

REGULATIONS UNDER THE LAW ON MARKS AND OTHER DISTINCTIVE SIGNS

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THE PRESIDENT OF THE REPUBLIC OF NICARAGUA

By virtue of the powers conferred upon him by the Political Constitution,

HAS ISSUED

The following:

DECREE

REGULATIONS UNDER THE LAW ON MARKS AND OTHER DISTINCTIVE SIGNS

CHAPTER I

GENERAL PROVISIONS

Article 1. Purpose

The purpose of this Decree is to establish the regulatory provisions for Law No. 380, Law on Marks and Other Distinctive Signs, published in La Gaceta No. 70 of April 16, 2001, hereinafter called "the Law".

CHAPTER II

MARKS

MARK REGISTRATION

Article 2. Filing and acceptance of registration applications

Registration applications for marks shall be filed with the Intellectual Property Registry, in accordance with the requirements laid down in Articles 9 and 11 of the Law. If an application fails to meet these requirements, the Registry shall notify the applicant so that he can satisfy the same within two months following notification. If within this period he meets all of the requirements provided for in the foregoing Articles, the application shall retain its date of filing; in case of failure to comply within this period, the application shall be considered not to have been filed and shall be archived.

Article 3. Content of the application

In addition to the requirements stipulated in Article 11 of the Law, the application shall contain:

(1) The address of the applicant, consisting of information relating to the postal code or zone, street, number of the house or building, as appropriate, sufficient to ensure rapid communication; there may also be a special postal address for purposes of correspondence by mail. If there is more than one applicant, a single address shall be indicated for the purposes of the application. The addresses given shall include telephone and facsimile numbers, and an e-mail address, as appropriate.

(2) An indication, as appropriate, of a claim to the right provided for in Article 6 quinquies of the Paris Convention for the Protection of Industrial Property, either accompanying the application or provided within the three months following the date of filing, as well as the certificate of registration for the mark in the country of origin, with the translation, as need be, as provided for in the final paragraph of Article 10 of the Law.

Article 4. Failure to pay the set fee

In case of failure to provide proof of payment of the basic fee set, the application shall be processed but the applicant shall provide such proof within no more than two months; otherwise, the application shall be considered to have been abandoned *ipso jure* and shall be archived ex officio. The basic fee is for the application to register the mark and the additional fee is for each of the classes for which the mark is applied for, and shall be paid before the mark is registered. If within two months following the date on which he was notified of the decision by the body ordering the said registration, the applicant has not paid this fee, the decision shall remain without effect and the file shall be shelved without further processing.

Article 5. Limitations and abandonments

Any abandonment or limitation relating to the goods or services for which the mark is to be used shall be indicated in the list included in the application.

Any abandonment or limitation with regard to the form in which the mark may be used in trade, in particular with regard to the color or size to be used, shall be indicated in the application.

When the mark has one or more special colors reserved for it, the application shall indicate the reserved color or colors with regard to each color and the main parts of the mark which appear in that color.

Article 6. Reproduction of the mark

Every copy of the reproduction of the mark shall be clean and free of any handwritten changes and sufficiently clear for the constituent elements of the mark to be distinguished and allow it to be photocopied or printed without loss of quality. One of the copies of the reproduction shall be affixed to or printed in the registration application.

Article 7. Three-dimensional marks

If the mark is three-dimensional, reproduction of the mark shall consist of a two-dimensional graphic or photographic reproduction. The reproduction may consist of a single view or of several different views of the mark.

Article 8. Extension of the reproduction of the mark

Every copy of the reproduction shall fit into a square space no larger than eight centimeters per side. If the mark is figurative, mixed or three-dimensional, the size of its reproduction shall not be smaller than three centimeters between its two furthest points.

Article 9. Reproduction of other signs

Where the mark consists of a label or design or a series of words, protection shall only cover the words, captions or signs which characterize it, but not the terms or signs in common use or usual in business, industry or service activities.

Article 10. List of goods and services

The goods or services grouped together by class shall be listed in the application in numerical order of the respective classes.

For the purposes of designating the goods or services in the application, precise terms shall be used, where possible the terms contained in the alphabetical list of goods and services of the Classification referred to in Article 93 of the Law.

Article 11. House marks

An application may be filed for house marks covering all goods or services included in a class of the classification. The applicant shall state that the mark applied for is of this type. A house mark shall be considered to be the mark that contains the name of the holder and which is applied in general to the goods or services offered by the holder.

Article 12. Ownership of a mark

Ownership of a mark and the right to the exclusive use thereof may only be acquired in relation to the goods, merchandise or services which it was meant to cover and which are included in the same class, **without prejudice to the provisions of Article 8 of the Law.**

Article 13. Subsequent application to register goods and services

Any subsequent application for an already registered mark to distinguish additional goods, merchandise or services, regardless of the class to which they belong, shall be processed as if it pertains to a completely new mark, without prejudice to the provisions of the second paragraph of Article 93 of the Law.

Article 14. Figurative, mixed or three-dimensional marks

Where the mark is figurative, mixed or three-dimensional, the application for registration may indicate the relevant categories and divisions of the International Classification referred to in Article 94 of the Law.

Article 15. Classification of goods and services

Any indication contained in the application with regard to the classification of the goods and services or, as the case may be, the figurative elements of the marks, shall be tentative. The Intellectual Property Registry shall determine the class to which each good or service corresponds.

Article 16. Priority

For a single application, multiple or partial priorities may be invoked, which may originate from two or more different offices. In such a case, the priority term shall begin from the earliest priority date.

The right of priority may also be based on a previous application filed with the Intellectual Property Registry, provided that a previous right of priority was not claimed in that application. Granting the registration applied for with the benefit of the priority right shall lead to the cessation of the defects of the previous application in respect of the subject matter that is common between the two. The time periods and conditions provided for in this Article shall apply in this respect.

Article 17. Multiple priority

Multiple priority is what is claimed where the list of goods or services in the application filed combines lists of goods or services from two or more priority applications.

Article 18. Partial priority

Partial priority is what is claimed where the list of goods or services in the application filed only includes some of the goods or services contained in the list from the priority application.

Article 19. Claiming of priority

Where multiple or partial priorities are claimed, information relating to all of them shall be indicated and the corresponding documents shall be produced.

