[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.]

# 商標法

# Trademark Act

## 第 一 章 總則

## Chapter I: General Principles

### 第 1 條

為保障商標權、證明標章權、團體標章權、團體商標權及消費者利益，維護市場公平競爭，促進工商企業正常發展，特制定本法。

### 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.

### 第 2 條

欲取得商標權、證明標章權、團體標章權或團體商標權者，應依本法申請註冊。

### 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.

### 第 3 條

本法之主管機關為經濟部。

### Article 3

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

商標業務，由經濟部指定專責機關辦理。

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

第 4 條

外國人所屬之國家，與中華民國如未共同參加保護商標之國際條約或無互

相保護商標之條約、協定，或對中華民國國民申請商標註冊不予受理者，

其商標註冊之申請，得不予受理。

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.

第 5 條

商標之使用，指為行銷之目的，而有下列情形之一，並足以使相關消費者

認識其為商標：

一、將商標用於商品或其包裝容器。

二、持有、陳列、販賣、輸出或輸入前款之商品。

三、將商標用於與提供服務有關之物品。

四、將商標用於與商品或服務有關之商業文書或廣告。

前項各款情形，以數位影音、電子媒體、網路或其他媒介物方式為之者，

亦同。

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.

第 6 條

申請商標註冊及其相關事務，得委任商標代理人辦理之。但在中華民國境

內無住所或營業所者，應委任商標代理人辦理之。

商標代理人應在國內有住所。

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.

第 7 條

二人以上欲共有一商標，應由全體具名提出申請，並得選定其中一人為代

表人，為全體共有人為各項申請程序及收受相關文件。

未為前項選定代表人者，商標專責機關應以申請書所載第一順序申請人為

應受送達人，並應將送達事項通知其他共有商標之申請人。

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.

第 8 條

商標之申請及其他程序，除本法另有規定外，遲誤法定期間、不合法定程式不能補正或不合法定程式經指定期間通知補正屆期未補正者，應不受理。但遲誤指定期間在處分前補正者，仍應受理之。

申請人因天災或不可歸責於己之事由，遲誤法定期間者，於其原因消滅後三十日內，得以書面敘明理由，向商標專責機關申請回復原狀。但遲誤法定期間已逾一年者，不得申請回復原狀。

申請回復原狀，應同時補行期間內應為之行為。

前二項規定，於遲誤第三十二條第三項規定之期間者，不適用之。

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.

第 9 條

商標之申請及其他程序，應以書件或物件到達商標專責機關之日為準；如

係郵寄者，以郵寄地郵戳所載日期為準。

郵戳所載日期不清晰者，除由當事人舉證外，以到達商標專責機關之日為準。

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.

第 10 條

處分書或其他文件無從送達者，應於商標公報公告之，並於刊登公報後滿三十日，視為已送達。

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.

第 11 條

商標專責機關應刊行公報，登載註冊商標及其相關事項。

前項公報，得以電子方式為之；其實施日期，由商標專責機關定之。

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.

第 12 條

商標專責機關應備置商標註冊簿，登載商標註冊、商標權異動及法令所定之一切事項，並對外公開之。

前項商標註冊簿，得以電子方式為之。

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.

第 13 條

有關商標之申請及其他程序，得以電子方式為之；其實施辦法，由主管機關定之。

Article 13

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

第 14 條

商標專責機關對於商標註冊之申請、異議、評定及廢止案件之審查，應指定審查人員審查之。

前項審查人員之資格，以法律定之。

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.

第 15 條

商標專責機關對前條第一項案件之審查，應作成書面之處分，並記載理由送達申請人。

前項之處分，應由審查人員具名。

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.

第 16 條

有關期間之計算，除第三十三條第一項、第七十五條第四項及第一百零三

條規定外，其始日不計算在內。

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.

第 17 條

本章關於商標之規定，於證明標章、團體標章、團體商標，準用之。

Article 17

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

第 二 章 商標

Chapter II: Trademark

第 一 節 申請註冊

Section 1: Application for Registration

第 18 條

商標，指任何具有識別性之標識，得以文字、圖形、記號、顏色、立體形

狀、動態、全像圖、聲音等，或其聯合式所組成。

前項所稱識別性，指足以使商品或服務之相關消費者認識為指示商品或服

務來源，並得與他人之商品或服務相區別者。

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.

第 19 條

申請商標註冊，應備具申請書，載明申請人、商標圖樣及指定使用之商品或服務，向商標專責機關申請之。

申請商標註冊，以提出前項申請書之日為申請日。

商標圖樣應以清楚、明確、完整、客觀、持久及易於理解之方式呈現。

申請商標註冊，應以一申請案一商標之方式為之，並得指定使用於二個以上類別之商品或服務。

前項商品或服務之分類，於本法施行細則定之。

類似商品或服務之認定，不受前項商品或服務分類之限制。

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.

