 24 (2) (including cases applied mutatis mutandis under Articles 49 (3) and 81 (1)), an applicant may warn, in writing, a person who has used a trademark that is identical or similar to the trademark of said published application on goods that are identical or similar to the designated goods of said published application: Provided, That where the applicant shows a copy of said application for trademark registration, he/she may give a warning, in writing, even before the publication of the application.
- (2) An applicant who has sent a warning under paragraph (1) may demand payment of compensation in an amount equivalent to the loss of business caused by the use of said trademark from the date of warning to the date of establishment registration of the trademark right.
- (3) The right to demand under paragraph (2) shall be exercised only after the establishment registration of a trademark right for an application for trademark registration.

- (4) The exercise of the right to demand under paragraph (2) shall not preclude the exercise of the trademark right.
- (5) Articles 52, 66, 69, and 70 of this Act, and Articles 760 and 766 of the Civil Act shall apply mutatis mutandis to cases of exercising the rights to demand under paragraph (2). In such cases, "date on which the injured party or his/her legal representative becomes aware of such damage and of the identity of the person who caused it" in Article 766 (1) of the Civil Act shall be construed as "date of establishment registration of the said trademark right". *<Amended by Act No. 8190, Jan. 3, 2007>*
- (6) Where an application for trademark registration falls under any of the following subparagraphs, the right to demand under paragraph (2) shall be deemed never to have existed: *<Amended by Act No. 8190, Jan. 3, 2007>*
1. Where an application for trademark registration has been abandoned, withdrawn, or invalidated;
 2. Where a decision to reject trademark registration for an application for trademark registration has become final and conclusive;
 3. Where a trial decision to invalidate a trademark registration under Article 71 (excluding cases under Article 71 (1) 4 through 6) has become final and conclusive.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 24-3 (Amendment Ex Officio, etc.)

- (1) An examiner may amend ex officio (hereinafter referred to as "amendment ex officio") evidently erroneous matters concerning designated goods or classification thereof entered in an application for trademark registration, in making a decision to publish the application.
- (2) Where an examiner intends to make an amendment ex officio under paragraph (1), the examiner shall inform the applicant of matters subject to amendment ex officio, serving the applicant with a certified copy of decision to publish the application under Article 24 (2).
- (3) An applicant shall, if he/she cannot accept all or some of the matters subject to amendment ex officio, submit an argument about the matters subject to amendment ex officio to the Commissioner of the Korean Intellectual Property Office no later than the expiration of the period of publication of the application under

Article 24 (3).

- (4) If an applicant submits an argument under paragraph (3), all or some of the matters subject to amendment ex officio shall be deemed not to have existed.
- (5) If amendment ex officio is made to matters which are not evidently erroneous, such amendment ex officio shall be deemed not to have existed.

[This Article Newly Inserted by Act No. 9987, Jan. 27, 2010]

Article 25 (Objection to Trademark Registration)

- (1) When any application is published, any person may raise an objection to the Commissioner of the Korean Intellectual Property Office against the registration of the relevant trademark on the grounds that the application falls under any subparagraph of Article 23 (1) or any of Article 48 (1) 2 and 4 within two months from the date on which such application is published. *<Amended by Act No. 8190, Jan. 3, 2007>*
- (2) Where any person intends to raise an objection against a trademark registration, he/she shall submit to the Commissioner of the Korean Intellectual Property Office a written objection specifying the following matters, together with necessary evidence: *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 6414, Feb. 3, 2001; Act No. 8190, Jan. 3, 2007>*
1. Name and address of the person raising an objection to a trademark registration (if the person is a corporation, its title and place of business);
 - 1-2. Name, address, or place of business of, if any, an agent (if the agent is a patent corporation, its title, place of business, and the name of the designated patent attorney);
 2. The subject of the objection raised to the trademark registration;
 3. Deleted; *<by Act No. 8190, Jan. 3, 2007>*
 4. Matters against which the objection is raised to the trademark registration;
 5. Reasons for the application for the objection to a trademark registration and indication of supporting evidence.

Article 26 (Amendment of Reason, etc. for Objection against Trademark Registration)

Any person who has raised an objection against a trademark registration under Article 25 (1) (hereinafter referred to as "objector") may amend the reasons and evidence mentioned in the written objection against a trademark registration within thirty days after the period of the objection against a trademark registration expires.

Article 27 (Decision on Objection against Trademark Registration)

- (1) An examiner shall, upon receiving an objection against a trademark registration, serve on the applicant a copy of the written objection against a trademark registration, and provide him/her an opportunity to submit a written response in a fixed period.
- (2) An examiner shall make a decision on the objection against a trademark registration after the expiration of the period as provided for in Article 26 and the period as provided for in paragraph (1).
- (3) Notwithstanding the provisions of paragraph (1), if any objector fails to present reasons or evidence, the objection against a trademark registration may be rejected by a decision after the expiration of the period as provided for in Article 26. *<Amended by Act No. 8190, Jan. 3, 2007>*
- (4) The decision on an objection against a trademark registration shall be made in writing with the reason thereof specified.
- (5) The Commissioner of the Korean Intellectual Property Office shall, upon a decision as referred to in paragraph (2), serve a certified copy of the decision on the applicant and the objector.
- (6) No decision on an objection against a trademark registration shall be disobeyed.
- (7) Where there are different reasons for two or more designated goods when they are given in accordance with paragraph (4), they shall be given for each of such goods. *<Newly Inserted by Act No. 5355, Aug. 22, 1997>*

Article 28 (Decision to Reject Trademark Registration Ex Officio after Publication of Application for Trademark Registration)

- (1) Where an examiner finds out any ground for rejection after the publication of an application, he/she may make ex officio a decision to reject a trademark registration under Article 23. *<Amended by Act No. 6414, Feb. 3, 2001>*

(2) Where an examiner makes a decision to reject a trademark registration under paragraph (1), he/she shall not render a decision on an objection to a trademark registration even if the objection has been filed in accordance with Article 25. *<Amended by Act No. 6414, Feb. 3, 2001>*

(3) Where a decision to reject a trademark registration has been rendered under paragraph (1), the Commissioner of the Korean Intellectual Property Office shall serve a certified copy of the decision of rejection on the objector. *<Amended by Act No. 6414, Feb. 3, 2001>*

Article 29 (Concurrence of Objections against Trademark Registration)

(1) Where two or more objections have been raised, an examiner may merge or separate the examinations or decisions on them.

(2) Where two or more objections have been raised, and one of them considered to be well-grounded, upon examination, the examiner may choose not to render a decision on the other objection(s).

(3) The Commissioner of the Korean Intellectual Property Office shall serve the certified copies of the decision to reject a trademark registration even on objectors for whom no decision on objection against a trademark registration is rendered under paragraph (2). *<Amended by Act No. 6414, Feb. 3, 2001>*

Article 30 (Decision to Grant Trademark Registration)

Where an examiner cannot find any grounds for rejecting an application for a trademark registration, he/she shall render a decision to grant a trademark registration. *<Amended by Act No. 6414, Feb. 3, 2001>*

Article 31 (Method of Decision to Grant or Reject Trademark Registration)

(1) The decision to grant or reject a trademark registration shall be rendered in writing and state the grounds therefor. *<Amended by Act No. 6414, Feb. 3, 2001>*

(2) Where an examiner has rendered a decision to grant or reject a trademark registration, the Commissioner of the Korean Intellectual Property Office shall serve a certified copy of the decision on the applicant. *<Amended by Act No. 6414, Feb. 3, 2001>*

Article 32 (Suspension of Examination or Litigation Procedures)

(1) The procedures for examination of an application for a trademark registration may, if necessary for the

examination of an application for a trademark registration, be suspended until a trial decision becomes final and conclusive or litigation procedures are concluded.

- (2) The court may, if necessary for the litigation, suspend the procedures for litigation until a decision to grant or reject a trademark registration becomes final and conclusive. *<Amended by Act No. 6414, Feb. 3, 2001>*

Article 33 (Application Mutatis Mutandis of Provisions on Trials)

Articles 77-4, 77-10 (1) through (5) and (7) and 77-20 of this Act and Articles 143, 299 and 367 of the Civil Procedure Act shall apply mutatis mutandis to examination of application for trademark registration.

[This Article Wholly Amended by Act No. 11113, Dec. 2, 2011]

CHAPTER IV TRADEMARK REGISTRATION FEES AND TRADEMARK REGISTRATION, ETC.

Article 34 (Trademark Registration Fees)

- (1) A person who intends to obtain any establishment registration of trademark right, additional registration of designated goods, or renewal registration of term of trademark right shall pay a trademark registration fee. In such cases, a person who intends to obtain any establishment registration of trademark right or renewal registration of term of trademark right may pay a trademark registration fee in two installments.
- (2) An interested party may pay a trademark registration fee, irrespective of the intention of a person liable to pay the trademark registration fee under paragraph (1).
- (3) Necessary matters concerning trademark registration fees under paragraph (1), method of payment, period of payment, payment in installments and other relevant matters shall be prescribed by Ordinance of the Ministry of Knowledge Economy.

[This Article Wholly Amended by Act No. 9987, Jan. 27, 2010]

Article 34-2 (Abandonment of Some Designated Goods at Time of Payment of Trademark Registration Fees)

- (1) A person who has obtained a decision granting a trademark registration in an application for trademark registration that includes at least two designated goods, who has obtained a decision granting additional

registration of designated goods in an application for additional registration of designated goods, or who has applied for renewal registration of duration of a trademark right may abandon each of the said designated goods when he/she pays trademark registration fees (referring to the first installment of trademark registration fees when payment is made in installments under the latter part of Article 34 (1)). *<Amended by Act No. 9987, Jan. 27, 2010>*

(2) Matters necessary for the abandonment of designated goods under paragraph (1) shall be prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 8852, Feb. 29, 2008>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 35 (Extension of Payment Period of Trademark Registration Fees)

The Commissioner of the Korean Intellectual Property Office may, upon a request, extend the payment period of trademark registration fees under Article 34 (3) within the extent of thirty days.

Article 36 (Abandonment of Application due to Failure to Pay Trademark Registration Fees)

Where no relevant trademark registration fees (referring to the first installment of trademark registration fees when payment is made in installments under the latter part of Article 34 (1)) are paid within a period of payment under Articles 34 (3) and 35 (referring to any time a remainder payment is not made within the period for remainder payment, in cases where an order to pay remainder is issued under Article 36-2 even if the period of payment expires, and any time a payment is not made within the relevant period in cases falling under Article 36-3), an application for trademark registration, application for additional registration of designated goods or application for renewal registration of term of trademark right shall be deemed abandoned.

[This Article Wholly Amended by Act No. 9987, Jan. 27, 2010]

Article 36-2 (Payment of Remainder of Trademark Registration Fees)

(1) Where a person who intends to obtain any establishment registration of trademark right, additional registration of designated goods, or renewal registration of term of trademark right, or an owner of trademark right fails to pay some of trademark registration fees within the period of payment under Article 34 (3) or 35,

the Commissioner of the Korean Intellectual Property Office shall order him/her to pay the remainder of the trademark registration fees. *<Amended by Act No. 9987, Jan. 27, 2010>*

(2) A person who receives an order to pay remainder under paragraph (1) may pay the remainder of trademark registration fees within one month after he/she receives such order.

(3) A person who pays the remainder of trademark registration fees under paragraph (2) shall pay an amount prescribed by Ordinance of the Ministry of Knowledge Economy within the extent of double the amount of the unpaid trademark registration fee if he/she pays the remainder of the trademark registration fees after the lapse of the period of payment under Article 34 (3) or 35. *<Amended by Act No. 9678, May 21, 2009>*

[This Article Newly Inserted by Act No. 6765, Dec. 11, 2002]

Article 36-3 (Restoration, etc. of Application for Trademark Registration by Payment of Trademark Registration Fees or Payment of Remainder)

(1) Where an applicant who has filed an application for trademark registration, an application for additional registration of designated goods, or an application for renewal registration of term of a trademark right, or an owner of trademark right fails to pay trademark registration fees under a period of payment under Article 34 (3) or 35 or to make a remainder payment within a period of remainder payment under Article 36-2 (2) due to reasons not attributable to the applicant or the owner of trademark right, he/she may make payment or remainder payment of the trademark registration fees within 14 days from the date on which the said reason ceases to exist: Provided, That this shall not apply where six months have elapsed since the expiration date of the period of payment or of the period of remainder payment, whichever is later. *<Amended by Act No. 6765, Dec. 11, 2002; Act No. 9987, Jan. 27, 2010>*

(2) A person who has paid, or paid the remainder of, trademark registration fees under paragraph (1) (referring to a person who has paid, or paid the remainder of, the first installment of the trademark registration fees if payment is made in installments under the latter part of Article 34 (1)) shall be deemed not to have abandoned the application for trademark registration, application for additional registration of designated goods, or application for renewal registration of term of the trademark right, notwithstanding Article 36.

<Amended by Act No. 6765, Dec. 11, 2002; Act No. 9987, Jan. 27, 2010>

- (3) Where an application for a trademark registration, an application for additional registration of designated goods, or a trademark right has been restored under paragraph (2), the effect of the application for a trademark registration, the application for additional registration of designated goods, or the trademark right shall not extend to use of a trademark that is identical or similar to a registered trademark on goods identical or similar to the designated goods if the said use occurred within a period ranging from the expiration date of the payment period under Article 34 (3) or 35 to the restoration date of the application for trademark registration, the application for additional registration of designated goods, or the trademark right.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 37 (Official Fees)

- (1) Any person who makes an application, request, or other procedures as to a trademark, shall pay an official fee: Provided, That this shall not apply to an official fee for an invalidation trial requested by an examiner under Articles 71 (1) and 72 (1).
- (2) Matters necessary for official fees under paragraph (1), its payment method and period, etc. shall be determined by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 4541, Mar. 6, 1993; Act No. 5083, Dec. 29, 1995; Act No. 6414, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008>*
- (3) Any person who intends to file an application for renewal registration of term of a trademark right within the period under the proviso to Article 43 (2), shall pay an official fee under paragraph (2) plus an amount determined by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 9987, Jan. 27, 2010>*

Article 38 (Refund of Trademark Registration Fees, etc.)

- (1) No trademark registration fees and official fees already paid shall be refunded: Provided, That in cases falling under any of the following subparagraphs, the trademark registration fees and official fees shall be refunded upon receiving claims filed by persons who have paid them: *<Amended by Act No. 9987, Jan. 27, 2010>*

1. Where the trademark registration fees and official fees are mistakenly paid;

2. Where the application filed for the trademark registration (excluding the divisional application, the converted application or the application for the trademark registration that provides the basis for the divisional application or the converted application, the application with a request for an accelerated examination, and the application for the registration of the international trademark that is deemed the application for the trademark registration provided for in this Act pursuant to Article 86-14 (1)) is withdrawn or abandoned within one month from the date on which the relevant application is filed for the trademark registration, the application fees for the trademark registration and application fees for the priority claim for application of trademark registration, from among the official fees already paid.

(2) In cases where any trademark registration fees and official fees already paid fall under any subparagraph of paragraph (1), the Commissioner of the Korean Intellectual Property Office shall inform the persons who have paid such fees of the fact.

(3) The claims for the refund of the trademark registration fees and official fees referred to in the proviso to paragraph (1), with the exception of its subparagraphs, cannot be filed beginning on the date on which three years lapse from the date on which the persons concerned are informed pursuant to the provisions of paragraph (2). *<Amended by Act No. 8458, May 17, 2007>*

[This Article Wholly Amended by Act No. 8190, Jan. 3, 2007]

Article 39 (Trademark Register)

(1) The Commissioner of the Korean Intellectual Property Office shall keep the trademark register at the Korean Intellectual Property Office and shall register the following matters: *<Amended by Act No. 6414, Feb. 3, 2001; Act No. 6765, Dec. 11, 2002>*

1. The establishment, transfer, modification, extinguishment, restoration, renewal of term, conversion of the classification of goods under Article 46-2, additional registration of designated goods, or restriction on disposal, of a trademark right;
2. The establishment, maintenance, transfer, modification, extinguishment, or restriction on disposal of an exclusive or non-exclusive license;

3. The establishment, transfer, modification, extinguishment, or restriction on disposal of a pledge of which the object is a trademark right, an exclusive license, or a non-exclusive license.
- (2) The trademark register as referred to in paragraph (1) may be prepared wholly or partially by magnetic tape, etc.
- (3) Matters necessary for the items, procedures, etc. of registration, other than as referred to in paragraphs (1) and (2), shall be prescribed by Presidential Decree.

Article 40 (Issuance of Trademark Registration Certificate)

- (1) When the Commissioner of the Korean Intellectual Property Office registers an establishment of trademark right, he/she shall issue a trademark registration certificate to an owner of the trademark right.
- (2) If a trademark registration certificate is not coincident to a trademark register, the Commissioner of the Korean Intellectual Property Office shall, upon a request or ex officio, withdraw the trademark registration certificate and issue a trademark registration certificate with amendments or a new trademark registration certificate.

CHAPTER V TRADEMARK RIGHT

Article 41 (Registration of Establishment of Trademark Right)

- (1) A trademark right shall come into effect upon registration of its establishment.
- (2) Where trademark registration fees (referring to the first installment of trademark registration fees if payment is made in installments under the latter part of Article 34 (1); hereafter the same shall apply in this paragraph) are paid in accordance with Article 34 (1) or 35, where the remainder of trademark registration fees are paid in accordance with Article 36-2 (2), or where trademark registration fees are paid or the remainder payment is made in accordance with Article 36-3 (1), the Commissioner of the Korean Intellectual Property Office shall register the establishment of the trademark right concerned. *<Amended by Act No. 9987, Jan. 27, 2010>*

Article 42 (Term of Trademark Right)

- (1) The term of a trademark right shall be ten years from the date of registration of its establishment.