Where priority is sought in a registration application with a view to enjoying the temporary protection stipulated in Article 11 of the Paris Convention for the Protection of Industrial Property, the application shall indicate this and shall be accompanied by proof issued by the authority organizing the international exhibition, with a translation as appropriate, attesting that the goods or services with the mark have been displayed and indicating the date on which they were displayed for the first time at the exhibition.

Article 20. Amendment or correction of an application

Requests for amending or correcting a registration application shall comply with the provisions of Article 12 of the Law and shall contain at least the following elements:

1. Particulars of the applicant or rights holder, agent or representative, as the case may be;
2. An indication of the application(s) to be amended;
3. An indication of the amendment(s) or change(s);
4. A list of attached documents;
5. Place of service;
6. Name and signature of the applicant.

Where the same amendment or correction affects one or more applications or registrations, a single request may be made for all.

Article 21. Application for amendment

Requests for amendment or correction shall be accompanied by proof of payment of the fee set.

For the purposes of Article 12 of the Law, it shall be considered that an application is being processed as long as all of the administrative or judicial authorities and remedies relating to the application and provided for in domestic legislation have not been exhausted. If the amendment of the application is due to a change in ownership stemming from a total or partial transfer, the provisions of Articles 30, 31 and 32 of the Law shall apply, as appropriate. If the transfer entails a division of the application, the provisions of Article 13 of the Law shall apply.

The provisions of Article 24 of the Law shall apply to amendments or corrections of applications.

Article 22. Division of applications

Requests for division shall comply with the provisions of Article 13 of the Law and shall contain at least the following elements:

1. Particulars of the applicant(s), representative or agent;
2. Information on the application subject to division;
3. A new list of goods and services;
4. A description of attached documents;
5. Place of service;

6. Name and signature of the applicant.

Requests for division shall be accompanied by proof of payment of the fee set, failing which they shall not be processed, barring the provisions of Article 4 of these Regulations.

For the purposes of forming each divisional application, the applicant shall file the new lists of goods and services grouped together as appropriate for each one, and copies of the documents contained in the original application. The Registrar shall authenticate the copies as necessary to constitute the file for each divisional application. The provisions of Article 24 of the Law shall apply to the division of application.

If, prior to the filing of the request for division an omission or defect is notified, in accordance with Article 14 of the Law, the division shall not be processed until the error or omission that gave rise to notification has been corrected.

Article 23. Procedures for filing a divisional application

Each divisional application shall be assigned a new number and shall contain the identification of the number of the original application.

Once the division has been made, each divisional application shall be processed separately as if it had been filed independently at the start.

Publication of the application before division shall have effect for each divisional application.

Article 24. Withdrawal

The withdrawal of a registration application for a mark shall comply with Article 17 of the Law and shall contain at least the following elements:

1. Particulars of the applicant, rights holder, representative or agent;
2. An indication of the application(s) to be withdrawn, classification, place of service, name and signature of the applicant.

A single document may be used to withdraw two or more applications. For these purposes, the party concerned shall identify each of the applications to be withdrawn. The Intellectual Property Registry shall group together the files for each application with a view to issuing a decision on the withdrawal. Once the withdrawal has been filed, the Registry shall issue an order for the corresponding application to be shelved.

Article 25. Examination of form

In the event that the grouping together or classification of the goods or services indicated in the registration application is incorrect, the Intellectual Property Registry shall inform the applicant accordingly, indicating, as appropriate, who shall pay the fee set in accordance with Article 95 of the Law.

Where one or more of the goods or services included in the application list is designated in general, imprecise, incomprehensible or incorrect terms, the Intellectual Property Registry shall inform the applicant accordingly so that the applicant may correct the list, pursuant to the provisions of Article 12 of the Law.

In the event that notice of abandonment of the application referred to in Article 14(2) of the Law takes effect, the Registrar shall issue ex officio the corresponding decision and shall inform the applicant thereof. The application file shall be archived.

Article 26. Publication of the application

Notice of publication of the application shall be given in accordance with Article 15 of the Law and shall contain at least the following elements:

1. Reproduction of the mark;
2. An indication of the type of mark;
3. An indication of claims;
4. An indication of reservations for one or more colors;
5. Place and date of issuance of the notice and name of the authorizing official.

Article 27. Opposition

Opposition to registration applications for marks shall comply with the provisions of Article 16 of the Law.

The provisions of Article 3(1) and (2) of these Regulations shall apply to oppositions.

Rebuttals to oppositions shall give the de facto and de jure grounds on which they are based, accompanied by or providing relevant proof. If a rebuttal is not accompanied by proof, such proof shall be provided within 30 calendar days following the filing of the opposition. If the deadline for opposition stipulated in Article 16 of the Law passes without any opposition having been put forward, the Registrar shall take a decision on the application.

Where the opposition is based on the use, in good faith, of a mark in accordance with the provisions of Article 8(i) of the Law, the interested party shall, prior to the filing of the opposition, file the registration application for the mark and shall have to prove that he has used it for at least six months. Likewise, where an opposition to the registration application is filed by the person who has used the mark, that person shall have to prove his use during the time period in question.

For the purposes of the final paragraph of Article 16 of the Law, once the opposition has been filed, the parties may agree to appoint one or more arbiters or arbitrators to settle the opposition, on the basis before the Registry of the relevant provisions of Book Three, Title XIII, Judgments for Arbitration, Articles 958 to 990 of the Code of Civil Procedure.

Article 28. Decision

Where the application has given rise to an opposition, the Intellectual Property Registry shall decide the matter, taking into consideration any agreement reached by the parties on the limitation of the list of goods or services or the manner in which the respective marks are to be used in trade. The Registry shall not accept an agreement which presupposes two or more registrations of the same mark on behalf of different persons to distinguish identical goods or services.

In the event of a decision to grant registration, the Intellectual Property Registry shall inform the applicant of the decision so that he may pay the additional fee set. Any decision to refuse all or part of a registration applied for shall be duly reasoned and communicated to the applicant.

Article 29.- Substantive examination

If the mark for which registration is applied for is identical to another already filed for registration by a third party and being processed, to distinguish completely or partially identical goods or services, the Registrar shall suspend processing of the later application until the earlier application has been resolved and shall notify the applicant accordingly. If the application filed at a prior date is refused, withdrawn or abandoned, the Registrar shall continue ex officio with the suspended application.