第 20 條

在與中華民國有相互承認優先權之國家或世界貿易組織會員，依法申請註冊之商標，其申請人於第一次申請日後六個月內，向中華民國就該申請同一之部分或全部商品或服務，以相同商標申請註冊者，得主張優先權。

外國申請人為非世界貿易組織會員之國民且其所屬國家與中華民國無相互承認優先權者，如於互惠國或世界貿易組織會員領域內，設有住所或營業所者，得依前項規定主張優先權。

依第一項規定主張優先權者，應於申請註冊同時聲明，並於申請書載明下列事項：

一、第一次申請之申請日。

二、受理該申請之國家或世界貿易組織會員。

三、第一次申請之申請案號。

申請人應於申請日後三個月內，檢送經前項國家或世界貿易組織會員證明受理之申請文件。

未依第三項第一款、第二款或前項規定辦理者，視為未主張優先權。

主張優先權者，其申請日以優先權日為準。

主張複數優先權者，各以其商品或服務所主張之優先權日為申請日。

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.

第 21 條

於中華民國政府主辦或認可之國際展覽會上，展出使用申請註冊商標之商品或服務，自該商品或服務展出日後六個月內，提出申請者，其申請日以展出日為準。

前條規定，於主張前項展覽會優先權者，準用之。

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.

第 22 條

二人以上於同日以相同或近似之商標，於同一或類似之商品或服務各別申請註冊，有致相關消費者混淆誤認之虞，而不能辨別時間先後者，由各申請人協議定之；不能達成協議時，以抽籤方式定之。

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.

第 23 條

商標圖樣及其指定使用之商品或服務，申請後即不得變更。但指定使用商品或服務之減縮，或非就商標圖樣為實質變更者，不在此限。

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.

第 24 條

申請人之名稱、地址、代理人或其他註冊申請事項變更者，應向商標專責機關申請變更。

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.

第 25 條

商標註冊申請事項有下列錯誤時，得經申請或依職權更正之：

一、申請人名稱或地址之錯誤。

二、文字用語或繕寫之錯誤。

三、其他明顯之錯誤。

前項之申請更正，不得影響商標同一性或擴大指定使用商品或服務之範圍。

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.

第 26 條

申請人得就所指定使用之商品或服務，向商標專責機關請求分割為二個以

上之註冊申請案，以原註冊申請日為申請日。

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.

第 27 條

因商標註冊之申請所生之權利，得移轉於他人。

Article 27

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

第 28 條

共有商標申請權或共有人應有部分之移轉，應經全體共有人之同意。但因

繼承、強制執行、法院判決或依其他法律規定移轉者，不在此限。

共有商標申請權之拋棄，應得全體共有人之同意。但各共有人就其應有部

分之拋棄，不在此限。

前項共有人拋棄其應有部分者，其應有部分由其他共有人依其應有部分之比例分配之。

前項規定，於共有人死亡而無繼承人或消滅後無承受人者，準用之。

共有商標申請權指定使用商品或服務之減縮或分割，應經全體共有人之同意。

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.

第 二 節 審查及核准

Section 2: Examination and Approval

第 29 條

商標有下列不具識別性情形之一，不得註冊：

一、僅由描述所指定商品或服務之品質、用途、原料、產地或相關特性之說明所構成者。

二、僅由所指定商品或服務之通用標章或名稱所構成者。

三、僅由其他不具識別性之標識所構成者。

有前項第一款或第三款規定之情形，如經申請人使用且在交易上已成為申請人商品或服務之識別標識者，不適用之。

商標圖樣中包含不具識別性部分，且有致商標權範圍產生疑義之虞，申請人應聲明該部分不在專用之列；未為不專用之聲明者，不得註冊。

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.

第 30 條

商標有下列情形之一，不得註冊：

一、僅為發揮商品或服務之功能所必要者。

二、相同或近似於中華民國國旗、國徽、國璽、軍旗、軍徽、印信、勳章或外國國旗，或世界貿易組織會員依巴黎公約第六條之三第三款所為通知之外國國徽、國璽或國家徽章者。

三、相同於國父或國家元首之肖像或姓名者。

四、相同或近似於中華民國政府機關或其主辦展覽會之標章，或其所發給

之褒獎牌狀者。

五、相同或近似於國際跨政府組織或國內外著名且具公益性機構之徽章、旗幟、其他徽記、縮寫或名稱，有致公眾誤認誤信之虞者。

六、相同或近似於國內外用以表明品質管制或驗證之國家標誌或印記，且指定使用於同一或類似之商品或服務者。

七、妨害公共秩序或善良風俗者。

八、使公眾誤認誤信其商品或服務之性質、品質或產地之虞者。

九、相同或近似於中華民國或外國之葡萄酒或蒸餾酒地理標示，且指定使用於與葡萄酒或蒸餾酒同一或類似商品，而該外國與中華民國簽訂協定或共同參加國際條約，或相互承認葡萄酒或蒸餾酒地理標示之保護者。

十、相同或近似於他人同一或類似商品或服務之註冊商標或申請在先之商標，有致相關消費者混淆誤認之虞者。但經該註冊商標或申請在先之商標所有人同意申請，且非顯屬不當者，不在此限。

十一、相同或近似於他人著名商標或標章，有致相關公眾混淆誤認之虞，或有減損著名商標或標章之識別性或信譽之虞者。但得該商標或標章之所有人同意申請註冊者，不在此限。

十二、相同或近似於他人先使用於同一或類似商品或服務之商標，而申請人因與該他人間具有契約、地緣、業務往來或其他關係，知悉他人商標存在，意圖仿襲而申請註冊者。但經其同意申請註冊者，不在此限。

十三、有他人之肖像或著名之姓名、藝名、筆名、字號者。但經其同意申請註冊者，不在此限。

十四、有著名之法人、商號或其他團體之名稱，有致相關公眾混淆誤認之

虞者。但經其同意申請註冊者，不在此限。

十五、商標侵害他人之著作權、專利權或其他權利，經判決確定者。但經其同意申請註冊者，不在此限。

前項第九款及第十一款至第十四款所規定之地理標示、著名及先使用之認定，以申請時為準。

第一項第四款、第五款及第九款規定，於政府機關或相關機構為申請人時，不適用之。

前條第三項規定，於第一項第一款規定之情形，準用之。

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.