- (2) The term of a trademark right may be renewed in the unit of ten years upon making an application for the registration for the renewal of its term. *<Amended by Act No. 9987, Jan. 27, 2010>*
- (3) Notwithstanding paragraphs (1) and (2), if the second installment of trademark registration fees are not paid within a period of payment under Articles 34 (3) and 35 (referring to any time a remainder payment is not made within the period of remainder payment, in cases where an order to pay remainder is issued under Article 36-2 even if the period of payment expires, and any time a payment is not made within the relevant period of payment in cases falling under Article 36-3) where trademark registration fees are paid in installments under the latter part of Article 34 (1), the relevant trademark right shall be extinguished at the expiration of five years from the registration date of establishment or date of term renewal registration thereof. *<Newly Inserted by Act No. 9987, Jan. 27, 2010>*

Article 43 (Application for Term Renewal Registration of Trademark Right)

- (1) Any person intends to obtain registration for the renewal of term of a trademark right under Article 42 (2) shall submit, to the Commissioner of the Korean Intellectual Property Office, an application for term renewal registration of a trademark right stating the following matters: *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 6414, Feb. 3, 2001; Act No. 9987, Jan. 27, 2010>*
1. Requirements under Article 9 (1) 1, 2, 4, and 7;
 2. Registration number of the registered trademark;
 3. Deleted. *<by Act No. 4597, Dec. 10, 1993>*
- (2) An application for term renewal registration of a trademark right shall be filed within one year prior to the expiration of the term of the trademark right: Provided, That a person who fails to apply for term renewal registration of a trademark right within this period, may apply for term renewal registration of a trademark right within six months after the term of the trademark right expires. *<Amended by Act No. 9987, Jan. 27, 2010>*
- (3) Where a trademark right is owned jointly, all of the joint owners shall jointly file an application for term renewal registration of a trademark right. *<Amended by Act No. 9987, Jan. 27, 2010>*
- (4) Matters necessary for an application for term renewal registration of a trademark right, other than those

referred to in paragraphs (1) through (3), shall be determined by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 9987, Jan. 27, 2010>*

Article 44 Deleted. *<by Act No. 9987, Jan. 27, 2010>*

Article 45 Deleted. *<by Act No. 9987, Jan. 27, 2010>*

Article 46 (Effects of Application, etc. for Term Renewal Registration of Trademark Right)

- (1) Where an application for term renewal registration of a trademark right has been filed within the period under Article 43 (2), the term of the trademark right shall be deemed renewed. *<Amended by Act No. 9987, Jan. 27, 2010>*
- (2) The registration for renewal of term of a trademark right shall commence on the day following the date of expiration of the initial registration.

Article 46-2 (Application to Register Conversion of Classification of Goods)

- (1) Any owner of trademark right who has obtained any establishment registration of trademark right, additional registration of designated goods, or renewal registration of term of trademark right by designating the goods according to the classification of goods prescribed by Ordinance of the Ministry of Commerce and Industry under the previous Article 10 (1) of the Trademark Act, before the enforcement of the Trademark Act as amended by Act No. 5355, shall obtain registration to convert the classification of designated goods (hereinafter referred to as "conversion of the classification of goods"), as prescribed by Ordinance of the Ministry of Knowledge Economy: Provided, That this shall not apply where a person has obtained registration for renewal of term of a trademark right for designated goods according to the classification of goods prescribed by Ordinance of the Ministry of Commerce and Industry under Article 10 (1) of the Trademark Act as amended by Act No. 5355. *<Amended by Act No. 8852, Feb. 29, 2008>*
- (2) If any person intends to obtain the registration for the conversion of the classification of goods under paragraph (1) (hereinafter referred to as "registration for the conversion of the classification of goods"), he/she shall submit, to the Commissioner of the Korean Intellectual Property Office, an application of registration for the conversion of the classification of goods, describing the particulars of the following

subparagraphs: *<Amended by Act No. 9987, Jan. 27, 2010>*

1. Name and address of applicant (if the applicant is a corporation, its title and place of business);
 2. Name, address, or place of business of, if any, an agent (if the agent is a patent corporation, its title, place of office, and the name of the designated patent attorney);
 3. Registration number of the registered trademark;
 4. Designated goods and the corresponding classification that the applicant wishes to convert.
- (3) An application for registration of the conversion of the classification of goods shall be filed within the period of from one year before the expiration date of the term of the trademark right to six months after the expiration date of said term.
- (4) Where a trademark right is owned jointly, all joint owners shall jointly file an application for registration for the conversion of the classification of goods.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 46-3 Deleted. *<by Act No. 9987, Jan. 27, 2010>*

Article 46-4 (Decision to Reject Registration for Conversion of Classification of Goods and Notification of Grounds for Rejection)

- (1) An examiner shall make a decision to reject registration for the conversion of the classification of goods where an application of registration for the conversion of the classification of goods falls under any of the following subparagraphs: *<Amended by Act No. 8190, Jan. 3, 2007; Act No. 8852, Feb. 29, 2008; Act No. 9987, Jan. 27, 2010>*
1. Where the designated goods for which an application to register the conversion of the classification of goods has been filed are not the goods designated under the registered trademark or where an applicant expands the actual scope of the designated goods;
 2. Where the designated goods of an application to register the conversion of the classification of goods fail to comply with the classifications of goods prescribed by Ordinance of the Ministry of Knowledge Economy;

3. Where an applicant for registration for the conversion of the classification of goods is not the owner of the trademark right concerned;
4. Where the requirements for filing the application for registration for the conversion of the classification of goods provided for in Article 46-2 are not met;
5. Where the trademark is extinguished, or the application for term renewal registration of a trademark right is abandoned, withdrawn or invalidated.

(2) Where an examiner intends to make a decision to reject registration of the conversion of the classification of goods under paragraph (1), he/she shall notify the applicant of the grounds for rejection and provide the applicant an opportunity to submit an argument within the designated deadline.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 46-5 (Registration of Conversion of Classification of Goods)

Where an examiner makes a decision to register the conversion of the classification of goods under Article 30 applied mutatis mutandis under Article 49 (2), the Commissioner of the Korean Intellectual Property Office shall register the conversion of the classification of the designated goods.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 47 (Application for Additional Registration of Designated Goods)

(1) Any owner of trademark right or applicant may obtain an additional registration with the effect of inclusion of designated goods of the registered trademark or application for trademark registration. In such cases, the expiration date of term of the trademark for designated goods additionally registered shall be the expiration date of term of existence for such registered trademark. *<Amended by Act No. 5355, Aug. 22, 1997; Act No.*

10811, Jun. 30, 2011>

(2) Any person who intends to obtain an additional registration of designated goods under paragraph (1), shall submit to the Commissioner of the Korean Intellectual Property Office an application for additional registration of designated goods, specifying the following matters: *<Amended by Act No. 6414, Feb. 3, 2001; Act*

No. 8190, Jan. 3, 2007>

1. Matters provided for in Article 9 (1) 1, 2, 5 and 7;
2. Registration number of registered trademark, or application number of trademark registration application;
3. Goods to be designated additionally and the classification thereof.

Article 48 (Decision to Reject Additional Registration of Designated Goods and Notification of Grounds for Rejection)

(1) If any application for additional registration of designated goods falls under any of the following subparagraphs, an examiner shall make a decision to reject additional registration of designated goods with regard to such application: *<Amended by Act No. 6414, Feb. 3, 2001; Act No. 8190, Jan. 3, 2007>*

1. Where it falls under any subparagraph of Article 23 (1);
2. Where an applicant for additional registration of designated goods is not the owner of trademark right or applicant thereof;
3. Deleted; *<by Act No. 8190, Jan. 3, 2007>*
4. Where a trademark right of registered trademark is extinguished, or an application for trademark registration is abandoned, withdrawn or invalidated, or a decision to reject trademark registration in the application for the trademark registration becomes final and conclusive.

(2) If an examiner intends to make a decision to reject additional registration of designated goods under paragraph (1), he/she shall notify the applicant of the grounds for rejection, and provide an opportunity to submit an argument within a fixed period. *<Amended by Act No. 6414, Feb. 3, 2001>*

Article 49 (Provisions Applicable Mutatis Mutandis)

(1) Article 13 shall apply mutatis mutandis to the amendments of procedures for an application for registration for renewal of term of a trademark right. *<Amended by Act No. 9987, Jan. 27, 2010>*

(2) Articles 10 (1), 13, 14, 16, 17, 22 and 30 through 32, and subparagraphs 1 through 5 and 7 of Article 77-10 shall apply mutatis mutandis to applications for registration for the conversion of the classification of goods of trademark rights. *<Amended by Act No. 11113, Dec. 2, 2011>*

(3) Articles 9-2, 10 (1), 13 through 17, 17-2, 20 through 22, 22-4, 24, 24-2, 24-3, and 25 through 32, Article 77-4,

subparagraphs 1 through 5 and 7 of Article 77-10, and Article 77-20, and Articles 143, 299 and 367 of the Civil Procedure Act shall apply mutatis mutandis to applications for additional registration of designated goods. *<Amended by Act No. 9987, Jan. 27, 2010; Act No. 11113, Dec. 2, 2011>*

Article 50 (Effects of Trademark Right)

An owner of trademark right shall have an exclusive right to use the registered trademark as to the designated goods: Provided, That if an exclusive license is established with respect to the trademark right, this shall not apply to the extent that an exclusive licensee monopolizes the right to use the registered trademark in accordance with Article 55 (3).

Article 51 (Scope of Ineffectiveness of Trademark Right)

(1) No effect of trademark right (excluding geographical collective mark right) shall be extended to the trademark which falls under any of the following subparagraphs: *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 6414, Feb. 3, 2001; Act No. 7290, Dec. 31, 2004; Act No. 8190, Jan. 3, 2007; Act No. 11113, Dec. 2, 2011>*

1. A trademark indicating his/her own name, title or trade name, portrait, signature, seal or well-known pseudonym, stage name, pen name and well-known abbreviation thereof, in usually used ways: Provided, That the same shall not apply in cases where the trademark is used for any unlawful competition after the establishment of the trademark right is registered;

2. A trademark indicating in the normal denomination, place of origin, quality, raw materials, efficacy, use, quantity, shape (including shapes of wrappers), price or producing, processing and using methods and time of goods identical with or similar to the designated goods of the registered trademark in a common way;

2-2. With respect to the trademark that takes a three-dimensional shape provided for in Article 9 (2), where it is impossible to confirm that the three-dimensional shape indicates the goods related to whose business, the trademark, the shape of which is identical or similar to the three-dimensional shape of the registered trademark that is used for the goods that are identical or similar to the designated goods of the registered trademark;

3. A trademark used commonly for goods identical with or similar to designated goods of the registered trademark, and trademark formed of distinguished geographical denomination and abbreviation thereof or map;
 4. A trademark with shapes, colors, the combination of colors, sound or odor essential to secure the functions of the designated goods of a registered trademark or their packaging.
- (2) No effect of geographical collective mark right shall be extended to the trademark or geographical indication which falls under any of the following subparagraphs: *<Newly Inserted by Act No. 7290, Dec. 31, 2004; Act No. 10811, Jun. 30, 2011>*
1. A trademark falling under paragraph (1) 1, 2 (excluding cases falling under the place of origin), or 4;
 2. A trademark used commonly for goods identical or recognized as identical with designated goods of the registered geographical collective mark;
 3. A geographical indication used for goods identical or recognized as identical with designated goods of the registered geographical collective mark, which is used by a person who, as a business, produces, manufactures, or processes the goods in the relevant region or locality, or any other geographical indication which has homonymous relation to the said geographical indication;
 4. Where a geographical indication identical with or similar to the registered geographical collective mark is included in a registered trademark, the registration of which was made by an earlier application, the registered trademark used by an owner of trademark right or any other relevant exclusive or non-exclusive licensee as to the designated goods.

Article 52 (Scope of Protection of Registered Trademark, etc.)

- (1) The scope of protection of registered trademarks shall be determined by a trademark specified in an application for trademark registration (referring to visual expression in cases of a trademark falling under Article 2 (1) 1 (c)). *<Amended by Act No. 11113, Dec. 2, 2011>*
- (2) The scope of protection of designated goods shall be determined by the goods specified in an application for a trademark registration or an application for registration of the conversion of the classification of goods.

Article 53 (Relation to Design Right, etc. of Another Person)

Where an owner of trademark right, or an exclusive or non-exclusive licensee uses a registered trademark, if it conflicts, depending on the using condition, with another person's patent right, utility model right and design right applied before the filing date of the application for trademark registration, or another person's copyright created before the filing date of the application for trademark registration, he/she may not use the registered trademark on such designated goods in conflict without obtaining the consent of the patentee, owner of a utility model right, owner of design right, or owner of copyright. *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 7289, Dec. 31, 2004>*

Article 54 (Transfer and Joint Ownership of Trademark Right, etc.)

- (1) Any trademark right may be divided by designated goods so as to be transferred. In such cases, similar designated goods shall be transferred all together.
- (2) through (4) Deleted. *<by Act No. 5355, Aug. 22, 1997>*
- (5) If a trademark right is owned jointly, no joint owner may transfer his/her share or establish a pledge on the share without obtaining the consent of all other joint owners. *<Amended by Act No. 5355, Aug. 22, 1997>*
- (6) If a trademark right is owned jointly, no joint owner may establish any exclusive or non-exclusive license to use the trademark right without obtaining the consent of all other joint owners. *<Amended by Act No. 5355, Aug. 22, 1997>*
- (7) A business emblem right shall be unalienable: Provided, That this shall not apply to cases of transferring it together with the business.
- (8) A trademark right registered under the provisos to Article 7 (1) 1-3, 1-4 and 3 shall be unalienable: Provided, That this shall not apply to cases of transferring it together with the business related to the titles, abbreviated names or marks under Article 7 (1) 1-3, 1-4 and 3. *<Amended by Act No. 9987, Jan. 27, 2010>*
- (9) A collective mark right shall not be transferred: Provided, That in cases of a merger of corporations, it may be transferred with permission from the Commissioner of the Korean Intellectual Property Office.

(10) A certification mark right shall not be transferred: Provided, That it may be transferred upon obtaining permission from the Commissioner of the Korean Intellectual Property Office where it is transferred with its business to a person eligible to have such certification mark registered pursuant to Article 3-3. *<Newly Inserted by Act No. 11113, Dec. 2, 2011>*

(11) No pledge right, the object of which is a business emblem right, collective mark right, certification mark right, or trademark right under the provisos to Article 7 (1) 1-3, 1-4 and 3, may be established. *<Amended by Act No. 9987, Jan. 27, 2010; Act No. 11113, Dec. 2, 2011>*

Article 54-2 (Division of Trademark Right)

(1) Where there are two or more designated goods under one trademark right, such trademark right may be divided for each of such designated goods.

(2) Where an invalidation trial is requested according to Article 71 (2), the division under paragraph (1) may be made until a trial decision becomes final and conclusive, even after the trademark right is extinguished.

[This Article Newly Inserted by Act No. 5355, Aug. 22, 1997]

Article 55 (Exclusive License)

(1) An owner of a trademark right may establish an exclusive license as to the trademark right for another person.

(2) No exclusive license may be established as to a business emblem, collective mark right, or certification mark right. *<Amended by Act No. 11113, Dec. 2, 2011>*

(3) An exclusive licensee who has been established an exclusive license under paragraph (1), shall have the exclusive right to use the registered trademark on the designated goods to the extent as provided for in the license agreement.

(4) An exclusive licensee shall indicate his/her own name or title on the goods.

(5) No exclusive licensee may transfer the exclusive license without the consent of an owner of the trademark right, except in cases of inheritance or other general succession.

(6) No exclusive licensee may establish a pledge or establish a non-exclusive license on the exclusive license

without the consent of an owner of the trademark right.

(7) Article 54 (5) and (6) shall apply mutatis mutandis to exclusive licenses.

Article 56 (Effects of Registration on Trademark Right, etc.)

(1) The matters falling under each of the following subparagraphs shall not take effect without being registered:

<Amended by Act No. 6414, Feb. 3, 2001; Act No. 8190, Jan. 3, 2007; Act No. 11113, Dec. 2, 2011>

1. Transfer (excluding transfer by inheritance or other general succession), modification, or extinguishment by abandonment, renewal of term, conversion of the classification of goods, addition of designated goods or restriction of disposal, of the trademark right;

2. Deleted. *<by Act No. 11113, Dec. 2, 2011>*

3. Establishment, transfer (excluding transfer by inheritance or other general succession), modification, extinguishment (excluding cases caused by confusion of any right) or restriction on disposal, of the pledge right, the object of which is the trademark right.

(2) In cases of inheritance of, or other general succession to the trademark right and the pledge right as referred to in the subparagraphs of paragraph (1), the effect thereof shall be promptly reported to the Commissioner of the Korean Intellectual Property Office. *<Amended by Act No. 11113, Dec. 2, 2011>*

Article 57 (Non-exclusive License)

(1) An owner of a trademark right may establish a non-exclusive license as to his/her trademark right for another person.

(2) A non-exclusive licensee who has been established a non-exclusive license under paragraph (1) shall have the right to use the registered trademark on the designated goods to the extent as provided for in the license agreement.

(3) A non-exclusive license may not, except in cases of inheritance or other general succession, be transferred without the consent of an owner of the trademark right (or an owner of trademark right and an exclusive licensee, in cases of a non-exclusive license as to an exclusive license).

(4) A pledge may not be established as to a non-exclusive license without the consent of an owner of the

trademark right (or an owner of trademark right and an exclusive licensee, in cases of a non-exclusive license as to an exclusive license).

(5) The provisions of Articles 54 (5) and 55 (2) and (4) shall apply mutatis mutandis to non-exclusive licenses.

Article 57-2 (Right to Use Trademark After Expiration of Term of Patent Right, etc.)

(1) Where a registered patent right under a patent application filed prior to or on the filing date of an application for trademark registration conflicts with the trademark right under such trademark application and the term of the patent right has expired, the original patentee shall have the right to use, within the scope of the original patent right, the registered trademark or another trademark similar thereto with respect to the designated goods covered by the trademark application or goods similar thereto: Provided, That this shall not apply to cases where a registered trademark is used for the purpose of unfair competition.

(2) Where a registered patent right under a patent application filed prior to or on the filing date of an application for trademark registration conflicts with the trademark right under such trademark application and the term of the patent right has expired, any person who has an exclusive license with respect to the patent right or a non-exclusive license with respect to the patent right or its exclusive license effective under the provisions of Article 118 (1) of the Patent Act at the time of its expiration shall have the right to use, within the scope of the original right, the registered trademark or another trademark similar thereto on the designated goods or goods similar thereto: Provided, That this shall not apply to cases where a registered trademark is used for the purpose of unfair competition. *<Amended by Act No. 8190, Jan. 3, 2007>*

(3) A person who has been granted the right to use a trademark under paragraph (2) shall pay reasonable consideration to an owner of the trademark right or exclusive licensee.

(4) An owner of the trademark or exclusive licensee may demand a person who has a right to use the trademark under paragraph (1) or (2) to make necessary indications to prevent confusion between the goods of the trademark owner or exclusive licensee's business and the goods of the other person's business.

(5) A right to use a trademark under paragraph (1) or (2) may not be transferred (excluding cases where it is transferred by inheritance or other general succession) without the consent of an owner of the trademark or

an exclusive licensee.

(6) The provisions of paragraphs (1) through (5) shall apply mutatis mutandis to cases where a utility model right or a design right under a utility model application or a design application filed prior to or on the filing date of an application for trademark registration conflicts with the trademark right under such trademark application and the term of the utility model right or the design right has expired. *<Amended by Act No. 7289, Dec. 31, 2004>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 57-3 (Right to Continually Use Trademark on Grounds of Prior Use)

(1) Anyone who uses the trademark that is identical or similar to the registered trademark of any other person for the goods that are identical or similar to the designated goods and meets all of the following requirements (including any other person who succeeds his/her status; hereafter referred to as "prior user" in this Article) shall hold the right to continually use the goods that is affixed with the relevant trademark:

1. He/she must have continually used the trademark in the Republic of Korea without any purpose of unfair competition before any other person files an application for the registration of such trademark;
2. He/she must get domestic consumers to believe that the trademark is used for his/her goods as a result of using the trademark referred to in the provisions of subparagraph 1 at the time when any other person files an application for the registration of his/her trademark.

