

[Translation of Taiwan's Trademark Act by Winkler Partners. This translation is of the Act as last amended by the Legislative Yuan on 31 May 2011 and promulgated by presidential order on 29 June 2011. The Executive Yuan has announced that the amended articles will take force on 1 July 2012.]

## Trademark Act

### Chapter I: General Principles

#### Article 1

This Act is enacted to protect trademark rights, certification mark rights, collective mark rights, collective trademark rights, and consumer interests, to maintain fair market competition, and to promote the normal development of industrial and commercial enterprise.

#### Article 2

A person who wishes to obtain trademark rights, certification mark rights, collective mark rights, or collective trademark rights shall apply for registration in accordance with this Act.

#### Article 3

The competent authority for this Act is the Ministry of Economic Affairs.

The Ministry of Economic Affairs shall designate an agency (the "Trademark Office") to be exclusively responsible for the administration of trademark affairs.

#### Article 4

Processing of a foreign national's application for trademark registration may be refused if the applicant's country has not jointly acceded to an international trademark protection treaty with the Republic of China (ROC) or has no reciprocal trademark protection treaty or agreement with the ROC, or does not accept applications for trademark registration by ROC nationals for processing.

#### Article 5

"Use" of a trademark means any of the following, when done for marketing purposes and when sufficient to cause relevant consumers to recognize the trademark as such:

1. The use of a trademark in connection with goods or packaging or containers thereof.

2. The possession, display, sale, export, or import of goods under the preceding subparagraph.
3. The use of a trademark on an item related to the provision of services.
4. The use of a trademark in a commercial document or advertisement related to goods or services.

The same applies if the use in circumstances in any subparagraph of the preceding paragraph is done by means of digital sound or image, electronic media, network, or other medium.

## Article 6

A trademark agent may be appointed to handle applications for trademark registration and related affairs. A person with no domicile or place of business in the ROC shall appoint a trademark agent to handle trademark affairs.

A trademark agent shall have a domicile in the ROC.

## Article 7

When two or more persons wish to jointly own a trademark, an application shall be filed in the name of all the persons. One of the persons may be selected as a representative to handle various application procedures and receive documents on behalf of all of the joint owners.

If no representative is selected as described in the preceding paragraph, the Trademark Office shall consider the applicant listed first in the application as the person to receive service of documents, and shall also notify the other applicants for joint ownership of trademark of the particulars of any such service.

## Article 8

Unless otherwise provided in this Act, a Trademark application or other procedure shall be refused for processing if there is a delay beyond the statutory time period, or a failure to comply with the statutory format that cannot be corrected or supplemented, or a failure to comply with the statutory format and failure to make a supplementation or correction within the prescribed time period following notification to do so. An application shall nevertheless be accepted for processing if supplementation or correction is made after the lapse of the prescribed time period but before the rendering of a disposition.

If an applicant's delay beyond the statutory time period is due to natural disaster or other cause not attributable to the applicant, the applicant, within 30 days after removal of the cause of delay, may file with the Trademark Office a written report

specifying the reasons for the delay and applying for restoration of the status quo ante. An application for restoration of the status quo ante may not be filed, however, when the statutory time period has been exceeded by more than one year.

When applying for restoration of the status quo ante, the applicant shall at the same time complete all actions that were required during the statutory time period.

The provisions of the preceding two paragraphs do not apply to a delay with respect to the period prescribed in Article 32, paragraph 3.

## Article 9

The date of a trademark application or other procedure shall be the day on which the documents or items are delivered to the Trademark Office. If delivery is made by post, it shall be the postmark date of the place of origin.

If a postmark date is not clearly legible, then unless a party provides evidence, the date shall be the day of delivery to the Trademark Office.

## Article 10

When a disposition or other document cannot be served, it shall be published in the Trademark Gazette, and will be deemed to have been served 30 days after the publication of the Trademark Gazette.

## Article 11

The Trademark Office shall publish and circulate an official gazette containing registered trademarks and related particulars thereof.

The gazette of the preceding paragraph may be in electronic form. The date of implementation thereof will be determined by the Trademark Office.

## Article 12

The Trademark Office shall establish and maintain a trademark register to record trademark registrations, changes to trademark rights, and all other particulars required by law or regulation, and shall make it open to the public.

The trademark register referred to in the preceding paragraph may be in electronic form.

## Article 13

Trademark applications and other procedures may be done in electronic form. The implementation regulations thereof shall be prescribed by the competent authority.

## Article 14

The Trademark Office shall appoint examiner(s) to handle the examination of trademark registration application, opposition, invalidation, and cancellation cases.

The qualifications for an examiner referred to in the preceding paragraph shall be prescribed by law.

## Article 15

In the examination of a case under paragraph 1 of the preceding article, the Trademark Office shall prepare a written disposition, specifying the reasons, and serve it on the applicant.

Examiners shall include their names in dispositions of the preceding paragraph.

## Article 16

For the purposes of calculating a period of time, the initial day of the period is not included in the calculation, with the exception of the time periods provided in Article 33, paragraph 1, Article 75, paragraph 4, and Article 103.

## Article 17

The provisions of this chapter regarding trademarks apply mutatis mutandis to certification marks, collective marks, and collective trademarks.

## Chapter II: Trademark

### Section 1: Application for Registration

## Article 18

“Trademark” means a sign that has distinctiveness, and may consist of a word, device, symbol, color, three-dimensional shape, motion, hologram, or sound, or any combination thereof.

“Distinctiveness” in the preceding paragraph means characteristics sufficient to enable relevant consumers of goods or services to recognize it as indicating the source of those goods or services, and to differentiate the goods or services from those of other persons.

## Article 19

In applying for trademark registration, the applicant shall prepare an application form that specifies the applicant, a representation of the trademark, and the goods or

services with which the trademark is designated for use, and file the application with the Trademark Office.

In applying for trademark registration, the date of application is the date on which the application of the preceding paragraph is filed.

The representation of the trademark shall be presented in a clear, specific, complete, objective, lasting, and easily understandable manner.

Each application for trademark registration shall be for one trademark only, but the trademark may be designated for use with goods and services in two or more classes.

The classification of goods or services of the preceding paragraph shall be prescribed in the Enforcement Rules of this Act.

Determination of similar goods or services shall not be restricted by the goods or services classification of the preceding paragraph.

## Article 20

A person who has duly applied for registration in a country with reciprocal recognition of priority rights with the ROC or in a World Trade Organization (WTO) member may claim priority rights within six months after the date of that first application when applying to register the same trademark in the ROC for some or all of the same goods or services as in the first application.