If the objections referred to in the last paragraph of Article 18 of the Law only affect one or more of the goods or services indicated in the application, the applicant may retain the objection by eliminating the respective goods or services from the list or by limiting the list. Such limitation shall be effected, inter alia, by replacing the goods or services with other, more specific ones or by a specific abandonment with regard to the application or use of the mark as far as certain goods or services are concerned.

Article 30. Registration of marks

Entries for marks shall contain the following:

- (1) The registration number of the mark;
- (2) The date of the decision by which registration was granted;
- (3) The date of expiry of registration, which shall be determined starting from the date of the decision by which registration was granted;
- (4) The name and address of the owner;
- (5) The place of incorporation and domicile of the owner, where this entails a legal entity, as well as the name of the agent in the country, as appropriate;
- (6) The number and date of the registration application for the mark;
- (7) The dates of publication of the notice of application for registration of the mark;
- (8) As appropriate, information on the statement of priority indicated in Article 10(3) of the Law;
- (9) Information on the registration of origin of the mark, where the right referred to in Article 3(2) of these Regulations is invoked;
- (10) As appropriate, information on the exhibition referred to in Article 19(1) of these Regulations;
- (11) The mark registered, where it is denominative, without special graphics, form or colors;
- (12) A reproduction of the mark registered, where it is denominative with special graphics, form and colors, figurative, mixed, three-dimensional, with or without color;
- (13) An indication of where a collective mark or a certification mark is involved, as appropriate;
- (14) An indication of whether a three-dimensional mark is involved, as appropriate;
- (15) An indication of the categories and divisions of the International Classification referred to in Article 94 of the Law;
- (16) An indication of the color or colors reserved, if one or more colors or series of colors have been reserved;
- (17) Any waiver or limitation relating to the manner in which the mark may be used in trade;

(18) The list of goods and services for which the mark is or shall be used, grouped together by class in accordance with the International Classification of Goods and Services, with an indication of the number of each class;

(19) Any waiver or limitation relating to the goods or services for which the mark is to be used;

(20) The date of entry of the mark in the respective registry and the signature of the Registrar or Deputy Registrar, as the case may be, the Secretary and the Registry stamp.

Article 31.- Certificate of registration

The certificate of registration of a mark shall comply with the provisions of Article 19 of the Law and shall further contain the following elements:

(1) The name of the Registry and the information and indications referred to in Article 30 of these Regulations;

(2) The certificate shall be signed by the Registrar or Deputy Registrar and the Secretary, in accordance with Article 135(c) of the Law. In lieu of handwritten signatures, the certificate may be issued with printed, stamped or facsimile signatures, provided that the Registry is in a position to apply the appropriate security measures;

(3) The Registry stamp and legal stamps.

CHAPTER III

RENEWAL OF REGISTRATION

Article 32. Renewal of registration

Applications for renewal of registration of a mark shall comply with the provisions of Article 22 of the Law and shall contain at least the following elements:

1. The registration to be renewed;
2. Particulars of the owner(s), representative or agent;
3. A list of goods and services;
4. Change of registration (in case of waiver or limitation);
5. A description of attached documents;
6. Place of service;
7. Name and signature of the applicant.

If the application for renewal is filed before the beginning of the year prior to the expiry of the registration, it shall be returned to the applicant and shall be considered not to have been filed.

If the renewal fee or, as appropriate, the surcharge has not been paid at all or in full, the Intellectual Property Registry shall inform the applicant accordingly so that he may provide proof of payment of the missing fee or amount within two months. If he fails to correct this defect, the request for renewal shall be considered to have been abandoned. This request may be resubmitted, provided the time periods and conditions stipulated in Article 22(2) of the Law are respected.

Article 33. Amendment of renewal

The owner of the registration may take advantage of the renewal to amend it, by introducing a waiver or limitation with regard to the use of the mark in trade. The waiver or limitation shall be indicated in the request for renewal, and shall be accompanied by proof of payment of the amendment fee set. Likewise, the owner of the registration may reduce or limit the list of goods and services. As appropriate, he shall file with the request for renewal the amended list, which shall be entered in the registration, and shall attach proof of payment of the amendment fee set.

Article 34. Entry and certificate of renewal

Entries for each renewal shall be made in the record of the registration to be renewed, and shall contain the following:

- (1) The number of the registration to be renewed;
- (2) The date of entry of the renewal;
- (3) The date of expiry of the registration, which shall be calculated from the date of expiry of the original registration or the previous renewal, as appropriate, even where renewal is requested within the grace period provided for;
- (4) The name and address of the agent in the country, as appropriate where this person is different from the one indicated in the original registration or the previous renewal, as the case may be;
- (5) Any waiver or limitation relating to the manner in which the mark may be used in trade, introduced at the time of renewal;
- (6) Any waiver or limitation relating to the goods or services introduced at the time of renewal and, as appropriate, the new list of goods and services.

Article 35. Certificate of renewal

The Intellectual Property Registry shall issue to the owner a certificate of renewal which shall contain:

- (1) the name of the Registry;
- (2) the name and address of the owner; and
- (3) the information mentioned in the foregoing Article, indicating as the renewed registration number the number of the original registration preceded by the letter “**R**” .

The provisions of Article 31(2) of these Regulations shall apply to certificates of renewal.

CHAPTER IV AMENDMENT AND DIVISION OF REGISTRATION

Article 36. Amendment of registration

Amendments of registration shall comply with the provisions of Article 24 of the Law and Article 20 of these Regulations, and shall contain the following:

- (1) The request shall be filed together with proof of payment of the amendment fee set;

(2) The request shall specify the change, rectification, correction, waiver, reduction or limitation to be effected with regard to any of the information contained in the registration, in accordance with the provisions of Article 24(1) of the Law.

(3) The declaration of consent provided for in Article 24(2) of the Law shall be required where there is an entry relating to the mark concerning a right of guarantee, duty, encumbrance or other entry limiting the free disposal of the right in the mark.

