

**Council for Trade-Related Aspects  
of Intellectual Property Rights**

Original: English/  
anglais/  
inglés

**MAIN DEDICATED INTELLECTUAL PROPERTY LAWS AND REGULATIONS  
NOTIFIED UNDER ARTICLE 63.2 OF THE AGREEMENT**

**INDONESIA**

The present document reproduces the text<sup>1</sup> of the following laws and regulations, as notified by Indonesia under Article 63.2 of the Agreement (see document IP/N/1/IDN/2):

	<u>Page</u>
- <u>Trademark Law N° 14 of 1997</u>	2
on the amendment of Law N° 19 of 1992	
- <u>Trademark Law N° 19 of 1992</u>	58

**Conseil des aspects des droits de propriété  
intellectuelle qui touchent au commerce**

**PRINCIPALES LOIS ET RÉGLEMENTATIONS CONSACRÉES À LA PROPRIÉTÉ  
INTELLECTUELLE NOTIFIÉES AU TITRE DE L'ARTICLE 63:2 DE L'ACCORD**

**INDONÉSIE**

Le présent document contient le texte<sup>1</sup> des lois et réglementations ci-après, notifiées par l'Indonésie au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/IDN/2):

	<u>Page</u>
- <u>Loi n° 14 de 1997 sur les marques de fabrique ou de commerce</u>	2
Modification de la Loi n° 19 de 1992	
- <u>Loi n° 19 de 1992 sur les marques de fabrique ou de commerce</u>	58

**Consejo de los Aspectos de los Derechos de Propiedad  
Intelectual relacionados con el Comercio**

**PRINCIPALES LEYES Y REGLAMENTOS DEDICADOS A LA PROPIEDAD INTELECTUAL  
NOTIFICADOS EN VIRTUD DEL PÁRRAFO 2 DEL ARTÍCULO 63 DEL ACUERDO**

**INDONESIA**

En el presente documento se reproduce el texto<sup>1</sup> de las siguientes leyes y reglamentos notificados por Indonesia en virtud de lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/IDN/2):

	<u>Página</u>
- <u>Ley de Marcas de Fábrica o de Comercio N° 14 de 1997</u>	2
por la que se modifica la Ley N° 19 de 1992	
- <u>Ley de Marcas de Fábrica o de Comercio N° 19 de 1992</u>	58

<sup>1</sup> Distributed in English only. The texts of these laws in the original language are available for consultation by interested Delegations at the WTO Secretariat./En anglais seulement. Les délégations intéressées peuvent consulter les textes de ces lois, dans leur langue d'origine, au Secrétariat de l'OMC./ Distribuido en inglés solamente. Las delegaciones interesadas podrán consultar en la Secretaría de la OMC los textos de estas leyes en su idioma original.

**THE TRADEMARK LAW OF THE REPUBLIC OF INDONESIA  
CONSOLIDATED TEXT OF LAW NO. 19/1992  
AS AMENDED BY LAW NO. 14/1997**

**AND**

**ELUCIDATION OF LAW OF THE REPUBLIC OF INDONESIA  
NUMBER 14 OF 1997  
ON AMENDMENT OF LAW NO. 19 OF 1992  
CONCERNING TRADEMARKS**

THE TRADEMARK LAW  
OF THE REPUBLIC OF INDONESIA

CONSOLIDATED TEXT  
OF LAW NO.19/1992  
AS AMENDED BY LAW NO.14/1997

CHAPTER I  
GENERAL PROVISIONS

Article 1

1. Mark means a sign in the form of a picture, name, word, letters, figures, colour composition, or a combination of said elements, having distinguishing features and used in the activities of trade in goods and services.
2. Trade Mark means a mark which is used on goods which are traded by a person or jointly by several persons or a legal entity to distinguish the goods from other similar goods.
3. Service Mark means a mark which is used for services traded by a person or jointly by several persons or a legal entity to distinguish the services from others similar services.
4. Collective Mark means a mark which is used on goods or services having the same characteristics which are traded jointly by several persons or legal entities to distinguish the goods or services from other similar goods or services.
5. License means a permit given by the owner of a registered mark to a person or jointly to several persons or a legal entity to use said mark. Either for all or a part of the kind of the goods or services which are registered.
6. Minister means the Minister whose scope of duties and responsibilities includes the guidance of marks.

