

exhibitions within six months of the date of the exhibition, the application is deemed to have been filed at the time the goods were exhibited:

- (i) exhibitions held by the Government or a local government entity;
- (ii) exhibitions held by persons authorized by the Government or a local government entity;
- (iii) exhibitions held in a foreign country with the authorization of the government;
- (iv) international exhibitions held in the territory of a country party to a treaty by the government of that country or by persons authorized by the government of that country.

(2) A person taking advantage of paragraph (1) of this Article in an application for trademark registration shall submit to the Commissioner of the Korean Intellectual Property Office a written statement of intent with the application for trademark registration and, within thirty days of the filing date of the application, a document proving the relevant facts.

CHAPTER III

EXAMINATION

Article 22 Examination by Examiner

(1) The Commissioner of the Korean Intellectual Property Office shall have applications for the trademarks registration and oppositions to trademarks registration examined by examiners.

(2) The qualifications for examiners are prescribed by Presidential Decree.

(3) Any person whose application for trademark registration falls within any

subparagraph of Article 23(1) may submit to the Commissioner of the Korean Intellectual Property Office relevant information with supporting evidence.

Article 22bis Request etc. for Inspection of a Trademark by a Specialized Searching Agency

(1) Where a specialized searching agency is considered necessary for the examination of an application for trademark registration, the Commissioner of the Korean Intellectual Property Office may request such an agency to inspect trademarks.

(2) When considered necessary for the examination of an application for trademark registration, the Commissioner of the Korean Intellectual Property Office may request assistance or advice from a competent administrative agency, a person with vast knowledge and experience in trademarks, or interested persons.

(3) Criteria for the specialized searching agency and requests for the search of trademarks under paragraph(1) of this Article are prescribed by Presidential Decree.

Article 23 Decision to Refuse Trademark Registration and Notification of Reasons for Refusal

(1) An examiner shall refuse trademark registration for an application for trademark registration under any of the following circumstances:

- (i) where the trademark is unregistrable under Articles 3, 6 to 8, 10(1), 12(2) (second sentence), (5) and (7) to (9) of this Act or Article 25 of the Patent Act as applied under Article 5 of this Act;
- (ii) where the trademark violates a treaty;
- (iii) where the trademark is identical or similar to a trademark registered in the territory of a country that is a party to a treaty and has been filed by a person who is or was an agent or a representative of the

owner of the trademark, within the one-year period before the filing date, without the owner's authorization, for designated goods that are identical or similar to the designated goods covered by the owner's trademark, if an opposition has been filed or information has been submitted under Article 22(3) by the owner; or

(iv) where the trademark does not conform to the definition of a mark under Article 2(1)(i) to (iv).

(2) When refusing trademark registration under paragraph(1) of this Article, an examiner shall notify the applicant of the reasons for refusal and give the applicant an opportunity to submit a written statement of arguments within a designated period.

Article 24 Publication of an Application

(1) An examiner who finds no grounds for rejecting an application for trademark registration shall decide to publish the application.

(2) Where a decision under paragraph(1) of this Article is made, the Commissioner of the Korean Intellectual Property Office shall transmit the decision to the applicant and publish the application in the Trademark Gazette.

(3) The Commissioner of the Korean Intellectual Property Office shall make the documents of the application for trademark registration and other related documents available for public inspection at the Korean Intellectual Property Office for a period of thirty days following the publication date of the application.

Article 24bis Right to Demand Compensation for Loss

(1) After an application is published under Article 24(2) (including *mutatis mutandis* application under Article 49(3) and Article 81(1)), an applicant may warn, in writing, a person who has used a trademark that is identical or similar to the trademark of the published application on goods that are identical or similar to the designated goods of the published application.

However, an applicant who shows a copy of the application for trademark registration may send a written warning even before publication of the application.

(2) An applicant who has sent a warning under paragraph(1) may demand compensation equivalent to the loss of business caused by the use of the trademark from the date of the warning to the date of registration of the trademark right.

(3) The right to demand under paragraph(2) may be exercised only after the registration of a trademark right.

(4) Exercising the right to demand under paragraph(2) does not preclude exercising the trademark right.

(5) Articles 52, 66, 69 and 70 of this Act, and Articles 760 and 766 of the Civil Act apply *mutatis mutandis* to the exercise of the right to demand under paragraph(2). In such cases, "the date on which the damaged party or a legal representative became aware of such damage and the identity of the person causing it" in Article 766(1) of the Civil Act reads "the date of registration of the trademark right".

(6) Where an application for trademark registration falls under any of the following subparagraphs, the right to demand under paragraph (2) is deemed never to have existed:

- (i) where an application for trademark registration has been abandoned, withdrawn or invalidated;
- (ii) where a decision to refuse trademark registration for an application for trademark registration has become final; or
- (iii) where a trial decision to invalidate a trademark registration under Article 71 (except Article 71(1)(iv) and (v)) has become final.