(2) An owner of a trademark right or an exclusive licensee may ask a prior user to affix an appropriate mark to each of his/her goods, which can prevent any mistake and any confusion of production sources between his/her goods and the prior user's goods.

[This Article Newly Inserted by Act No. 8190, Jan. 3, 2007]

Article 58 (Effects of Registration of Exclusive License, Non-exclusive License, etc.)

(1) The matters falling under the following subparagraphs shall have no effect on any third parties unless they are registered: *<Amended by Act No. 11113, Dec. 2, 2011>*

1. Establishment, transfer (excluding transfer by inheritance or other general succession), modification,

extinguishment by abandonment or restriction on disposal, of the exclusive license or non-exclusive license;

2. Establishment, transfer (excluding transfer by inheritance or other general succession), modification, extinguishment by abandonment or restriction on disposal, of the pledge right, the object of which is the exclusive license or non-exclusive license.

(2) Where an exclusive license or non-exclusive license is registered, it shall also be effective to any person who acquires the trademark right or an exclusive license after the registration. *<Amended by Act No. 11113, Dec. 2, 2011>*

(3) In cases of inheritance of or other general succession to the exclusive license, non-exclusive license and pledge right under the subparagraphs of paragraph (1), the effect thereof shall be promptly reported to the Commissioner of the Korean Intellectual Property Office. *<Amended by Act No. 11113, Dec. 2, 2011>*

Article 59 (Abandonment of Trademark Right)

An owner of a trademark right may abandon his/her trademark right for any one of the designated goods.

Article 60 (Restriction on Abandonment of Trademark Right, etc.)

(1) No owner of a trademark right may abandon his/her trademark right without the consent of an exclusive or non-exclusive licensee or pledgee.

(2) No exclusive licensee may abandon his/her exclusive license without the consent of a pledgee or non-exclusive licensee under Article 55 (6).

(3) No non-exclusive licensee may abandon his/her non-exclusive license without the consent of a pledgee under Article 57 (4).

Article 61 (Effect of Abandonment)

Where a trademark right, an exclusive or non-exclusive license, or a pledge has been abandoned, the trademark right, exclusive or nonexclusive license or pledge shall be extinguished from that time.

Article 62 (Pledge)

Where a pledge has been established for the purpose of a trademark right or an exclusive or non-exclusive

license, a pledgee may not use the registered trademark.

Article 63 (Subrogation of Pledge)

The pledge right may be exercised even to any considerations or things to be received for the use of the trademark right under this Act: Provided, That it shall be seized before it is paid or handed over.

Article 64 (Extinguishment of Trademark Right)

- (1) Where a successor fails to make a transfer registration of trademark right within three years after from the date of decease of the owner of trademark right, the trademark right shall be extinguished on the date following the expiration of three years from the date of decease of the owner of trademark right.
- (2) Where it fails to register the transfer of the trademark right of any corporation for which the liquidation procedure is in progress on or before the date on which the liquidation completion of the relevant corporation is registered (where the liquidation clerical work is not de facto complete even if the liquidation completion is registered, the earliest date from among the date on the liquidation clerical work is de facto completed and the date on which six months lapse from the date on which the liquidation completion is registered; hereafter the same shall apply in this paragraph), the trademark right shall be extinguished on the date following the date on which the liquidation of the relevant corporation is complete. *<Newly Inserted by Act No. 8190, Jan. 3, 2007>*

Article 64-2 (Extinguishment of Trademark Right in Absence of Registration of Conversion of Classification of Goods)

- (1) Where there is any reason falling under any of the following subparagraphs, a trademark right covering designated goods of an application for registration for of the conversion of the classification of goods shall extinguish on the date following the expiration date of the term of trademark right that is contained within the deadline under Article 46-2 (3) for registering the conversion of the classification of goods: *<Amended by Act No. 8190, Jan. 3, 2007; Act No. 11113, Dec. 2, 2011>*
 1. Where a person who is entitled to register the conversion of the classification of goods does not file an application thereof within the deadline under Article 46-2 (3);

2. Where an application for registration of the conversion of the classification of goods has been withdrawn;
 3. Where a procedure relating to the conversion of the classification of goods has been invalidated pursuant to Article 5-15 (1);
 4. Where a decision to reject registration of the conversion of the classification of goods becomes final and conclusive;
 5. Where a trial decision invalidating registration of the conversion of the classification of goods under Article 72-2 becomes final and conclusive.
- (2) A trademark right covering designated goods that are the object of but not indicated in an application for registration of the conversion of the classification of goods under Article 46-2 (2) shall extinguish on the date when the designated goods that are indicated in the said application are converted and registered under Article 46-5: Provided, That where the conversion of the classification of goods is registered prior to the date on which the term of the trademark right expires, the trademark right is extinguished on the date following the expiration date of the term of trademark right. *<Amended by Act No. 8190, Jan. 3, 2007>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

CHAPTER VI PROTECTION OF OWNERS OF TRADEMARK RIGHTS

Article 65 (Right to Seek Injunction, etc. against Infringement)

- (1) An owner of a trademark right or exclusive licensee may demand a person who infringes or is likely to infringe on the trademark right or exclusive license to discontinue or prevent the infringement.
- (2) When an owner of a trademark right or exclusive licensee makes a demand under paragraph (1), he/she may demand the destruction of products by which an act of infringement was committed, the removal of the facilities used for the act of infringement, or other necessary measures. *<Amended by Act No. 11113, Dec. 2, 2011>*
- (3) Where an action is brought to request the discontinuance or prevention of infringement under paragraph (1), the court may provisionally order the discontinuance of the relevant act of infringement, confiscation of items,

etc. used for the relevant act of infringement, or other necessary measures, upon the request of the plaintiff or complainant (limited to cases in which a public action is instituted pursuant to this Act). In such cases, the court may require the plaintiff or complainant to provide security. *<Newly Inserted by Act No. 11113, Dec. 2, 2011>*

Article 66 (Acts Deemed Infringement)

(1) Any act which falls under any of the following subparagraphs shall be deemed to infringe a trademark right (excluding a geographical collective mark right) or exclusive license: *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 7290, Dec. 31, 2004>*

1. Using a trademark identical with a registered trademark of another person on the goods similar to the designated goods, or using a trademark similar to the registered trademark of another person on the goods identical with or similar to the designated goods;
2. Delivering, selling, forging, imitating or possessing a trademark identical with or similar to the registered trademark of another person with intention to use or make another person use it on any goods identical with or similar to the designated goods;
3. Manufacturing, delivering, selling or possessing tools used for making the registered trademark of another person with intention to forge or imitate or to make a third person forge or imitate the registered trademark;
4. Keeping, for a purpose of transfer or delivery, goods identical with or similar to the designated goods on which another person's registered trademark or any other similar trademark is used.

(2) Any act which falls under any of the following subparagraphs shall be deemed to infringe a geographical collective mark right: *<Newly Inserted by Act No. 7290, Dec. 31, 2004; Act No. 10811, Jun. 30, 2011>*

1. Using a trademark (excluding a homonymous geographical indication; hereafter the same shall apply in this paragraph) similar to a registered geographical collective mark of another person on the goods identical or recognized as identical with the designated goods;
2. Delivering, selling, forging, imitating or possessing a trademark identical with or similar to the registered

geographical collective mark of another person with intention to use or make a third person use it on any goods identical or recognized as identical with the designated goods;

3. Manufacturing, delivering, selling or possessing tools used for making the registered geographical collective mark of another person with intention to forge or imitate or to make a third person forge or imitate the registered geographical collective mark;
4. Keeping, for a purpose of transfer or delivery, goods identical with the designated goods on which a trademark identical or recognized as identical with or similar to another person's registered geographical collective mark is used.

Article 67 (Presumption, etc. of Amount of Damage)

- (1) Where an owner of a trademark right or an exclusive licensee claims compensation from a person who has intentionally or negligently infringed a trademark right or exclusive license for damages caused by the infringer's transfer of infringing articles, the amount of damages may be calculated as the number of transferred articles multiplied by the profit per unit of the articles that the owner of the trademark right or exclusive licensee might have sold in the absence of the said infringement. In such cases, the compensation may not exceed an amount calculated as follows: the estimated profit per unit multiplied by the number of articles that the trademark right owner or licensee could have produced subtracted by the number of articles actually sold: Provided, That where the owner of the trademark right or exclusive licensee fails to sell his/her product for reasons other than infringement, a sum calculated according to the number of articles unsold due to reasons other than infringement shall be deducted. *<Newly Inserted by Act No. 6414, Feb. 3, 2001>*
- (2) Where an owner of a trademark right or an exclusive licensee claims compensation from a person who has intentionally or negligently infringed on the trademark right or the exclusive license for damages caused to him/her by such infringement, the profits gained by the infringer by the infringement shall be presumed to be the amount of damage suffered by the owner of the trademark right or exclusive licensee.
- (3) Where an owner of a trademark right or an exclusive licensee claims compensation from a person who has intentionally or negligently infringed the trademark right or exclusive license for damages caused to him/her

by the infringement, the amount of money which he/she would normally receive for the use of the registered trademark may be claimed as the amount of damages suffered by him/her.

(4) Notwithstanding paragraph (3), where the amount is in excess of the amount under the same paragraph, the amount in excess may also be claimed as compensation for damage. In such cases, the court may take into consideration whether there has been either willfulness or gross negligence on the part of the person who has infringed the trademark right or the exclusive license when deciding the amount of damages. *<Amended by Act No. 6414, Feb. 3, 2001>*

(5) In litigation relating to the infringement of a trademark right or exclusive license, where the court recognizes that the nature of the facts of the case make it difficult to provide evidence proving the amount of damage that has occurred, notwithstanding paragraphs (1) through (4), the court may determine a reasonable amount on a review of all the arguments and on the basis of an examination of the evidence. *<Newly Inserted by Act No. 6414, Feb. 3, 2001>*

Article 67-2 (Claim for Statutory Damages)

(1) An owner of a trademark right or an exclusive licensee may claim compensation for a reasonable amount of damages up to 50 million won from a person who has intentionally or negligently infringed on the trademark right or the exclusive license by using the registered trademark that are being used by the owner or licensee or any other trademark similar thereto for relevant designated goods or any other goods similar thereto, instead of claiming compensation as specified in Article 67 from such person. In such cases, the court may recognize a reasonable amount of damages in consideration of all the arguments and the result of examination of the evidence.

(2) An owner of a trademark right or an exclusive licensee who has claimed compensation as specified in Article 67 against any infringement specified in the former part of paragraph (1) may alter such claim to the claim as specified in paragraph (1) by the time the court closes the relevant argument.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 68 (Presumption of Intention)

Any person who has infringed on a trademark right or exclusive license of another person that indicates that it is a registered trademark under Article 90, shall, with respect to the infringement, be presumed to have known that the trademark was already registered.

Article 69 (Recovery of Reputation of Owner, etc. of Trademark Right)

With respect to a person who makes an owner of a trademark right or exclusive licensee lose his/her business reputation, by infringing intentionally or negligently on the trademark right or exclusive license, the court may, upon request of the owner of the trademark right or exclusive licensee, order any measures necessary for recovering the business reputation of the owner of the trademark right or exclusive licensee in lieu of, or along with, a compensation for damages.

Article 70 (Submission of Documents)

In litigation as to an infringement on a trademark right or exclusive license, the court may, upon request of the party concerned, order the other party to submit documents necessary for calculating the damage caused by the infringement: Provided, That this shall not apply to cases where a person who has the documents in hand has a justifiable ground for refusing to submit the documents.

CHAPTER VII TRIAL

Article 70-2 (Trial on Decision of Rejection)

Any person dissatisfied with a decision to reject trademark registration, a decision to reject additional registration of designated goods, or a decision to reject registration for the conversion of the classification of goods (hereinafter referred to as "decision of rejection") may request a trial within thirty days from the date of receipt of a certified copy of the decision of rejection.

[This Article Wholly Amended by Act No. 9987, Jan. 27, 2010]

Article 70-3 (Trial on Decision to Dismiss Amendment)

Any person dissatisfied with a ruling decision to dismiss an amendment under Article 17 (1) may request a

trial within thirty days from the date of receipt of a certified copy of the decision.

[This Article Newly Inserted by Act No. 4895, Jan. 5, 1995]

Article 71 (Invalidation Trial on Trademark Registration)

(1) If a trademark registration or additional registration of designated goods falls under any of the following subparagraphs, an interested party or examiner may request an invalidation trial. In such cases, if there are two or more designated goods of the registered trademark, it may be requested for each of the designated goods: *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 6414, Feb. 3, 2001; Act No. 7290, Dec. 31, 2004; Act No. 8190, Jan. 3, 2007; Act No. 11113, Dec. 2, 2011>*

1. Where a trademark registration or additional registration of the designated goods is in contravention of Article 3, 5-24, 6 through 8, the latter part of Article 12 (2), (5), or (7) through (10), or 23 (1) 4 through 8;
2. Where a trademark registration or additional registration of designated goods is in contravention of the treaty;
3. Where a trademark registration or additional registration of designated goods is made by a person who fails to succeed to the right created by the application for trademark registration;
- 3-2. Where the additional registration of the designated goods is in violation of Article 48 (1) 4;
4. Where an owner of a trademark right becomes a person who is unable to enjoy the trademark right under Article 5-24 or such registered trademark is in contravention of the treaty;
5. Where a registered trademark falls under any subparagraph of Article 6 (1) after the registration of the trademark (excluding cases falling under Article 6 (2));
6. Where a geographical indication which constitutes a registered geographical collective mark is no more protected or used by the country of origin after the registration of the geographical collective mark under Article 41.

(2) An invalidation trial as referred to in paragraph (1) may be requested even after the trademark right is extinguished.

(3) If a trial decision that a trademark registration be invalidated becomes final and conclusive, the trademark

right shall be deemed not to have existed from the beginning: Provided, That if the trial decision that the trademark registration be invalidated under paragraph (1) 4 through 6 becomes final and conclusive, the trademark right shall be deemed not to have existed from the time when the registered trademark falls under the same subparagraph. *<Amended by Act No. 6414, Feb. 3, 2001; Act No. 7290, Dec. 31, 2004>*

- (4) In applying the proviso to paragraph (3), where it is unable to specify the time when a registered trademark falls under paragraph (1) 4 through 6, the trademark right shall be deemed not to have existed from the time when an invalidation trial under paragraph (1) is requested and the contents of the request is made known to the public on the original register. *<Newly Inserted by Act No. 6414, Feb. 3, 2001; Act No. 7290, Dec. 31, 2004>*
- (5) Where a trial under paragraph (1) has been requested, the presiding administrative patent judge shall notify the exclusive licensee of the trademark right, and other persons with registered rights related to the trademark, regarding the subject of the request.

Article 72 (Invalidation Trial on Registration for Renewal of Term of Trademark Right)

- (1) An interested party or examiner may request an invalidation trial, if a registration for term renewal of a trademark right falls under any of the following subparagraphs. In such cases, if designated goods of a registered trademark, the registration of which is renewed, are two or more, an invalidation trial may be requested for each designated good: *<Amended by Act No. 9987, Jan. 27, 2010>*
1. Deleted; *<by Act No. 5355, Aug. 22, 1997>*
 2. Where a registration for the renewal of term of a trademark right is in contravention of Article 43 (2);
 3. Where an application for registration for term renewal of a trademark right has been filed by a person, other than the owner of the relevant trademark right.
- (2) An invalidation trial as referred to in paragraph (1) may be requested even after the trademark right is extinguished.
- (3) Where a trial decision that a registration for renewal of term of a trademark right be invalidated becomes final and conclusive, such registration shall be deemed not to have existed from the beginning.
- (4) Article 71 (5) shall apply mutatis mutandis to requests for trial referred to in paragraph (1). *<Amended by Act*

Article 72-2 (Invalidation Trial on Registration for Conversion of Classification of Goods)

- (1) An interested party or an examiner may request an invalidation trial in cases where a registration of the conversion of the classification of goods falls under any of the following subparagraphs. In such cases, if there are two or more designated goods relating to the registration for the conversion of the classification of goods, a request for an invalidation trial may be made for each of the designated goods:
1. Where the registration of the conversion of the classification of goods has been granted for designated goods not covered by the present registered trademark or where the scope of the designated goods has been expanded;
 2. Where an application for the registration for the conversion of the classification of goods has been filed by a person who is not the owner of the trademark right concerned;
 3. Where the registration for the conversion of the classification of goods is in violation of Article 46-2 (3).
- (2) Article 71 (2) and (5) shall apply mutatis mutandis to invalidation trials on registration of the conversion of the classification of goods.
- (3) Where a trial decision invalidating a registration of the conversion of the classification of goods has become final and conclusive, the registration of the conversion of the classification of goods shall be deemed to have never existed.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 73 (Cancellation Trial on Trademark Registration)

- (1) If a registered trademark falls under any of the following subparagraphs, a cancellation trial on the trademark registration may be requested: *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 7290, Dec. 31, 2004; Act No. 11113, Dec. 2, 2011>*
1. Deleted; *<by Act No. 5355, Aug. 22, 1997>*
 2. Where an owner of a trademark right makes consumers mistake the quality of goods or confused with goods related to any business of another person by using intentionally a trademark similar to the

registered trademark on the designated goods, or using the registered trademark or similar trademark on goods similar to the designated goods;

3. Where an owner of a trademark right, exclusive or non-exclusive licensee fails to use the registered trademark on the designated goods in the Republic of Korea without justifiable grounds, for three or more years consecutively before a cancellation trial is requested;
4. Where it is in contravention of the latter part of Article 54 (1), (5), or (7) through (10);
5. Where for a collective mark, a member of the organization concerned allows another person to use the collective mark in contravention of the articles of association of the organization, or a member of the organization concerned misleads consumers as to the quality or geographical origin of the goods or makes them confused with goods related to any business of another person by using the collective mark in contravention of the articles of association of the organization: Provided, That this shall not apply to cases where an owner of the collective mark right pays a considerable attention to the supervision of the member;
6. Where it might make consumers mistake the quality of goods or confused with goods related to any business of another person by modifying the articles of association under Article 9 (4) after the establishment of the collective mark is registered;
7. Where a trademark falling under the main sentence of Article 23 (1) 3 is registered, and an owner of the right to the trademark requests a cancellation trial within five years from the date of trademark registration;
8. Where an exclusive or non-exclusive licensee misleads consumers as to the quality of goods or makes them confused with goods related to any business of another person by using the registered trademark or similar trademark on the designated goods or similar goods: Provided, That this shall not apply to cases where an owner of trademark right pays a considerable attention;
9. Where similar trademarks belong to different owners of trademark right because of transfer of trademark right, and one of them misleads consumers as to the quality of goods or makes them confused with

goods related to any business of another person by using his/her own registered trademark upon goods identical or similar goods designated by his/her own registered trademark to perform practices of unfair competition;

10. Where for a collective mark, a third person misleads consumers as to the quality or geographical origin of goods, or makes them confused with goods related to any business of another person, by using the collective mark, and, in spite of such fact, an owner of the collective mark right does not take a proper measure therefor on purpose;

11. Where, after effecting the registration of a geographical collective mark, the owner of the geographical collective mark right prohibits any person who produces, manufactures, or processes designated goods entitled for the geographical indication as a business from joining the organization through the articles of association of the organization concerned, or includes very strict conditions of entry into the organization in the articles of association concerned, which do not substantially allow any other person to join the organization, or allows any person disqualified for using the geographical indication to enter the organization;

12. Where for a geographical collective mark, the owner of the geographical collective mark right or a member of the organization concerned misleads consumers as to the quality of the goods or makes them confused with the geographical origin of the goods by using the collective mark in contravention of Article 90-2;

13. Where for a certification mark, a case falls under any of the following:

(a) Where the owner of the certification mark right permits the use of the certification mark, in violation of the articles of incorporation or agreement submitted pursuant to Article 9 (5);

(b) Where the owner of the certification mark right uses the certification mark for his/her goods or service business, in violation of the proviso to Article 3-3 (1);

(c) Where a person permitted to use the certification mark right allows another person to use it, in violation of the articles of incorporation or agreement, or where a person permitted to use it in contravention of

the articles of incorporation or agreement, which misleads consumers as to the origin, mode of production or other characteristics of goods or service business: Provided, That this shall not apply where the owner of the certification mark right has paid due attention to supervise the person permitted to use the certification mark;

(d) Where a third person who is not permitted to use the certification mark by the owner of the certification mark right uses such certification mark, which misleads consumers as to the origin, mode of production or other characteristics of goods or service business, and the owner of the certification mark right fails to take necessary measures intentionally;

(e) Where the owner of the certification mark right does not allow a person who carries on the business of producing, manufacturing, processing or selling goods that may use such certification mark or carries on a service business to use such certification mark by stating so in the articles of association or agreement without justifiable grounds or does not in effect allow the use by prescribing conditions for use that are impossible to be met in the articles of association or agreement.

