

REPUBLIC OF KOREA
Trademark Regulations

as amended by Ordinance No. 232 of The Ministry of Commerce,
Industry and Energy of May 1, 2004

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Article 1 Purpose

The purpose of these Regulations is to prescribe particulars authorized by the Trademark Act and the Enforcement Decree of the same Act (hereinafter referred to as the "Decree") and matters necessary to implement the aforementioned particulars.

Article 1-2 Documents Submittable by Means of Electronic Documents

Documents which may be submitted to the Commissioner of the Korean Intellectual Property Office (hereinafter referred to as "the Office") or to the President of the Korean Intellectual Property Tribunal (hereinafter referred to as "the Tribunal") by means of electronic documents under Article 28-3(4) of the Patent Act as applied mutatis mutandis in Article 5 of the Trademark Act (hereinafter referred to as "the Act") shall be other than those falling under any of the following subparagraphs:

- (i) the statement for submission of electronic recording media;
- (ii) the statement for submission of documents attached to electronic documents;
- (iii) the statement for submission of documents (samples, articles, exhibits);
- (iv) the request for issuance in correction of trademark registration certificate;
- (v) the request for correction of digitized contents;
- (vi)-(vii) deleted.

Article 1-3 Notifications or Other Documents to Be Served by Means of Electronic Documents

Unless otherwise provided for in the Act or Decree, the Commissioner of the Office, the President of the Tribunal, the presiding trial examiner, a trial examiner, the presiding examiner or an examiner may send or transmit all documents through communication network to a person who has notified of the use of electronic documents under Article 28-4(1) of the Patent Act as applied mutatis mutandis in Article 5 of the Act and intends to receive notifications or transmittals by way of electronic documents.

Article 2 Return of Defective Application Documents, etc.

(1) Where documents, specimens or any other materials (hereinafter referred to as "application documents, etc." in this Article) for the trademark registration applications or for trials under Articles 9 and 79 of the Act or Article 140 of the Patent Act as applied

mutatis mutandis in Article 77 of the Act fall under any of the following subparagraphs, the Commissioner of the Office or the President of the Tribunal shall not consider the application documents, etc. as lawful, unless otherwise provided by the Act or Decree:

(i) the nature of the application or of application documents is not specific;

(ii) the name (in the case of a legal entity, its corporate name) or an applicant code (or in the absence of an applicant code, the name or address (in the case of a legal entity, its corporate name or address of business)) of a person filing an application for renewal registration of a term, making request concerning the trademark registration or taking other procedures, is not specified;

(iii) the documents, etc. are not written in the Korean language;

(iv) deleted

(v) designated goods to be reclassified and registered are not specified in an application to register the reclassification of goods;

(vi) application documents, etc. have been submitted by a person who has neither an address nor an address of business in the Republic of Korea without representation by a trademark administrator under Article 5(1) of the Patent Act as applied mutatis mutandis in Article 5 of the Act;

(vii) documents are not been submitted within a designated period by the Act or by an instruction under the Act;

(viii) a request is made for extension of period for which no extension is allowed by the Act or an instruction under the Act;

(ix) a request for extension of period is made after the expiry of the period for amendments of grounds for opposition to the trademark registration under Article 26 of the Act, after the expiry of the period to request trial under Article 70-2 or 70-3 of the Act, or after the period designated by the Commissioner of the Office, the President of the Tribunal, the presiding trial examiner or by an examiner;

(x) documents have been submitted in relation with trademark-related procedures after the conclusion of the procedures for that trademark;

(xi) a request for registration of a general power of attorney in Form No. 2-6 annexed to the Patent Act Enforcement Regulations, a request for restriction of the scope of authorization of the general power of attorney in Form No. 2-7 annexed to the said Regulations, a

statement for withdrawal of registration of general power of attorney in Form No. 2-8 annexed to the said Regulations, a request for grant of an applicant code in Form No. 4 annexed to the said Regulations, or relevant documents required where an applicant code has to be granted ex officio are not specific enough to accept;

(xii) the request for trademark registration application or other documents submitted by way of communication network or floppy disk have not been prepared with software provided by the Office, or documents submitted by way of electronic means are not in a state suitable for the disposition on the electronic information processing system;

(xiii) the trademark right has extinguished after the submission of the application to register the reclassification of goods and before the decision on the registration of the reclassification of goods;

(xiv) the application to divide the registration of the reclassification of goods is in violation of Article 46-3(1) and (2) of the Act;

(xv) an application for renewal registration of the term of a trademark right has been made for a lapsed trademark right to be extinguished under Article 64-2(1) of the Act;

(xv-2) documents instructed to be submitted under Article 3-2(2) of the Patent Act Enforcement Regulations as applied mutatis mutandis in Article 36 of these Regulations have not been submitted within the designated period;

(xv-3) documents are not prepared independently in violation of Article 2 of the Patent Act Enforcement Regulations as applied mutatis mutandis in Article 36 of these Regulations;

(xvi) documents instructed to be submitted under Article 8 of the Patent Act Enforcement Regulations as applied mutatis mutandis in Article 36 of these Regulations have not been submitted, without any justifiable reason, within a designated period;

(xvii) documents are submitted in connection with procedures for trademark registration by a person who is not entitled to take the procedures.