Article 25 Opposition to a Trademark Registration

(1) When an application is published, any person may lodge an opposition to

a trademark registration that falls under each subparagraph of Article 23(1) with the Commissioner of the Korean Intellectual Property Office within thirty days of the publication date of the application.

(2) A person making an opposition to a registered trademark shall submit to the Commissioner of the Korean Intellectual Property Office a written opposition specifying the following matters, and supporting evidence:

- (i) the name and address of the opponent to a trademark registration (and, if a legal entity, the name and address of the business);
- (*ibis*) the name and residential or business address of the agent, if any (and, if the agent is a patent legal entity, the name and address of the business and the name of the designated patent attorney);
- (ii) the serial number of the application for the trademark registration;
- (iii) the relevant category of goods and designated goods;
- (iv) the grounds for opposing a trademark registration; and
- (v) the reasons for opposing a trademark registration and indication of supporting evidence.

Article 26 Amendment of Reasons for an Opposition to a Trademark Registration

A person who has filed a notice of opposition to a trademark registration under Article 25(1) (referred to as "an opponent") may amend the reasons and evidence submitted in the notice of opposition to a trademark registration within thirty days of the expiry of the period for filing a notice of opposition.

Article 27 Decision on an Opposition to Trademark Registration

(1) Where a notice of opposition has been filed, the examiner shall transmit to the applicant a copy of the notice of opposition to the trademark

registration and give the applicant an opportunity to submit an answer in writing within a designated period.

(2) After the expiry of the periods prescribed in paragraph(1) of this Article and Article 26, the examiner shall decide on the opposition to the trademark registration.

(3) Notwithstanding paragraph(1) of this Article, where an opponent fails to submit reasons and evidence, the examiner may reject the opposition to a trademark registration by decision after the period under Article 26 expires.

(4) The decision on an opposition to a trademark registration must be in writing and must state the reasons for the decision.

(5) Where a decision has been made under paragraph(2) of this Article, the Commissioner of the Korean Intellectual Property Office shall transmit a certified copy of the decision to the applicant and the opponent.

(6) An appeal may not be made against a decision on an opposition to a trademark registration.

(7) In applying paragraph (4) of this Article, where different reasons exist for the decision on the opposition to a trademark registration for two or more designated goods, the examiner shall give specific reasons for the decision for each of the respective goods.

Article 28 Decision of Refusal to Register a Trademark Made *Ex Officio* after Publication

(1) An examiner who finds reasons for refusal after the publication of an application may make a decision of refusal *ex officio* under Article 23.

(2) An examiner who refuses an application under paragraph(1) of this Article may not decide on an opposition to a registered trademark even if the opposition has been filed under Article 25.

(3) Where a decision of refusal has been made under paragraph(1) of this

Article, the Commissioner of the Korean Intellectual Property Office shall transmit a certified copy of the decision of refusal to the opponent.

Article 29 Concurrent Oppositions to Trademark Registration

- (1) Where two or more oppositions have been filed, an examiner may examine and rule upon them jointly or separately.
- (2) Where two or more oppositions have been filed and one of them is considered to be justified upon examination, the examiner is not required to make a ruling on the other opposition(s).
- (3) The Commissioner of the Korean Intellectual Property Office shall transmit a certified copy of the decision of refusal to opponents whose oppositions were not examined under paragraph (2) of this Article.

Article 30 Decision to Grant Registration of a Trademark

An examiner who cannot find any reasons for refusing an application for trademark registration shall decide in favor of trademark registration.

Article 31 Method of Decision to Grant or Refuse Trademark Registration

- (1) A decision to grant or refuse trademark registration must be in writing and must state the reasons for the decision.
- (2) When an examiner decides to grant or refuse trademark registration, the Commissioner of the Korean Intellectual Property Office shall transmit a certified copy of the decision to the applicant.

Article 32 Suspension of Examination or Litigation Proceedings

- (1) The examination procedure of an application for trademark registration

may, if necessary, be suspended until a trial decision becomes final or litigation proceedings are concluded.

(2) The court may, if necessary in the litigation, suspend proceedings until the examiner's decision on the registration of a trademark becomes final.

Article 33 *Mutatis Mutandis* Application of the Patent Act

Articles 148(1) to (5), (7) and 157 of the Patent Act and Articles 143, 299 and 367 of the Civil Procedure Act apply *mutatis mutandis* to the examination of applications for the registration of trademarks.

CHAPTER IV

TRADEMARK REGISTRATION FEES AND REGISTRATION OF TRADEMARKS

Article 34 Trademark Registration Fees

(1) A person applying for a trademark registration, supplementary registration of designated goods or renewal of the term of a registered trademark shall pay the trademark registration fees.

(2) Regardless of whether the person liable to pay the trademark registration fees is willing, any interested person may pay the trademark registration fees under paragraph (1) of this Article.

(3) Matters related to the paying trademark registration fees under paragraph (1) of this Article, including the method and period of payment, are prescribed by ordinance of the Ministry of Commerce, Industry and Energy.