7. Trademark Office means the organisational unit within the governmental department which executes duties and authorities in the field of marks.

## CHAPTER II SCOPE OF MARKS

### Part One

#### General

#### Article 2

Marks as regulated by this Act shall include trademarks and service marks.

#### Article 3

The right to a mark is a special right which is granted by the State to the owner of a mark, which is registered in the General Register of Marks for a certain period of time, to himself use said mark or to grant permission to use it to a person or jointly to several persons or a legal entity.

#### Article 4

- (1) A mark may only be registered upon an application filed by the owner of the mark in good faith.
- (2) The owner of a mark referred to in paragraph (1) may consist of one person or several persons jointly, or a legal entity.

### Part Two

Unregistrable Marks and Rejectable Marks

## Article 5

A mark may not be registered if it contains one of the following elements:

- a. offensive to morality and public order;
- b. having no distinguishing elements;
- c. having become public property; or
- d. constituting information or related to the goods or services for which registration is requested.

## Article 6

- (1) An application for registration of a mark shall be refused by the Trademark Office if it has a similarity in its essential part or in its entirety with a mark owned by another person which has previously been registered for the same kind of goods or services.
- (2) An application for registration of a mark shall also be refused by the Trademark Office if:
  - a. it constitutes the name of a famous person, photograph, and name of a legal entity belonging to another person except with a written consent of the entitled parties;
  - b. it constitutes an imitation or a resemblance of a name or abbreviation of a name, flag or coat of arms or a symbol, or an emblem of a state, or of a national or international institution except with a written consent of the competent authority;
  - c. it constitutes an imitation or a resemblance of an official sign or seal or stamp used by a state or a government institution, except with a written consent of the competent authority;
  - d. it constitutes or resembles to a creation of another person which is protected under copyright, except with a written consent of the copyright holder.
- (3) The Trademark Office may refuse an application for registration of a mark which has a similarity in its essential part or in its entirety with a mark which is already known

belonging to another person for the same kind of goods or services.

- (4) The provision referred to in paragraph (3) may also apply to any good and or service which is not of the same kind, provided that it fulfils certain requirements which shall be further regulated in a Government Regulation.

### Part Three

#### Period of Protection of Registered Marks

##### Article 7

A registered mark shall have legal protection for a period of 10 (ten) years retroactive to the filing date of the registration of the mark concerned.

## CHAPTER III

### APPLICATION FOR REGISTRATION OF MARK

#### Part One

##### General

##### Article 8

- (1) An application for registration of a mark for two or more classes of goods and or services may be filed in a single application.
- (2) The application referred to in paragraph (1) shall clearly mention the kinds of goods and or services which are covered by the class applied for registration.
- (3) The classes of goods or services referred to in paragraph (1) shall be further regulated in a Government Regulation

## Article 9

- (1) An application for registration of a mark shall be filed in writing in the Indonesian language to the Trademark Office.
- (2) An application for registration of a mark shall contain:
  - a. the date, month, and year;
  - b. the full name, citizenship and address of the owner of mark;
  - c. the full name and address of the proxy if the application for registration of a mark is filed through a proxy;
  - d. the address chosen in Indonesia, if the owner of mark resides outside the territory of the Republic of Indonesia;
  - e. the type of colour, if the mark for which registration is requested uses colour elements;
  - f. the class and kind of goods or services, for the mark for which registration is requested; and
  - g. the name of the state of the first application for registration of the mark, where the application for registration is filed with a priority right.
- (3) The letter of application for registration of a mark referred to in paragraph (2) shall be signed by the owner of the mark or his proxy.
- (4) Where an application for registration of a mark is filed by more than one person or legal entity which are jointly entitled to the mark, the name of the persons or legal entities which file the application shall be included by choosing one address as their address.
- (5) Where an application for registration of a mark is filed referred to in paragraph (4), said application shall be signed by one person or representative of the legal entity which is entitled to the mark by attaching a written consent of the other persons or legal entities.
- (6) Where an application for registration of a mark referred to in paragraph (4) is filed through a proxy, the power of attorney for this purpose must be signed by all who are entitled to said mark.