第 31 條

商標註冊申請案經審查認有第二十九條第一項、第三項、前條第一項、第

四項或第六十五條第三項規定不得註冊之情形者，應予核駁審定。

前項核駁審定前，應將核駁理由以書面通知申請人限期陳述意見。

指定使用商品或服務之減縮、商標圖樣之非實質變更、註冊申請案之分割

及不專用之聲明，應於核駁審定前為之。

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.

第 32 條

商標註冊申請案經審查無前條第一項規定之情形者，應予核准審定。

經核准審定之商標，申請人應於審定書送達後二個月內，繳納註冊費後，

始予註冊公告，並發給商標註冊證；屆期未繳費者，不予註冊公告。

申請人非因故意，未於前項所定期限繳費者，得於繳費期限屆滿後六個月

內，繳納二倍之註冊費後，由商標專責機關公告之。但影響第三人於此期

間內申請註冊或取得商標權者，不得為之。

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.

第 三 節 商標權

Section 3: Trademark Rights

第 33 條

商標自註冊公告當日起，由權利人取得商標權，商標權期間為十年。

商標權期間得申請延展，每次延展為十年。

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.

第 34 條

商標權之延展，應於商標權期間屆滿前六個月內提出申請，並繳納延展註

冊費；其於商標權期間屆滿後六個月內提出申請者，應繳納二倍延展註冊

費。

前項核准延展之期間，自商標權期間屆滿日後起算。

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.

第 35 條

商標權人於經註冊指定之商品或服務，取得商標權。

除本法第三十六條另有規定外，下列情形，應經商標權人之同意：

一、於同一商品或服務，使用相同於註冊商標之商標者。

二、於類似之商品或服務，使用相同於註冊商標之商標，有致相關消費者混淆誤認之虞者。

三、於同一或類似之商品或服務，使用近似於註冊商標之商標，有致相關消費者混淆誤認之虞者。

商標經註冊者，得標明註冊商標或國際通用註冊符號。

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.

第 36 條

下列情形，不受他人商標權之效力所拘束：

一、以符合商業交易習慣之誠實信用方法，表示自己之姓名、名稱，或其商品或服務之名稱、形狀、品質、性質、特性、用途、產地或其他有關商品或服務本身之說明，非作為商標使用者。

二、為發揮商品或服務功能所必要者。

三、在他人商標註冊申請日前，善意使用相同或近似之商標於同一或類似之商品或服務者。但以原使用之商品或服務為限；商標權人並得要求其附加適當之區別標示。

附有註冊商標之商品，由商標權人或經其同意之人於國內外市場上交易流通，商標權人不得就該商品主張商標權。但為防止商品流通於市場後，發生變質、受損，或有其他正當事由者，不在此限。

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.

第 37 條

商標權人得就註冊商標指定使用之商品或服務，向商標專責機關申請分割

商標權。

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.

第 38 條

商標圖樣及其指定使用之商品或服務，註冊後即不得變更。但指定使用商

品或服務之減縮，不在此限。

商標註冊事項之變更或更正，準用第二十四條及第二十五條規定。

註冊商標涉有異議、評定或廢止案件時，申請分割商標權或減縮指定使用

商品或服務者，應於處分前為之。

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.

第 39 條

商標權人得就其註冊商標指定使用商品或服務之全部或一部指定地區為專屬或非專屬授權。

前項授權，非經商標專責機關登記者，不得對抗第三人。

授權登記後，商標權移轉者，其授權契約對受讓人仍繼續存在。

非專屬授權登記後，商標權人再為專屬授權登記者，在先之非專屬授權登記不受影響。

專屬被授權人在被授權範圍內，排除商標權人及第三人使用註冊商標。

商標權受侵害時，於專屬授權範圍內，專屬被授權人得以自己名義行使權利。但契約另有約定者，從其約定。

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.

第 40 條

專屬被授權人得於被授權範圍內，再授權他人使用。但契約另有約定者，從其約定。

非專屬被授權人非經商標權人或專屬被授權人同意，不得再授權他人使用。

再授權，非經商標專責機關登記者，不得對抗第三人。

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.

第 41 條

商標授權期間屆滿前有下列情形之一，當事人或利害關係人得檢附相關證據，申請廢止商標授權登記：

一、商標權人及被授權人雙方同意終止者。其經再授權者，亦同。

二、授權契約明定，商標權人或被授權人得任意終止授權關係，經當事人聲明終止者。

三、商標權人以被授權人違反授權契約約定，通知被授權人解除或終止授權契約，而被授權人無異議者。

四、其他相關事證足以證明授權關係已不存在者。

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.