(2) Deleted. *<by Act No. 5355, Aug. 22, 1997>*

(3) Where a cancellation trial is requested by a ground that it falls under paragraph (1) 3, if there are two or more designated goods of the registered trademark, a cancellation trial may be requested on some of the designated goods.

(4) Where a cancellation trial is requested by a ground that it falls under paragraph (1) 3, an owner of trademark right may not be exempted from the cancellation of the trademark registration as to the designated goods related to a request for cancellation trial, unless the defendant proves that he/she has used duly in the Republic of Korea the registered trademark on one or more designated goods related to a request for cancellation trial within three years before the date of trial request: Provided, That this shall not apply to cases where the defendant has proved a justifiable ground for not using it. *<Amended by Act No. 5355, Aug. 22, 1997>*

(5) After a cancellation trial is requested by a ground that it falls under paragraph (1) 2, 3, 5, 6, and 8 through 13,

even where the fact corresponding to the ground for the trial request ceases to exist, the ground for cancellation shall not be affected. *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 7290, Dec. 31, 2004; Act No. 11113, Dec. 2, 2011>*

(6) A cancellation trial under paragraph (1) may be requested by an interested party only: Provided, That a trial on any ground falling under paragraph (1) 2, 5, 6, or 8 through 13 may be requested by any person.

<Amended by Act No. 9987, Jan. 27, 2010; Act No. 11113, Dec. 2, 2011>

(7) When a trial decision that a trademark registration be cancelled becomes final and conclusive, the trademark right shall be extinguished from that time onward.

(8) Article 71 (5) shall apply mutatis mutandis to requests for trial referred to in paragraph (1). *<Amended by Act*

No. 5355, Aug. 22, 1997; Act No. 6765, Dec. 11, 2002>

Article 74 (Cancellation Trial on Registration of Exclusive or Non-Exclusive License)

(1) Where an exclusive or non-exclusive licensee commits an act falling under Article 73 (1) 8, a cancellation trial on registration of exclusive or non-exclusive license may be requested.

(2) After a cancellation trial on a registration of exclusive or non-exclusive license is requested under paragraph (1), even where the fact corresponding to the ground for the trial request ceases to exist, the ground for cancellation shall not be affected.

(3) Any person may request a trial on cancellation of exclusive or nonexclusive license under paragraph (1).

(4) Where a trial decision that the registration of exclusive or non-exclusive license be cancelled becomes final and conclusive, the exclusive or nonexclusive license shall be extinguished from that time onward.

(5) The presiding administrative patent judge shall, upon a request under paragraph (1), notify the effect of such request to a non-exclusive licensee on the exclusive license and other persons with registered rights related to the exclusive license, or to persons with registered rights related to the non-exclusive license.

Article 75 (Trial to Confirm Scope of Right)

An owner of the trademark right, exclusive licensee, or interested party may request a trial to confirm the scope of the trademark right for the purpose of confirming the scope of right to the registered trademark.

Article 76 (Period of Limitation)

- (1) An invalidation trial on a trademark registration, a registration for renewal of term of a trademark right, and a registration of the conversion of the classification of goods under Article 7 (1) 6 through 9-2 and 14, Articles 8, 72 (1) 2, and 72-2 (1) 3 may not be requested after five years from the registration date of the trademark, the registration date of the renewal of term of the trademark right, or the registration date of the conversion of the classification of goods. *<Amended by Act No. 4597, Dec. 10, 1993; Act No. 5355, Aug. 22, 1997; Act No. 6414, Feb. 3, 2001; Act No. 7290, Dec. 31, 2004>*
- (2) A cancellation trial on a trademark registration and on a registration of an exclusive or non-exclusive license under Articles 73 (1) 2, 5, 6, and 8 through 13 and 74 (1) may not be requested after three years from the date on which the alleged facts have ceased to exist. *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 7290, Dec. 31, 2004; Act No. 11113, Dec. 2, 2011>*

Article 77 (Request, etc. for Joint Trial)

- (1) Where two or more persons request an invalidation trial under Article 71 (1), 72 (1), or 72-2 (1), cancellation trial under Article 73 (1), cancellation trial on the registration of exclusive license or non-exclusive license under Article 74 (1), or trial to confirm scope of right under Article 75, they may severally or jointly request for a trial.
- (2) Where a trial is requested against the joint owners of a trademark right, all of the joint owners shall be made defendants.
- (3) Notwithstanding paragraph (1), the joint owners of a trademark right or a right to have a trademark registered request a trial for such right under joint ownership, the request shall be jointly made by all of the joint owners.
- (4) Where there occurs any event that leads to the suspension of trial procedures that apply to one of the requesters under paragraph (1) or (3) or one of the defendants under paragraph (2), the suspension shall be effective against all of them.

Article 77-2 (Method of Requesting Trials)

(1) Any person who intends to request a trial shall submit a request stating the following matters to the President of the Intellectual Property Tribunal:

1. The name and address of the parties (in cases of a corporation, referring to its title and location of its place of business);
2. The name, address, or place of business, if any, of an agent (if the agent is a patent corporation, its title and place of office and the name of its designated patent attorney);
3. The indication of the trial case;
4. The purpose of the request and the grounds therefor.

(2) No amendment to a written request for a trial submitted pursuant to paragraph (1) shall be made to its gist: Provided, That this shall not apply in any of the following cases:

1. Where an amendment (including an addition) is made to correct a statement of the owner of a trademark right among the parties referred to in paragraph (1) 1;
2. Where a ground for request under paragraph (1) 4 is amended;
3. At a trial requested by the owner of a trademark right or exclusive licensee to confirm the scope of right as a requester, where the trademark or the goods using the trademark subject to confirmation on the written request for a trial is amended by the requester in order to make it identical with the trademark or goods of the defendant, where the defendant insists that the trademark or goods subject to confirmation on the written request for a trial (referring to the defendant's trademark and goods using the trademark claimed by the requester) are different from the trademark or goods actually used by him/her.

(3) When a trial is requested to confirm the scope of right under Article 75, the sample of the relevant trademark that can be compared to the registered trademark as well as the list of goods using the trademark shall be attached to the written request.

Article 77-3 (Rejection of Request for Trial)

(1) The presiding administrative patent judge shall order an amendment specifying a period in any of the following cases:

1. Where a written request for a trial violates Article 77-2 (1) or (3) or 79 (1);
2. Where the procedure for the trial corresponds to any of the following:
 - (a) Where the procedure violates Article 5 (1) or 5-4;
 - (b) Where fees payable pursuant to Article 37 are not paid;
 - (c) Where the procedure does not conform to the formalities prescribed by this Act or an order under this Act.

(2) If a person ordered to make an amendment under paragraph (1) fails to do so within a specified period, the presiding administrative patent judge shall reject the written request for a trial by decision.

(3) The decision under paragraph (2) shall be made in written form and state the grounds therefor.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-4 (Rejection of Request for Trial containing Incurable Defects by Trial Decision)

When a request for a trial contains unlawful defects that cannot be amended, such request may be rejected by a trial decision without providing the defendant with an opportunity to submit a written response.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-5 (Administrative Patent Judges)

(1) When a trial is requested, the President of the Intellectual Property Tribunal shall require an administrative patent judge to hear the case.

(2) The qualifications of administrative patent judges shall be prescribed by Presidential Decree.

(3) Administrative patent judges shall conduct their official trial duties in an independent manner.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-6 (Designation of Administrative Patent Judges)

(1) For each trial, the President of the Intellectual Property Tribunal shall designate administrative patent judges

constituting a board for trials under Article 77-8.

- (2) If any administrative patent judge designated pursuant to paragraph (1) is unable to intervene in the trial, the President of the Intellectual Property Tribunal may require another administrative patent judge to do so.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-7 (Presiding Administrative Patent Judge)

- (1) The President of the Intellectual Property Tribunal shall designate one presiding administrative patent judge from among the administrative patent judges designated pursuant to Article 77-6 (1).
- (2) The presiding administrative patent judge shall preside over all affairs relating to the trial.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-8 (Board for Trial)

- (1) A trial shall be conducted by a board of three or five administrative patent judges.
- (2) The board under paragraph (1) shall make its decision by a majority vote.
- (3) The decision of a trial shall not be open to the public.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-9 (Submission, etc. of Written Responses)

- (1) When a trial is requested, the presiding administrative patent judge shall serve a copy of the written request on the respondent and provide him/her with an opportunity to submit a written response within a prescribed period.
- (2) In receipt of a written response under paragraph (1), the presiding administrative patent judge shall serve its copy on the requester.
- (3) The presiding administrative patent judge may examine the parties in relation to the trial.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-10 (Exclusion of Administrative Patent Judges)

An administrative patent judge who falls under in any of the following subparagraphs shall be excluded from intervening in a trial:

1. Where the administrative patent judge or his/her spouse or ex-spouse is a party of the case, intervenor or person raising an objection to a trademark registration;
2. Where the administrative patent judge is or was a relative of a party of the case, intervenor or person raising an objection to a trademark registration;
3. Where the administrative patent judge is or was a legal representative of a principal of the case, intervenor or person raising an objection to a trademark registration;
4. Where the administrative patent judge is a witness or appraiser for the relevant case or was an appraiser for the relevant case;
5. Where the administrative patent judge is a representative of a party of the case, intervenor or person raising an objection to a trademark registration or was in similar relationship;
6. Where the administrative patent judge has intervened as an examiner or administrative patent judge in a decision or trial decision concerning determination of a trademark registration or request for an objection to a trademark registration;
7. Where the administrative patent judge has a direct interest in the case.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-11 (Request for Exclusion)

If there exists a ground for exclusion as specified in Article 77-10, a party involved or intervenor may request exclusion of the relevant administrative patent judge.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-12 (Recusation of Administrative Patent Judges)

- (1) If it is impossible to expect fairness in trial from an administrative patent judge, a party involved or intervenor may request recusation of the administrative patent judge.
- (2) A party involved or intervenor shall not request recusation of an administrative patent judge after he/she makes a written or oral statement regarding the case to the administrative patent judge: Provided, That this shall not apply where he/she was not aware that there exists a ground for recusation or where the ground for

recusation arises thereafter.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-13 (Indication of Grounds for Exclusion or Recusation)

- (1) A person who intends to request exclusion or recusation pursuant to Article 77-11 or 77-12 shall submit a document stating the ground therefor to the President of the Intellectual Property Tribunal: Provided, That an oral request is allowed in oral proceedings.
- (2) The ground for exclusion or recusation shall be substantiated within three days from the date the request therefor is made.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-14 (Decision on Request for Exclusion or Recusation)

- (1) A decision on a request for exclusion or recusation shall be made by a trial.
- (2) No administrative patent judge subject to exclusion or recusation shall intervene in the trial for such exclusion or recusation: Provided, That he/she may state his/her opinion.
- (3) A decision under paragraph (1) shall be made in a written document stating the grounds therefor.
- (4) No appeal shall be made against a decision under paragraph (1).

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-15 (Suspension of Trial Procedures)

If a request for exclusion or recusation is made, the trial procedure shall be suspended until a decision is made on such request: Provided, That this shall not apply where urgency is required.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-16 (Avoidance of Administrative Patent Judges)

Where an administrative patent judge falls under Article 77-10 or 77-12, he/she may avoid the trial on the relevant case upon obtaining permission from the President of the Intellectual Property Tribunal.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-17 (Trial Proceedings, etc.)

- (1) A trial is conducted in oral proceedings or documentary proceedings: Provided, That where one of the parties has requested oral proceedings, oral proceedings shall be conducted, except where it is recognized that decision may be made only by documentary proceedings.
- (2) Oral proceedings shall be open to the public: Provided, That this shall not apply where public order or morality is likely to be injured hereby.
- (3) In conducting a trial in oral proceedings pursuant to paragraph (1), the presiding administrative patent judge shall determine the date and venue and serve the document stating the purpose thereof onto the parties and intervenors: Provided, That this shall not apply where the parties and intervenors are notified when attending the relevant case.
- (4) In conducting a trial in oral proceedings pursuant to paragraph (1), the presiding administrative patent judge shall require an employee designated by the President of the Intellectual Property Tribunal to prepare a protocol stating the gist of the proceeding and other necessary matters for each date of trial.
- (5) The presiding administrative patent judge and the employee who prepared a protocol under paragraph (4) shall sign and affix their seals thereto.
- (6) Articles 153, 154, and 156 through 160 of the Civil Procedure Act shall apply mutatis mutandis to the protocol referred to in paragraph (4).
- (7) Articles 143, 259, 299 and 367 of the Civil Procedure Act shall apply mutatis mutandis with regard to trials.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-18 (Intervention)

- (1) A person eligible to request a trial pursuant to Article 77 (1) may intervene in the trial until the trial proceedings are concluded.
- (2) An intervenor under paragraph (1) may continue the trial procedure even after the party for whose honor he/she intervened withdraws the request for the trial.
- (3) A person who has interest concerning the result of the trial may intervene in the trial until the trial proceedings are concluded in order to assist one side of the parties.

(4) An intervenor under paragraph (3) may take all trial procedures.

(5) If a ground for suspension of a trial procedure exists in relation to an intervenor under paragraph (1) or (3), such suspension shall also be effective against the party for whose honor he/she intervened.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-19 (Request for Intervention and Decision thereon)

(1) A person who intends to intervene in a trial shall submit a written application to the presiding administrative patent judge.

(2) Where a request for intervention is made, the presiding administrative patent judge shall serve a copy of the written application on the parties and other intervenors and provide them with an opportunity to submit written opinions within a prescribed period.

(3) Where a request for intervention is made, the decision thereon shall be decided by a trial.

(4) A decision under paragraph (3) shall be made in written documents stating the grounds therefor.

(5) No appeal shall be made against a decision under paragraph (3).

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-20 (Investigation and Preservation of Evidence)

(1) With respect to a trial, evidence may be investigated or preserved upon request of the party, intervenor or interested party, or ex officio.

(2) The provisions of the Civil Procedure Act relating to the investigation and preservation of evidence shall apply mutatis mutandis to the investigation and preservation of evidence under paragraph (1): Provided, That an administrative patent judge shall not decide to impose a fine for negligence, order compulsory appearance, or require the deposit of money as security.

(3) A request for preservation of evidence shall be made to the President of the Intellectual Property Tribunal prior to a request for trial and to the presiding administrative patent judge of the case while the trial is pending.

(4) If a request for preservation of evidence under paragraph (1) is made prior to a request for trial, the

President of the Intellectual Property Tribunal shall designate an administrative patent judge to intervene in the request for preservation of evidence.

- (5) When investigating or preserving evidence ex officio pursuant to paragraph (1), the presiding administrative patent judge shall serve the result on the parties, intervenors or interested parties and provide them with an opportunity to submit a written response within a prescribed period.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-21 (Continuation of Trials)

The presiding administrative patent judge may continue a trial even if the party or intervenor fails to take the procedures within a statutory period or designated period or fails to appear on the date prescribed in Article 77-17 (3).

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-22 (Ex Officio Trial Proceedings)

- (1) In a trial, trial proceedings may be held with regard to grounds that have not been pleaded by any of the parties or intervenors. In such cases, the party or intervenor shall be provided with an opportunity to state his/her opinion on such grounds within a prescribed period.
- (2) The purpose of a request that is not filed by the requester shall not be examined in a trial.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-23 (Joint or Separate Conduct of Trial Proceedings or Trial Decisions)

An administrative patent judge may conduct trial proceedings or make trial decisions, jointly or separately, with regard to two or more trial proceedings where one or both parties thereto are the same.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-24 (Withdrawal of Request for Trials)

- (1) A request for a trial may be withdrawn before the trial decision becomes final and conclusive: Provided, That the consent of the other party shall be obtained where a written response has been submitted.
- (2) When a request for invalidation trial under Article 71 (1), 72 (1) or 72-2 (1) is made with regard to two or

more designated goods, the request may be separately withdrawn for each of them.

- (3) Where a request for a trial is withdrawn pursuant to paragraph (1) or (2), the request or the request for such designated goods shall be deemed never made.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-25 (Trial Decisions)

- (1) Except as otherwise provided, a trial shall be concluded by a trial decision.
- (2) A trial decision under paragraph (1) shall be made in writing stating the following matters, and the administrative patent judges who have rendered the decision shall sign and affix their seals thereto:
1. The number of the trial;
 2. The names and addresses of the parties and intervenors (in cases of a corporation, its title and location of place of business);
 3. The name, address, or place of business, if any, of an agent (if the agent is a patent corporation, its title and place of office and the name of its designated patent attorney);
 4. The indication of the trial case;
 5. The text of the trial decision;
 6. The grounds for the trial decision (including the purport of the request and the gist of the grounds therefor);
 7. The date of the trial decision.
- (3) When a case has been thoroughly examined and is ready for a trial decision, the presiding administrative patent judge shall notify the parties and intervenors of the conclusion of the trial proceedings.
- (4) If deemed necessary, the presiding administrative patent judge may reopen trial proceedings upon request of one of the parties or intervenors, or ex officio, even after he/she has notified the closure of the conclusion of the trial proceedings pursuant to paragraph (3).
- (5) A trial decision shall be made within 20 days from the date on which the conclusion of the trial proceedings is notified pursuant to paragraph (3).