Article 37. Division of registration

Requests for division of registration shall comply with the provisions of Article 25 of the Law and shall contain the following:

(1) Proof of payment of the fee set for each divisional registration;

(2) The owner shall file together with the request the new lists of goods and services for each of the divisional registrations, grouped together in accordance with the provisions of Article 9(1)1.6 of the Law;

(3) Divisional registrations shall be effected by duplicating the registration to be divided, and including the new list of goods and services for each one. The Registrar shall authenticate the copies of the documents the duplication of which is necessary for these purposes;

(4) Each divisional registration shall be assigned a new number and shall contain the identification of the divided registration number, adding the letter “D”.

Article 38. Effects of division

Once division has been made, each divisional registration shall be independent of the others. The expiry of each divisional registration shall be the same as that of the divided registration. Each divisional registration shall be renewed separately, ensuring that the prescribed formalities are respected in each individual case.

Article 39. Compliance with formalities

If a request for entering an amendment or division fails to meet the conditions provided for in the Law or these Regulations, the Intellectual Property Registry shall inform the owner so that he may correct the defect within two months.

If he fails to correct the defect within the prescribed time limit, the request shall be considered to be abandoned and the file shall be archived.

Article 40. New certificates

Where a registration has been amended or divided, the Intellectual Property Registry shall provide the owner with a new registration certificate to replace the amended one or for each of the divisional registrations, as the case may be.

The provisions of Article 31 of these Regulations shall apply.

CHAPTER V

TRANSFER AND LICENSING FOR USE OF THE MARK

Article 41. Recordal of a transfer

Requests for recordal of a transfer of one or more registrations or one or more pending registration applications shall comply with the provisions of Article 30 of the Law and shall contain at least the following elements:

1. Particulars of the transferring applicant(s) or owner(s);
2. The application(s) or registration(s) to be transferred;
3. Particulars of the representative or agents of the transferor(s);
4. A list of the goods and services affected by the transfer;
5. Particulars for the purchaser(s) or the representative or agent of the purchaser(s);
6. A description of attached documents;
7. Place of service;
8. Name and signature of the applicant.

Where the transfer concerns only one or more of the goods and services covered by the application or registration in question, the request shall indicate the goods and services to be transferred to the application or registration of the purchaser. If the transfer concerns more than one application or registration, the goods and services to be transferred shall be indicated separately for each application and each registration. The request shall be accompanied by proof of payment of the prescribed fee.

Article 42. Transfer

Where the transfer stems from one of the forms recognized by the Law, such as contract, testamentary provision, ruling, merger or split, the application entry shall indicate this and shall be accompanied by the respective document.

Article 43. Division of registration by transfer

Where the transfer is partial in such a way that the change in ownership only affects one or more of the goods or services covered by registration, it shall be divided, thereby establishing a separate registration for the goods and services in respect of which there has been a change in ownership.

Articles 37, 38, 39 and 40 of these Regulations shall apply to division in case of transfer, as appropriate.

Article 44. Translation of transfer documents

If the document, as the case may be, that must accompany the request for recordal of the transfer, in accordance with the provisions of Article 42 of these Regulations, is in a language other than Spanish, it shall be accompanied by the respective translation.

Article 45. Recordal of licenses

Requests for recordal of a license for use of a mark shall comply with the provisions of Article 32 of the Law and shall contain the following:

- (1) Proof of payment of the prescribed fee;
- (2) A copy of the licensing contract for use of the mark; or
- (3) An extract or summary of the contract indicating the terms and conditions which amend the additional rules provided for in Article 32(3), as appropriate, at the applicant's discretion.

The provisions of Article 39 of these Regulations shall apply to the recordal of licenses.

Article 46. Formalities and new certificates

The provisions of Articles 39 and 40 of these Regulations shall apply to the recordal of transfer and the issuance of the new registration certificate.

CHAPTER VI TERMINATION OF REGISTRATION OF THE MARK

Article 47. Cancellation of a registration because the mark has become genericized

The generalization of the mark referred to in Article 35 of the Law shall correspond to the genericization of the mark under trademark law.

The judicial authority is the competent entity to examine requests for annulment of marks due to genericization.

Article 48.- Annulment owing to lack of use of a distinctive sign and invalidation of the recordal thereof

For the purposes of an action to annul registration owing to lack of use, a mark shall be understood to be in use where the goods or services which it distinguishes have been placed in circulation or are available under that mark, in the quantity and by the means which are normally appropriate, taking into account the size of the market, the nature of the goods or services in question and the procedures under which they are marketed in any of the member countries of the World Trade Organization (WTO).

Article 49.- Grounds for invalidation

The grounds for invalidation of a distinctive sign shall be those provided for in Article 34 of the Law.

If it is detrimental to the stronger right of a third party, the invalidation of registration shall only proceed if the interested party does not oppose its appropriateness, and the injured party may file for invalidation.

If registration was effected in breach of the provisions of the Law and these Regulations, either the injured party or the Public Prosecutor's Office may file for invalidation.

Once the ruling declaring the invalidation of an entry has become final, the judicial authority shall issue the corresponding communication or certification to the Intellectual Property Registry.

The judicial authority is the competent entity to examine requests for the annulment or invalidation of distinctive signs.

Marks whose domain has been extinguished owing to lack of renewal or which have been annulled at their owner's request may be registered once again, at any time, by the earlier owner or by any other

person, provided they meet the requirements laid down by the Law and these Regulations for any registration.

Article 50. Abandonment of registration

Requests for cancellation of one or more registrations at the owner's request shall comply with the provisions of Article 40 of the Law and shall contain at least the following elements:

1. Particulars of the applicant(s), owner(s), representative or agent, as appropriate;
2. Number(s) of registration(s) to be cancelled;
3. Classification;
4. A description of attached documents;
5. Place of service;
6. Name and signature of the applicant.

Also necessary shall be proof of payment of the prescribed fee and the declaration of consent provided for in Article 40(2) of the Law, which shall be required where an entry appears relating to the mark and concerning a right of guarantee, duty, encumbrance or other entry limiting the free disposal of the right in the mark.

The provisions of Article 39 of these Regulations shall apply to requests for cancellation.

CHAPTER VII

REGISTRATION OF COLLECTIVE AND CERTIFICATION MARKS

Article 51. Applicable procedure

The provisions relating to common marks shall apply to collective marks and certification.

Any application, request, communication or notice relating to a collective or certification mark shall indicate the type of mark in question.