(2) Where the Commissioner of the Office or the President of the Tribunal deemed application documents, etc. unlawful under the preceding paragraph (1) and intends to return such documents, etc., the Commissioner of the Office shall send a notice to the effect that the application documents, etc. are to be returned, mentioning the reasons for the said return and designating the period to submit

statements, to the applicants or other persons requesting trials (hereinafter referred to as "applicants, etc."). However, in the case of the preceding subparagraph (1)(xvi), the application documents, etc. shall be returned immediately together with the statement of the reasons for return.

(3) The applicants, etc. who have received such a notice as prescribed under the principal text of the preceding paragraph (2) and intend to submit a statement thereon shall submit a statement in Form No. 4-8 annexed to the Patent Act Enforcement Regulations within the period to submit statements, and the applicants, etc., who intend to submit no statement and have the application documents, etc. returned within the said period to submit statements, shall submit to the Commissioner of the Office or the President of the Tribunal a request for the return in Form No. 4-9 annexed to the Patent Act Enforcement Regulations.

(4) Upon receipt of the request for return submitted under the latter provision of the preceding paragraph (3), the Commissioner of the Office or the President of the Tribunal shall immediately return the application documents, etc.

(5) The Commissioner of the Office or the President of the Tribunal, to whom the applicants, etc. do not submit a statement or request for return within the designated period to submit statement, or to whom the submitted statements appear to be groundless, shall return immediately the application documents, etc.

Article 2-2 deleted

Article 3 Report on Consultation Result

(1) A person who intends to report a single application for trademark registration as a result of consultation under Article 8(4) of the Act shall submit to the Commissioner of the Office a notification in Form No. 21 annexed to the Patent Act Enforcement Regulations, signed and sealed by all the parties concerned, together with the following documents:

- (i) a proof of the fact of the consultation;
- (ii) a proof of the power of attorney, where an agent acts in the procedure.

(2) When a notification is submitted under the preceding paragraph (1), procedures required, as a result of the consultation, in respect of relevant applications shall be taken at the same time.

(3) The Commissioner of the Office shall require three examiners or more to attend the lottery pursuant to the latter provision of Article 8(2) of the Act, and shall notify in writing each party concerned of the result of lottery.

(4) The preceding paragraphs (1) to (3) shall apply mutatis mutandis in the case that two or more notifications of change of the applicant of the same application for trademark registration are submitted on the same date pursuant to Article 12(1) of the Act.

Article 4 Application Request, etc.

(1) A person who intends to file an application for trademark registration under Article 9(1) of the Act shall submit to the Commissioner of the Office an application request in the annexed Form No. 1 together with the following documents:

(i) deleted

(ii) a specimen of the trademark;

(iii) an articles of association, relating to the use of a collective mark (only in the case an application for collective mark registration is filed);

(iv) a document to certify the existence of business management (only in the case an application for business emblem registration is filed);

(v) deleted

(vi) a proof of the power of attorney, where an agent acts in the procedure;

(vii) deleted.

(2) In addition to those documents in the preceding paragraph (1), the applicant may submit to the Commissioner of the Office a written explanation about a color trademark, a three-dimensional trademark or about designated goods, or a written explanation by a translation into the Korean language or a phonetic translation of a trademark for registration.

(3) Where the trademark, for which an application for registration is to be filed, falls under Article 6(2) of the Act, the applicant

may, in addition to those documents in the preceding paragraph (1), submit to the Commissioner of the Office documents indicating the following matters and documents to certify those matters and evidence thereof, in each one copy:

- (i) the trademark used;
- (ii) the period of use;
- (iii) the areas of use;
- (iv) the manufacturing, processing, certification, or sales volume, etc. of the designated goods;
- (v) the manner and frequency of use;
- (vi) any other matters, which can prove the fact of use besides the preceding subparagraphs (i) to (v).

(4) Where the trademark, for which an application for registration is to be filed, falls under Article 8(5) of the Act, the applicant may, in addition to those documents under the preceding paragraph (1), submit to the Commissioner of the Office the documents indicating the following matters and documents to certify those matters, in each one copy:

- (i) the trademark registration number of any registered trademark, the right to which has been extinguished due to expiry of the valid term or which has been abandoned, or for which a decision for cancellation by trial has become final;
- (ii) the relevant trademark and designated goods of any registered trademark, the right to which has been extinguished due to expiry of the valid term or to which has been abandoned, or for which a decision for cancellation by trial has become final;
- (iii) the date of extinguishment of the relevant trademark right due to expiry of valid term, the date of abandonment or the date of finalization of the trial decision for cancellation;
- (iv) matters to certify the fact that the applicant has requested a cancellation trial on the basis of Article 73(1)(iii) of the Act.

Article 5 Standard of Specimens Representing Trademarks, etc.

(1) Trademark specimens to be submitted pursuant to Article 4(1)(ii) of these Regulations shall be on a durable paper of a size within 8cm each in length and width, and be represented by materials which are hardly susceptible to fading or discoloration.

(2) The trademark specimens prescribed by the preceding paragraph (1) shall represent clearly the original trademark in the form of

copies reproduced electronically or printed by means of rubber plate, copper plate or zinc plate, and shall be the same as the specimens attached to Forms No. 1, No. 2, No. 5 and No. 12 annexed to these Regulations.

Article 5-2 Three-Dimensional Trademark Specimens, etc.

(1) Where an application for registration is filed for three-dimensional trademark pursuant to Article 9(2) of the Act, the specimens of the trademark shall be drawings or photos which express fully the feature of the said three-dimensional trademark.

(2) Specimens under the preceding paragraph (1) may be composed of one or multiple views of the three-dimensional trademark.