(6) When a trial decision or decision is made, the presiding administrative patent judge shall serve the certified copy thereof on the parties, intervenors and persons who have requested intervention in the trial, but have been rejected.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-26 (Prohibition against Double Jeopardy)

When a trial decision under this Act has become final and conclusive, no person shall request a trial as to the case on the basis of the same facts and evidence: Provided, That this shall not apply where a trial decision that has become final and conclusive is a decision of rejection.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-27 (Relations to Litigation)

(1) If necessary for a trial, the presiding administrative patent judge may suspend the trial procedure until a trial decision for another trial related to the trial case becomes final and conclusive or until the litigation procedures are completed.

(2) If necessary for litigation procedures, the court may suspend the litigation procedures until a trial decision on the trademark becomes final and conclusive.

(3) Where an action is brought as to the infringement of trademark right or exclusive license, the court shall notify the President of the Intellectual Property Tribunal of the purpose thereof. This shall also apply where the litigation procedures are terminated.

(4) Where a request for invalidation trial, etc. on a trademark right is made in response to an action brought as to the infringement a trademark right or exclusive license under paragraph (3), the President of the Intellectual Property Tribunal shall notify the court under paragraph (3) of the purpose thereof. This shall also apply where the written request for a trial is rejected, a trial decision is made, or a request is withdrawn.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-28 (Costs of Trial)

(1) The bearing of trial costs under Articles 71 (1), 72 (1), 72-2 (1), 73 (1), 74 (1) and 75 shall be decided by a

trial decision where the trial is concluded by a trial decision, or by a decision where the trial is concluded in a manner, other than by a trial decision.

- (2) Articles 98 through 103, 107 (1) and (2), 108, 111, 112 and 116 of the Civil Procedure Act shall apply mutatis mutandis to the trial costs referred to in paragraph (1).
- (3) The trial costs referred to in Articles 70-2 and 70-3 shall be borne by the requester.
- (4) Article 102 of the Civil Procedure Act shall apply mutatis mutandis to the costs to be borne by the requester pursuant to paragraph (3).
- (5) The amount of trial costs shall be determined by the President of the Intellectual Property Tribunal after a trial decision or decision becomes final and conclusive, upon the request of the party concerned.
- (6) The extent, amount and payment of trial costs and the payment of costs incurred in conducting procedural acts in a trial shall be governed by the corresponding provisions of the Costs of Civil Procedure Act, unless they are incompatible.
- (7) The fees paid or to be paid by the party concerned to the patent attorney who has represented the party concerned in a trial shall be deemed to be trial costs within the extent of the costs prescribed by the Commissioner of the Korean Intellectual Property Office. In such cases, one patent attorney shall be deemed to have represented the party concerned even where two or more patent attorneys represented in the trial.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 77-29 (Title of Enforcement on Trial Costs)

A decision that has become final and conclusive in relation to the trial costs determined by the President of the Intellectual Property Tribunal pursuant to this Act shall have the same force and effect as an enforceable title of enforcement. In such cases, the enforceable original copy shall be provided by a public official under the jurisdiction of the Intellectual Property Tribunal.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 78 Deleted. *<by Act No. 4895, Jan. 5, 1995>*

Article 79 (Formal Requirements of Request for Trial on Decision of Rejection or Decision to Dismiss Amendment)

(1) Any person who requests a trial on the decision of rejection under Article 70-2 or a trial on a decision to dismiss an amendment under Article 70-3 shall submit to the President of the Intellectual Property Tribunal a written request for trial specifying the following matters: *<Amended by Act No. 4895, Jan. 5, 1995; Act No. 6414, Feb. 3, 2001>*

1. The name and address of the requester (in cases of a corporation, its title and place of business);
- 1-2. The name, address, or place of business, if any, of an agent (if the agent is a patent corporation, its title, place of office, and the name of the designated patent attorney);
2. The filing date and the application number;
3. The designated goods and the classification thereof;
4. The date of examiner's decision of rejection or ruling decision to dismiss an amendment;
5. The indication of the trial case;
6. The purpose and grounds for the request;
7. Deleted. *<by Act No. 6414, Feb. 3, 2001>*

(2) No amendment to the request for a trial submitted pursuant to paragraph (1) shall be made to the gist thereof: Provided, That this shall not apply where it falls under any of the following cases: *<Newly Inserted by Act No. 11113, Dec. 2, 2011>*

1. Where an amendment (including an addition) is made to correct records written by the requester under paragraph (1) 1;
2. Where a ground for request under paragraph (1) 6 is amended.

(3) Where a trial on the decision of rejection under Article 70-2 is requested, and where such decision of rejection is based on the acceptance of an objection to the trademark registration, the President of the Intellectual Property Tribunal shall notify the effect thereof to the applicant. *<Amended by Act No. 4895, Jan. 5, 1995; Act No. 6414, Feb. 3, 2001; Act No. 11113, Dec. 2, 2011>*

Article 80 Deleted. *<by Act No. 4895, Jan. 5, 1995>*

Article 81 (Mutatis Mutandis Application of Provisions concerning Examination to Trial on Decision of Rejection)

(1) Articles 15, 17, 18, 23 (2), 24, 24-2, 24-3, 25 through 30, 46-4 (2) and 48 (2) shall apply mutatis mutandis to trials on decision of rejection. In such cases, Article 24 shall not apply mutatis mutandis to cases where an application for trademark registration or additional registration of designated goods has already been published. *<Amended by Act No. 9987, Jan. 27, 2010>*

(2) Where Article 17 is applicable mutatis mutandis under paragraph (1), "if any applicant requests a trial on a decision to dismiss an amendment under Article 70-3" in Article 17 (3) shall be construed as "if an action is brought under Article 85-3 (1)", and "until the trial decision becomes final and conclusive" shall be construed as "until the judgement becomes final and conclusive". *<Amended by Act No. 4895, Jan. 5, 1995; Act No. 8190, Jan. 3, 2007; Act No. 11113, Dec. 2, 2011>*

(3) Articles 17 (4) through (6), 23 (2), 46-4 (2) and 48 (2) applicable mutatis mutandis under paragraph (1) shall apply mutatis mutandis to cases where the grounds for decision of rejection and other grounds for rejection are found. *<Amended by Act No. 9987, Jan. 27, 2010>*

Article 82 (Special Provisions for Trial on Decision of Rejection or Decision to Dismiss Amendment)

Articles 77-9 (1) and (2), 77-18 and 77-19 shall not apply to trials on decision of rejection under Article 70-2 and trials on a decision to dismiss an amendment under Article 70-3.

[This Article Wholly Amended by Act No. 11113, Dec. 2, 2011]

Article 82-2 (Effect of Examination or Procedures to Raise Objection to Trademark Registration)

Procedures taken in examination or request to raise an objection to a trademark registration shall also be binding upon any decision to reject a trademark registration, application to register the renewal of the term of a trademark right, application for additional registration of designated goods, and decision on rejection of application for registration for conversion of the goods classification.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 82-3 (Revocation of Decision to Reject Trademark Registration, etc.)

- (1) Where a trial under Article 70-2 or 70-3 is requested, if an administrative patent judge deems that the request has a reasonable ground, he/she shall revoke the decision of rejection or decision to dismiss the amendment by a trial decision.
- (2) Where a decision of rejection or decision to dismiss an amendment is revoked in a trial, a trial decision may be rendered that the case will be subject to an examination.
- (3) The grounds for revocation in a trial decision under paragraphs (1) and (2) shall bind an examiner in regard to the case.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

CHAPTER VIII RETRIAL AND LITIGATION

Article 83 (Request for Retrial)

- (1) Any party may request a retrial on a trial decision which has become final and conclusive.
- (2) Articles 451, 453 and 459 (1) of the Civil Procedure Act shall apply mutatis mutandis to requests for retrial under paragraph (1). *<Amended by Act No. 6626, Jan. 26, 2002; Act No. 8190, Jan. 3, 2007; Act No. 11113, Dec. 2, 2011>*

Article 84 (Request for Retrial on Fraudulent Trial Decision)

- (1) If the parties to a trial have a trial decision made for the purpose of fraudulently injuring the right or interest of the third person in conspiracy with each other, the third person may request a retrial on the final and conclusive trial decision. *<Amended by Act No. 4895, Jan. 5, 1995>*
- (2) In cases of request for retrial as referred to in paragraph (1), the parties to a trial shall be joint defendants. *<Amended by Act No. 4895, Jan. 5, 1995>*

Article 84-2 (Period of Request for Retrial)

- (1) A party shall request a retrial within 30 days from the date he/she learns the grounds for a retrial after the trial decision becomes final and conclusive.

- (2) Where a retrial is requested on grounds that the power of attorney is defective, the period referred to in paragraph (1) shall be calculated from the day following the date on which the requester or legal representative learns about the trial decision by service of a certified copy of the trial decision.
- (3) No request for a retrial shall be made when three years have passed from the date the trial decision becomes final and conclusive.
- (4) When grounds for a retrial arise after a trial decision becomes final and conclusive, the period referred to in paragraph (3) shall be calculated from the day following the date on which such grounds arose.
- (5) Paragraphs (1) and (3) shall not apply where a request for a retrial made on the ground that the trial decision is incompatible with an earlier trial decision that became final and conclusive.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 85 (Restriction on Effect of Trademark Right Restored by Retrial)

In cases falling under any of the following subparagraphs, no effect of trademark right shall extend to any act using in good faith a trademark identical with the registered trademark on any goods identical with the designated goods after the trial decision becomes final and conclusive and before the request for retrial is registered and to any act falling under any subparagraph of Article 66 (1) or (2): *<Amended by Act No. 7290, Dec. 31, 2004>*

1. Where, after a trademark registration or registration for the renewal of term of a trademark right is invalidated, its effect is restored by the retrial;
2. Where, after a trademark registration is cancelled, its effect is restored by the retrial;
3. Where, after a trial decision that it is not included in the scope of the trademark right becomes final and conclusive, a trial decision contrary to it becomes final and conclusive by the retrial.

Article 85-2 (Mutatis Mutandis Application of Trial Provisions in Retrial)

In regard to the procedures of retrial for a trial, the provisions concerning the procedures for a trial shall apply mutatis mutandis, unless they are incompatible.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 85-3 (Action against Trial Decision, etc.)

- (1) The Patent Court shall have exclusive original jurisdiction over any action against a trial decision, a decision to dismiss an amendment under Article 17 (1) applied mutatis mutandis under Article 81 (1) (including cases as applicable mutatis mutandis in Article 85-2), and a decision to dismiss a written request for a trial or retrial.
- (2) An action under paragraph (1) shall be brought only by the party concerned, intervenor, or person who has requested to intervene in the relevant trial or retrial, but such request has been rejected.
- (3) An action under paragraph (1) shall be brought within 30 days from the date on which a relevant person is served a certified copy of a trial decision or decision.
- (4) The period referred to in paragraph (3) shall be invariable.
- (5) For persons whose address or place of residence is far away or who live in areas with poor transportation service, the presiding administrative patent judge may, ex officio, determine an additional period for the invariable period set forth in paragraph (3).
- (6) No action may be brought unless it relates to matters for which a trial may be requested.
- (7) No action under paragraph (1) on a trial decision or decision on trial costs under Article 77-28 (1) may be brought independently.
- (8) Appeals may be filed with the Supreme Court in regard to rulings of the Patent Court under paragraph (1).

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 85-4 (Qualification for Defendants)

In an action under Article 85-3 (1), the Commissioner of the Korean Intellectual Property Office shall be the defendant: Provided, That in an action against a trial decision under Articles 71 (1), 72 (1), 72-2 (1), 73 (1) and (3), 74 (1) and 75 or retrial thereof, the requester or respondent shall become the defendant.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 85-5 (Notification of Institution of Action and Service of Original Copy of Judgment)

- (1) When an action instituted under Article 85-3 (1) or an appeal is filed under Article 85-3 (8), the court shall, without delay, notify the President of the Intellectual Property Tribunal of the purpose thereof.

(2) When the litigation procedures are completed in regard to an action instituted under the proviso to Article 85-4, the court shall, without delay, serve the President of the Intellectual Property Tribunal with the original copy of the judgment of each level of court concerning the case.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 85-6 (Revocation of Trial Decision or Decision)

(1) Where the court deems that an action brought under Article 85-3 (1) is well-grounded, the court shall revoke the relevant trial decision or decision by judgement.

(2) Where the revocation of a trial decision or decision becomes final and conclusive, an administrative patent judge shall conduct trial proceeding again and make a trial decision or ruling.

(3) The reasons for a judgment on an action under paragraph (1) that constitute that basis for the revocation shall bind the Intellectual Property Tribunal with respect to the case concerned.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 85-7 (Remuneration for Patent Attorneys and Costs of Litigation)

Article 109 of the Civil Procedure Act shall mutatis mutandis to the remuneration for patent attorneys who provide representation in litigations. In such cases, "attorney" shall be construed as "patent attorney."

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 86 Deleted. <by Act No. 11113, Dec. 2, 2011>

CHAPTER VIII-2 INTERNATIONAL APPLICATION UNDER PROTOCOL

SECTION 1 International Application, etc.

Article 86-2 (International Application)

Any person who desires to obtain an international registration (hereinafter referred to as "international registration") as referred to in Article 2 (1) of the Protocol shall file with the Commissioner of the Korean Intellectual Property Office an international application on the basis of a registered trademark or an

application for trademark registration that falls under any of the following subparagraphs:

1. The applicant's application for trademark registration;
2. The applicant's trademark registration;
3. The applicant's application for trademark registration and the applicant's trademark registration.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-3 (Qualifications for Applicants)

(1) Any person who may file an international application with the Commissioner of the Korean Intellectual Property Office shall be as follows:

1. A national of the Republic of Korea;
2. A person who has an address (in cases of a corporation, its place of business) in the Republic of Korea.

(2) Where two or more persons intend to file a joint international application, they shall meet the qualifications for applicants prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 8852, Feb. 29, 2008>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-4 (Procedure for International Application)

(1) Any person desiring to file an international application shall submit to the Commissioner of the Korean Intellectual Property Office a request for an international application (hereinafter referred to as "international application") and the documents necessary for an international application, which are to be prepared in a language prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 8852, Feb. 29, 2008>*

(2) The following particulars shall be indicated in an international application: *<Amended by Act No. 8852, Feb. 29, 2008>*

1. The name and address of the applicant (in cases of a corporation, its title and the location of its place of business);
2. Matters relevant to the qualifications for applicants under Article 86-3;

3. The names of the contracting states (including inter-governmental organizations; hereinafter referred to as "designated state") where protection of the trademark is desired;
 4. The filing date and the application number of the basic application under Article 2 (1) of the Protocol (hereinafter referred to as "basic application") or the registration date and the registration number of the basic registration under Article 2 (1) of the Protocol (hereinafter referred to as "basic registration");
 5. The trademark for which international registration is being sought;
 6. The goods and the classification of goods for which international registration is being sought;
 7. The particulars prescribed by Ordinance of the Ministry of Knowledge Economy.
- (3) Where a person desiring to file an international application falls under any of the following cases, he/she shall enter each of the matters set forth in the subparagraphs of paragraph (2) in a written form for international application, together with the matters prescribed in the corresponding subparagraph: *<Amended by Act No. 11113, Dec. 2, 2011>*
1. Where he/she intends to claim colors as an identifiable element of the trademark: The purpose thereof and colors or the combination of colors;
 2. Where the mark constituting the basis of application is a three-dimensional shape as specified in Article 2 (1) 1 (a) or a mark falling under Article 2 (1) 1 (b): The purpose and explanation under Article 9 (2) (excluding explanation in cases of three-dimensional shapes);
 3. Where the mark constituting the basis of application is a mark falling under Article 2 (1) 1 (c): The purpose and explanation under Article 9 (3) and visual expression;
 4. Where the mark constituting the basis of application is a geographical collective mark: The purpose.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-5 (Examination, etc. of Particulars in International Application)

- (1) Where the particulars entered in an international application correspond to the particulars entered in the basic application or the basic registration, the Commissioner of the Korean Intellectual Property Office shall indicate an acknowledgement of the correspondence and the date of receipt of the international application

in the international application.

- (2) After indicating the date of receipt, etc. under paragraph (1), the Commissioner of the Korean Intellectual Property Office shall transmit the international application and the documents necessary for the international application to the International Bureau under Article 2 (1) of the Protocol (hereinafter referred to as the "International Bureau") and a copy of the international application to the applicant.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-6 (Subsequent Designation)

- (1) A holder of an international registration who desires to extend protection of an internationally registered trademark by subsequently designating additional states or inter-governmental organizations (hereinafter referred to as "subsequent designation") may request a subsequent designation from the Commissioner of the Korean Intellectual Property Office, as prescribed by Ordinance of the Ministry of Knowledge Economy.

<Amended by Act No. 8852, Feb. 29, 2008>

- (2) In the application of paragraph (1), a holder of an international registration may subsequently designate all or some of the internationally registered and designated goods.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-7 (Renewal of Term)

- (1) A holder of an international registration may renew the term of an international registration in the unit of ten years.

- (2) Any person who desires to renew the term of an international registration under paragraph (1) may request the renewal of the term of international registration to the Commissioner of the Korean Intellectual Property Office, as prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 8852, Feb. 29,*

2008>

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-8 (Change of Record in Ownership of International Registration)

- (1) A holder of an international registration or his/her successor may record a change in the ownership of an

international registration with regard to all or some of the designated goods or the designated states.

(2) A person who desires to record a change in the ownership of an international registration under paragraph (1) may file a request for record of a change of ownership of an international registration with the Commissioner of the Korean Intellectual Property Office, as prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 8852, Feb. 29, 2008>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-9 (Payment of Official Fees)

(1) Any person who falls under any of the following subparagraphs shall pay an official fee to the Commissioner of the Korean Intellectual Property Office:

1. A person who desires to file an international application;
2. A person who desires to request a subsequent designation;
3. A person who desires to request the renewal of the term of an international registration under Article 86-7;
4. A person who desires to request the record of a change in the ownership of an international registration under Article 86-8.