## Article 10

- (1) An application for registration of a mark referred to in Article 9 shall be furnished with:
  - a. a written statement that the mark being filed for registration is the property of the applicant;
  - b. 20 (twenty) specimens of labels of the mark concerned;
  - c. supplement to the State Gazette containing the establishment of the legal entity or a valid copy of the deed, if the owner of the mark is a legal entity;
  - d. a power of attorney, if the application for registration of a mark is filed through a proxy; and
  - e. the payment of all fees for registration of a mark, the kind and amount of which shall be stipulated in a Ministerial Decree.
- (2) Any label of mark which uses a foreign language and or containing any letter other than Latin alphabets, or numerals which are not commonly used in Indonesian language shall be furnished with its translation into Indonesian language using Latin alphabets, and numerals commonly used in Indonesian language, and its pronunciation in Latin spellings.
- (3) Provisions regarding application for registration of a mark shall be further regulated in a Government Regulation.

## Article 11

- (1) An application for registration of a mark which is filed by an owner or by persons entitled to the mark residing or domiciled outside the territory of the Republic of Indonesia must be filed through a proxy in Indonesia.
- (2) The owner or persons entitled to the mark referred to in paragraph (1) must state and choose the domicile of the proxy as their address in Indonesia.

## Part Two

### Application for Registration of a Mark with Priority Right

## Article 12

An application for registration of a mark which is filed with a priority right as provided for in the international convention on mark protection to which the Republic of Indonesia adheres shall be filed within a period of 6 (six) months at the latest, commencing from the filing date of the application for mark registration filed for the first time in another member country to the international convention or in a country which is a member of the World Trade Organisation.

## Article 13

- (1) In addition to fulfilling the provisions referred to in Part One of this Chapter, an application for registration of a mark with a priority right must also include evidence of the receipt of the application for registration for the first time which gives rise to said priority right.
- (2) The Trademark Office may request that the evidence of the priority right referred to in paragraph (1) be translated into Indonesian language.
- (3) Where the provisions referred to in paragraphs (1) and (2) are not fulfilled within a period of at most 3 (three) months after the expiry of the right to file an application for registration of a mark by using a priority right referred to in Article 12, the application for registration of a mark by using a priority right shall be deemed to have been withdrawn.
- (4) The Trademark Office shall notify the person or legal entity or the proxy who filed the application for registration of a mark which is deemed to have been withdrawn referred to in paragraph (3) in writing, stating the reasons therefor.

## Part Three

### Examination of the Completeness of Requirements

#### Article 14

- (1) The Trademark Office shall conduct an examination of the completeness of requirements for registration of a mark referred to in Article 9, Article 10, Article 12, and Article 13.
- (2) Where there are deficiencies in the completeness of requirements referred to in paragraph (1), the Trademark Office shall request that such deficiencies be remedied within a period of at the latest two months from the date of receipt of the letter from the Trademark Office requesting the completion of such deficiencies.
- (3) Where such deficiencies pertain to the requirements referred to in Article 13, the period of remedying the deficiencies in said requirements shall be at the latest 3 (three) months from the date of expiry of the period of filing of an application for registration of a mark by using a priority right.

#### Article 15

- (1) Where deficiencies in the requirements have not been fulfilled within the respective period referred to in Article 14 paragraph (2) or paragraph (3), the application for registration of a mark shall be deemed to have been withdrawn.
- (2) The Trademark Office shall notify the person or legal entity or the proxy who filed the application for registration of a mark deemed to have been withdrawn, stating the reasons therefor.

#### Part Four

#### The Period for Receipt of an Application for Registration of Mark

#### Article 16

- (1) Where all requirements referred to in Article 9, Article 10, Article 12 and Article 13 have been fulfilled, the date of receipt of the application document of a mark shall be stipulated as the filing date of the application for registration of a mark.

- (2) The Trademark Office shall record the filing date of the application for registration of a mark referred to in paragraph (1).

## Part Five

### Amendment and Withdrawal of an Application for Registration of a Mark

#### Article 17

- (1) Amendment of an application for registration of a mark shall only be allowed by withdrawal of the initial application and filing of a new an application for registration of a mark.
- (2) The provisions on amendment and withdrawal of an application referred to in paragraph (1) shall be regulated further in a Government Regulation.

#### Article 18

- (1) As long as a decision of the Trademark Office has not been obtained, the person or legal entity or proxy who filed an application for registration of a mark may withdraw the application for registration of a mark.
- (2) Where the withdrawal of the application referred to in paragraph (1) is made by a proxy, it must be made on the basis of a power of attorney for the purpose of said withdrawal.
- (3) Where an application for registration of a mark is withdrawn, all fees which have already been paid to the Trademark Office cannot be withdrawn.