第 42 條

商標權之移轉，非經商標專責機關登記者，不得對抗第三人。

Article 42

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

第 43 條

移轉商標權之結果，有二以上之商標權人使用相同商標於類似之商品或服務，或使用近似商標於同一或類似之商品或服務，而有致相關消費者混淆誤認之虞者，各商標權人使用時應附加適當區別標示。

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.

第 44 條

商標權人設定質權及質權之變更、消滅，非經商標專責機關登記者，不得對抗第三人。

商標權人為擔保數債權就商標權設定數質權者，其次序依登記之先後定之。

質權人非經商標權人授權，不得使用該商標。

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.

第 45 條

商標權人得拋棄商標權。但有授權登記或質權登記者，應經被授權人或質權人同意。

前項拋棄，應以書面向商標專責機關為之。

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.

第 46 條

共有商標權之授權、再授權、移轉、拋棄、設定質權或應有部分之移轉或設定質權，應經全體共有人之同意。但因繼承、強制執行、法院判決或依其他法律規定移轉者，不在此限。

共有商標權人應有部分之拋棄，準用第二十八條第二項但書及第三項規定。

共有商標權人死亡而無繼承人或消滅後無承受人者，其應有部分之分配，準用第二十八條第四項規定。

共有商標權指定使用商品或服務之減縮或分割，準用第二十八條第五項規定。

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.

第 47 條

有下列情形之一，商標權當然消滅：

一、未依第三十四條規定延展註冊者，商標權自該商標權期間屆滿後消滅。

二、商標權人死亡而無繼承人者，商標權自商標權人死亡後消滅。

三、依第四十五條規定拋棄商標權者，自其書面表示到達商標專責機關之日消滅。

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.

第 四 節 異議

Section 4: Opposition

第 48 條

商標之註冊違反第二十九條第一項、第三十條第一項或第六十五條第三項規定之情形者，任何人得自商標註冊公告日後三個月內，向商標專責機關提出異議。

前項異議，得就註冊商標指定使用之部分商品或服務為之。

異議應就每一註冊商標各別申請之。

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.

第 49 條

提出異議者，應以異議書載明事實及理由，並附副本。異議書如有提出附屬文件者，副本中應提出。

商標專責機關應將異議書送達商標權人限期答辯；商標權人提出答辯書者，商標專責機關應將答辯書送達異議人限期陳述意見。

依前項規定提出之答辯書或陳述意見書有遲滯程序之虞，或其事證已臻明確者，商標專責機關得不通知相對人答辯或陳述意見，逕行審理。

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.

第 50 條

異議商標之註冊有無違法事由，除第一百零六條第一項及第三項規定外，

依其註冊公告時之規定。

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.

第 51 條

商標異議案件，應由未曾審查原案之審查人員審查之。

Article 51

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

第 52 條

異議程序進行中，被異議之商標權移轉者，異議程序不受影響。

前項商標權受讓人得聲明承受被異議人之地位，續行異議程序。

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.

第 53 條

異議人得於異議審定前，撤回其異議。

異議人撤回異議者，不得就同一事實，以同一證據及同一理由，再提異議或評定。

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.

第 54 條

異議案件經異議成立者，應撤銷其註冊。

Article 54

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

第 55 條

前條撤銷之事由，存在於註冊商標所指定使用之部分商品或服務者，得僅就該部分商品或服務撤銷其註冊。

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.

第 56 條

經過異議確定後之註冊商標，任何人不得就同一事實，以同一證據及同一理由，申請評定。

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.

第 五 節 評定

Section 5: Invalidation

第 57 條

商標之註冊違反第二十九條第一項、第三十條第一項或第六十五條第三項規定之情形者，利害關係人或審查人員得申請或提請商標專責機關評定其註冊。

以商標之註冊違反第三十條第一項第十款規定，向商標專責機關申請評定，其據以評定商標之註冊已滿三年者，應檢附於申請評定前三年有使用於據以主張商品或服務之證據，或其未使用有正當事由之事證。

依前項規定提出之使用證據，應足以證明商標之真實使用，並符合一般商業交易習慣。

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.

第 58 條

商標之註冊違反第二十九條第一項第一款、第三款、第三十條第一項第九款至第十五款或第六十五條第三項規定之情形，自註冊公告日後滿五年者，不得申請或提請評定。

商標之註冊違反第三十條第一項第九款、第十一款規定之情形，係屬惡意者，不受前項期間之限制。

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.

第 59 條

商標評定案件，由商標專責機關首長指定審查人員三人以上為評定委員評定之。

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.

第 60 條

評定案件經評定成立者，應撤銷其註冊。但不得註冊之情形已不存在者，經斟酌公益及當事人利益之衡平，得為不成立之評定。

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.

第 61 條

評定案件經處分後，任何人不得就同一事實，以同一證據及同一理由，申請評定。

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.