(2) Matters necessary for official fees, the payment methods and period thereof under paragraph (1) shall be prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 8852, Feb. 29, 2008>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-10 (Correction for Unpaid Official Fees)

Where a person who falls under any subparagraph of Article 86-9 (1) fails to pay an official fee required under Article 86-9 (2), the Commissioner of the Korean Intellectual Property Office may order him/her to correct it within a designated deadline.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-11 (Invalidation of Procedure)

Where a person who has been ordered to make correction under Article 86-10 fails to pay an official fee within the designated deadline, the Commissioner of the Korean Intellectual Property Office may invalidate

the said procedure.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-12 (Registration of Change in Particulars of International Registration, etc.)

Matters necessary for a request for registration of a change into the particulars of an international registration or other international applications shall be prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 8852, Feb. 29, 2008>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-13 (Exclusion for Business Emblem)

The provisions of Articles 86-2 through 86-12 shall not apply to business emblems.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

SECTION 2 Special Cases on Application for International Trademark Registration

Article 86-14 (Application for International Trademark Registration)

- (1) An international application that has been registered internationally under the Protocol and that designates the Republic of Korea as a designated state (including subsequent designation) shall be deemed an application for trademark registration under this Act.
- (2) In the application of paragraph (1), the date of international registration under Article 3 (4) of the Protocol (hereinafter referred to as "date of international registration") shall be deemed the filing date of application for trademark registration under this Act: Provided, That in cases of an international application that subsequently designates the Republic of Korea, the date on which the subsequent designation is recorded in the International Register (referring to the International Register under Article 2 (1) of the Protocol; hereinafter the same shall apply) (hereinafter referred to as "date of subsequent designation") shall be deemed the filing date of the application for trademark registration under this Act.
- (3) In the event that an international application is deemed an application for trademark registration under this Act pursuant to paragraph (1) (hereinafter referred to as "application for international trademark registration"),

the name and address of the owner of the international registration (in cases of a corporation, its title and the location of its place of business), the trademark, the designated goods and the classifications thereof that are recorded in the International Register shall be deemed the name and address of the applicant (in cases of a corporation, its title and the location of its place of business), the trademark, the designated goods and the classifications thereof, respectively, under this Act.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-15 (Special Cases for Business Emblem)

The provisions for business emblems shall not apply to applications for international trademark registration.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-16 (Special Cases for Application for International Trademark Registration)

- (1) In applying this Act to an application for international trademark registration, the purport of the priority claim, the name of the country in which the application was initially filed, and the filing date of the application recorded in the International Register shall be deemed the purport of the priority claim, the name of the country in which the application was initially filed, and the filing date of the application that are indicated in the application for trademark registration.
- (2) In applying this Act to an application for international trademark registration, the purport of a trademark that is featured by thea three-dimensional shape registered on the International Register and is falling under Article 2 (1) 1 (b) or (c) shall be deemed the purport of the trademark that is featured by the three-dimensional shape entered in the application filed for registering the trademark and falling under Article 2 (1) 1 (b) or (c). *<Amended by Act No. 8190, Jan. 3, 2007; Act No. 11113, Dec. 2, 2011>*
- (3) A person intending to have a collective mark registered shall submit the documents set forth in Article 9 (4), and a person intending to have a certification mark registered, the documents set forth in Article 9 (5), within any period prescribed by Ordinance of the Ministry of Knowledge Economy. In such cases, a person intending to have a geographical collective mark registered shall also submit the document stating the purport thereof and the document proving that such mark corresponds to the definition of geographical

indication under Article 2 (1) 3-2 prescribed by Presidential Decree. <Amended by Act No. 11113, Dec. 2, 2011>

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-17 (Effect of Application for International Trademark Registration where Domestic Trademark has been Registered)

- (1) Where an owner of trademark right, the establishment of which has been registered in the Republic of Korea (excluding trademarks registered by means of an application for international trademark registration; hereafter referred to as "domestically registered trademark" in this Article) files an application for international trademark registration, if all of the following subparagraphs are fulfilled, the application for international trademark registration shall be deemed to be filed on the filing date of the application for trademark registration that corresponds to the said domestically registered trademark and be deemed to be within the overlapping scope of designated goods:
1. The trademark registered under the application for international trademark registration in the International Register (hereinafter referred to as "internationally registered trademark") shall be identical to the domestically registered trademark;
 2. The holder of the internationally registered trademark shall be identical to the owner of the domestically registered trademark;
 3. All designated goods of the domestically registered trademark shall be included as designated goods of the internationally registered trademark;
 4. Territorial extension under Article 3-3 of the Protocol shall be effective after the registration date of the domestically registered trademark.
- (2) Where the priority under the treaty for the application for trademark registration related to the domestically registered trademark under paragraph (1) is recognized, the priority shall also be recognized with regard to the application for international trademark registration under the same paragraph.
- (3) Where the right of the domestically registered trademark is cancelled or extinguished due to a reason falling under any of the following subparagraphs, the effect of the relevant application for international trademark

registration under paragraphs (1) and (2) shall not be recognized within the same scope of the designated goods of the cancelled or extinguished trademark right: *<Amended by Act No. 7290, Dec. 31, 2004; Act No. 11113, Dec. 2, 2011>*

1. Where a trial decision canceling the trademark registration by a reason of falling under Article 73 (1) 2, 3, and 5 through 13 has become final and conclusive;
2. Where a trial for the cancellation of a trademark registration is requested by a reason of falling under Article 73 (1) 2, 3, and 5 through 13, and the trademark right has become extinguished due to the expiration of the trademark term or some of the trademark rights or designated goods have been abandoned after the request date of the trial for cancellation.

(4) Anyone who intends to file an application pursuant to the provisions of Article 4-2 (2) of the Protocol shall file with the Commissioner of the Korean Intellectual Property Office an application in which the following matters are entered: *<Newly Inserted by Act No. 8190, Jan. 3, 2007; Act No. 8852, Feb. 29, 2008>*

1. The name and domicile of the holder of the internationally registered trademark (in cases of a corporation, its title and the location of its place of business);
2. The number of his/her international registration;
3. The number of his/her registered trademark in the Republic of Korea;
4. The overlapping designated goods;
5. Other matters prescribed by Ordinance of the Ministry of Knowledge Economy.

(5) Every examiner shall, upon receiving an application filed for registering the international trademark pursuant to the provisions of paragraph (4), notify the applicant as to whether to recognize its effects referred to in the provisions of paragraphs (1) through (3). *<Newly Inserted by Act No. 8190, Jan. 3, 2007>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-18 (Special Cases for Succession and Divided Transfer, etc. of Application)

(1) In applying Article 12 (1) to applications for international trademark registration, "an applicant makes a notice

of change of applicant, except in cases of inheritance and other general succession" shall be construed as "an applicant reports the change of the name of the applicant to the International Bureau".

(2) Where all or some of the designated goods of international registration have been divided and transferred by the change in name of the international registration, each application for international trademark registration shall be deemed to have been filed by each changed holder of the name.

(3) The provisions of Article 12 (4) shall not apply to applications for international trademark registration.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-19 (Special Cases for Amendment)

(1) In applying Article 14 (1) to applications for international trademark registration, "designated goods and trademark as to an application for trademark registration" shall be construed as "designated goods as to an application for trademark registration only when the applicant has been notified of the grounds for rejection under Article 23 (2)".

(2) In applying Article 15 to applications for international trademark registration, "designated goods and trademark" shall be construed as "designated goods".

(3) The provisions of Article 16 (1) 4 shall not apply to applications for international trademark registration.

(4) In applying Article 16 (2) or (3) to applications for international trademark registration, "trademark or designated goods" shall be construed as "designated goods", respectively.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-20 (Special Cases for Division of Applications)

The provisions of Article 18 shall not apply to applications for international trademark registration.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-21 (Special Cases for Conversion of Applications)

The provisions of Article 19 (1) through (4) shall not apply to applications for international trademark registration.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-22 (Special Cases for Priority Claim under Paris Convention)

Article 20 (4) and (5) shall not apply to cases where an applicant for an international trademark registration claims priority under the Paris Convention.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-23 (Special Cases for Time of Application and Accelerated Examination)

(1) In applying Article 21 (2) to applications for international trademark registration, "submit a written statement stating such purport to the Commissioner of the Korean Intellectual Property Office, together with the application for trademark registration, and submit a document proving the relevant facts to the Commissioner of the Korean Intellectual Property Office within 30 days from the filing date of application for trademark registration" shall be construed as "submit a written statement stating purport of such intention and a document proving the relevant facts within the deadline prescribed by Ordinance of the Ministry of Knowledge Economy". *<Amended by Act No. 8852, Feb. 29, 2008>*

(2) Article 22-4 (2) shall not apply to applications for international trademark registration. *<Newly Inserted by Act No. 9987, Jan. 27, 2010>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-24 (Special Cases for Notification of Grounds for Rejection)

In applying Article 23 (2) to applications for international trademark registration, "to the applicant" shall be construed as "to the applicant through the International Bureau".

[This Article Newly Inserted by Act No. 8190, Jan. 3, 2007]

Article 86-25 (Special Cases for Publication of Application)

In applying Article 24 (1) to applications for international trademark registration, "fails to find any ground for rejecting" shall be construed as "fails to find any ground for rejecting within the deadline prescribed by Ordinance of the Ministry of Knowledge Economy". *<Amended by Act No. 8852, Feb. 29, 2008>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-26 (Special Cases for Right to Demand Compensation for Loss)

In applying the proviso to Article 24-2 (1) to applications for international trademark registration, "a copy of the said application for trademark registration" shall be construed as "a copy of the relevant application for international trademark registration".

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-27 (Special Cases for Decision of Trademark Registration and Amendment Ex Officio)

(1) In applying Article 30 to applications for international trademark registration, "cannot find any grounds for rejecting" shall be construed as "cannot find any grounds for rejecting within the deadline prescribed by Ordinance of the Ministry of Knowledge Economy". *<Amended by Act No. 8852, Feb. 29, 2008>*

(2) Article 24-3 shall not apply to applications for international trademark registration. *<Newly Inserted by Act No. 9987, Jan. 27, 2010>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-28 (Special Cases for Trademark Registration Fees, etc.)

(1) Any person desiring to file an application for international trademark registration or to renew the term of a trademark right the establishment of which has been registered under Article 86-31 (hereinafter referred to as "trademark right based on an international registration") shall pay an individual fee prescribed by Article 8 (7) (a) of the Protocol to the International Bureau.

(2) Matters necessary for the payment of individual fees under paragraph (1) shall be prescribed by Ordinance of the Ministry of Knowledge Economy. *<Amended by Act No. 8852, Feb. 29, 2008>*

(3) The provisions of Articles 34, 34-2, 35, 36, 36-2 and 36-3 shall not apply to applications for international trademark registrations or to trademark rights based on an international registration. *<Amended by Act No. 8190, Jan. 3, 2007>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-29 (Special Cases for Refund of Trademark Registration Fees, etc.)

In applying the main sentence of Article 38 (1) to applications for international trademark registration, "trademark registration fees and official fees already paid" shall be construed as "fees already paid", and in

applying the proviso to Article 38 (1), and Article 38 (2) and (3), "trademark registration fees and official fees" shall be construed as "official fees".

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-30 (Special Cases for Registration in Trademark Register)

- (1) In applying Article 39 (1) 1 to trademark rights based on the international registration, "establishment, transfer, modification, extinguishment, renewal of term, conversion of the classification of goods under Article 46-2, additional registration of designated goods, or restriction on disposal, of a trademark right" shall be construed as "establishment or restriction on disposal of a trademark right".
- (2) The transfer, modification, extinguishment, or renewal of term of trademark right based on an international registration shall be based on the registration of the International Register.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-31 (Special Cases for Registration of Establishment of Trademark Right)

In applying Article 41 (2) to applications for international trademark registration, "where trademark registration fees (referring to the first installment of trademark registration fees if payment is made in installments under the latter part of Article 34 (1); hereafter the same shall apply in this paragraph) are paid in accordance with Article 34 (1) or 35, where the remainder of trademark registration fees are paid in accordance with Article 36-2 (2), or where trademark registration fees are paid or the remainder payment is made in accordance with Article 36-3 (1)" shall be construed as "when a decision to register a trademark has been rendered".

[This Article Wholly Amended by Act No. 9987, Jan. 27, 2010]

Article 86-32 (Special Cases for Term, etc. of Trademark Rights)

- (1) The term of the trademark rights based on the international registration shall be from the date of registration of its establishment under Article 86-31 to ten years from the date of the international registration.
- (2) The term of the trademark rights based on the international registration may be renewed in the unit of ten years upon renewal of the term of the international registration.

(3) Where the term of the trademark rights based on the international registration has been renewed under paragraph (2), the term of the trademark right based on the international registration shall be deemed to have been renewed at the time of expiration of the said term.

(4) Articles 42, 43, 46, 46-2, 46-4, 46-5, 49 (1) and (2) and 64-2 shall not apply to trademark rights based on the international registration. *<Amended by Act No. 9987, Jan. 27, 2010>*

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-33 (Special Cases for Application for Additional Registration of Designated Goods)

Articles 47, 48, and 49 (3) shall not apply to applications for international trademark registration or to trademark rights based on international registration.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-34 (Special Cases for Division of Trademark Right)

The provisions of Article 54-2 shall not apply to trademark rights based on international registration.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-35 (Special Cases for Effects of Trademark Right Registration)

(1) The transfer, modification, extinguishment by abandonment or renewal of a term of trademark rights based on international registration shall be of no effect unless it is recorded in the International Register.

(2) The provisions of Article 56 (1) 1 (excluding the part relating to the restriction on disposal) shall not apply to trademark rights based on international registration.

(3) In applying Article 56 (2) to trademark rights based on international registration, "trademark right and exclusive license" shall be construed as "exclusive license".

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-36 (Effects of Extinguishment of International Registration)

(1) Where all or part of an international registration on which an international trademark application is based has been extinguished, the application for international trademark registration shall be deemed to have been withdrawn to the extent of which all or some of the designated goods have been extinguished.

(2) Where all or part of an international registration on which an international trademark application is based has been extinguished, the trademark right shall be deemed to have been extinguished to the extent of which all or some of the designated goods have been extinguished.

(3) The effects of withdrawal or extinguishment under paragraph (1) or (2) shall enter into force from the date on which the international registration in the International Register has been extinguished.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-37 (Special Cases for Abandonment of Trademark Right)

(1) The provisions of Article 60 (1) shall not apply to trademark rights based on international registration.

(2) In applying Article 61 to trademark rights based on international registration, "trademark right and exclusive license" shall be construed as "exclusive license".

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-38 (Special Cases for Invalidation Trial of Registration for Renewal of Term of Trademark Right)

The provisions of Articles 72 and 72-2 shall not apply to trademark rights based on international registration.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

SECTION 3 Special Cases for Application for Trademark Registration

Article 86-39 (Special Cases for Applications for Trademark Registration after Extinguishment of International Registration)

(1) Where an international trademark registration designating (including subsequent designations) the Republic of Korea has expired with respect to all or some of the designated goods under Article 6 (4) of the Protocol, the holder of said international registration may file an application for trademark registration with the Commissioner of the Korean Intellectual Property Office for all or some of said designated goods.

(2) Where an application for trademark registration under paragraph (1) fulfills all the requirements of the following subparagraphs, the application shall be deemed to have been filed on the date of the international registration (in cases of a subsequent designation, the date of said subsequent designation):

1. The application for trademark registration under paragraph (1) shall be filed within three months from the extinguishment date of international registration under the same paragraph;
2. The designated goods of the application for trademark registration under paragraph (1) shall be among the designated goods contained in the international registration under the same paragraph;
3. The trademark for which a trademark registration is being sought shall be identical to the trademark of the extinguished international registration.

(3) Where a right of priority is recognized under a treaty for an application for international trademark registration that is filed in connection with an international registration under paragraph (1), the said right of priority shall be recognized for the application for the trademark registration under the same paragraph.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-40 (Special Cases for Application for Trademark Registration after Denunciation of Protocol)

- (1) Where a holder of the international registration designating (including subsequent designations) the Republic of Korea is no longer qualified to file an international application under Article 15 (5) (b) of the Protocol, the holder of the said international registration may file an application for trademark registration to the Commissioner of the Korean Intellectual Property Office with respect to all or some of the designated goods of the international registration.
- (2) Article 86-39 (2) and (3) shall apply mutatis mutandis to applications for trademark registration under paragraph (1). In such cases, "within three months from the extinguishment date of international registration under the same paragraph" in Article 86-39 (2) 1 shall be construed as "within two years from the date on which the denunciation under Article 15 (3) of the Protocol became effective".

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-41 (Special Cases for Examination)

The provisions of Articles 23, 24, and 25 through 29 shall not apply to cases where an application for trademark registration that falls under any of the following subparagraphs (hereinafter referred to as "reapplication") is filed for a registered trademark of the principal, the establishment of which has been

registered under Article 86-31:

1. An application for trademark registration that fulfills all the requirements of the subparagraphs of Article 86-39 (2) and is filed under Article 86-39 (1);
2. An application for trademark registration that fulfills all the requirements of the subparagraphs of Article 86-39 (2), which applies mutatis mutandis to Article 86-40 (2), and is filed under Article 86-40 (1).

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

Article 86-42 (Special Cases for Period of Limitation)

Where the establishment of a trademark has been registered by re-application and the period of limitation under Article 76 (1) for the previous trademark right based on the international registration has expired, an invalidation trial against the trademark, the establishment of which has been registered by re-application, may not be requested.

[This Article Newly Inserted by Act No. 6414, Feb. 3, 2001]

CHAPTER IX SUPPLEMENTARY PROVISIONS

Article 87 (Inspection, etc. of Documents)

Any person who needs a certificate concerning an application for and trial on trademark registration, delivery of a certified copy or abstract of a document, inspection or copying of the trademark register and documents, may request it to the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Tribunal. *<Amended by Act No. 4895, Jan. 5, 1995>*

Article 88 (Prohibition of Carrying Out and Publication of Documents concerning Application for Trademark Registration, Examination, Trial, or Retrial, or of Trademark Register, etc.)

- (1) No documents concerning applications for trademark registration, examinations, objections raised to trademark registration, trials or retrials, or the trademark register shall be carried out except any case falling under any of the following subparagraphs: *<Amended by Act No. 8190, Jan. 3, 2007; Act No. 10012, Feb. 4, 2010; Act No. 11113, Dec. 2, 2011>*

1. Where the documents concerning applications for trademark registration, application for geographical collective mark registration, examinations or objections raised to trademark registration are carried out in order to screen the trademarks, etc. pursuant to Article 22-2 (1) through (3);
 2. Where the documents concerning applications for trademark registration, examinations, objections raised to trademark registration, trials and retrials or the trademark register are carried out in order to commission the work of digitizing the trademark documents pursuant to Article 92 (1);
 3. Where the documents concerning applications for trademark registration, examinations, objections raised to trademark registration, trials and retrials or the trademark register are carried out in order to perform the online remote work provided for in Article 32 (2) of the Electronic Government Act.
- (2) Expert opinion, testimony, or answer to an inquiry shall not be given as to the contents of a case that is in the process of the application for trademark registration, examination, the objection raised to trademark registration, trial or retrial or as to a decision to grant or reject a trademark registration or a trial decision, or the contents of a decision. *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 6414, Feb. 3, 2001; Act No. 8190, Jan. 3, 2007>*

Article 89 (Trademark Gazette)

- (1) The Korean Intellectual Property Office shall publish the Trademark Gazette.
- (2) The Trademark Gazette may be published by electronic media, as determined by Ordinance of the Ministry of Knowledge Economy. *<Newly Inserted by Act No. 5329, Apr. 10, 1997; Act No. 6414, Feb. 3, 2001; Act No. 8852, Feb. 29, 2008>*
- (3) In publishing the Trademark Gazette by electronic media, the Commissioner of the Korean Intellectual Property Office shall make public matters relating to the publication of the Trademark Gazette, its main contents, and service by publication through an information and communications network. *<Newly Inserted by Act No. 5329, Apr. 10, 1997; Act No. 6414, Feb. 3, 2001>*
- (4) Matters to be inserted in the Trademark Gazette shall be determined by Presidential Decree.