(3) If the Commissioner of the Office determines that the three-dimensional trademark represented by the specimens under the preceding paragraphs (1) and (2) are not clear, the Commissioner of the Office may require submission of a written explanation of the three-dimensional trademark within a designated period for such submission.

(4) Article 5 of these Regulations shall apply mutatis mutandis to the specimens of the three-dimensional trademark under the preceding paragraphs (1) to (3).

Article 5-3 Instruction of Amendment of Procedures, etc.

(1) When the Commissioner of the Office intends to instruct an amendment of procedures in respect of the application for trademark registration under Article 9-2(2) of the Act, the Commissioner of the Office shall notify the applicant for the trademark registration of an instruct to amend the procedures, indicating the following particulars:

(i) the application number for the trademark registration;

(ii) the classification of goods;

(iii) the name and address of the applicant for the trademark registration (or, in the case of a legal entity, its corporate name and address of business);

(iv) where an agent acts on behalf of the applicant for the trademark registration, the name and address or address of business of the agent (or, where the agent is a patent attorney firm, its firm name, office address and the name of the appointed patent

attorney);

(v) matters to be amended.

(2) Where a person who has been instructed to amend the procedures for the trademark registration application under Article 9-2(2) of the Act intends to have the said application documents for the trademark registration returned before the lapse of the period for the amendment of procedures, the person shall submit to the Commissioner of the Office a request for return in Form No. 4-9 annexed to the Patent Act Enforcement Regulations.

(3) A person who intends to amend procedures for the trademark registration application under Article 9-2(3) of the Act shall submit to the Commissioner of the Office a request for amendment of procedures in the annexed Form No. 1-2 together with the following documents:

(i) a sample of the trademark (only where a sample of trademark is to be amended);

(ii) the application request in the Korean language (only where the application request has not been prepared in the Korean language);

(iii) a proof of the power of attorney, where an agent acts in the procedure.

(4) The preceding paragraphs (1) to (3) shall apply mutatis mutandis to the application for supplementary registration of designated goods.

Article 6 Classification of Goods, etc.

(1) The classification of goods under Article 10(1) of the Act shall be as given in the Schedule 1.

(2) The classification of services shall be as given in the Schedule 2.

Article 6-2 Notification of Change of Applicant

The notification of the change of the applicant under Article 12(1) of the Act may be submitted by the assignor or the assignee alone, where the said notification is accompanied by either of the following documents prescribed under Article 11(1)(b) of the Trademark Law Treaty:

(i) a certificate of assignment or a document regarding assignment

prepared in the international standard form (only so far as translated into the Korean language) prescribed by Regulation under the Trademark Law Treaty;

(ii) a copy or an extract of a contract, certifying the change of the applicant (only so far as certified by a notary public or a public institution).

Article 7 Partial Transfer of Application

(1) A person who is transferred the separated part of the application for trademark registration under Article 12(2) of the Act shall submit to the Commissioner of the Office an application request in the annexed Form No. 2 together with the documents referred to in the subparagraphs of Article 4(1) of these Regulations and with the following documents:

(i) a notification of the change of the applicant by the partial transfer;

(ii) a document to certify the cause of the partial transfer;

(iii) deleted.

(2) A person who separates and transfers the part of the application for trademark registration under Article 12(2) of the Act shall amend the original application for trademark registration.

Article 8 Documents to Be Attached to Notification of Change of Applicant of Application for Registration of Business Emblem, etc.

(1) A person who intends to be the transferee of the application for business emblem registration pursuant to Article 12(7) of the Act shall submit to the Commissioner of the Office a notification in Form No. 17 annexed to the Patent Act Enforcement Regulations together with the following documents:

(i) a document to certify that the application for business emblem registration is to be transferred together with the business;

(ii) deleted

(iii) a proof of the power of attorney, where an agent acts in the procedure.

(2) A person who intends to be the transferee of the application for trademark registration pursuant to Article 12(8) of the Act shall submit to the Commissioner of the Office a notification in Form No. 17 annexed to the Patent Act Enforcement Regulations together with the following documents:

(i) a document to certify that the application for trademark registration is to be transferred together with the business per se related to the marks prescribed in the principal text of Article 7(1)(iii) of the Act;

(ii) deleted

(iii) a proof of the power of attorney, where an agent acts in the procedure.

Article 9 Written Request for Permission of Transfer of Application for Registration of Collective Marks, etc.

A person who intends to file a written request for permission of transfer of the application for collective mark registration or of the right to a collective mark under Article 2 of the Trademark Act Enforcement Decree (hereinafter referred to as "the Decree") shall submit to the Commissioner of the Office a request for permission of the transfer in the annexed Form No. 3 together with the following documents:

(i) deleted

(ii) a document to certify a merger of legal entities;

(iii) the articles of association, in each one copy, of a legal entity that exists after the merger;

(iv) a proof of the power of attorney, where an agent acts in the procedure.

Article 10 Amendment of Documents, etc.

A person who intends to make an amendment under Articles 13 to 15 of the Act or under Article 86-10 of the Act shall submit to the Commissioner of the Office or to the President of the Tribunal a statement for amendment in the annexed Form No. 4 together with the following documents:

(i) a document to certify the contents of amendment;

(ii) a proof of the power of attorney, where an agent acts in the procedure.