第 62 條

第四十八條第二項、第三項、第四十九條至第五十三條及第五十五條規定，於商標之評定，準用之。

Article 62

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

第 六 節 廢止

Section 6: Cancellation

第 63 條

商標註冊後有下列情形之一，商標專責機關應依職權或據申請廢止其註冊：

一、自行變換商標或加附記，致與他人使用於同一或類似之商品或服務之註冊商標構成相同或近似，而有使相關消費者混淆誤認之虞者。

二、無正當事由迄未使用或繼續停止使用已滿三年者。但被授權人有使用者，不在此限。

三、未依第四十三條規定附加適當區別標示者。但於商標專責機關處分前已附加區別標示並無產生混淆誤認之虞者，不在此限。

四、商標已成為所指定商品或服務之通用標章、名稱或形狀者。

五、商標實際使用時有致公眾誤認誤信其商品或服務之性質、品質或產地之虞者。

被授權人為前項第一款之行為，商標權人明知或可得而知而不為反對之表示者，亦同。

有第一項第二款規定之情形，於申請廢止時該註冊商標已為使用者，除因

知悉他人將申請廢止，而於申請廢止前三個月內開始使用者外，不予廢止其註冊。

廢止之事由僅存在於註冊商標所指定使用之部分商品或服務者，得就該部分之商品或服務廢止其註冊。

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.

第 64 條

商標權人實際使用之商標與註冊商標不同，而依社會一般通念並不失其同一性者，應認為有使用其註冊商標。

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.

第 65 條

商標專責機關應將廢止申請之情事通知商標權人，並限期答辯；商標權人提出答辯書者，商標專責機關應將答辯書送達申請人限期陳述意見。但申請人之申請無具體事證或其主張顯無理由者，得逕為駁回。

第六十三條第一項第二款規定情形，其答辯通知經送達者，商標權人應證明其有使用之事實；屆期未答辯者，得逕行廢止其註冊。

註冊商標有第六十三條第一項第一款規定情形，經廢止其註冊者，原商標權人於廢止日後三年內，不得註冊、受讓或被授權使用與原註冊圖樣相同或近似之商標於同一或類似之商品或服務；其於商標專責機關處分前，聲明拋棄商標權者，亦同。

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.

第 66 條

商標註冊後有無廢止之事由，適用申請廢止時之規定。

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.

第 67 條

第四十八條第二項、第三項、第四十九條第一項、第三項、第五十二條及

第五十三條規定，於廢止案之審查，準用之。

以註冊商標有第六十三條第一項第一款規定申請廢止者，準用第五十七條

第二項及第三項規定。

商標權人依第六十五條第二項提出使用證據者，準用第五十七條第三項規

定。

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.

第 七 節 權利侵害之救濟

Section 7: Remedies for Infringement of Rights

第 68 條

未經商標權人同意，為行銷目的而有下列情形之一，為侵害商標權：

一、於同一商品或服務，使用相同於註冊商標之商標者。

二、於類似之商品或服務，使用相同於註冊商標之商標，有致相關消費者混淆誤認之虞者。

三、於同一或類似之商品或服務，使用近似於註冊商標之商標，有致相關消費者混淆誤認之虞者。

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.

第 69 條

商標權人對於侵害其商標權者，得請求除去之；有侵害之虞者，得請求防止之。

商標權人依前項規定為請求時，得請求銷毀侵害商標權之物品及從事侵害行為之原料或器具。但法院審酌侵害之程度及第三人利益後，得為其他必要之處置。

商標權人對於因故意或過失侵害其商標權者，得請求損害賠償。

前項之損害賠償請求權，自請求權人知有損害及賠償義務人時起，二年間不行使而消滅；自有侵權行為時起，逾十年者亦同。

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.

第 70 條

未得商標權人同意，有下列情形之一，視為侵害商標權：

一、明知為他人著名之註冊商標，而使用相同或近似之商標，有致減損該商標之識別性或信譽之虞者。

二、明知為他人著名之註冊商標，而以該著名商標中之文字作為自己公司、商號、團體、網域或其他表彰營業主體之名稱，有致相關消費者混淆誤認之虞或減損該商標之識別性或信譽之虞者。

三、明知有第六十八條侵害商標權之虞，而製造、持有、陳列、販賣、輸出或輸入尚未與商品或服務結合之標籤、吊牌、包裝容器或與服務有關之物品。

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.

第 71 條

商標權人請求損害賠償時，得就下列各款擇一計算其損害：

一、依民法第二百十六條規定。但不能提供證據方法以證明其損害時，商標權人得就其使用註冊商標通常所可獲得之利益，減除受侵害後使用同一商標所得之利益，以其差額為所受損害。

二、依侵害商標權行為所得之利益；於侵害商標權者不能就其成本或必要費用舉證時，以銷售該項商品全部收入為所得利益。

三、就查獲侵害商標權商品之零售單價一千五百倍以下之金額。但所查獲商品超過一千五百件時，以其總價定賠償金額。

四、以相當於商標權人授權他人使用所得收取之權利金數額為其損害。

前項賠償金額顯不相當者，法院得予酌減之。

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.