Article 90 (Indication of Registered Trademark)

Where an owner of a trademark right, or an exclusive or non-exclusive licensee uses a registered trademark, he/she may indicate that the trademark is a registered trademark.

Article 90-2 (Indication of Registered Homonymous Geographical Collective Mark)

Where two or more registered geographical collective marks have homonymous relation to each other, the owners of such collective mark rights and the members of the organizations concerned shall, in using the registered geographical collective marks, make necessary indications on the goods concerned so that consumers are not misled as to their geographical origins.

[This Article Newly Inserted by Act No. 7290, Dec. 31, 2004]

Article 91 (Prohibition of False Indication)

(1) No person shall be allowed to perform any of the following acts: *<Amended by Act No. 5355, Aug. 22, 1997>*

1. Indicating a trademark which is not registered or applied for a trademark registration, on any goods, as if it were a registered trademark or its registration were applied for;
2. Indicating a trademark which is not registered or applied for a trademark registration, on advertisements, signboards, tags or packaging of goods or other business transaction documents, etc. as if it were a registered trademark or its registration were applied for;
3. Marking on a registered trademark with an indication that the trademark is registered or with any sign likely to be confused with such indication, in cases where the registered trademark is used on goods, other than the designated goods.

(2) Acts of indicating a trademark under paragraph (1) 1 and 2 shall include goods and packaging, advertisement, signboards, or tags that have become shapes of marks. *<Newly Inserted by Act No. 5355, Apr. 22, 1997>*

Article 91-2 (Special Provisions on Trademarks, etc. Similar to Registered Trademarks)

(1) "Registered trademark" in Articles 50, 53, 55 (3), 57 (2), 62, 67 (3), 73 (1) 3 and 4, 85, 90 and 91 shall be deemed to include trademarks, similar to the registered trademark, which will be deemed identical with the registered trademark if their colors are the same as those of the registered trademark. *<Amended by Act No.*

- (2) "Trademark similar to the registered trademark" in Articles 66 (1) 1 and 73 (1) 2 shall be deemed not to include trademarks, as similar to the registered trademark, which will be deemed identical with the registered trademark if their colors are the same as those of the registered trademark. *<Amended by Act No. 7290, Dec. 31, 2004>*
- (3) "Trademark similar to a registered geographical collective mark of another person" in Article 66 (2) 1 shall be deemed not to include trademarks, as similar to the registered collective mark, which will be deemed identical with the registered collective mark if their colors are the same as those of the registered collective mark. *<Newly Inserted by Act No. 7290, Dec. 31, 2004>*
- (4) The provisions of paragraphs (1) through (3) shall not apply to cases of any registered trademark that is featured simply by any color or the combination of colors. *<Newly Inserted by Act No. 8190, Jan. 3, 2007>*
- [This Article Newly Inserted by Act No. 5083, Dec. 29, 1995]*

Article 92 (Vicarious Performance of Digitizing Trademark Documents)

- (1) If deemed necessary to efficiently conduct trademark-related procedures, the Commissioner of the Korean Intellectual Property Office may entrust a corporation that has facilities and human resources as prescribed by Ordinance of the Ministry of Knowledge Economy with the affairs of digitizing documents related to applications, examinations, trials or retrials for trademark registration or the trademark register through an electronic information processing system and the technology for utilizing the electronic information processing system, or any business similar thereto (hereinafter referred to as "affairs of digitizing trademark documents").
- (2) The Commissioner of the Korean Intellectual Property Office may, pursuant to paragraph (1), digitize applications for trademark registration that have not been submitted as electronic documents under Article 5-27 (1) and other documents prescribed by Ordinance of the Ministry of Knowledge Economy and may record them in a file of an electronic information processing system used by the Korean Intellectual Property Office or the Intellectual Property Tribunal.

- (3) The details recorded in a file pursuant to paragraph (2) shall be deemed the same as the details in the documents concerned.
- (4) The method of conducting digitalization of trademark documents under paragraph (1) and other matters necessary to conduct digitalization of trademark documents shall be prescribed by Ordinance of the Ministry of Knowledge Economy.
- (5) Where a person entrusted with the digitization of trademark documents pursuant to paragraph (1) (hereinafter referred to as "agency of trademark document digitization") does not satisfy the criteria for facilities and human resources as prescribed by Ordinance of the Ministry of Knowledge Economy pursuant to paragraph (1) and fails to comply with the any corrective measures therefor taken by the Commissioner of the Korean Intellectual Property Office, the Commissioner of the Korean Intellectual Property Office may revoke the entrustment of the affairs of digitizing trademark documents.

[This Article Wholly Amended by Act No. 11113, Dec. 2, 2011]

Article 92-2 (Service by Publication)

- (1) When service cannot be made because the address or place of business of a person required to be served relevant documents is not clear, service shall be made by publication.
- (2) Service by publication shall be made by upon publishing in the Trademark Gazette the purport that relevant documents will be issued to a person required to be served at any time.
- (3) A notification first served by publication shall be effective two weeks after the date on which it is published in the Trademark Gazette: Provided, That subsequent service on the same party by publication shall be effective on the day following the date of its publication in the Trademark Gazette.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 92-3 (Service of Documents on Nonresidents)

- (1) If a nonresident has a trademark administrator, the document to be served on the nonresident shall be served on the trademark administrator: Provided, That this shall not apply where an examiner notifies the applicant for international trademark registration of the grounds for rejection through the International Bureau

under Article 86-24.

- (2) If a nonresident does not have a trademark administrator, the document to be delivered to the nonresident may be sent by registered air mail.
- (3) When a document is sent by registered air mail pursuant to paragraph (2), it shall be deemed served on the date it is sent.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 92-4 (Service of Documents)

Matters necessary for the procedures, etc. for service of documents prescribed in this Act shall be prescribed by Presidential Decree.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 92-5 (Submission, etc. of Documents)

The Commissioner of the Korean Intellectual Property Office or an examiner may order a party involved to submit documents or other articles necessary for to take the procedures other than the procedures for a trial or retrial.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 92-6 (Restriction on Objection)

- (1) No objection pursuant to other Acts shall be raised to a decision to dismiss an amendment, decision on trademark registration, trial decision, or decision to dismiss a request for a trial or retrial; no objection pursuant to other Acts may be raised to a disposition against which no objection is allowed pursuant to this Act.
- (2) Any objection against a disposition other than dispositions under paragraph (1) shall be governed by the Administrative Appeals Act or the Administrative Litigation Act.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 92-7 (Confidentiality Order)

- (1) Where both of the following grounds are clearly explained with regard to the business secrets held by a party

concerned (referring to business secrets under subparagraph 2 of Article 2 of the Unfair Competition Prevention and Trade Secret Protection Act; hereinafter the same shall apply) in a trial on the infringement of a trademark right or exclusive license, the court may order, by decision, the other party concerned (referring to the representative in cases of a corporation), a person who represents the said party in the litigation, and other persons who has learned the business secrets due to the relevant litigation, not to use the business secrets for purposes other than the purpose of continuing the litigation or not to disclose the business secrets to persons other than those related to the business secrets who receive the order pursuant to this paragraph, upon request by the said party: Provided, That this shall not apply where, by the time of such request, the other party concerned (referring to the representative in cases of a corporation), a person who represents the said party in the litigation, and other persons who have learned the business secrets due to the relevant litigation have already obtained the business secrets by such means other than the perusal of a legal brief or investigation of evidence prescribed in paragraph (1):

1. That the business secrets are included in the legal brief already submitted or to be submitted or in the evidence already investigated or to be investigated;
2. That the business secrets under paragraph (1) are likely to harm the said party's business if used or disclosed for purposes other than the purpose of the relevant litigation, and therefore the use or disclose of such business secrets is required to be restricted.

(2) A request for an order to be issued under paragraph (1) (hereinafter referred to as "confidentiality order") shall be made in writing stating the following matters:

1. A person to whom the confidentiality order is issued;
2. Facts that are enough to specify the business secrets subject to the confidentiality order;
3. Facts falling under the a ground specified in either subparagraph of paragraph (1).

(3) Where the confidentiality order is determined, the court shall deliver the written decision to the person to whom the confidentiality order is issued.

(4) The confidentiality order shall take effect from the time the written decision under paragraph (3) is served on

the person to whom the confidentiality order is issued.

- (5) An immediate appeal may be made against the trial that has rejected or dismissed a request for the confidentiality order.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 92-8 (Revocation of Confidentiality Order)

- (1) Where a person who has requested a confidentiality order or to whom a confidentiality order has been issued fails to meet the eligibility requirements set forth in Article 92-7 (1), he/she may request the court that keeps the litigation records (referring to the court that has issued the confidentiality order where there is no court that keeps the litigation records) to revoke the confidentiality order.
- (2) Where a trial is conducted in regard to a request for revocation of a confidentiality order, the court shall deliver the written decision to the person who has requested such revocation and the other party.
- (3) An immediate appeal may be made against the trial on a request of revocation of a confidentiality order.
- (4) The trial to revoke a confidentiality order shall take effect only when it becomes final and conclusive.
- (5) The court that has conducted a trial to revoke a confidentiality order, where there is another person who has been issued the confidentiality order regarding relevant business secrets, other than the person who has requested revocation of the confidentiality order or the other party, shall immediately notify such person of the fact that it has conducted the trial to revoke the confidentiality order.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 92-9 (Notification, etc. of Request for Perusal, etc. of Litigation Records)

- (1) Where a decision of restriction on perusal, etc. under Article 163 (1) of the Civil Procedure Act is rendered in regard to the litigation records concerning a litigation in which a confidentiality order is issued (excluding all litigations in which confidentiality orders are revoked), and when a person who was not subject to the confidentiality order in the relevant litigation has taken the procedure to request perusal, etc. of the portions containing secrets for the sake of the party eligible to peruse the records, the court administrative officer, junior court administrative officer, chief court clerk or senior court clerk (hereafter referred to as "junior court

administrative officer, etc." in this Article) shall notify the party who has requested the restriction of perusal, etc. pursuant to Article 163 (1) of the Civil Procedure Act (excluding a person who has requested such perusal, etc.; hereafter the same shall apply in paragraph (3)) of the fact that the request for the perusal, etc. has been made right after the party's request.

(2) In the case of paragraph (1), the junior court administrative officer, etc. shall not allow the person who has taken the procedures for such request to peruse, etc. the portions containing secrets under paragraph (1) until two weeks pass from the date on which the request under paragraph (1) is made. In this case where the request for the confidentiality order against the person who has taken the procedures for such request is made within the said period, the person who has taken the procedures for such request shall not be allowed to peruse, etc. the portions containing secrets under paragraph (1) until the time the trial on such request becomes final and conclusive.

(3) With regard to allowing the person who has requested for perusal, etc. under paragraph (1) to peruse, etc. the portions containing secrets under paragraph (1), the provisions of paragraph (2) shall not apply where all the parties who have requested for restriction on perusal, etc. pursuant to Article 163 (1) of the Civil Procedure Act give consent thereto.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

CHAPTER X PENAL PROVISIONS

Article 93 (Offense of Infringement)

Any person who has infringed a trademark right or an exclusive license shall be punished by imprisonment for not more than seven years or by a fine not exceeding 100 million won. *<Amended by Act No. 5355, Aug. 22, 1997; Act No. 6414, Feb. 3, 2001>*

Article 94 (Offense of Perjury)

(1) Where a witness, expert witness, or interpreter, having taken an oath under this Act, makes a false statement, provides a false expert opinion, or gives a false interpretation before the Intellectual Property

Tribunal, such person shall be punished by imprisonment for not more than five years or by a fine not exceeding 10 million won. *<Amended by Act No. 4895, Jan. 5, 1995; Act No. 6414, Feb. 3, 2001>*

- (2) If a person who committed an offense as referred to in paragraph (1), surrenders himself to justice before a decision to grant or reject a trademark registration or trial decision on the case becomes final and conclusive, the punishment may be reduced or exempted. *<Amended by Act No. 6414, Feb. 3, 2001>*

Article 95 (Offense of False Indication)

Any person who has violated Article 91 shall be punished by imprisonment for not more than three years or by a fine not exceeding 20 million won.

Article 96 (Offense of Fraud)

Any person who obtains a trademark registration, additional registration of designated goods, registration for the renewal of term of a trademark right, registration of the conversion of the classification of goods, or trial decision by means of a fraudulent or any other unjust act, shall be punished by imprisonment for not more than three years, or by a fine not exceeding 20 million won. *<Amended by Act No. 6414, Feb. 3, 2001>*

Article 96-2 (Offense of Violating Confidentiality Order)

- (1) Any person who has violated a confidentiality order under Article 92-7 (1) in Korea or abroad without justifiable grounds shall be punished by imprisonment for not more than five years or by a fine not exceeding 50 million won.
- (2) No public action shall be instituted against an offense under paragraph (1) without accusation by a person who has requested for a confidentiality order.

[This Article Newly Inserted by Act No. 11113, Dec. 2, 2011]

Article 97 (Joint Penal Provisions)

If the representative of a juristic person, or an agent, an employee or any other employed person of a juristic person or individual has committed an offense falling under any of Articles 93, 95 and 96 with respect to the duties of the juristic person or individual, not only shall the offender be punished, but also the juristic person shall be punished by a fine falling under any of the following subparagraphs and the individual shall be

punished by a fine referred to in the relevant provisions: Provided, That this shall not apply where the juristic person or individual has not neglected to exercise due attention and supervision for the relevant duties in order to prevent such offense:

1. In cases of Article 93: A fine not exceeding 300 million won;
2. In cases of Article 95 or 96: A fine not exceeding 60 million won.

[This Article Wholly Amended by Act No. 9230, Dec. 26, 2008]

Article 97-2 (Confiscation)

- (1) A trademark, packaging, or goods that are offered for or obtained by an act of infringement of a trademark right or an exclusive license provide in Article 93 (hereafter referred to as "infringed goods" in this paragraph), and machinery or material that are offered to be used mainly for the production of such infringed goods shall be confiscated. *<Amended by Act No. 10811, Jun. 30, 2011>*
- (2) Notwithstanding paragraph (1), the goods which may be easily detached from their trademarks or packaging and which does not effect the function and feature of those goods may not be confiscated.

[This Article Newly Inserted by Act No. 5355, Aug. 22, 1997]

Article 98 (Fines for Negligence)

- (1) Any person who falls under any of the following subparagraphs, shall be punished by a fine for negligence not exceeding five hundred thousand won: *<Amended by Act No. 4895, Jan. 5, 1995; Act No. 6626, Jan. 26, 2002; Act No. 8190, Jan. 3, 2007>*
 1. A person who takes an oath under Articles 299 (2) and 367 of the Civil Procedure Act and makes a false statement before the Intellectual Property Tribunal;
 2. A person who is ordered to produce or present documents or other things in relation to the taking or preserving of evidence by the Intellectual Property Tribunal and fails to comply with the order without justifiable grounds;
 3. A person who is served with a subpoena from the Intellectual Property Tribunal to appear as a witness, expert witness, or interpreter but fails to comply with the subpoena without justifiable grounds or refuses

to take an oath or make a statement, testimony, expert opinion, or interpretation.

(2) Fines for negligence as referred to in paragraph (1) shall be imposed and collected by the Commissioner of the Korean Intellectual Property, as prescribed by Presidential Decree.

(3) through (5) Deleted. *<by Act No. 9678, May 21, 2009>*

ADDENDA

Article 1 (Enforcement Date)

This Act shall enter into force on September 1, 1990.

Article 2 (General Transitional Measures)

Except as provided otherwise for in Articles 3 through 8 of the Addenda, this Act shall be applicable even to matters taken place before this Act enters into force: Provided, That the effect taken under the previous provisions shall not be affected.

Article 3 (Transitional Measures concerning Dismissal of Amendment)

Any amendment made before this Act enters into force shall be governed by the previous provisions.

Article 4 (Transitional Measures concerning Application, etc. for Trademark Registration)

The examination as to applications for trademark registration, registration for the renewal of term of a trademark right and additional registration of designated goods, and the appellate trial on the rejection ruling, made before this Act enters into force shall be governed by the previous provisions.

Article 5 (Transitional Measures concerning Effect of Registration for Renewal of Term of Trademark Right)

Where a trademark is registered pursuant to the previous provisions before this Act enters into force, and the renewal of term of a trademark right is registered under this Act, the registered trademark shall be deemed registered under this Act.

Article 6 (Transitional Measures concerning Effect of Licenses)

The effect of licenses registered pursuant to the previous provisions before this Act enters into force shall be governed by the previous provisions.

Article 7 (Transitional Measures concerning Trial, etc. on Registered Trademark)

(1) Any trial, appellate trial, retrial and lawsuit on an invalidation trial of a trademark registered by applications for trademark registration, renewal registration of term of a trademark right and additional registration of designated goods and on a trial to confirm the scope of right, which is made before this Act enters into force, shall be governed by the previous provisions: Provided, That in cases of the request as prescribed in the latter part of main sentence of Article 71 (1) and the latter part of main sentence of Article 72 (1), the same shall not apply.

(2) Any trial, appellate trial, retrial and lawsuit on a cancellation trial of the trademark registration requested before this Act enters into force shall be governed by the previous provisions.

(3) Any trial, appellate trial, retrial and lawsuit on a cancellation trial of the license registration made pursuant to the previous provisions before this Act enters into force shall be governed by the previous provisions: Provided, That in cases of the request as prescribed in Article 74 (3), the same shall not apply.

Article 8 (Transitional Measures concerning Procedures and Expenses of Trial, Compensation for Damages, etc.)

The procedures, expenses, compensation for damages, etc. as to any trial, appellate trial, retrial and lawsuit requested before this Act enters into force shall be governed by the previous provisions.

ADDENDA <Act No. 4541, Mar. 6, 1993>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDA <Act No. 4597, Dec. 10, 1993>

(1) (Enforcement Date) This Act shall enter into force on January 1, 1994.