Article 10-2 Decision to Reject Amendment

(1) Any decision to reject the amendment pursuant to Article 17(1) or (4) of the Act shall be rendered in a written form indicating the matters in the following subparagraphs:

(i) the filing number of the application for trademark registration (or in the case of an international application for trademark registration under Article 86-14(3) of the Act (hereinafter referred

to as "international application for trademark registration), the international registration number);

(ii) the class or classes of goods;

(iii) the name and address of the applicant for trademark registration (or in the case of a legal entity, its corporate name and address of business);

(iv) where an agent acts on behalf of the applicant for the trademark registration, the name and address or the office address of the agent (where the agent is a patent attorney firm, its firm name, the office address and the name of the appointed patent attorney);

(v) the decision to reject and reasons therefor;

(vi) the date of the decision to reject.

(2) Decision to reject the amendment pursuant to Article 17(1) or (4) of the Act as applied mutatis mutandis in Article 49(2) of the Act shall be rendered in a written form indicating the matters in the following subparagraphs:

(i) the filing number of an application for conversion registration of the classification of goods;

(ii) the class or classes of goods;

(iii) the name and address of the person who files an application for conversion registration of the classification of goods (or in the case of a legal entity, its corporate name and address of business);

(iv) where an agent acts on behalf of the person who files an application for the conversion registration of the classification of goods, the name and address or address of business of the agent (where the agent is a patent attorney firm, its firm name, the office address and the name of the appointed patent attorney).

Article 11 Divisional Application

(1) A person who intends to file a divisional application pursuant to Article 18(1) of the Act shall submit to the Commissioner of the Office an application request in the annexed Form No. 5 together with the documents in the subparagraphs of Article 4(1) of these Regulations.

(2) A person who intends to file a divisional application under Article 18(1) of the Act shall amend the original application for trademark registration simultaneously with the divisional

application under the preceding paragraph (1).

Article 12 Conversion of Application

A person who intends to convert a trademark application into a service mark application, or vice versa, pursuant to Article 19 of the Act shall file an application request in the annexed Form No. 5 together with the documents in the subparagraphs of Article 4(1) of these Regulations to the Commissioner of the Office.

Article 13 Order of Examination

Examination of the applications for the trademark registration shall be made in order of filing of the applications.

Article 13-2 Furnishing of Information on Application for Trademark Registration

(1) A person who intends to furnish information pursuant to Article 22(3) of the Act shall submit to the Commissioner of the Office a statement for submission of information in the annexed Form No. 5-2.

(2) Where an agent acts on behalf of the applicant, a proof of the power of attorney shall be attached to the form required under the preceding paragraph (1).

Article 14 Opinion

A person who intends to file an argument pursuant to Article 23(2) (including a case where it applies mutatis mutandis in Article 81(1) of the Act), Article 45(2) (including a case where it applies mutatis mutandis in Article 81(1) of the Act), Article 46-4(2) (including a case where it applies mutatis mutandis in Article 81(1) of the Act) or Article 48(2) of the Act (including a case where it applies mutatis mutandis in Article 81(1) of the Act) shall submit to the Commissioner of the Office, the President of the Tribunal or to the presiding trial examiner an opinion in the annexed Form No. 4-2 together with the following documents:

- (i) a document to certify the contents of the opinion;
- (ii) a proof of the power of attorney, where an agent acts in the procedure.

Article 14-2 Publication Date of Application for Trademark Registration

The date of publication of the application for trademark

registration is the date of issuance of the Trademark Gazette for the publication of trademark registration in which the trademark registration of the relevant application has been published.

Article 14-3 Opposition to Registration of Trademark, etc.

(1) A person who intends to oppose the registration of a trademark pursuant to Article 25(2) of the Act shall submit to the Commissioner of the Office a statement for opposition in the annexed Form No. 5-3 together with the following documents:

- (i) deleted
- (ii) documents, in each one copy, to prove the matters of the opposition to the trademark registration;
- (iii) a proof of the power of attorney, where an agent acts in the procedure.

(2) A person, who intends to amend the opposition to trademark registration pursuant to Article 26 of the Act, shall submit to the Commissioner of the Office a statement for amendment of the opposition in the annexed Form No. 5-4 together with the following documents:

- (i) a document to prove the contents of amendment;
- (ii) a proof of the power of attorney, where an agent acts in the procedure.

(3) A person, who intends to submit a written response to the opposition pursuant to Article 27(1) of the Act, shall submit to the Commissioner of the Office a response to the opposition in the annexed Form No. 5-5 together with the following documents:

- (i) deleted
- (ii) a document to prove the contents of response;
- (iii) a proof of the power of attorney, where an agent acts in the procedure.

(4) A person, who intends to submit an opinion on the response to the opposition under the preceding paragraph (3) and a person who intends to submit a rebuttal to that opinion, shall submit to the Commissioner of the Office a statement for opinion (rebuttal) on the opposition together with the following documents:

- (i) a document to prove the contents of opinion (or of rebuttal);
- (ii) a proof of the power of attorney, where an agent acts in the procedure.

Article 14-4 Decision on Opposition to Registration of Trademark

A decision on opposition to the trademark registration pursuant to Article 27(2) of the Act shall be rendered in writing indicating the matters prescribed in the following subparagraphs:

(i) the filing number of the application for trademark registration and the publication number of the application for trademark registration (or in the case of an international trademark registration application, the international registration number and the publication number of the application for international trademark registration);

(ii) the class or classes of goods;

(iii) the name and address of the applicant for the trademark registration and of the opponent to the trademark registration (or, in the case of a legal entity, its corporate name and address of business);

(iv) where an agent on behalf of the applicant for the trademark registration or an agent on behalf of the opponent to the trademark registration acts, the name and address or address of business of the agent (in the case where the agent is a patent attorney firm, its firm name, office address and the name of the patent attorney appointed);

(v) the decision and reasons therefor;

(vi) the date of decision on the opposition.