If an applicant is a national of a country that is not a WTO member and the applicant's country also does not reciprocally recognize priority rights with the ROC, but the applicant has a domicile or place of business within the territory of a reciprocating country or a WTO member, the applicant may claim priority rights under the preceding paragraph.

Priority claims under paragraph 1 shall be declared at the time the application for registration is filed, and the following particulars shall be specified in the application form:

1. The filing date of the first application.
2. The country or WTO member that accepted the first application for processing.
3. The application number of the first application.

Within three months from the date of application in the ROC, the applicant shall file a certified copy of the application accepted for processing by the country or WTO member of the preceding paragraph.

If the application does not comply with the provisions of paragraph 3, subparagraph 1 and 2, or the preceding paragraph, it shall be deemed that priority has not been claimed.

If a priority claim is made, the priority date will be taken as the date of the application.

If multiple priority claims are made, the priority dates claimed for the respective goods or services of each will be taken as the dates of application.

## Article 21

When an application for registration of a trademark is filed within 6 months after the date that goods or services using the trademark were displayed at an international exhibition held by or recognized by the ROC government, the date of display will be taken as the date of application for registration.

The provisions of the preceding article apply mutatis mutandis to applications filed with a claim of exhibition priority under the preceding paragraph.

## Article 22

If two or more persons apply separately on the same day for registration of identical or similar trademarks for the same or similar goods or services, causing a likelihood of confusion or misidentification by relevant consumers, and it is not possible to ascertain the chronological order of the applications, the applicants shall negotiate an agreement. When an agreement cannot be reached, it shall be settled by drawing lots.

## Article 23

Once an application has been filed, no change may be made to the representation of the trademark or the goods or services with which the trademark is designated for use, unless it is a reduction of the scope of the goods or services or a change that is not a substantive change to the representation of the trademark.

## Article 24

If there is a change in the applicant's name, address, trademark agent, or other particulars of the registration application, an application for the change shall be filed with the Trademark Office.

## Article 25

When an application for trademark registration contains any of the following errors, the error may be corrected upon application or ex officio:

1. An error in the applicant's name or address.
2. An error of wording or copying.
3. Any other obvious error.

An application for correction under the preceding paragraph may not affect the identity of the trademark or expand the scope of the designated goods or services.

## Article 26

An applicant may request the Trademark Office to divide the designated goods or services into two or more applications for registration while retaining the filing date of the original application for registration as the filing date.

## Article 27

Rights derived from an application for registration of a trademark may be assigned to another person.

## Article 28

The assignment of trademark application rights in a jointly owned trademark or the assignment of a joint owner's share of ownership in such a trademark shall require the consent of all of the joint trademark owners, with the exception of assignment due to succession, compulsory execution, court judgment, or other provisions of law.

The abandonment of trademark application rights in a jointly owned trademark shall require the consent of all of the joint trademark owners, with the exception of abandonment by any joint owner of its share of ownership.

When a joint owner of a trademark abandons its share of ownership under the preceding paragraph, that owner's share shall be apportioned among the other joint owners in proportion to their respective shares of ownership.

The provisions of the preceding paragraph apply mutatis mutandis in the event a joint owner dies with no successor or ceases to exist with no successor.

A reduction in scope or a division of the designated goods or services of jointly owned trademark application rights shall require the consent of all of the joint trademark owners.

## Section 2: Examination and Approval

## Article 29

A trademark that is non-distinctive due to any of the following circumstances may not be registered:

1. The trademark consists solely of a description of the quality, purpose, raw material, place of origin, or relevant characteristic of the designated goods or services.
2. The trademark consists solely of a generic mark or name for the designated goods or services.
3. The trademark consists solely of other non-distinctive signs.

Subparagraph 1 or 3 of the preceding paragraph shall not apply if the trademark has been used by the applicant and has become, in trade, a sign distinguishing the applicant's goods or services.

When the representation of a trademark includes a portion that is non-distinctive and would cause a likelihood of uncertainty as to the scope of trademark rights, the applicant shall disclaim exclusive use of the non-distinctive portion. If no such disclaimer is made, the trademark may not be registered.

## Article 30

A trademark may not be registered in any of the following circumstances:

1. The trademark is necessary only to carry out the functions of the goods or services.
2. The trademark is identical or similar to the national flag, national emblem, national seal, a military flag, military emblem, official seal, or medal of the ROC, or to the national flag of a foreign country, or to a foreign state emblem, official sign, or hallmark as notified by a WTO member pursuant to Article 6ter(3) of the Paris Convention.
3. The trademark is identical or similar to the image or name of Dr. Sun Yat-Sen or a head of state.
4. The trademark is identical or similar to a mark used by an ROC government agency or used for an exhibition held by an ROC government agency, or is identical or similar to a medal or certificate of commendation issued thereby.
5. The trademark is identical or similar to the hallmark, flag, or other emblem of, or the acronym or name of, an international intergovernmental organization or a well-known foreign or domestic public interest organization, and would cause a likelihood of misidentification or mistaken belief by the public.

6. The trademark is identical or similar to a foreign or domestic national label or seal used to indicate quality control or certification, and is designated for use on the same or similar goods or services.

7. The trademark impedes public order or good morals.

8. The trademark causes a likelihood of misidentification or mistaken belief by the public as to the nature, quality, or place of origin of the goods or services.

9. The trademark is identical or similar to the geographical indication used on an ROC or foreign wine or distilled spirit and is designated for use on goods identical or similar to wine or distilled spirits, and the given foreign country has signed an agreement with or jointly acceded to an international treaty with the ROC or provides reciprocal recognition with the ROC for the protection of geographical indications for wine or distilled spirits.

10. The trademark is identical or similar to a registered trademark or earlier filed trademark of another person with the same or similar goods or services, and is likely to cause confusion or misidentification by relevant consumers. This restriction shall not apply, however, if the holder of the registered trademark or the applicant of the earlier filed trademark has consented to the application, and the application is not obviously improper.

11. The trademark is identical or similar to a well-known trademark or mark of another person, and is likely to cause confusion or misidentification by the relevant public, or likely to dilute the distinctiveness or the reputation of the well-known trademark or mark. Nevertheless, this restriction shall not apply if the holder of the well-known trademark or mark has consented to the application for registration.

12. The trademark is identical or similar to another person's trademark used earlier with the same or similar goods or services, and the applicant knows of the existence of the other person's trademark because of a contractual, geographic, business, or other relationship with that other person, and the application for registration is made with the intent of counterfeiting or imitating that trademark. This restriction shall not apply, however, if the prior user has consented to the application for registration.

13. The trademark contains another person's image or well-known name, stage name, pen name, or pseudonym. This restriction shall not apply, however, if the other person has consented to the application for registration.