第 72 條

商標權人對輸入或輸出之物品有侵害其商標權之虞者，得申請海關先予查扣。

前項申請，應以書面為之，並釋明侵害之事實，及提供相當於海關核估該進口物品完稅價格或出口物品離岸價格之保證金或相當之擔保。

海關受理查扣之申請，應即通知申請人；如認符合前項規定而實施查扣時，應以書面通知申請人及被查扣人。

被查扣人得提供第二項保證金二倍之保證金或相當之擔保，請求海關廢止查扣，並依有關進出口物品通關規定辦理。

查扣物經申請人取得法院確定判決，屬侵害商標權者，被查扣人應負擔查扣物之貨櫃延滯費、倉租、裝卸費等有關費用。

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.

第 73 條

有下列情形之一，海關應廢止查扣：

一、申請人於海關通知受理查扣之翌日起十二日內，未依第六十九條規定就查扣物為侵害物提起訴訟，並通知海關者。

二、申請人就查扣物為侵害物所提訴訟經法院裁定駁回確定者。

三、查扣物經法院確定判決，不屬侵害商標權之物者。

四、申請人申請廢止查扣者。

五、符合前條第四項規定者。

前項第一款規定之期限，海關得視需要延長十二日。

海關依第一項規定廢止查扣者，應依有關進出口物品通關規定辦理。

查扣因第一項第一款至第四款之事由廢止者，申請人應負擔查扣物之貨櫃延滯費、倉租、裝卸費等有關費用。

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.

第 74 條

查扣物經法院確定判決不屬侵害商標權之物者，申請人應賠償被查扣人因

查扣或提供第七十二條第四項規定保證金所受之損害。

申請人就第七十二條第四項規定之保證金，被查扣人就第七十二條第二項

規定之保證金，與質權人有同一之權利。但前條第四項及第七十二條第五

項規定之貨櫃延滯費、倉租、裝卸費等有關費用，優先於申請人或被查扣

人之損害受償。

有下列情形之一，海關應依申請人之申請，返還第七十二條第二項規定之

保證金：

一、申請人取得勝訴之確定判決，或與被查扣人達成和解，已無繼續提供

保證金之必要者。

二、因前條第一項第一款至第四款規定之事由廢止查扣，致被查扣人受有損害後，或被查扣人取得勝訴之確定判決後，申請人證明已定二十日以上之期間，催告被查扣人行使權利而未行使者。

三、被查扣人同意返還者。

有下列情形之一，海關應依被查扣人之申請返還第七十二條第四項規定之保證金：

一、因前條第一項第一款至第四款規定之事由廢止查扣，或被查扣人與申請人達成和解，已無繼續提供保證金之必要者。

二、申請人取得勝訴之確定判決後，被查扣人證明已定二十日以上之期間，催告申請人行使權利而未行使者。

三、申請人同意返還者。

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.

第 75 條

海關於執行職務時，發現輸入或輸出之物品顯有侵害商標權之虞者，應通知商標權人及進出口人。

海關為前項之通知時，應限期商標權人至海關進行認定，並提出侵權事證，同時限期進出口人提供無侵權情事之證明文件。但商標權人或進出口人有正當理由，無法於指定期間內提出者，得以書面釋明理由向海關申請延長，並以一次為限。

商標權人已提出侵權事證，且進出口人未依前項規定提出無侵權情事之證明文件者，海關得採行暫不放行措施。

商標權人提出侵權事證，經進出口人依第二項規定提出無侵權情事之證明文件者，海關應通知商標權人於通知之時起三個工作日內，依第七十二條第一項規定申請查扣。

商標權人未於前項規定期限內，依第七十二條第一項規定申請查扣者，海

關得於取具代表性樣品後，將物品放行。

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.

第 76 條

海關在不損及查扣物機密資料保護之情形下，得依第七十二條所定申請人或被查扣人或前條所定商標權人或進出口人之申請，同意其檢視查扣物。

海關依第七十二條第三項規定實施查扣或依前條第三項規定採行暫不放行措施後，商標權人得向海關申請提供相關資料；經海關同意後，提供進出口人、收發貨人之姓名或名稱、地址及疑似侵權物品之數量。

商標權人依前項規定取得之資訊，僅限於作為侵害商標權案件之調查及提起訴訟之目的而使用，不得任意洩漏予第三人。

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.

第 77 條

商標權人依第七十五條第二項規定進行侵權認定時，得繳交相當於海關核估進口貨樣完稅價格及相關稅費或海關核估出口貨樣離岸價格及相關稅費百分之一百二十之保證金，向海關申請調借貨樣進行認定。但以有調借貨樣進行認定之必要，且經商標權人書面切結不侵害進出口人利益及不使用於不正當用途者為限。

前項保證金，不得低於新臺幣三千元。

商標權人未於第七十五條第二項所定提出侵權認定事證之期限內返還所調借之貨樣，或返還之貨樣與原貨樣不符或發生缺損等情形者，海關應留置其保證金，以賠償進出口人之損害。

貨樣之進出口人就前項規定留置之保證金，與質權人有同一之權利。

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.

第 78 條

第七十二條至第七十四條規定之申請查扣、廢止查扣、保證金或擔保之繳納、提供、返還之程序、應備文件及其他應遵行事項之辦法，由主管機關會同財政部定之。

第七十五條至第七十七條規定之海關執行商標權保護措施、權利人申請檢視查扣物、申請提供侵權貨物之相關資訊及申請調借貨樣，其程序、應備文件及其他相關事項之辦法，由財政部定之。

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.