Article 14-5 Notification of Grounds for Refusals, etc.

(1) The examiner, who intends to decide or notify of the following matters, shall report that fact to the Commissioner of the Office, then prepare the statement of decision or the notification, and shall sign and seal thereon:

(i) a decision to reject an amendment pursuant to Article 17(1) or (4) of the Act;

(ii) a notification of the reasons for refusal pursuant to Article 23(2) of the Act (including the case where it applies mutatis mutandis in Article 81(1) of the Act), Article 45(2) of the Act (including the case where it applies mutatis mutandis in Article 81(1) of the Act), Article 46-4(2) of the Act (including the case where it applies mutatis mutandis in Article 81(1) of the Act) or Article 48(2) of the Act (including the case where it applies mutatis mutandis in Article 81(1) of the Act);

(iii) a decision to publish the application pursuant to Article

24(1) of the Act;

(iv) a decision on opposition to trademark registration pursuant to Article 27(2) of the Act.

(2) The examiner, who intends to make decision to refuse or grant the trademark registration on the application for trademark registration, shall report that fact to the Commissioner of the Office and prepare the statement of decision to refuse or grant the trademark registration, stating the following particulars, and shall sign and seal thereon:

(i) the filing number of the application for trademark registration and the publication number of the application for trademark registration (or the international registration number and the publication number of the application for international trademark registration shall be indicated in the case of an application for international trademark registration; the publication number of the application for trademark registration and the publication number of the application for international trademark registration shall be indicated so far as the relevant publication of the application has been effected);

(ii) the class or classes of goods;

(iii) the name and address of the applicant for the trademark registration (or in the case of a legal entity, its corporate name and address of business);

(iv) where an agent acts on behalf of the applicant for the trademark registration, the name and address or address of business of the agent (in the case where the agent is a patent attorney firm, its firm name, office address and the name of the appointed patent attorney);

(v) the publication date of the application (so far as the publication of the application has been effected) or the notification date of the reasons for refusal;

(vi) the decision and reasons therefor;

(vii) the date of the decision.

(3) The examiner, who intends to make decision to grant or reject the request for the conversion registration of the classification of goods, shall report the fact to the Commissioner of the Office and prepare the statement of decision to refuse or grant, stating the following particulars, and shall sign and seal thereon:

(i) the filing number of the request for the conversion registration

of the classification of goods;

(ii) the class or classes of goods;

(iii) the name and address of the applicant for the conversion registration of the classification of goods (or, in the case of a legal entity, its corporate name and address of business);

(iv) where an agent acts on behalf of the applicant for the conversion registration of the classification of goods, the name and address or office address of the agent (in the case where the agent is a patent attorney firm, its firm name, office address and the name of the patent attorney appointed);

(v) the date of the notification of the reasons for refusal (so far as preparing the statement of the decision to refuse);

(vi) the decision and reasons therefor;

(vii) the date of the decision.

(4) The preceding paragraph (2) shall apply mutatis mutandis to the application for supplementary registration of designated goods and to the application for renewal registration of the term of trademark right.

Article 14-6 Abandonment in Part of Designated Goods

A person who intends to abandon, in part, designated goods under Article 34-2(1) of the Act shall indicate that intent in a statement for payment of the registration fee in Form No. 14, No. 15 or No. 15-2 annexed to the Enforcement Regulations of the Trademark Registration Decree, and shall submit to the Commissioner of the Office a statement for abandonment of the part of the designated goods in Form No. 5-7 annexed to these Regulations together with the said statement for payment of the registration fee.

Article 14-7 Restoration of Trademark Registration Application, etc. by Late Payment or Remaining Payment of Registration Fee

A person who intends to make a late payment or remaining payment under Article 36-3 of the Act shall indicate that intent in a statement for payment of registration fees for trademark (service mark, trademark-and-service mark, collective mark, business emblem) in Form No. 14 annexed to Trademark Registration Decree Enforcement Regulations, in a statement for payment of registration fees for renewal (division) of term in Form No. 15 annexed to the said Regulations, in a statement for payment of supplementary registration fees for designated goods (service, business) in Form

No. 15-2 annexed to the said Regulations, or in a statement for remaining payment of registration fees in Form No. 16-2 annexed to the said Regulations, and shall submit the said statement to the Commissioner of the Office together with the following documents:

(i) a document to prove that, due to the circumstances beyond control of the applicant, the registration fee has not been paid within the specified payment period or the remaining payment has not been effected within the designated period for the remaining payment;

(ii) a proof of the power of attorney, where an agent acts in the procedure.

Article 15 Trademark Registration Certificate, etc.

(1) Pursuant to Article 40(1) of the Act, a trademark registration certificate shall be prepared in the annexed Form No. 6, a service mark registration certificate in the annexed Form No. 7, a certificate of registration of trademark-and-service mark in the annexed Form No. 7-2, a certificate of collective mark registration in the annexed Form No. 8, and a certificate of business emblem registration in the annexed Form No. 9.