14. The trademark contains the name of a well-known juristic person, firm, or other organization and is likely to cause confusion or misidentification by the relevant public. This restriction shall not apply, however, if the juristic person, firm, or organization has consented to the application for registration.

15. The trademark has been determined, in a final and unappealable court judgment, to infringe another person's copyright, patent right, or other right. This restriction shall not apply, however, if the other person has consented to the application for registration.

A determination regarding geographical indications, well-known status, or earlier use as set out in subparagraph 9 and subparagraphs 11 to 14 of the preceding paragraph shall be made based on the circumstances at the time of application.

The provisions of paragraph 1, subparagraphs 4, 5, and 9 of this article do not apply when the applicant is a government agency or related institution.

The provisions of paragraph 3 of the preceding article apply mutatis mutandis to the circumstances of paragraph 1, subparagraph 1 of this article.

## Article 31

If in the examination of a trademark registration application case any circumstance is found prohibiting registration under Article 29, paragraph 1 or 3, paragraph 1 or 4 of the preceding article, or Article 65, paragraph 3, a decision shall be rendered to reject the application.

Before a rejection decision is rendered pursuant to the preceding paragraph, a written notice shall be served on the applicant stating the grounds for rejection and notifying the applicant to submit an opinion within a specified deadline.

Any request for a reduction in the scope of the designated goods or services, non-substantive change in the representation of a trademark, division of an application for registration, or disclaimer of exclusive use shall be made before a decision is rendered to reject the application.

## Article 32

If in the examination of a trademark registration application case no circumstance under paragraph 1 of the preceding article is found, a decision shall be rendered to approve the application.

When a decision approving the registration of a trademark has been rendered, the applicant shall pay the registration fee within two months from the service of the written decision of approval. The registration will be published and a trademark registration certificate issued only after payment of the registration fee. If the registration fee is not paid within the specified deadline, the registration shall not be published.

An applicant that unintentionally fails to pay the registration fee by the deadline of the preceding paragraph may pay the registration fee in double within six months after

the deadline, and the registration will then be published by the Trademark Office, except when to do so would affect a third person's application for trademark registration or acquisition of trademark rights during that period.

## Article 33

A rights holder acquires the trademark rights for a term of 10 years, beginning from the date of the trademark's publication.

The term of trademark rights may be renewed upon application, with each renewal term being 10 years.

## Article 34

To renew trademark rights, an application for renewal shall be filed and the registration fee paid within 6 months before the expiration of the term of the trademark rights. If the application is filed within 6 months after the expiration of the term of the trademark rights, the registration renewal fee shall be doubled.

The term of a renewal approved pursuant to the preceding paragraph shall be calculated from the expiration date of the preceding term.

## Article 35

A trademark rights holder acquires trademark rights with respect to the designated goods or services for which the mark is registered.

Except as otherwise provided in Article 36 of this Act, the consent of the trademark rights holder shall be required in any of the following circumstances:

1. A trademark identical to the registered trademark is used with the same goods or services.
2. A trademark identical to the registered trademark is used with similar goods or services, causing a likelihood of confusion or misidentification by relevant consumers.
3. A trademark similar to the registered trademark is used with the same or similar goods or services, causing a likelihood of confusion or misidentification by relevant consumers.

Once a trademark has been registered, it may be marked as registered trademark or with an internationally used trademark registration symbol.

## Article 36

A person in the following circumstances will not be bound by the effect of the trademark rights of another person:

1. One who displays, in a good faith manner consistent with the conventions of commerce and trade, one's own personal name or entity name, or the name, shape, quality, nature, characteristics, purpose, place of origin, or other description of one's goods or services, provided that they are not used as trademarks.
2. One doing as necessary to carrying out the functions of goods or services.
3. One who, before the date of another person's application for registration of a trademark, has in good faith been using an identical or similar trademark with the same or similar goods or services, provided that this applies only to the original goods or services with which the mark has been used, and that the trademark rights holder also may demand that the user add an appropriate distinguishing indication.

When goods bearing a registered trademark have been circulated on a domestic or foreign market through trade by the trademark rights holder or by a person acting with the rights holder's consent, the trademark rights holder may not assert trademark rights with respect to such goods, unless it is to prevent deterioration or damage to such goods subsequent to their circulation on the market, or there are other legitimate grounds.

## Article 37

A trademark rights holder may file an application with the Trademark Office to divide its trademark rights for the goods or services with which its registered trademark is designated for use.

## Article 38

After registration of a trademark, no change may be made in the representation of the trademark or the goods or services with which it is designated for use, unless to reduce the scope of the designated goods or services.

The provisions of Article 24 and Article 25 apply *mutatis mutandis* with respect to any change or correction in the registered particulars of a trademark.

When a registered trademark is involved in any trademark opposition, invalidation, or cancellation case, any application for division of trademark rights or for reduction in the scope of goods or services shall be made before a disposition is rendered.

## Article 39

A trademark rights holder may grant an exclusive or non-exclusive license, for a designated territory, for all or part of the goods or services for which the registered trademark is designated for use.

A license referred to in the preceding paragraph shall not be effective against a third person unless it has been recorded with the Trademark Office.

After a license has been recorded, if trademark rights are assigned, the license contract shall remain binding upon the assignee.

After a non-exclusive license has been recorded, if the trademark rights holder further records an exclusive license, the prior recordal of the non-exclusive license shall not be affected.

An exclusive licensee, within the scope of its license, excludes the use of the registered trademark by the trademark rights holder and third persons.

When trademark rights are infringed, an exclusive licensee may exercise rights in its own name within the scope of the exclusive license, unless otherwise provided by the contract.

## Article 40

An exclusive licensee of a trademark may, within the scope of its exclusive license, sublicense another person to use the trademark, unless otherwise provided by the contract.

Without the consent of the trademark rights holder or the exclusive licensee, a non-exclusive licensee of a trademark may not sublicense another person to use the trademark.

A trademark sublicense shall not be effective against a third person unless it has been recorded with the Trademark Office.

## Article 41

Before the expiration of the term of a trademark license, a party or an interested person may file an application, attaching pertinent evidence, for cancellation of the trademark license recordal under any of the following circumstances:

1. The trademark rights holder and the licensee have agreed to termination. The same shall apply when the trademark has been sublicensed.
2. The license contract stipulates that the trademark rights holder or the licensee may terminate the license relationship at will, and a party has declared termination.

3. The trademark rights holder has notified the licensee of rescission or termination of the license contract on the grounds of breach of terms of the license contract by the licensee, and the licensee has raised no objection.

4. There is other evidence sufficient to establish that the license relationship no longer exists.

## Article 42

An assignment of trademark rights shall not be effective against a third person unless it has been recorded with the Trademark Office.