Article 56 of the Law shall apply to cases where registration of a certification mark has expired without renewal or has been cancelled at the owner's request.

Article 52.- Amendment of the regulations for employment or use

Requests to enter an amendment to the regulations for employment or use of a collective mark or the regulations for use of a certification mark shall comply with the provisions of Article 45 of the Law and shall contain at least the following elements:

1. Particulars of the applicant(s), owner(s), representative or agent, as appropriate;
2. The application(s) or registration(s) concerned;
3. An indication of the amendment(s);
4. A description of the attached documents;
5. Place of service;

6. Name and signature of the applicant.

Requests shall be accompanied by proof of payment of the prescribed fee.

Amendments to the regulations for use of a certification mark shall be approved beforehand by the administrative authority referred to in Article 52 of the Law. The provisions of Article 39 of these Regulations shall apply to requests for recordal of amendments.

EXPRESSIONS OR SIGNS OF COMMERCIAL ADVERTISING, TRADE NAMES, EMBLEMS AND SIGNS

CHAPTER VIII

REGISTRATION OF EXPRESSIONS OR SIGNS OF COMMERCIAL ADVERTISING

Article 53. Application of provisions on marks

The provisions relating to marks shall apply to expressions or signs of commercial advertising, barring the provisions of this Chapter.

Article 54. Applications for registration

Applications for the registration of an expression or sign of commercial advertising and notice of publication shall comply with the provisions of Articles 57, 58 and 59 of the Law and shall contain at least the following elements:

1. Particulars of the applicant(s), representative or agent, as appropriate;
2. A reproduction of the expression or sign of commercial advertising;
3. Use of the expression or sign of commercial advertising;
4. Abandonments or limitations;
5. A description of the attached documents;
6. Place of service;
7. Name and signature of the applicant.

Article 55. Content of the registration application and the notice of publication

The registration application and the notice of publication shall indicate the goods, services, activities, firms, establishments or commercial premises, as appropriate, in respect of which the expression or sign of commercial advertising is to be used.

Where an expression or sign of commercial advertising has given rise to an application for or registration of a mark abroad, the corresponding right of priority and, as appropriate, the right referred to in Article 3(2) of these Regulations may be claimed to apply for registration of a mark.

The certificate of registration of an expression or sign of commercial advertising shall contain at least the following elements:

1. Registration number;
2. Date of grant of registration;

3. Date of expiry;
4. Particulars of the owner, representative or agent, as the case may be;
5. Number of the registration application;
6. Date of the registration application;
7. Date of publication of the registration application;
8. A reproduction of the expression or sign of commercial advertising;
9. Abandonments and withdrawals;
10. A description of use;
11. Date of issue of the certificate;
12. Signature, stamp and legal stamps.

CHAPTER IX

REGISTRATION OF TRADE NAMES AND EMBLEMS

Article 56. Application of provisions concerning marks

The provisions concerning marks shall apply to trade names, tags and emblems, barring the provisions of this Chapter.

Article 57. Registration applications

Registration applications for trade names or emblems and notice of publication of applications shall comply with the provisions of Article 64 of the Law and shall contain at least the following elements:

1. Application number;
2. Date of filing;
3. Particulars of the applicant, representative or agent, as appropriate;
4. A reproduction of the trade name or emblem;
5. An indication of reservations;
6. Place and date of issuance;
7. Name of the official authorizing publication.

Registration applications and notices of publication shall indicate the date from which the trade name, sign or emblem has been used in trade. They shall also indicate the applicant's area of activity and, as appropriate, the place in the country where the firm conducts its activities with the name, tag or emblem or the place in which the commercial establishments or premises which use them are located.

With regard to the application to the trade names of the procedures used for marks, the corresponding procedure shall be observed. Likewise, the procedure for requesting the invalidation or cancellation of a trade name shall be the one used to request the invalidation or annulment of a mark.

CHAPTER X

GEOGRAPHICAL INDICATIONS

Article 58. Registration of appellations of origin

The corresponding provisions relating to marks shall apply to the registration and other procedures relating to appellations of origin, barring the provisions of this Chapter.

At the request of the interested party, the registration of any factory or trade mark for wine that contains or consists of a geographical indication identifying wines, or spirits that contain or consist of a geographical indication identifying spirits, shall be refused or invalidated for wines or spirits which do not have that origin.

Article 59. Formalities for registration of appellations

Applications for the registration of appellations of origin shall comply with the provisions of Articles 71, 74 and 75 of the Law and shall contain at least the following elements:

1. Particulars of the applicant, representative or agent, as appropriate;
2. An indication of the appellation of origin to be registered;
3. An indication of the geographical area;
4. Goods to which the appellation of origin applies;
5. A brief description of the qualities or characteristics of the goods;
6. Abandonments or limitations;
7. Place of service;
8. Name and signature of the applicant.

Article 60. Requirements for notices of publication

Notices of publication of registration applications for appellations of origin shall contain at least the following elements:

1. Application number;
2. Date of filing;
3. Particulars of the applicant, representative or agent, as appropriate;
4. Appellation of origin;
5. A translation of the appellation of origin;
6. Geographical area of production;
7. Goods to which the appellation of origin applies;
8. Place and date of issuance of the notice;
9. Name and signature of the official authorizing publication.

Article 61. Requirements for notice of grant

Notice of grant of registration for appellations of origin shall contain at least the following elements:

1. Registration number;
2. Particulars of the owner, representative or agent, as appropriate;
3. Date of grant of registration;
4. Appellation of origin;
5. A translation of the appellation of origin;
6. Geographical area of production;
7. Goods to which the appellation of origin applies;
8. Place and date of issuance of the notice;
9. Name and signature of the official authorizing publication.

Article 62. Requirements for proof of registration

Proof of registration of an appellation shall contain at least the following elements:

1. Registration number;
2. Date of grant of registration;
3. Registration application number;
4. Date of publication of the registration application;
5. A translation of the appellation of origin;
6. Country of origin;
7. Delimited geographical area of production;
8. Goods to which the appellation of origin applies;
9. A brief description of the qualities or characteristics of the goods;
10. Abandonment or limitation relating to the use of the appellation of origin;
11. Abandonments or limitations relating to the goods;
12. Particulars of the owner, legal representative or agent, as appropriate;
13. Place and date of issuance;
14. Name and signature of the official authorizing the issuance of proof.