(2) Where the Commissioner of the Office intends to renew a registration of term of trademark right pursuant to Article 42(2) of the Act, or make a supplementary registration of designated goods pursuant to Article 47(1) of the Act, or issue a correction of trademark registration certificate pursuant to Article 40(2) of the Act, the Commissioner of the Office shall fill in the field of registration details in the annexed Form No. 10 with the relevant particulars, give a seal thereon and bind the form to the trademark registration certificate to be issued.

Article 16 Application for Renewal Registration of Term of Trademark Right, etc.

A person who intends to apply for a renewal registration of term of trademark right pursuant to Article 43(1) of the Act shall submit to the Commissioner of the Office an application in the annexed Form No. 11 together with the following documents:

(i)-(ii) deleted

(iii) a proof of the power of attorney, where an agent acts in the procedure.

Article 17 Division of Application for Renewal Registration of Term of Trademark Right

(1) A person who intends to divide the application for renewal registration of term of trademark right pursuant to Article 44(1) and (2) of the Act shall submit to the Commissioner of the Office an application in the annexed Form No. 11-2 together with the documents in subparagraphs of Article 16 of these Regulations.

(2) A person who intends to divide the application for renewal registration of term of trademark right into two or more applications pursuant to Article 44(2) of the Act shall amend the original application in respect of the relevant goods.

(3) A person who intends to divide the application for renewal registration of term of trademark right, in which the registration of the reclassification of goods is applied simultaneously pursuant to the latter provision of Article 46-2(2) of the Act, shall apply simultaneously the renewal registration of term and the registration of the reclassification of goods on the registration, in the annexed Form No. 11-2.

Article 17-2 Application to Register Reclassification of Goods, etc.

(1) A person, who intends to file an application to register the reclassification of goods pursuant to Article 46-2(2) of the Act, shall submit to the Commissioner of the Office an application in the annexed Form No. 11.

(2) Where the Commissioner of the Office accepted an application to register the reclassification of goods under the preceding paragraph (1), the Commissioner of the Office shall accord the said application an identification number (hereinafter referred to as "filing number of an application to register the reclassification of goods") and give the applicant for the registration of the reclassification of goods a notice of the filing number of an application to register the reclassification of goods, indicating the said filing number and the date of filing of an application to register the reclassification of goods (hereinafter referred to as "filing date of an application to register the reclassification of goods").

(3) A person who intends to withdraw an application to register the

reclassification of goods under the preceding paragraph (1) shall submit to the Commissioner of the Office a statement for withdrawal in Form No. 9 annexed to the Patent Act Enforcement Regulations.

(4) Where an agent acts on behalf of the applicant to file an application to register the reclassification of goods and to take procedure on the withdrawal thereof, a proof of the power of attorney shall be attached to the forms prescribed in the preceding paragraphs (1) and (3).

Article 17-3 Division of Application to Register Reclassification of Goods

(1) A person who intends to divide the registration of reclassification of goods and file the application to register the reclassification of goods pursuant to Article 46-3(1) and (2) of the Act shall submit to the Commissioner of the Office an application in the annexed Form No. 11-2.

(2) Where an agent acts in the procedure, a proof of the power of attorney shall be attached to the form required under the preceding paragraph (1).

(3) A person who intends to divide the application to register the reclassification of goods which has been already filed pursuant to Article 46-3(2) of the Act shall file an application for division and shall, in the application to register the reclassification of goods, simultaneously amend the designated goods to be declassified and the classifications of the goods thereof.

Article 18 Application for Supplementary Registration of Designated Goods, etc.

(1) A person who intends to apply for a supplementary registration of designated goods pursuant to Article 47(2) of the Act shall submit to the Commissioner of the Office an application for supplementary registration in the annexed Form No. 12 together with the following documents:

(i) deleted

(ii) a specimen of the trademark;

(iii) a document to certify the fact of business management (only so far as an application is made for supplementary registration of a designated business);

(iv) the articles of association related to the use of a collective mark (only so far as an application is made for registration of a collective mark or for a supplementary registration of designated goods for a collective mark right);

(v) a proof of the power of attorney, where an agent acts in the procedure.

(2) Where a trademark for which a supplementary registration is to be made for designated goods falls under Article 6(2) of the Act, the applicant may, besides the documents in the preceding paragraph (1), submit to the Commissioner of the Office the following particulars together with documents and evidence materials to prove those particulars, in each one copy:

(i) the trademark used;

(ii) the period of use;

(iii) the areas of use;

(iv) the manufacturing, processing, certification or sales volume, etc. of the designated goods;

(v) the manner and frequency of use;

(vi) any other matters, which can prove the facts of use besides the preceding subparagraphs (i) to (v).

(3) Articles 5 and 5-2 of the Act shall apply mutatis mutandis to the application for supplementary registration of the designated goods.

Article 19 deleted

Article 20 Request for Trial

(1) A person who intends to request a trial against a decision of refusal pursuant to Article 70-2 of the Act and who intends to request a trial against a decision to reject amendments pursuant to Article 70-3 shall submit to the President of the Tribunal a request for trial in the annexed Form No. 13.

(2) A person who intends to request a trial pursuant to Articles 71, 72, 72-2 and 73 to 75 of the Act shall submit to the President of the Tribunal a request for trial in Form No. 34 annexed to the Patent Act Enforcement Regulations.

Article 21 deleted

Article 22 Request for Retrial

A person who intends to request a retrial pursuant to Article 83 of the Act shall submit to the President of the Tribunal a request for retrial in Form No. 44 annexed to the Patent Act Enforcement Regulations.

Article 23 Appointment of Agents for International Applications, etc.