## Article 43

If the assignment of trademark rights results in the use, by two or more trademark rights holders, of the identical trademark on similar goods or services, or the use of similar trademarks on the same or similar goods or services, thereby causing a likelihood of confusion or misidentification by relevant consumers, each trademark rights holder shall add appropriate distinguishing indications when using such trademarks.

## Article 44

A pledge on trademark rights created by a trademark rights holder, or the alteration or extinguishment of such a pledge, shall not be effective against a third person unless it has been recorded with the Trademark Office.

When a trademark rights holder creates multiple pledges on its trademark rights as security for multiple obligations, the order of priority shall be determined by the order of their recordal.

The pledgee may not use the trademark unless licensed by the trademark rights holder.

## Article 45

A trademark rights holder may abandon its trademark rights, provided that if there is a recorded license or a recorded pledge, the consent of the licensee or pledgee shall first be obtained.

The abandonment referred to in the preceding paragraph shall be made in writing to the Trademark Office.

## Article 46

The licensing, sublicensing, assignment, abandonment, or creation of a pledge with respect to jointly owned trademark rights, or the assignment or creation of a pledge

on a share of ownership in such a trademark, shall be done only with the consent of all the joint owners, except when assignment is required due to a succession, compulsory execution, court judgment, or other provisions of law.

The provisions of Article 28, proviso to paragraph 2, and Article 28, paragraph 3 apply mutatis mutandis to the abandonment of a share of ownership by a joint trademark owner.

If a joint trademark owner dies with no successor or ceases to exist with no successor, the provisions of Article 28, paragraph 4 apply mutatis mutandis to distribution of the share of ownership in the trademark rights.

The provisions of Article 28, paragraph 5 apply mutatis mutandis to a reduction in scope or a division of the goods or services designated for use with a jointly owned trademark.

## Article 47

Under any of the following circumstances, trademark rights shall, ipso facto, be extinguished:

1. If a registration is not renewed in accordance with Article 34, the trademark rights will be extinguished upon the expiration of the term of the trademark rights.
2. If a trademark rights holder dies without a successor, the trademark rights will be extinguished upon the trademark rights holder's death.
3. If trademark rights are abandoned in accordance with Article 45, the trademark rights will be extinguished from the date the written expression of abandonment is received by the Trademark Office.

## Section 4: Opposition

### Article 48

If a trademark registration violates Article 29, paragraph 1, Article 30, paragraph 1, or Article 65, paragraph 3 of this Act, any person may file an opposition with the Trademark Office within three months after the date of publication of the registration.

The opposition referred to in the preceding paragraph may be filed with respect to a portion of the goods or services for which the registered trademark is designated for use.

A separate opposition shall be filed for each registered trademark.

### Article 49

A person that files an opposition shall file a written opposition specifying the facts and reasons for the opposition and include a duplicate copy. If the written opposition includes attachments, the duplicate copy shall also include the attachments.

The Trademark Office shall serve the written opposition on the trademark rights holder and set a time limit for a defense. If the trademark rights holder files a written defense, the Trademark Office shall serve the written defense on the opponent and set a time limit for the opponent to state its opinion.

If the filing of a written defense or a written statement of opinion pursuant to the preceding paragraph is likely to delay the proceedings, or the evidence is already clear, the Trademark Office may directly examine the opposition without notifying the respective persons to file a defense or statement of opinion.

## Article 50

With the exception of the circumstances under Article 106, paragraphs 1 and 3, the determination of whether there is a violation of law constituting grounds for an opposition to a trademark registration shall be based on the provisions of law in force at the time of publication of its registration.

## Article 51

A trademark opposition case shall be examined by an examiner(s) who did not examine the original application.

## Article 52

When trademark rights are assigned while an opposition proceeding against the trademark is pending, the opposition proceedings shall not be affected.

The assignee of trademark rights referred to in the preceding paragraph may declare its assumption of the status of opposed party, to continue the opposition proceeding.

## Article 53

An opponent may withdraw its opposition before a decision is rendered on the opposition.

When an opponent has withdrawn its opposition, it may not further file any opposition or invalidation with respect to the same facts based on the same evidence and the same reasons.

## Article 54

Once the opposition has been affirmed in an opposition case, the trademark registration shall be voided.

## Article 55

When grounds for voidance under the preceding article exist only with respect to a portion of the goods or services for which the registered trademark is designated for use, voidance of the registration may be limited to only that portion.

## Article 56

When a registered trademark has been upheld by a final and irrevocable decision in an opposition case, no person may apply for invalidation with respect to the same facts based on the same evidence and the same reasons.

## Section 5: Invalidation

### Article 57

When a trademark registration violates Article 29, paragraph 1, Article 30, paragraph 1, or Article 65, paragraph 3, an interested person or an examiner may apply or propose to the Trademark Office for invalidation of the registration.

If an application for invalidation of a trademark registration is filed with the Trademark Office on the grounds that it violates Article 30, paragraph 1, subparagraph 10 of this Act, and the trademark on which the invalidation is based has already been registered for three years, evidence shall be submitted showing use of that trademark with the claimed goods or services during the three years before the application for invalidation, or evidence shall be submitted showing legitimate grounds for non-use of the trademark.

Evidence of use submitted pursuant to the preceding paragraph shall be sufficient to establish the actual use of the trademark, and that the use was consistent with general commercial trading practices.

### Article 58

When the registration of a trademark violates Article 29, paragraph 1, subparagraphs 1 or 3, Article 30, paragraph 1, subparagraphs 9 to 15, or Article 65, paragraph 3, no application or proposal for invalidation may be filed once five years have passed after the date of publication of its registration.

The time limit of the preceding paragraph does not apply to a trademark registration that violates Article 30, paragraph 1, subparagraph 9 or 11 and that was registered in bad faith.

## Article 59

A trademark invalidation case shall be processed by an invalidation committee comprising three or more examiners appointed by the head of the Trademark Office.

## Article 60

Once invalidation has been affirmed in an invalidation case, the trademark registration shall be voided, provided that if the circumstances prohibiting registration no longer exist, a decision may be rendered to deny the invalidation upon considering the balance of the public interest and the interests of the parties.

## Article 61

After a disposition has been rendered in an invalidation case, no person may apply for invalidation with respect to the same facts based on the same evidence and the same reasons.

## Article 62

The provisions of Article 48, paragraphs 2 and 3, Articles 49 to 53, and Article 55 apply mutatis mutandis to trademark invalidations.