Where registration of a foreign appellation of origin is applied for, the application shall indicate the corresponding legal basis pursuant to Article 71(2) of the Law.

Article 63.- Amendment of registration of an appellation

Requests for the recordal of an amendment to the registration of an appellation of origin shall comply with the provisions of Article 76 of the Law.

Amendment of the registration of an appellation of origin shall be announced through publication of a notice in La Gaceta, the Official Journal. The notice shall contain at least the following elements:

1. Particulars of the owner, representative or agent, as appropriate;
2. Registration number;
3. Appellation of origin;
4. A brief description of the amendments made;
5. Place and date of issuance;
6. Name and signature of the authorizing official.

COMMON STANDARDS

CHAPTER XI

PROCEDURES

Article 64. Powers of attorney

Powers of attorney shall be presented in accordance with Article 9(3) of the Law.

Article 65. Communication with the Registry

Any application, request, communication or document addressed to the Intellectual Property Registry may be sent by mail or special courier service. In such cases, the date and time of filing shall be those of the receipt of the sending by the Intellectual Property Registry.

Likewise, the Intellectual Property Registry may allow, in forming users by means of a communication, the filing of an application, request, communication or document with the Registry by facsimile, e-mail or any other form of modern communication. The date and time of filing shall be those of receipt of the transmission, provided that the original of the application, communication or document reaches the Registry within one month following receipt of the transmission.

If the original arrives after that date, it shall be considered to have been filed on the date on which it is received.

Article 66. Proof of filing

Any person who files with the Intellectual Property Registry an application, request, communication or document shall be entitled to receive proof of filing. The duplicate or receipt of filing duly stamped by the Registry shall constitute proof of filing of the application, request, communication or document.

At the applicant's request, the Intellectual Property Registry shall issue certification or a receipt of filing for any application, request, communication or document filed. The certification or receipt shall indicate the date of filing and shall be signed by the Secretary. In case of an application, the number

shall be indicated, if it has already been assigned, and a copy of the application with the grounds for filing signed by the Secretary shall be attached.

In case of communications or documents sent by fax or e-mail, the Secretary shall acknowledge receipt by the same means, without prejudice to the sending of the corresponding receipt of filing or certification at the request of the interested party.

Article 67. Service

The rulings and decisions issued by the Intellectual Property Registry shall be notified to the interested parties personally, by means of a certificate, through a note that may be sent by registered mail to the address indicated, or by any other means stipulated in the national legislation, with the term to begin, unless expressly provided otherwise, from the working day following the date on which the interested party receives the notification.

Article 68. Signature of communications

Applications, requests or communications addressed to the Intellectual Property Registry shall be filed signed by the interested party, his representative or the designated agent, indicating together with the signature the name of the signatory in block letters.

Where the Intellectual Property Registry allows the transmission of applications or communications to it by e-mail or another electronic means, the document shall be deemed to be signed if the Registry is able to identify the sender.

The signature contained in an application, request, communication, power of attorney or other document filed with the Intellectual Property Registry shall not require certification by a notary.

Article 69. Proof of veracity

The Intellectual Property Registry and any other authority responsible for deciding any procedure which originates with the Registry may at any time require the submission of documents or proof, including authenticated or legalized instruments, if there is reason to doubt the veracity of any document submitted under that procedure or any of the information or indications contained therein.

Article 70. Abandonment of management

The applicable time limit for abandonment to take effect shall be eight months, in accordance with Article 397 of the Code of Civil Procedure.

The other provisions of Title XV of Book I of the Code of Civil Procedure, Lapse, shall apply, as appropriate.

Article 71. Withdrawal

Any person who has filed an application, request, opposition or other appeal may withdraw it at any stage of the proceedings, in which case the provisions of Article 17 of the Law shall apply.

The withdrawal of an opposition shall not prevent the Intellectual Property Registry from applying ex officio the provisions of the Law as appropriate. However, the provisions of Article 18(1) of the Law shall apply to the withdrawal.

CHAPTER XII

ACTIONS AND APPEALS

Article 72. Appeals

In accordance with Article 89 of the Law, a remedy of appeal may be lodged against decisions issued by the Intellectual Property Registry. Such remedies shall be lodged with the Registry within three days following the date of service of the decision issued by the Registry. The Registry shall accept or reject the appeal. If the Registry accepts the appeal, it shall summon the parties to appear before the Minister of Industrial Development and Trade within three days, in exercise of its powers. Once the parties have appeared before the Minister, communications shall be exchanged to express and rebut grievances. Once this has been done, the corresponding decision or ruling shall be issued, without having to resort to the procedure of final judgment summons. Appeals provided for under national legislation may be lodged against decisions or rulings issued by the Minister of Industrial Development and Trade. Likewise, the provisions for appeal contained in the Code of Civil Procedure shall apply, as appropriate.

There shall be no appeal against purely procedural orders, barring that of liability.

Natural persons or legal entities of Nicaraguan nationality may claim for their benefit the application of the provisions contained in the international intellectual property treaties to which Nicaragua is a party, in any cases where the said provisions are more favorable than the standards established in the Law or these Regulations.

Article 73. Limitation of criminal proceedings

The criminal proceedings referred to in Article 103(2) of the Law shall be statute-barred four years after the offense has been committed for the last time or from the time the affected party was aware of it, with the time limit that expires first being applied.

Article 74. Domain name cancellation

When a distinctive sign has been unlawfully registered in the country as part of a domain name or an e-mail address of an unauthorized third party, the provisions of Articles 84 and 85 of the Law shall apply, provided that there is a risk of confusion among public consumers.

Article 75. Liability of the Registrar, officials and employees of the Registry

If the Registrar fails to decide within the time limits stipulated in the Law or these Regulations, the interested party may lodge an oral or written complaint with the higher authority, to the effect that it should apply to the Registrar the disciplinary measures determined by the said authority, which shall consist of a private or public warning or a fine of not more than 200 córdobas. In any event, the Registrar may justify the delay giving his reasons, which the foregoing authority may accept or reject.

Neither the Registrar nor the officials or employees of the Intellectual Property Registry may take relevant steps on their own or through an intermediary.