(1) Where a person, who takes a procedure for an international application under Article 2(2) of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as "the Protocol") (hereinafter referred to as "international application"), intends to notify of the appointment of an agent, or where the agent intends to notify of the appointment of a subagent, the person or agent shall submit to the Commissioner of the Office a notification of appointment of agent (subagent) in the annexed Form No. 14 together with a document to prove the contents of the notification.

(2) Where a person who takes a procedure for an international application intends to notify of the dismissal of an agent, or where an agent intends to notify of the dismissal of a subagent, the person or agent shall submit to the Commissioner of the Office a notification of dismissal of agent (subagent) in the annexed Form No. 14-2.

(3) Where an agent or subagent of a person who takes a procedure for an international application intends to notify of his or her resignation, the agent or subagent shall submit to the Commissioner of the Office a notification of resignation from the post of agent (subagent) in the annexed Form No. 14-3.

Article 23-2 Appointment of Representative for International Application, etc.

(1) A person who takes a procedure for international application and intends to notify of the appointment of a representative shall submit to the Commissioner of the Office a notification of appointment of representative in the annexed Form No. 15 together with a document to prove the contents of the notification.

(2) A person who takes a procedure for international application and intends to notify of the dismissal of a representative shall submit to the Commissioner of the Office a notification of dismissal of representative in the annexed Form No. 15-2.

(3) Where a representative of a person who takes a procedure for international application intends to notify of his or her resignation, the representative shall submit to the Commissioner of the Office a notification of resignation in the annexed Form No. 15-3.

Article 23-3 Notification of General Power of Attorney for International Application, etc.

(1) A person who takes a procedure for international application and intends to notify of the grant of the general power of attorney shall submit to the Commissioner of the Office a request for registration of general power of attorney in the annexed Form No. 16 together with a general power of attorney.

(2) A person who takes a procedure for international application and intends to notify of dismissal of a representative specified in the general power of attorney under the preceding paragraph (1) shall submit to the Commissioner of the Office a statement for withdrawal of general power of attorney in the annexed Form No. 16-2.

(3) A representative who is specified in the general power of attorney under the preceding paragraph (1) and intends to notify of his or her resignation shall submit to the Commissioner of the Office a statement for withdrawal of general power of attorney in the annexed Form No. 16-2.

Article 24 Requirement to File Application as Joint Applicants

The reference to "the requirements for an entitlement to file as prescribed by ordinance of the Ministry of Commerce, Industry and Energy" in Article 86-3(2) of the Act means the following:

(i) each of the persons who intend to file jointly an international application shall meet any of the subparagraphs in Article 86-3(1) of the Act;

(ii) each of the persons has jointly filed the basic application under Article 86-4(2)(iv) of the Act or jointly owns the trademark right concerning the basic registration under the said Article 86-

4(2)(iv).

Article 25 Language of International Application

The reference to "a language prescribed by ordinance of the Ministry of Commerce, Industry and Energy" in Article 86-4(1) of the Act means English.

Article 26 Form for Request for International Application, etc.

(1) The request for an international application under Article 86-4(1) of the Act shall be in the annexed Form No. 17.

(2) The reference to "the documents necessary for an international application" in Article 86-4(1) of the Act means a statement for submission of request for international application etc. in the annexed Form 17-2.

Article 27 Request for Subsequent Designation

A person who intends to request a subsequent designation under Article 86-6(1) of the Act shall submit to the Commissioner of the Office a request for a subsequent designation in the annexed Form No. 18 attaching to a request for international application, etc. in the annexed Form No. 17-2.

Article 28 Request for Renewal of Term

A person who intends to request a renewal of the term of an international registration under Article 86-7(2) of the Act shall submit to the Commissioner of the Office a request for renewal of the term of an international registration in the annexed Form No. 19 attaching to a request for international application, etc. in the annexed Form No. 17-2.

Article 29 Request for Registration of Change in Ownership of International Registration

A person who intends to request the registration of a change in the ownership of an international registration under Article 86-8(2) of the Act shall submit to the Commissioner of the Office a request for the registration of a change of the ownership of an international registration attaching to a request for international application in the annexed Form No. 17-2.

Article 30 Submission of Alternative Documents for Request for International Application, etc.

(1) Where the documents falling under the following are not prepared in accordance with the Act, the Decree or these Regulations, the Commissioner of the Office may, specifying the period, instruct the applicant or a person who has submitted those documents, to submit alternative documents. However, where the defects of the documents have not been remedied, the Commissioner of the Office shall return the documents, stating the reasons therefor, to the applicant or the person who has submitted them:

- (i) the request for international application;
- (ii) the request for subsequent designation;
- (iii) the request for renewal of the term of an international registration;
- (iv) the request for the registration of the change of ownership of an international registration.

(2) A person who has been instructed to submit alternative documents under the preceding paragraph (1) shall submit to the Commissioner of the Office within the specified period a statement for submission of alternative documents in the annexed Form No. 21 together with the following documents:

- (i) alternative documents prepared in English, in each one copy;
- (ii) a proof of the power of attorney, where an agent acts in the procedure for an international application.

Article 30-2 Amendment of Defects upon Notification by International Bureau

Under Rules 11 to 13 of the Common Regulations under the Madrid Agreement Concerning the International Registration of Marks and Protocol Relating to that Agreement (hereinafter referred to as "the Common Regulations"), a person, who intends to submit an opinion or make an amendment on defects notified by the International Bureau referred to in Article 2(1) of the Protocol (hereinafter referred to as "International Bureau"), shall submit to the Commissioner of the Office a statement for amendment of defects in the annexed Form No. 21-2 together with a statement for opinion prepared in English.