## Section 6: Cancellation

### Article 63

When any of the following circumstances occurs after the registration of a trademark, the Trademark Office shall cancel the registration ex officio or upon application:

1. The trademark rights holder has on its own initiative altered or made an addition to the trademark, such that it is identical or similar to another person's registered trademark used with the same or similar goods or services, causing a likelihood of confusion or misidentification by relevant consumers.
2. The trademark, without legitimate grounds, has never been used or has been continuously suspended from use for three years; however, this shall not apply if it has been used by a licensee.
3. Appropriate distinguishing indications have not been added in accordance with Article 43; however, this shall not apply if the distinguishing indications had already

been added before the Trademark Office's disposition and there is no likelihood that confusion or misidentification will be caused.

4. The trademark has already become a generic mark, name, or shape for the designated goods or services.

5. Actual use of the trademark is likely to cause misidentification or mistaken belief by the public with respect to the nature, quality, or place of origin of the goods.

The same provisions apply when a licensee engages in the acts set out in subparagraph 1 of the preceding paragraph and the trademark rights holder knows or has reason to know of those acts and fails to raise an objection.

Under the circumstances of paragraph 1, subparagraph 2, cancellation of the registration shall not be granted if the registered trademark is being used at the time the application for cancellation is filed, unless the person began using the trademark within the three months before the cancellation application because of learning that another person was preparing to apply for cancellation.

When grounds for cancellation of a registered trademark exist with respect only to a portion of the designated goods or services, registration may be cancelled for only that portion of the goods or services.

## Article 64

When the trademark in actual use by the trademark rights holder differs from the registered trademark, but in the general opinion of society would remain essentially identical, it shall be deemed use of the registered trademark.

## Article 65

The Trademark Office shall notify a trademark rights holder of any cancellation application and set a time limit for a defense. If the trademark rights holder files a written defense, the Trademark Office shall serve the written defense on the cancellation applicant and set a time limit for the cancellation applicant to file a statement of opinion. If the application is not supported by concrete evidence or if the claims are obviously without reason, however, the application may directly be dismissed.

Under the circumstances of Article 63, paragraph 1, subparagraph 2, after the notice to file a defense has been served, the trademark rights holder shall prove the fact of its use. If no defense is made within the specified time limit, the registration may directly be cancelled.

If a registered trademark is cancelled under the circumstances set forth in Article 63, paragraph 1, subparagraph 1, the original trademark rights holder, within three years

after the date of cancellation, may not register, be assigned, or be licensed to use a trademark with a representation identical or similar to that of the originally registered trademark and designated for use with the same or similar goods or services. The same provision applies when the trademark rights holder declares abandonment of its trademark rights before a disposition is rendered by the Trademark Office.

## Article 66

The determination of whether there are grounds for cancellation of a trademark registration shall be based on the provisions of law in force at the time of the application for cancellation.

## Article 67

The provisions of Article 48, paragraphs 2 and 3, Article 49, paragraphs 1 and 3, and Articles 52 and 53 apply *mutatis mutandis* to the examination of cancellation cases.

The provisions of Article 57, paragraphs 2 and 3 apply *mutatis mutandis* to applications for cancellation of a registered trademark based on the circumstances of Article 63, paragraph 1, subparagraph 1.

The provisions of Article 57, paragraph 3 apply *mutatis mutandis* to a trademark rights holder that submits evidence of use pursuant to Article 65, paragraph 2.

## Section 7: Remedies for Infringement of Rights

### Article 68

Without the consent of the trademark rights holder, any of the following circumstances, when for marketing purposes, is an infringement of trademark rights:

1. The use of a trademark identical to a registered trademark with the same goods or services.
2. The use of a trademark identical to a registered trademark, with similar goods or services, causing a likelihood of confusion or misidentification by relevant consumers.
3. The use of a trademark similar to a registered trademark, with the same or similar goods or services, causing a likelihood of confusion or misidentification by relevant consumers.

### Article 69

A trademark rights holder whose trademark rights are infringed may claim for removal of the infringement. If there is a likelihood of infringement, the trademark rights holder may claim for prevention of the infringement.

A trademark rights holder who makes a claim under the preceding paragraph may claim for destruction of the items that infringe the trademark rights and any materials or implements used in the infringement. A court, however, may take other necessary measures after considering the degree of infringement and the interests of third persons.

A trademark rights holder may claim for damages for intentional or negligent infringement of its trademark rights.

The right to claim for damages under the preceding paragraph shall be extinguished if not exercised within two years from the time the claimant becomes aware of the damage and of the person liable for the damages. The same shall apply if 10 years has elapsed from the act of infringement.

## Article 70

Without the consent of the trademark rights holder, any of the following circumstances will be deemed infringement of trademark rights:

1. Knowing that a trademark is a well-known registered trademark of another person, and using an identical or similar trademark, causing a likelihood of dilution of the distinctiveness or reputation of that well-known trademark.
2. Knowing that a trademark is a well-known registered trademark of another person, and using words [or characters] from that well-known trademark as one's company name, business name, group name, domain name, or other indication of business entity, causing a likelihood of confusion or misidentification among relevant consumers or a likelihood of diluting the distinctiveness or reputation of that trademark.
3. Knowing that there is a likelihood of infringement of trademark rights under Article 68, and manufacturing, possessing, displaying, selling, exporting, or importing labels, tags, packages, containers, or service-related items, that have not yet been attached to the goods or services.

## Article 71

When claiming damages, a trademark rights holder may select one of the following methods to calculate the damage:

1. The damage may be calculated in accordance with Article 216 of the Civil Code, provided that when evidentiary means cannot be provided to prove the damage, the trademark rights holder may calculate the damage as the difference between the benefit normally obtainable in connection with use of the registered trademark and

the benefit obtained through use of the same trademark after occurrence of the infringement.

2. The damage may be calculated based on the benefit obtained by the infringement of the trademark rights. If the infringer is unable to provide evidence relating to its costs or necessary expenses, then the benefit obtained will be the total revenue derived from sales of the infringing goods.

3. The damage may be calculated at an amount not more than 1,500 times the unit retail price of the infringing goods discovered, provided that when the quantity of the goods discovered exceeds 1,500 pieces, the amount of the compensation shall be set at the total price of the goods discovered.

4. The damage may be calculated as equivalent to the amount of royalties that the trademark rights holder could receive under a use license granted to another person.

If the amount of damages under the preceding paragraph is obviously incommensurate, the court may decrease the amount at its discretion.

## Article 72

A trademark rights holder may apply to customs for seizure of imported or exported items if there is a likelihood that the items infringe the rights holder's trademark rights.

An application of the preceding paragraph shall be in writing, shall explain the facts of the alleged infringement, and shall include a bond or equivalent security, equivalent to the duty-paid value of import goods or the FOB value of export goods as determined by customs.