第 79 條

法院為處理商標訴訟案件，得設立專業法庭或指定專人辦理。

Article 79

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

第 三 章 證明標章、團體標章及團體商標

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

第 80 條

證明標章，指證明標章權人用以證明他人商品或服務之特定品質、精密度、原料、製造方法、產地或其他事項，並藉以與未經證明之商品或服務相區別之標識。

前項用以證明產地者，該地理區域之商品或服務應具有特定品質、聲譽或其他特性，證明標章之申請人得以含有該地理名稱或足以指示該地理區域之標識申請註冊為產地證明標章。

主管機關應會同中央目的事業主管機關輔導與補助艱困產業、瀕臨艱困產業及傳統產業，提升生產力及產品品質，並建立各該產業別標示其產品原產地為台灣製造之證明標章。

前項產業之認定與輔導、補助之對象、標準、期間及應遵行事項等，由主管機關會商各該中央目的事業主管機關後定之，必要時得免除證明標章之相關規費。

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.

第 81 條

證明標章之申請人，以具有證明他人商品或服務能力之法人、團體或政府

機關為限。

前項之申請人係從事於欲證明之商品或服務之業務者，不得申請註冊。

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.

第 82 條

申請註冊證明標章者，應檢附具有證明他人商品或服務能力之文件、證明

標章使用規範書及不從事所證明商品之製造、行銷或服務提供之聲明。

申請註冊產地證明標章之申請人代表性有疑義者，商標專責機關得向商品

或服務之中央目的事業主管機關諮詢意見。

外國法人、團體或政府機關申請產地證明標章，應檢附以其名義在其原產國受保護之證明文件。

第一項證明標章使用規範書應載明下列事項：

一、證明標章證明之內容。

二、使用證明標章之條件。

三、管理及監督證明標章使用之方式。

四、申請使用該證明標章之程序事項及其爭議解決方式。

商標專責機關於註冊公告時，應一併公告證明標章使用規範書；註冊後修改者，應經商標專責機關核准，並公告之。

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.

第 83 條

證明標章之使用，指經證明標章權人同意之人，依證明標章使用規範書所定之條件，使用該證明標章。

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.

第 84 條

產地證明標章之產地名稱不適用第二十九條第一項第一款及第三項規定。

產地證明標章權人不得禁止他人以符合商業交易習慣之誠實信用方法，表示其商品或服務之產地。

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.

第 85 條

團體標章，指具有法人資格之公會、協會或其他團體，為表彰其會員之會籍，並藉以與非該團體會員相區別之標識。

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.

第 86 條

團體標章註冊之申請，應以申請書載明相關事項，並檢具團體標章使用規範書，向商標專責機關申請之。

前項團體標章使用規範書應載明下列事項：

一、會員之資格。

二、使用團體標章之條件。

三、管理及監督團體標章使用之方式。

四、違反規範之處理規定。

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.

第 87 條

團體標章之使用，指團體會員為表彰其會員身分，依團體標章使用規範書所定之條件，使用該團體標章。

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.

第 88 條

團體商標，指具有法人資格之公會、協會或其他團體，為指示其會員所提供之商品或服務，並藉以與非該團體會員所提供之商品或服務相區別之標

識。

前項用以指示會員所提供之商品或服務來自一定產地者，該地理區域之商品或服務應具有特定品質、聲譽或其他特性，團體商標之申請人得以含有該地理名稱或足以指示該地理區域之標識申請註冊為產地團體商標。

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.

第 89 條

團體商標註冊之申請，應以申請書載明商品或服務，並檢具團體商標使用規範書，向商標專責機關申請之。

前項團體商標使用規範書應載明下列事項：

一、會員之資格。

二、使用團體商標之條件。

三、管理及監督團體商標使用之方式。

四、違反規範之處理規定。

產地團體商標使用規範書除前項應載明事項外，並應載明地理區域界定範圍內之人，其商品或服務及資格符合使用規範書時，產地團體商標權人應同意其成為會員。

商標專責機關於註冊公告時，應一併公告團體商標使用規範書；註冊後修改者，應經商標專責機關核准，並公告之。

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.

第 90 條

團體商標之使用，指團體或其會員依團體商標使用規範書所定之條件，使

用該團體商標。

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.

第 91 條

第八十二條第二項、第三項及第八十四條規定，於產地團體商標，準用之。

Article 91

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

第 92 條

證明標章權、團體標章權或團體商標權不得移轉、授權他人使用，或作為質權標的物。但其移轉或授權他人使用，無損害消費者利益及違反公平競爭之虞，經商標專責機關核准者，不在此限。

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.

第 93 條

證明標章權人、團體標章權人或團體商標權人有下列情形之一者，商標專責機關得依任何人之申請或依職權廢止證明標章、團體標章或團體商標之註冊：

一、證明標章作為商標使用。

二、證明標章權人從事其所證明商品或服務之業務。

三、證明標章權人喪失證明該註冊商品或服務之能力。

四、證明標章權人對於申請證明之人，予以差別待遇。

五、違反前條規定而為移轉、授權或設定質權。

六、未依使用規範書為使用之管理及監督。

七、其他不當方法之使用，致生損害於他人或公眾之虞。

被授權人為前項之行為，證明標章權人、團體標章權人或團體商標權人明知或可得而知而不為反對之表示者，亦同。

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.