(2) (Transitional Measures concerning Application for Trademark Registration, etc.) Any appellate trial on the examination and rejection ruling on an application for trademark registration, renewal registration of term of a

trademark right, or additional registration of designated goods, made before this Act enters into force, shall be governed by the previous provisions.

(3) (Transitional Measures concerning Return Period of Trademark Registration Fees, etc.) The return of any trademark registration fee or official fee erroneously paid before this Act enters into force, shall be governed by the previous provisions.

(4) (Transitional Measures concerning Trial, etc. on Registered Trademark) Any trial, appellate trial, retrial or litigation on any trademark registered by application for trademark registration, renewal registration of term of a trademark right, or additional registration of the designated goods, made before this Act enters into force, shall be governed by the previous provisions.

ADDENDA <Act No. 4895, Jan. 5, 1995>

Article 1 (Enforcement Date)

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

Article 2 (Transitional Measures concerning Cases Pending)

(1) Any case for which a request for trial has been made or a case pending for which a request for appellate trial against a ruling of rejection or a decision to dismiss an amendment has been made before this Act enters into force shall be deemed to have made a request against a trial with the Intellectual Property Tribunal and to have been pending therein.

(2) Any case for which a request for appellate trial against trial decision has been made or a case pending for which a request for immediate appeal against a decision to dismiss a written request for trial has been made before this Act enters into force shall be deemed to have been brought before the Patent Court under this Act and to have been pending therein.

Article 3 (Transitional Measures concerning Cases, etc. against which Dissatisfaction may be Brought)

(1) Any litigation Action may be brought against a case on which a trial decision of a trial, a decision to dismiss a request for a trial, a ruling of rejection, or a decision to dismiss an amendment by an examiner as

at the time this Act enters into force, and against which a dissatisfaction has not been brought with the Intellectual Property Tribunal under the previous provisions, within 30 days from the date this Act enters into force, a litigationan action as referred to in Article 186 (1) of the Patent Act which is applied mutatis mutandis under Article 86 (2) may be brought against a trial and a decision of the trial and a decision to dismiss a request for a trial, and a trial as referred to in Article 70-2 or 70-3 may be requested against a ruling of rejection, or a decision to dismiss an amendment by an examiner unless any period for dissatisfaction has expired under the previous provisions as at the time this Act enters into force: Provided, That this shall not apply when any period for dissatisfaction has expired under the previous provisions as at the time this Act enters into force.

(2) Any dissatisfaction may be brought, within 30 days from the date this Act enters into force, against a case on which a trial decision of an appellate trial, a decision to dismiss a request for an appellate trial, a decision to dismiss an amendment by an appellate administrative patent judge as at the time this Act enters into force has been served, with the Supreme Court: Provided, That this shall not apply where any period for dissatisfaction has expired under the previous provisions as at the time this Act enters into force.

(3) Any case against which a dissatisfaction has been brought with the Supreme Court and which is pending therein before this Act enters into force and any case against which a dissatisfaction has been brought pursuant to paragraph (2) shall be deemed to have been pending or to have been brought with the Supreme Court by this Act.

Article 4 (Transitional Measures concerning Cases of Retrial)

The provisions of Articles 2 and 3 of the Addenda shall apply mutatis mutandis to any case of retrial pending.

Article 5 (Transfer, etc. of Documents)

(1) The Commissioner of the Korean Intellectual Property Office shall transfer documents on any case which is pending as referred to in Article 2 (1) of the Addenda (including those applied mutatis mutandis under Article 4 of the Addenda) without delay to the President of the Intellectual Patent Tribunal.

(2) The Commissioner of the Korean Intellectual Property Office shall transfer documents on any case which is pending as referred to in Article 2 (2) of the Addenda (including those applied mutatis mutandis under

Article 4 of the Addenda) without delay to the President of the Intellectual Patent Court. In such cases, matters necessary for the transfer etc. of documents shall be determined by the Supreme Court Regulations.

ADDENDUM *<Act No. 5083, Dec. 29, 1995>*

This Act shall enter into force on January 1, 1996.

ADDENDA *<Act No. 5329, Apr. 10, 1997>*

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 1997. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDA *<Act No. 5355, Aug. 22, 1997>*

Article 1 (Enforcement Date)

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

Article 2 (Transitional Measures concerning Application for Trademark Registration, etc.)

The previous provisions shall apply to the application for trademark registration, application for registration for the renewal of term of a trademark right, and examination of and trial on rejection decisions on the application for additional registration of designated goods before this Act enters into force.

Article 3 (Transitional Measures concerning Trial on Registered Trademark, etc.)

The previous provisions (excluding Article 73 (1) 1) shall apply to trials, appeals, and litigations in respect of registered trademarks by the application for trademark registration, application for registration for the renewal of term of a trademark right, and application for additional registration of designated goods before this Act enters into force.

Article 4 (Transitional Measures concerning Unified Trademark)

(1) An application for unified trademark registration or trademark rights in respect of unified trademarks before this Act enters into force shall be deemed an application for trademark registration or trademark

rights under this Act.

(2) Any trial on invalidation or cancellation on grounds of contravention of the previous provisions of Article 11 (1) or (3), or 54 (2) pending as at the time this Act enters into force shall be governed by the previous provisions.

Article 5 (Transitional Measures concerning Trial on Cancellation of Trademark Registration)

Notwithstanding the amended provisions of Article 73 (4), the previous provisions shall apply to trial on cancellation initiated by Article 73 (1) 3 by three years from the date this Act enters into force.

Article 6 (Transitional Measures concerning Three-Dimensional Trademark)

(1) Where a person had submitted goods with three-dimensional trademark for an exhibition under Article 21 (1) before this Act enters into force, the enforcement date of this Act shall be deemed the submission date of such goods for an exhibition when he/she makes an application for registration of the three-dimensional trademark concerned under the amended provisions of Article 2.

(2) Where a person had made an application for registration of three dimensional trademark in one of the party countries to the treaties under Article 20 before this Act enters into force, the enforcement date of this Act shall be deemed the application date of trademark registration in one of the party countries to the treaty when he/she makes an application for registration of the threedimensional trademark concerned under the amended provisions of Article 2.

ADDENDA <Act No. 5576, Sep. 23, 1998>

Article 1 (Enforcement Date)

This Act shall enter into force on January 1, 1999. (Proviso Omitted.)

Articles 2 through 5 Omitted.

ADDENDA <Act No. 6414, Feb. 3, 2001>

(1) (Enforcement Date) This Act shall enter into force on July 1, 2001: Provided, That the amended provisions

of Article 38 shall enter into force on the date of its promulgation, and the part pertaining to international applications among the amended provisions of Article 5 and the amended provisions of Article 86-2 through 86-42 shall enter into the force on the date on which the Protocol becomes effective in the Republic of Korea.

(2) (Applicability to Right to Demand Compensation for Loss) The amended provisions of Article 24-2 shall apply to an application for trademark registration or to an application for additional registration of designated goods, which is filed first after July 1, 2001.

(3) (Transitional Measures concerning Examination, etc. on Application, etc. for Trademark Registration) The previous provisions shall apply to an examination of an application for trademark registration, an application for registration of a renewal of term of a trademark right, an application for additional registration of designated goods, a trial against a ruling of rejection, and retrial and/or litigation initiated before this Act enters into force.

(4) (Transitional Measures concerning Trial, etc. on Registered Trademark) The previous provisions shall apply to a trial, retrial, and litigation pertaining to an application for trademark registration, an application for registration of a renewal of term of a trademark right, or an application for additional registration of designated goods filed before this Act enters into force: Provided, That the amended provisions of Article 3 of the Addenda of the Trademark Act, amended by Act No. 5355, shall apply to a request for trial, trial, retrial and litigation for cancellation of a trademark registration under Article 73 (1) 1 after July 1, 2001.

ADDENDA <Act No. 6626, Jan. 26, 2002>

Article 1 (Enforcement Date)

This Act shall enter into force on July 1, 2002.

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 6765, Dec. 11, 2002>

This Act shall enter into force five months after the date of its promulgation.

ADDENDA <Act No. 7289, Dec. 31, 2004>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Articles 2 through 5 Omitted.

ADDENDUM *<Act No. 7290, Dec. 31, 2004>*

This Act shall enter into force six months after the date of its promulgation.

ADDENDA *<Act No. 8190, Jan. 3, 2007>*

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation: Provided, That the amended provisions of Articles 2 (1) 1, 5, 7 (1) through (4), 8 (5) and (6), 9 (2), 19, 22-2, 22-3, 24 (3) and 25, and the latter part of Article 33, Articles 38, 46-4 (1) 5, 56 (1) 2 and 3, 57-3, and 64 (2), the proviso of Articles 64-2 (2), Articles 77, 86-16 (2), 86-17 (4) and (5), 86-24 through 86-26, and 91-2 (4) and the proviso of Article 92 shall enter into force on July 1, 2007.

Article 2 (Applicability concerning Applications for Trademark Registration and Requirements for Trademark Registration)

(1) The amended provisions of Articles 2 (1) 1, 7 (1) 13, 9 (2), 86-16 (2) and 91-2 (4) shall apply, starting with the registration of the trademark for which an application is first filed and the additional registration of the designated goods for which an application is first filed on or after July 1, 2007.

(2) The amended provisions of Article 7 (4) 2 shall apply, starting with the trademark registration for which an application is filed by the justifiable applicant or the designated goods for which an application is filed for their additional registration after an invalid trial decision becomes final and conclusive on the grounds of the violation of Article 7 (1) 11 after July 1, 2007.

Article 3 (Applicability concerning Earlier Applications)

The amended provisions of Article 8 (5) and (6) shall apply, starting with cases where a trial to cancel a

trademark registration is requested on the grounds that the trademark registration falls under Article 73 (1) 3 on or after July 1, 2007.

Article 4 (Applicability concerning Application Publication and Objection Raised to Trademark Registration)

The amended provisions of Articles 24 (3) and 25 (1) and (2) shall apply, starting with the application filed for the trademark registration, which is published, on or after July 1, 2007.

Article 5 (Applicability concerning Refund of Trademark Registration Fees, etc.)

The amended provisions of Article 38 shall apply, starting with the application that is first filed for the trademark registration on or after July 1, 2007.

Article 6 (Applicability concerning Grounds for Rejecting Application Filed for Registering Conversion of Classification of Goods)

The amended provisions of Article 46-4 (1) 5 shall apply, starting with the application that is first filed for registering the classification of goods on or after July 1, 2007.

Article 7 (Applicability concerning Right to Continuously Use Trademark On Grounds of Prior Use)

The amended provisions of Article 57-3 shall apply, starting to cases where any prior user meets the requirements provided for in such amended provisions for the trademark that is registered by any other person who first files an application for registering such trademark on or after July 1, 2007.

Article 8 (Applicability concerning Extinguishment of Trademark in Cases of Lack of Registration of Conversion of Classification of Goods)

The amended provisions of the proviso to Article 64-2 (2) shall apply, starting with cases where the conversion of the classification of goods is first registered on or after July 1, 2007.

Article 9 (Applicability concerning Remunerations of Patent Attorneys)

The amended provisions of Article 86 (2) shall apply, starting with any patent attorney who legally represents any lawsuit after this Act enters into force.

Article 10 (Special Cases concerning Priority Claim, etc. Filed according to Treaty when Application is Filed for Registering Trademark Featured by Color, Hologram or Motion)

In the application of the provisions of Articles 20 and 21, where the application filed for the trademark that is featured by any color or the combination of any colors, the trademark that is featured by hologram or the trademark that is featured by motion falls under any of the following subparagraphs, the application filed for such trademark shall be deemed filed on July 1, 2007, notwithstanding the provisions of Articles 20 and 21:

1. Where the application is filed for registering the trademark in the Republic of Korea pursuant to Article 20 (2) on or after July 1, 2007 after filing the application for registering the trademark in the country concerned under Article 20 before July 1, 2007;
2. Where the application is filed for registering the trademark of the goods pursuant to Article 21 (1) on or after July 1, 2007 after displaying such goods in an exhibition falling under any subparagraph of Article 21 (1) before July 1, 2007.

Article 11 (Transitional Measures concerning Applications for Trademark Registration and Requirements for Trademark Registration)

(1) Examinations on applications for trademark registration or applications for additional registration of designated goods, and trials, retrial, or litigation with regard to decisions to reject them, made before July 1, 2007, shall be governed by the previous provisions, notwithstanding the amended provisions of Article 7 (1) 12 and 12-2.

(2) Trials, retrial, or litigation on the trademarks registered or to be registered on the applications filed therefor before July 1, 2007 shall be governed by the previous provisions, notwithstanding the amended provisions of Article 7 (1) 12 and 12-2.

ADDENDA <Act No. 8458, May 17, 2007>

- (1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation.
- (2) (Applicability to Refund of Registration Fee, etc.) The amended provisions of Article 38 (3) shall also apply to the trademark registration fees and official fees of which the deadline for claiming the refund pursuant to the former provisions has not lapsed as at the time this Act enters into force.

ADDENDA <Act No. 8852, Feb. 29, 2008>

Article 1 (Enforcement Date)

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

Articles 2 through 7 Omitted.

ADDENDUM <Act No. 9230, Dec. 26, 2008>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 9678, May 21, 2009>

(1) (Enforcement Date) This Act shall enter into force on July 1, 2009.

(2) (Applicability to Payment of Remainder of Trademark Registration Fees) The amended provisions of Article 36-2 (3) shall apply to payment of the remainder of a trademark registration fee on or after the date this Act enters into force.

ADDENDA <Act No. 9987, Jan. 27, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation.

Article 2 (Applicability to Requirements for Trademark Registration)

The amended provisions of Article 7 shall start applying to the first application for trademark registration or the first additional application for designated goods filed after this Act enters into force.

Article 3 (Applicability to Amendment Ex Officio, etc.)

The amended provisions of Article 24-3 shall start applying to the first decision on public announcement of an application after this Act enters into force.

Article 4 (Applicability to Trademark Registration Fees)

The amended provisions of Article 34 shall start applying to the first application for trademark registration or

for renewal registration of term of a trademark right filed after this Act enters into force.

Article 5 (Applicability to Refund of Trademark Registration Fees, etc.)

The amended provisions of Article 38 shall also apply to an application for trademark registration under examination as at the time this Act enters into force.

Article 6 (General Transitional Measures)

An application for trademark registration, for additional application for designated goods and for renewal registration of term of a trademark right filed pursuant to the former provisions as at the time this Act enters into force shall be governed by the former provisions.

ADDENDA <Act No. 10012, Feb. 4, 2010>

Article 1 (Enforcement Date)

This Act shall enter into force three month after the date of its promulgation. (Proviso Omitted.)

Articles 2 through 6 Omitted.

ADDENDUM <Act No. 10358, Jun. 8, 2010>

This Act shall enter into force on the date of its promulgation.

ADDENDA <Act No. 10811, Jun. 30, 2011>

Article 1 (Enforcement Date)

This Act shall enter into force six months after the date of its promulgation: Provided, That the amended provisions of Article 7 (1) 7-2, 8-2, 9-2, 16 and 17, Article 7 (5), Article 8 (7) 1 and (8) 1, Article 51 (2) 2 and 3, Article 66 (2) 1, 2 and 4, and Article 97-2 (1) shall enter into force on the date the Free Trade Agreement between the Republic of Korea, of the OnePart, and the European Union and its Member States, of the Other Parttakes effect.

Article 2 (Applicability to Requirements for Trademark Registration)

The amended provisions of Article 7 (1) 7-2, 8-2, 9-2, 16 and 17 and Article 7 (5) shall apply with regard to

applications for trademark registration or applications for additional registration of designated goods on or after the date such amended provisions enter into force.

Article 3 (Applicability to Earlier Applications)

The amended provisions of Article 8 (7) 1 and (8) 1 shall apply with regard to applications for trademark registration or applications for additional registration of designated goods on or after the date such amended provisions enter into force.

Article 4 (Applicability to Confiscation)

The amended provisions of Article 97-2 (1) shall apply with regard to acts of infringement on or after the date such amended provisions enter into force.

Article 5 (General Transitional Measures)

Applications for trademark registration and registered trademarks filed pursuant to the former provisions as at the time this Act enters into force shall be governed by the former provisions.

ADDENDA <Act No. 11113, Dec. 2, 2011>

Article 1 (Enforcement Date)

This Act shall enter into force on the date the Free Trade Agreement between the Republic of Korea and the United States of America (hereinafter referred to as the Agreement) and Exchange of Letters related to the Agreement take effect.

Article 2 (Applicability to Applications, Requirements, etc. for Trademark Registration)

The amended provisions of Articles 2, 3-2, 3-3, 7, 9, 9-2 (1), 12 (10), 17-2 and 19, 23 (1) 4 and 6 through 8, Articles 51, 52, 54, 55, 71 (1) 1 (limited to parts regarding the provisions of Article 23 (1) 4 through 8), 73, 76, 86-4, 86-16 and 86-17 shall apply to applications for trademark registration or applications for additional registration of additional goods on or after the date this Act enters into force.

Article 3 (Applicability to Effect, etc. of Registration of Exclusive License)

The amended provisions of Articles 56 and 58 shall apply to exclusive licenses, the establishment, transfer,

alteration, extinction or disposal of which is restricted on or after the date this Act enters into force.

Article 4 (Applicability to Right to Request Prohibition of Infringement on Rights, Claim for Statutory Damages, Confidentiality Order, etc.)

The amended provisions of Articles 65, 67-2, 92-7 through 92-9 shall apply to an action brought as to infringement on a trademark right or exclusive license on or after the date this Act enters into force.

Article 5 (Applicability to Amendment to Written Requests for Trials, etc.)

The amended provisions of Articles 77-2 (2) and 79 shall apply to written requests for trials on or after the date this Act enters into force.

Article 6 (Special Cases concerning Argument on Priority, etc. based on Treaty at Time of Application for Trademark Registration for Trademarks Consisting of Sound, Odor, etc. and Application for Certification Mark Registration)

In applying Articles 20 and 21, if any application for trademark registration consisting of sound, odor, etc. under the amended provisions of Article 2 (1) 1 (c) or an application for certification mark registration under the amended provisions of Article 2 (1) 4 falls under any of the following cases, such application for trademark registration or application for certification mark registration shall be deemed to have been filed on the date this Act enters into force, notwithstanding Articles 20 and 21:

1. Where application for trademark registration or application for certification mark registration is made to the State party pursuant to Article 20 before this Act enters into force, and then application for trademark registration or application for certification mark registration is made to the Republic of Korea pursuant to Article 20 (2) after this Act enters into force;
2. Where goods are submitted to an exhibition falling under any subparagraph of Article 21 (1) before this Act enters into force, and then application for trademark registration or application for certification mark registration for the trademark used for such submitted goods is made pursuant to the same Article after this Act enters into force.

Article 7 (General Transitional Measures)

Applications for trademark registration made in accordance with the former provisions as at the time this Act enters into force shall be governed by the former provisions.