Customs shall immediately notify the applicant when it accepts for processing an application for seizure. If Customs deems that the application meets the requirements of the preceding paragraph and implements seizure, it shall give written notice to the applicant and the person whose goods are seized.

The person whose goods are seized may post a bond or equivalent security of twice the amount of the bond posted pursuant to paragraph 2, and request that customs revoke the seizure and proceed in accordance with the applicable customs clearance regulations for import and export goods.

If the applicant obtains a final and unappealable court judgment of trademark infringement, the person whose goods are seized shall be responsible for all related costs, including container demurrage, warehousing, loading, and unloading of the seized goods.

## Article 73

Customs shall revoke a seizure in any of the following circumstances:

1. The applicant has failed, within 12 days from the day following notification by customs of acceptance of the seizure application for processing, to initiate litigation alleging that the seized goods are infringing goods under Article 69, and to notify customs.
2. The applicant's litigation alleging that the seized goods are infringing goods is dismissed in a final and unappealable court ruling.
3. A court renders a final and unappealable judgment that the seized goods are not goods infringing trademark rights.
4. The applicant applies to revoke the seizure.
5. The circumstances of paragraph 4 of the preceding article.

Customs may as it deems necessary extend the deadline in subparagraph 1 of the preceding paragraph by 12 days.

When customs revokes a seizure in accordance with paragraph 1, it shall proceed in accordance with the applicable customs clearance regulations for import and export goods.

When seizure is revoked on any of the grounds set out in paragraph 1, subparagraphs 1 to 4, the applicant shall be responsible for all related costs, including container demurrage, warehousing, loading, and unloading of the seized goods.

## Article 74

When a court has found in a final and unappealable judgment that seized goods do not infringe trademark rights, the applicant shall compensate the person whose goods were seized for any damage incurred as a result of the seizure, or as a result of having provided bond in accordance with Article 72, paragraph 4.

The rights of an applicant with respect to a bond posted in accordance with Article 72, paragraph 4, and the rights of a person whose goods are seized with respect to a bond posted in accordance with Article 72, paragraph 2, shall be the same as the rights of a pledgee. However, the relevant costs under paragraph 4 of the preceding article and Article 72, paragraph 5, including container demurrage, warehousing, loading, and unloading, shall have priority over damages to the applicant or the person whose goods are seized.

Under any of the following circumstances, customs shall return, at the applicant's request, a bond posted pursuant to Article 72, paragraph 2:

1. The applicant has obtained a final and unappealable court judgment in its favor or has reached a settlement with the person whose goods were seized, and there is no need for continued provision of the bond.
2. The applicant proves that it notified the person whose goods were seized to exercise its rights within a specified period of 20 days or more and the person failed to do so, after the seizure was revoked on any of the grounds in subparagraphs 1 to 4 of the preceding article whereby the person whose goods were seized suffered damage, or after the person whose goods were seized obtained a final and unappealable court judgment in its favor.
3. The person whose goods were seized consents to the return of the bond.

Under any of the following circumstances, customs shall return, at the request of the person whose goods were seized, a bond posted pursuant to Article 72, paragraph 4:

1. Seizure is revoked on any of the grounds in paragraph 1, subparagraphs 1 to 4 of the preceding article, or the person whose goods were seized has reached a settlement with the applicant, and there is no need for continued provision of the bond.
2. The person whose goods were seized proves that it gave notice to the applicant to exercise its rights within a specified period of 20 days or more and the applicant failed to do so, after the applicant obtained a final and unappealable court judgment in its favor.
3. The applicant consents to the return of the bond.

## Article 75

When customs, in the course of exercising its duties, discovers a clear likelihood of trademark infringement by imported or exported items, it shall notify the trademark rights holder and the importer or exporter.

When customs gives notice under the preceding paragraph, it shall set a time limit for the trademark rights holder to appear at customs to make an assessment and provide evidence of the infringement. Customs shall at the same time set a time limit for the importer or exporter to provide documentation proving non-infringement. If, however, a trademark rights holder or an importer or exporter is unable for a legitimate reason to provide evidence or documentation within the designated time period, it may apply to customs in writing, with an explanation of the reasons, for an extension, on a one-time-only basis.

If a trademark rights holder has provided evidence of infringement, and the importer or exporter fails to provide documentation proving non-infringement pursuant to the preceding paragraph, customs may take measures for temporary suspension of release.

If a trademark rights holder provides evidence of infringement, and the importer or exporter provides documentation proving non-infringement pursuant to paragraph 2, customs shall notify the trademark rights holder to apply for seizure pursuant to Article 72, paragraph 1 within three working days from the time of the notice.

If the trademark rights holder does not, within the time limit of the preceding paragraph, apply for seizure of the items pursuant to Article 72, paragraph 1, customs may release the items after taking a representative sample.

## Article 76

Customs may consent to an inspection of seized goods upon application by the applicant or the person whose goods are seized under Article 72, or by a trademark rights holder or an importer or exporter under the preceding article, provided that the inspection does not damage the protection of confidential information related to the goods.

After customs implements seizure pursuant to Article 72, paragraph 3, or takes measures for temporary suspension of release pursuant to paragraph 3 of the preceding article, the trademark rights holder may apply to customs for the provision of related information. After customs has consented, it will provide the personal names or entity names and the addresses of the importer or exporter and the consignor or consignee of the goods, and the quantity of goods suspected of infringement.

The trademark rights holder may use information obtained pursuant to the preceding paragraph only for purposes of investigating, or initiating litigation with respect to, trademark rights infringement cases, and may not arbitrarily disclose it to a third person.

## Article 77

When making an assessment of infringement pursuant to Article 75, paragraph 2, the trademark rights holder may post a bond equivalent to 120 percent of the customs-determined duty-paid value of import goods plus related duties and fees or the customs-determined FOB value of export goods plus related duties and fees, and apply to customs to release a sample of the goods for conducting of the assessment, provided that such release shall be limited to cases in which release of a sample is necessary for the assessment, and in which the trademark rights holder has submitted a written undertaking that the sample will neither be used to infringe the importer's or exporter's interests nor used for any inappropriate purpose.

The bond of the preceding paragraph may not be less than NT\$3,000.

If the trademark rights holder fails to return the sample released for use within the time limit for submission of evidence in an assessment of infringement under Article 75, paragraph 2, or if the sample returned does not conform with the original sample released or is in any way deficient, customs shall retain the rights holder's bond for the purpose of compensating damage suffered by the importer or exporter.

The importer or exporter of the sample released for use in an infringement determination shall have the same rights as a pledgee with respect to the bond retained pursuant to the preceding paragraph.