CHAPTER XIII

REGISTERS AND PUBLICITY

Article 76.- Correction of material errors

The Intellectual Property Registry may correct on its own, under its responsibility or at the request of a party, any omissions or material errors in the registry files, where the documents on which the respective entry is based are still to be found in the Registry's offices.

A material error shall be deemed to have occurred, *inter alia*, when words have been written in place of others, or where there is a mistake in proper names, company names or quantities.

Article 77. Submission of corrected documents

If the Registrar notes the material error or omission after the documents or titles have been delivered to the interested party, he may only proceed to make the correction after he has ordered the interested party to produce the documents or titles and has checked that the same have not been altered in any way.

Where the correction is made with a view to correcting an error committed by the Registry, this shall be done by means of a new entry or margin note, at no cost to the interested party.

Article 78. Archive of powers of attorney

The Intellectual Property Registry shall set up an archive of powers of attorney, which shall be updated at least every five years, in which it shall keep originals of powers of attorney or notarized photocopies of the same, for the purposes of the procedures contained in the Law or these Regulations, including the filing of oppositions.

The Intellectual Property Registry shall assign a number to each power of attorney, to which the agent or proxy shall refer in any steps in which he invokes the corresponding power of attorney, without it being necessary to attach a copy of the same.

Article 79. Return of documents

Requests for the return of documents in accordance with Article 142(2) of the Law shall be made in writing, with a precise indication of the document in question and the number of the file in which the document is to be found, as appropriate. The return of the document may also be requested in the application, request, opposition, etc., provided that it is accompanied by a photocopy of the same for inclusion in the court orders.

The provisions of Article 92 of the Law shall apply to requests for the return of documents.

Article 80. Publicity for applications and registrations

Registrations shall be publicized by means of consultation, the issuance of plain or certified copies or photocopies, and proof or certification issued by the Intellectual Property Registrar. This may also be effected by means of computerized lists and through on-line access via electronic means, in the form determined by the Intellectual Property Registry.

Files on intellectual property applications and registrations may be consulted during the normal office hours of the Intellectual Property Registry, at the place and in the amounts that the Registrar stipulates for these purposes, taking the necessary steps to ensure that this does not affect the daily work.

Files processed shall be kept by the Intellectual Property Registry for a period of ten years, after which they shall be destroyed, with a record being kept of their destruction. The Registry shall see to it that it keeps accurate and timely information on the same in its respective databases.

CHAPTER XIV

REGISTRY BOOKS

Article 81. Books to be kept by the Intellectual Property Registry

Without prejudice to the use of electronic means of data storage, books shall be kept in the Intellectual Property Registry consisting of at least the following:

- (1) Book of filings;
- (2) Book for recording marks;
- (3) Book for recording trade names, emblems and signs;
- (4) Book for recording expressions or signs of advertising;
- (5) Book of appellations of origin;
- (6) Book of models;
- (7) Book of decisions;
- (8) Book of restraint orders;
- (9) Book of permits;
- (10) Book for recording patents for inventions and utility models;
- (11) Book for recording industrial designs;
- (12) Book for recording plant varieties;
- (13) Book for recording integrated circuits;
- (14) Book for recording rights relating to satellite program-bearing signals;
- (15) Book for recording copyright and related rights;
- (16) Registration index book.

The foregoing books shall be kept without prejudice to other books deemed necessary, in accordance with other relevant laws and the development of the computerized system adopted by the Intellectual Property Registry.

Article 82. Characteristics of the books

The books referred to in Article 81 of these Regulations shall be provided by the Ministry of Industrial Development and Trade. The jackets shall bear a tag showing the name of the book and shall be opened, numbered and closed by the Registrar, who shall specify in the opening note, which shall appear on the first page, the number of sheets of which the book consists and the fact that they are all duly numbered, stamped and not stained, written on or unused, and, at the time of closure, the number of sheets used during the corresponding period. Once books have been finished, they may be duly bound, if this was not previously the case.

Article 83. Numbering of books

The books of the Intellectual Property Registry shall be numbered in chronological order, and various books may be kept simultaneously for a given class where the workload so warrants.

Article 84. Pages of books

In the books for recording marks, trade names, emblems, tags and expressions or signs of advertising, the front of the page shall be used for the corresponding entry and the back shall be used for annotations, as need be. This page shall contain the necessary blank spaces to enter the renewals, transfers, licenses for use, restraint orders and other acts relating to the corresponding mark, trade name, expression or signal of advertising.

Once there is no more room left in the margin for notes, an indicative note shall be made of the volume and page of the book of permits where the notes are continued on a sheet containing the annotations corresponding to each mark, trade name, emblem, tag, expression or sign of advertising providing the grounds for the permit.

Article 85. Entry numbers

Each entry shall display at the beginning the corresponding number in the respective book and shall not leave any blank lines or spaces, so as to preclude any insertions.

Any corrections, insertions between the lines or any other material errors made in the books of the Intellectual Property Registry shall be fully rectified before signing by the Registrar, with an absolute prohibition on erasures or crossings-out.

Article 86. Book of filings

The book of filings shall contain entries on all applications made to register a mark, trade name, expressions or signs of advertising, in accordance with the provisions of Article 11 of the Law.

Article 87. Content of entries for marks

Entries for marks shall be made in the corresponding book and shall contain the information mentioned in Article 30 of these Regulations.

Article 88. Content of entries for trade names, emblems and tags

Entries for trade names, emblems and tags shall be made in the corresponding book and shall contain the following information:

- (1) Number corresponding to the entry;
- (2) Place and date of the entry;
- (3) Name, company name or denomination of the owner of the trade name, his nationality and other particulars, or those of his agent, as appropriate;
- (4) A brief description of the trade name and its country of origin;
- (5) Commercial or industrial area of the firm or establishment identified by the trade name;
- (6) Any reservations made, as appropriate;
- (7) Place and date of the decision ordering the entry and the date and number of the Official Journal in which the corresponding notice was published;

- (8) An indication of whether or not there are any oppositions;
- (9) Number of the volume and page of the book of models containing the model corresponding to the trade name, as appropriate; and
- (10) The stamp and handwritten signature of the Registrar or Deputy Registrar and Secretary.