第 94 條

證明標章、團體標章或團體商標除本章另有規定外，依其性質準用本法有關商標之規定。

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.

## 第四章 罰則

## Chapter IV: Penal Provisions

第 95 條

未得商標權人或團體商標權人同意，為行銷目的而有下列情形之一，處三年以下有期徒刑、拘役或科或併科新臺幣二十萬元以下罰金：

一、於同一商品或服務，使用相同於註冊商標或團體商標之商標者。

二、於類似之商品或服務，使用相同於註冊商標或團體商標之商標，有致相關消費者混淆誤認之虞者。

三、於同一或類似之商品或服務，使用近似於註冊商標或團體商標之商標，有致相關消費者混淆誤認之虞者。

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.

第 96 條

未得證明標章權人同意，為行銷目的而於同一或類似之商品或服務，使用相同或近似於註冊證明標章之標章，有致相關消費者誤認誤信之虞者，處三年以下有期徒刑、拘役或科或併科新臺幣二十萬元以下罰金。

明知有前項侵害證明標章權之虞，販賣或意圖販賣而製造、持有、陳列附有相同或近似於他人註冊證明標章標識之標籤、包裝容器或其他物品者，亦同。

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.

第 97 條

明知他人所為之前二條商品而販賣，或意圖販賣而持有、陳列、輸出或輸

入者，處一年以下有期徒刑、拘役或科或併科新臺幣五萬元以下罰金；透

過電子媒體或網路方式為之者，亦同。

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.

第 98 條

侵害商標權、證明標章權或團體商標權之物品或文書，不問屬於犯人與否

，沒收之。

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.

第 99 條

未經認許之外國法人或團體，就本法規定事項得為告訴、自訴或提起民事

訴訟。我國非法人團體經取得證明標章權者，亦同。

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.

第 五 章 附則

Chapter V: Supplemental Provisions

第 100 條

本法中華民國九十二年四月二十九日修正之條文施行前，已註冊之服務標章，自本法修正施行當日起，視為商標。

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.

第 101 條

本法中華民國九十二年四月二十九日修正之條文施行前，已註冊之聯合商標、聯合服務標章、聯合團體標章或聯合證明標章，自本法修正施行之日起，視為獨立之註冊商標或標章；其存續期間，以原核准者為準。

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.

第 102 條

本法中華民國九十二年四月二十九日修正之條文施行前，已註冊之防護商標、防護服務標章、防護團體標章或防護證明標章，依其註冊時之規定；於其專用期間屆滿前，應申請變更為獨立之註冊商標或標章；屆期未申請

變更者，商標權消滅。

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.

第 103 條

依前條申請變更為獨立之註冊商標或標章者，關於第六十三條第一項第二

款規定之三年期間，自變更當日起算。

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.

第 104 條

依本法申請註冊、延展註冊、異動登記、異議、評定、廢止及其他各項程

序，應繳納申請費、註冊費、延展註冊費、登記費、異議費、評定費、廢

止費等各項相關規費。

前項收費標準，由主管機關定之。

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.

第 105 條

本法中華民國一百年五月三十一日修正之條文施行前，註冊費已分二期繳納者，第二期之註冊費依修正前之規定辦理。

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.

第 106 條

本法中華民國一百年五月三十一日修正之條文施行前，已受理而尚未處分之異議或評定案件，以註冊時及本法修正施行後之規定均為違法事由為限，始撤銷其註冊；其程序依修正施行後之規定辦理。但修正施行前已依法進行之程序，其效力不受影響。

本法一百年五月三十一日修正之條文施行前，已受理而尚未處分之評定案件，不適用第五十七條第二項及第三項之規定。

對本法一百年五月三十一日修正之條文施行前註冊之商標、證明標章及團體標章，於本法修正施行後提出異議、申請或提請評定者，以其註冊時及本法修正施行後之規定均為違法事由為限。

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.

第 107 條

本法中華民國一百年五月三十一日修正之條文施行前，尚未處分之商標廢止案件，適用本法修正施行後之規定辦理。但修正施行前已依法進行之程序，其效力不受影響。

本法一百年五月三十一日修正之條文施行前，已受理而尚未處分之廢止案件，不適用第六十七條第二項準用第五十七條第二項之規定。

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.

第 108 條

本法中華民國一百年五月三十一日修正之條文施行前，以動態、全像圖或其聯合式申請註冊者，以修正之條文施行日為其申請日。

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.

第 109 條

以動態、全像圖或其聯合式申請註冊，並主張優先權者，其在與中華民國有相互承認優先權之國家或世界貿易組織會員之申請日早於本法中華民國一百年五月三十一日修正之條文施行前者，以一百年五月三十一日修正之條文施行日為其優先權日。

於中華民國政府主辦或承認之國際展覽會上，展出申請註冊商標之商品或服務而主張展覽會優先權，其展出日早於一百年五月三十一日修正之條文施行前者，以一百年五月三十一日修正之條文施行日為其優先權日。

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.

第 110 條

本法施行細則，由主管機關定之。

Article 110

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

第 111 條

本法之施行日期，由行政院定之。

Article 111

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

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