## Article 78

The competent authority and the Ministry of Finance shall jointly prescribe regulations governing the procedures, required documentation, and other compliance requirements in connection with applications for seizure, revocation of seizure, and posting and return of bond or security under Articles 72 to 74.

The Ministry of Finance shall prescribe regulations governing the procedures, required documentation, and other matters in connection with the exercise by customs of trademark rights protection measures, applications by trademark rights holders for inspection of seized goods, applications for the provision of information relating to infringing goods, and applications for samples of the goods under Articles 75 to 77.

## Article 79

A court may establish a special court or designate specific persons to handle trademark litigation cases.

## Chapter III: Certification Marks, Collective Marks, and Collective Trademarks

### Article 80

“Certification mark” means a sign that a certification mark rights holder uses to certify the specific qualities, degree of precision, raw materials, method of production, place of origin, or other particulars of the goods or services of another person, and that serves to distinguish those goods or services from those that are not certified.

For a certification mark of the preceding paragraph that is used to certify place of origin, the goods or services of that geographical region shall possess a specific quality, reputation, or other characteristic, on the basis of which the applicant may apply to register as a place-of-origin certification mark a sign that includes that geographical name or is sufficient to indicate that geographical region.

The competent authority, in consultation with the central competent authority for the relevant industry, shall provide guidance and assistance to struggling industries,

borderline struggling industries, and traditional industries to enhance productivity and the quality of goods, and shall establish certification marks for each of those industries to indicate that the goods were made in Taiwan as their place of origin.

The determination of the industries of the preceding paragraph, and the targets, standards, time periods, and compliance requirements with respect to the guidance and assistance provided shall be prescribed by the competent authority in consultation with the central competent authorities for the relevant industries. When necessary, the official fees for certification marks may be waived.

## Article 81

Certification mark applicants shall be limited to juristic persons, organizations, or government agencies with the ability to certify the goods or services of other persons.

An applicant under the preceding paragraph that engages in business in the goods or services that it intends to certify may not apply for registration.

## Article 82

A person applying for registration of a certification mark shall attach documentation of its ability to certify the goods or services of other persons, the specifications for use of the certification mark, and a declaration that it does not engage in the production or sale of the goods or provision of the services to be certified.

If there is doubt about the representativeness of an applicant for registration of a place-of-origin certification mark, the Trademark Office may consult and seek the opinion of the central competent authority for the relevant goods or services industry.

A foreign juristic person, organization, or government agency that applies for a place-of-origin certification mark shall attach documentation proving that protection is received under its name in the country of origin.

The specifications for use of a certification mark as referred to in paragraph 1 shall specify the following particulars:

1. The content certified by the certification mark.
2. The conditions for use of the certification mark.
3. The methods for managing and supervising use of the certification mark.
4. The procedural matters related to application for use of the certification mark and dispute resolution methods relating thereto.

When the Trademark Office publishes the registration of a certification mark, it shall publish together therewith the specifications for its use; any modification after registration shall be subject to approval by, and be published by, the Trademark Office.

## Article 83

“Use” of a certification mark means the use of a certification mark by a person with the consent of the certification mark rights holder, in accordance with the conditions set forth in the specifications for use of the certification mark.

## Article 84

The provisions of Article 29, paragraph 1, subparagraph 1, and paragraph 3, do not apply to the name of a place of origin in a place-of-origin certification mark.

The rights holder of a place-of-origin certification mark may not prohibit other persons from indicating the place of origin of their goods or services in a good faith manner consistent with commercial trading practices.

## Article 85

“Collective mark” means a sign of an association, society, or other organization having juristic personality, that represents the membership status of its members, and serves to distinguish them from non-members of that organization.

## Article 86

An application for registration of a collective mark shall be made by specifying the relevant particulars on an application form and filing it with the Trademark Office attaching the specifications for use of the collective mark.

The specifications for use of the collective mark of the preceding paragraph shall specify the following particulars:

1. The qualifications for membership.
2. The conditions for use of the collective mark.
3. The methods for managing and supervising the use of the collective mark.
4. Provisions for handling violations of the specifications.

## Article 87

“Use” of a collective mark means the use of a collective mark by a member of an organization, in accordance with the conditions set forth in the specifications for use of the collective mark, to indicate its membership status.

## Article 88

“Collective trademark” means a sign of an association, society, or other organization having juristic personality, that represents the goods or services provided by its members, and serves to distinguish them from goods or services provided by non-members of that organization.

For a collective trademark of the preceding paragraph that is used to indicate that the goods or services provided by a member come from a certain place of origin, the goods or services of that geographical region shall possess a specific quality, reputation, or other characteristic, on the basis of which the applicant may apply to register as a place-of-origin collective trademark a sign that includes that geographical name or is sufficient to indicate that geographical region.

## Article 89

Application for registration of a collective trademark shall be made by specifying the goods or services on an application form and filing it with the Trademark Office, attaching the specifications for use of the collective trademark.

The specifications for use of the collective trademark of the preceding paragraph shall specify the following particulars:

1. The qualifications for membership.
2. The conditions for use of the collective trademark.
3. The methods for managing and supervising the use of the collective trademark.
4. Provisions for handling violations of the specifications.

In addition to the particulars set out in the preceding paragraph, the specifications for use of a place-of-origin collective trademark shall also specify that when the goods or services and the membership qualifications of a person within the determining boundaries of the geographical region comply with the specifications for use, the place-of-origin collective trademark rights holder shall grant consent for the person to become a member.

When the Trademark Office publishes the registration of a collective trademark, it shall publish together therewith the specifications for its use; any modification after registration shall be subject to approval by, and be published by, the Trademark Office.

## Article 90

“Use” of a collective trademark means the use of a collective trademark, by an organization or its members, in accordance with the conditions set forth in the specifications for use of the collective trademark.

## Article 91

The provisions of Article 82, paragraphs 2 and 3, and Article 84 apply *mutatis mutandis* to place-of-origin collective trademarks.

## Article 92

A certification mark right, collective mark right, or collective trademark right may not be assigned or licensed to another person for use, nor may it be the subject of a pledge. However, this shall not apply to assignment or licensing to another person for use if there is no likelihood of damage to consumer interests or violation of fair competition, and approval has been obtained from the Trademark Office.

## Article 93

Under any of the following circumstances with respect to the rights holder of a certification mark, collective mark, or collective trademark, the Trademark Office, upon application by any person or *ex officio*, may cancel the registration of the certification mark, collective mark, or collective trademark:

1. A certification mark is used as a trademark.
2. The rights holder of a certification mark engages in the business of the goods or services that its mark certifies.
3. The rights holder of a certification mark loses the ability to certify the registered goods or services.
4. The rights holder of a certification mark engages in discriminatory treatment of applicants for certification.
5. Rights are assigned, licensed, or pledged in violation of the preceding article.
6. The use of a mark is not managed and supervised in accordance with the provisions of its specifications for use.
7. A mark is used in any other improper manner, causing a likelihood of damage to other persons or the public.