Article 31 Period for Submitting Articles of Association Concerning Collective Marks

The reference to "within the period prescribed by ordinance of the

Ministry of Commerce, Industry and Energy" in Article 86-16(3) of the Act means within three months from the date of international registration under the principal text of Article 86-14(2) of the Act (or from the date of subsequent designation under the proviso of that paragraph, where the Republic of Korea has been subsequently designated).

Article 32 Amendment of International Application for Trademark Registration

A person who intends to make an amendment of an international application for trademark registration under Articles 13, 14, 15 and 86-19 of the Act shall submit to the Commissioner of the Office or to the President of the Tribunal a statement for amendment of the international application for trademark registration in the annexed Form No. 22 together with the following documents:

- (i) a duplicate copy of an amendment of the international application for trademark registration;
- (ii) a document to prove the contents of amendment;
- (iii) a proof of the power of attorney, where an agent acts in the procedure for the international application for trademark registration.

Article 33 Period to Submit Documents Concerning Special Provisions on Time of Filing Application

The reference to "within the period prescribed by ordinance of the Ministry of Commerce, Industry and Energy" in Article 86-23 of the Act means within three months from the date of international registration under the principal text of Article 86-14(2) of the Act (or from the date of subsequent designation under the proviso of that paragraph, where the Republic of Korea has been subsequently designated).

Article 34 Period for Decision to Publish Application, etc.

(1) The reference to "within the period prescribed by ordinance of the Ministry of Commerce, Industry and Energy" in Article 86-24 of the Act means within 14 months from the date on which the International Bureau has given notification of territorial extension under Article 3-3 of the Protocol (hereinafter referred to as the "territorial extension") (where the International Bureau has given a notification of the territorial extension, and then under Rule 28(2) of the Common Regulations given a notification of rectification to

the entries of the registration in the International Register, from the date on which the said notification of rectification of the relevant entries has been given).

(2) The reference to "within the period prescribed by ordinance of the Ministry of Commerce, Industry and Energy" in Article 86-27 of the Act means within 18 months from the date on which the International Bureau has given a notification of the territorial extension (where the International Bureau has given a notification of the territorial extension, and then under Rule 28(2) of the Common Regulations given a notification of rectification to the entries of the registration in the International Register, from the date on which the said notification of rectification of the relevant entries has been given).

Article 35 Reapplication Requests, etc.

(1) A person who intends to file an application for trademark registration falling under any subparagraph of Article 86-41 of the Act (hereinafter referred to as "reapplication") shall submit to the Commissioner of the Office a reapplication request in the annexed Form No. 23 together with the following documents:

- (i) a specimen of the trademark;
- (ii) the articles of association, concerning the use of a collective mark, in each one copy (so far as the application is filed for the registration of a collective mark);
- (iii) a proof of the power of attorney, where an agent acts in the procedure.

(2) Article 4(2) to (4) of the Act shall apply mutatis mutandis to the application for trademark registration by way of the reapplication request.

Article 36 Provisions as Applied Mutatis Mutandis

Articles 1-2, 2 to 5, 5-2 to 5-4, 6 to 9, 9-3 to 9-7, 10, 12, 13-3, 14 to 19, 20-2, 24 to 27, 34, 36, 37-2, 49, 51, 58 to 69, 73, 120, and 120-2 to 120-6 of the Patent Act Enforcement Regulations shall apply mutatis mutandis in filing of applications for trademark registration, making of requests and taking other procedures concerned. In such a case, the words "in filing an application for patent" in the proviso of Article 5(2) of the said Regulations shall read "in filing an application for trademark registration,

application for supplementary registration of designated goods, application for renewal of the term of registered trademark, application to register the reclassification of goods," the words "in filing an opposition to the grant of patent" shall read "in filing an opposition to trademark registration (hereinafter including an opposition to supplementary registration of designated goods)," the words "the request for patent" shall read "the request for trademark registration, the application for supplementary registration of designated goods, the application for renewal of registered trademark, the application to register the reclassification of goods," the words "filing an opposition to the grant of patent" shall read "in filing an opposition to trademark registration," the words "opposition to the grant of patent" in the proviso of Article 5(2) of the said Regulations shall read "opposition to trademark registration," the words "decision to refuse the patent or decision to revoke the patent" shall read "decision to refuse or decision to reject the amendment," the word "applicant" in Article 9(1)(i) of the said Regulations shall read "applicant for the registration of the reclassification of goods," the words "an opposition to the grant of patent" in Article 12(3) of the said Regulations shall read "the application to register the reclassification of goods, the opposition to trademark registration," the words "patent opposition number" shall read "number for the application to register the reclassification of goods, number of opposition to the trademark registration," and the words "trial against a decision to refuse a patent referred to in Article 132-3 of the Act" in Article 73(2) of the said Regulations shall read "trial against a decision to refuse under Article 70-2 of the Act and trial against a decision to reject amendment under Article 70-3 of the Act."

Article 37 Use of International Standard Form Prescribed by Regulations under Trademark Law Treaty

Other than the forms prescribed under these Regulations, the international standard forms prescribed by Regulations under the Trademark Law Treaty (only so far as translated into the Korean language) may be used for the application, notification, request, etc. under the Act, the Decree or these Regulations.