Each entry may only contain a single trade name, emblem or sign.

Article 89. Content of the entry for expressions or signs of advertising

Entries for expressions or signs of advertising shall be made in the corresponding book and shall contain the following information:

- (1) Number corresponding to the entry;
- (2) Place and date of entry;
- (3) Name, company name or denomination of the owner of the expression or sign of advertising, his nationality and other particulars; those of his agent or legal representative, as appropriate;
- (4) A precise description of the expression or sign of advertising and country of origin of the same;
- (5) Any reservations made with regard to the size, color or series of colors or other signs characterizing the expression or sign of advertising;
- (6) Place and date of the decision ordering the entry, date and number of the Official Journal in which the corresponding notice was published;
- (7) An indication of whether or not there was any opposition;
- (8) Number of the volume and page of the book of models containing the corresponding sign or expression of advertising, as appropriate;
- (9) The stamp and handwritten signature of the Registrar or Deputy Registrar and Secretary.

Each entry may only contain a single expression or sign of advertising.

Article 90. Content of the entry for appellations of origin

Entries for appellations of origin shall be made in the corresponding book and shall contain the following information:

- (1) Number corresponding to the entry;
- (2) Place and date of the entry;
- (3) Name, company name or denomination of the owner(s) of the appellation of origin and the place where his/their production, preparation or manufacturing establishments are located;
- (4) A precise description of the appellation of origin;
- (5) Geographical area of production, preparation or manufacturing of the good designated by the appellation of origin;
- (6) The goods designated by the appellation of origin;

- (7) A brief description of the essential features or characteristics of the goods designated by the appellation of origin;
- (8) Place and date of the decision ordering the entry, and the date and number of the Official Journal in which the corresponding notice was published;
- (9) An indication of whether or not there were any oppositions;
- (10) Number of the volume and page of the book of models containing the model corresponding to the trade name, as appropriate; and
- (11) The stamp and handwritten signature of the Registrar or Deputy Registrar and Secretary.

Article 91. Book of models

The book of models shall have the necessary dimensions and features to affix or stick to each one of its pages a model of each mark, trade name, emblem, tag, expression or signal of advertising or appellation of origin, which shall be duly classified in accordance with Articles 93 and 94 of the Law. In addition, the model shall be affixed or stuck to the same page as the entry for the mark, trade name or expression or sign of advertising.

Article 92. Correspondence between the model and entry number for the distinctive sign

Each model affixed or stuck to either the book of models or the book of entries shall correspond to the same entry number for the mark, trade name, emblem, sign, expression or sign of advertising or appellation of origin that it represents.

Article 93. Features of models

Models shall be printed and of a size that meets the requirements of Article 8 of these Regulations, so that their details may be clearly evaluated.

The Registry shall not accept models in relief, even if the corresponding mark or distinctive sign contains such relief; models that could in any other way damage the book to which they are to be affixed; models in pencil; or models that do not faithfully and clearly represent the mark, trade name, or expression or sign of advertising.

Where reservations are made as to colors, the model shall necessarily show them as they appear in the mark, trade name, or expression or sign of advertising.

One of the models shall be affixed to the corresponding book of models or book of entries; another shall be affixed to the respective certification of registration; and yet another shall be affixed to each proof issued.

Article 94. Information for entering the model

Where the model is affixed or stuck to the book of models, an indication shall be given of the book, volume and page bearing the mark, trade name, expression or sign of advertising, entry number and its corresponding classifications.

Article 95. Book of decisions

The book of decisions shall contain a chronological list of final decisions issued by the Registrar.

Article 96. Content of entries for decisions

Entries shall contain the full text of the decision, bearing the handwritten signature of the Registrar or Secretary.

Article 97. Book of restraining orders

This Book shall contain entries on the following:

- (1) Requests for rulings, invalidation of an entry or ownership, claim or license for use of a mark or other distinctive sign;
- (2) Liens on a mark or other distinctive signs;
- (3) In such cases, the Registrar shall insert in the margin of the corresponding entry an indication of the volume and page in the book of restraining orders where the order is to be found.

Once the restraining orders have been applied, the corresponding certification may be issued at the cost of the interested party.

Article 98. Effects of restraining orders

Restraining orders covering the cases provided for in Article 97 of these Regulations shall nullify any transfer after the order and shall remain in effect until cancellation is ordered by decision or enforcement order of the competent authority.

Article 99. Note concerning transfer of various marks or other distinctive signs

Where various marks or other distinctive signs are transferred by means of a single instrument, a separate margin note shall be made for each of them.

Article 100. Allocation to an earlier entry

If an entry remains that in any way affects an earlier one, a note shall be inserted in the corresponding margin giving brief details of the transfer, license for use, cancellation of the registered right or act in question, with an indication of the volume, number and page of the new entry.

Article 101. Content of the other books of entries

Entries for the other rights shall be made in the corresponding books and shall contain at least the following data:

- (1) Number corresponding to the entry;
- (2) Place and date of entry;
- (3) Name, trade name or denomination of the owner of the mark, his nationality, other particulars, or those of his agent or legal representative, as appropriate;
- (4) A precise description of the corresponding right;
- (5) Place and date of the decision ordering the entry; and the date and number of the Official Journal in which the corresponding notice was published;
- (6) An indication of whether or not there were any oppositions; and
- (7) Handwritten signature of the Registrar or Deputy Registrar and Secretary.

Each entry may cover only a single right.

Article 102. Preparation of the Manual and forms

The Intellectual Property Registry shall be empowered to prepare the Manual of procedures and the respective forms to speed up processing in the Registry that help to facilitate the application of the Law and these Regulations.

Article 103. Publication of classifications

The International Classification of Goods and Services for the Registration of Marks established by the 1957 Nice Agreement and the Classification of the Figurative Elements of Marks established by the 1973 Vienna Agreement referred to in Articles 93 and 94 of the Law shall be published in La Gaceta (Official Journal) at the latest 180 days following the entry into force of these Regulations.

Article 104. Entry into force

These Regulations shall enter into force at the time of its publication in La Gaceta (Official Journal).

Done in the city of Managua at the Presidential Residence on September 4, 2001. **ARNOLDO ALEMÁN LACAYO**, PRESIDENT OF THE REPUBLIC OF NICARAGUA.