The same shall also apply when any act in the preceding paragraph is done by a licensee if the rights holder of the certification mark, collective mark, or collective

trademark knows or has reason to know of the commission of the act and expresses no objection.

## Article 94

Unless otherwise provided in this Chapter, the provisions of this Act relating to trademarks apply, mutatis mutandis according to their nature, to certification marks, collective marks, and collective trademarks.

## Chapter IV: Penal Provisions

### Article 95

If the consent of the trademark rights holder or the collective trademark rights holder has not been obtained, any of the following circumstances for marketing purposes shall be punished by imprisonment for not more than three years, or detention, or in lieu thereof or in addition thereto, a criminal fine of not more than NT\$200,000:

1. The use of a trademark identical to a registered trademark or collective trademark with the same goods or services.
2. The use of a trademark identical to a registered trademark or collective trademark with similar goods or services, causing a likelihood of confusion or misidentification by relevant consumers.
3. The use of a trademark similar to a registered trademark or collective mark with the same or similar goods or services, causing a likelihood of confusion or misidentification by relevant consumers.

### Article 96

Anyone who uses a mark identical or similar to a registered certification mark for marketing purposes without the consent of the certification mark rights holder, causing a likelihood of misidentification or mistaken belief by relevant consumers, shall be punished by imprisonment for not more than three years, or detention, or in lieu thereof or in addition thereto, a criminal fine of not more than NT\$200,000.

The provisions of the preceding paragraph also apply to anyone who sells or, with intent to sell, manufactures, possesses, or displays labels, packaging, containers, or other items bearing a sign identical or similar to the registered certification mark of another person, knowing there to be a likelihood of infringement of a certification mark under the preceding paragraph.

### Article 97

Anyone who sells or, with intent to sell, possesses, displays, or imports or exports goods, knowing that the goods are the subject of [any violation] by another person as described in the preceding two articles, shall be punished by imprisonment of not more than one year, or detention, or in lieu thereof or in addition thereto, a criminal fine of not more than NT\$50,000. The same also applies to acts done by means of an electronic medium or network.

## Article 98

Any items or documents that infringe trademark rights, certification mark rights, or collective trademark rights shall be confiscated regardless of whether they belong to the offender.

## Article 99

A foreign juristic person or entity that has not been recognized may file a complaint, initiate a private prosecution, or initiate civil litigation with respect to matters set forth in this Act. A non-juristic person organization of the ROC that has obtained certification mark rights may do the same.

## Chapter V: Supplemental Provisions

### Article 100

A service mark already registered before the 29 April 2003 amendments to this Act enter into force shall be deemed a trademark from the date the amendments enter into force.

### Article 101

An associated trademark, associated service mark, associated collective mark, or associated certification mark already registered before the 29 April 2003 amendments to this Act enter into force shall be deemed an independent registered trademark or mark from the date the amendments to this Act enter into force, and the term of the trademark or mark shall remain the same as originally approved.

### Article 102

A defensive trademark, defensive service mark, defensive collective mark, or defensive certification mark already registered before the 29 April 2003 amendments to this Act enter into force shall be governed by the provisions of the Act in force at the time of its registration. Before the term of exclusive use expires, however, an application shall be filed to change the mark to an independently registered trademark or mark. If the application for change is not made by the expiration of the term, the trademark rights will be extinguished.

## Article 103

When application is made pursuant to the preceding article for a change to an independently registered trademark or mark, the three-year period specified in Article 63, paragraph 1, subparagraph 2 shall be calculated from the date on which the change is effected.

## Article 104

Relevant official fees, including application fees, registration fees, registration renewal fees, recordal fees, opposition fees, invalidation fees, and cancellation fees shall be charged for applications for registration, registration renewal, oppositions, invalidations, cancellations, and any other procedures pursuant to this Act.

The standards for the fees of the preceding paragraph shall be prescribed by the competent authority.

## Article 105

If, before the entry into force of the 31 May 2011 amendments to this Act, a registration fee was already divided into two installments for payment, the second installment of the registration fee shall be governed by the pre-amendment provisions.

## Article 106

When an opposition or invalidation case has been accepted for processing but a disposition has not yet been rendered before the entry into force of the 31 May 2011 amendments to this Act, the registration may be voided only on the grounds of violations of both the provisions in force at the time of registration and of those after the amendments to this Act have entered into force. The procedures for such a case shall be governed by the provisions after the amendments have entered into force. However, the effect of procedures already duly pending before the amendments enter into force shall not be affected.

The provisions of Article 57, paragraphs 2 and 3 do not apply to an invalidation case that has been accepted for processing but in which a disposition has not yet been rendered before the entry into force of the 31 May 2011 amendments to this Act.

For a trademark, certification mark, or collective mark that was registered before the entry into force of the 31 May 2011 amendments to this Act, after the amendments to this Act have entered into force, an opposition or an application or proposal for invalidation may be filed only on the grounds of violations both of the provisions in force at the time of registration and of those after the amendments to this Act have entered into force.

## Article 107

A trademark cancellation case in which a disposition has not yet been rendered when the 31 May 2011 amendments to this Act enter into force shall be governed by the provisions after the amendments to this Act have entered into force. However, the effect of procedures already duly pending before the amendments enter into force shall not be affected.

Article 57, paragraph 2 as applied mutatis mutandis under Article 67, paragraph 2 shall not apply to any cancellation case that has already been accepted for processing but in which a disposition has not yet been rendered before the entry into force of the 31 May 2011 amendments to this Act.

## Article 108

When an application is filed before the entry into force of the 31 May 2011 amendments to this Act for registration of a motion, hologram, or combination thereof, the date on which the amended provisions enter into force will be the filing date.

## Article 109

When an application is filed for registration of a motion, hologram, or combination thereof, and priority is claimed, and the date of application in a country with reciprocal recognition of priority rights with the ROC or in a WTO member is earlier than the date on which the 31 May 2011 amendments to this Act enter into force, the date on which the 31 May 2011 amendments enter into force will be the priority date.

When priority is claimed for an application for registration of a trademark based on exhibition of the goods or services designated for that trademark at an international exhibition held or recognized by the ROC government, if the exhibition date was earlier than the entry into force of the 31 May 2011 amendments, the date on which the 31 May 2011 amendments enter into force will be the priority date.

## Article 110

The Enforcement Rules of this Act shall be prescribed by the competent authority.

## Article 111

The date for enforcement of this Act shall be set by the Executive Yuan.