## CHAPTER IV

### REGISTRATION OF MARKS

Part One  
Announcement

Article 19

Within a period of at the latest 14 (fourteen) days after the filing date of an application for registration of a mark, the Trademark Office shall announce the application for registration of a mark that has fulfilled the requirements referred to in Article 9 and Article 10, and in case of filing by using a priority right, the provisions in Article 12 and Article 13 must also be fulfilled.

Article 20

- (1) Announcement shall last for 6 (six) months and shall be made by
  - (a) placement on the announcement board, which is specially provided for this purpose and which can be easily and clearly seen by the public; and
  - (b) placement in the Official Gazette of Marks, which is published periodically by the Trademark Office.
- (2) The date of commencement of announcement of an application for registration of a mark shall be recorded by the Trademark Office.

Article 21

Announcement shall be made by mentioning:

- a. the full name and address of the owner of the mark, as well as the full name and address of the proxy, if the application for mark registration is filed through a proxy;
- b. the class and kind of goods and or services for which registration of the mark has been requested;
- c. the filing date of the application for registration of the mark;
- d. the name of the country and the filing date of the first application for the registration of the mark. if the application for registration is filed with a priority right.

- e. a sample of the mark labels, including information concerning its colours, if the mark contains colour elements, and the mark label uses foreign language and or letters other than the Latin alphabet and or numerals which are not commonly used in Indonesian language, it must be furnished with its Indonesian translation, using the Latin alphabet or numerals which are commonly used in Indonesian language, as well as its pronunciation in the Latin spellings.

## Part Two

### Objection and Rebuttal

#### Article 22

- (1) During the period of announcement, any person or legal entity may file objections to an application for registration of the mark concerned, in writing to the Trademark Office.
- (2) Objections referred to in paragraph (1) may be filed where there is sufficient reason accompanied by evidence that the mark for which registration is requested is a mark which on the basis of this Act is unregistrable or must be rejected.
- (3) Where there are objections referred to in paragraph (1), the Trademark Office shall within a period of at the latest 14 (fourteen) days from the date of receipt of the objections send a copy of the letter containing said objections to the person or legal entity or the proxy who filed the application for registration of the mark.

#### Article 23

- (1) A person or legal entity or proxy who has filed an application for registration of a mark shall be entitled to file rebuttals to the objections referred to in Article 22 to the Trademark Office.
- (2) Rebuttals referred to in paragraph (1) shall be filed in writing within a period of at the latest 2 (two) months from the date of

receipt of the copy of the objections delivered by the Trademark Office.

#### Article 24

The Trademark Office shall use the objections and rebuttals as additional material in the examination of the application for registration of the mark concerned.

### Part Three

#### Substantive Examination

#### Article 25

- (1) The Trademark Office shall conduct a substantive examination of the application for registration of a mark after the expiry of the announcement period referred to in Article 20 or where there are objections during the period of announcement, after receipt of the rebuttals.
- (2) The examination shall be conducted with due regard to the provisions of Article 5 and Article 6 and whether there are objections or rebuttals.

#### Article 26

The examination shall be completed within a period of at the latest 9 (nine) months from:

- a. the expiry date of the announcement; or
- b. the expiry date of the period for filing of rebuttals

#### Article 27

- (1) The examination shall be conducted by a Trademark Examiner who possesses the skills and qualifications as a Trademark Examiner of the Trademark Office
- (2) A Trademark Examiner shall have the status of a functional official appointed and dismissed by the Minister on the basis of certain requirements.

- (3) A Trademark Examiner shall be given a functional rank and allowances in addition to other rights in accordance with prevailing laws and regulations.

#### Article 28

- (1) Where a Trademark Examiner referred to in Article 27 paragraph (1) concludes that an application for registration of a mark can be approved, the Trademark Office shall:
  - a. register the mark in the General Register of Marks;
  - b. notify the person or legal entity or proxy who filed the application for registration of the mark;
  - c. issue a Mark Certificate; and
  - d. announce said registration in the Official Gazette of Marks.
- (2) Where a Trademark Examiner referred to in Article 17 paragraph (1) concludes that an application for registration of a mark is unregistrable or must be rejected, the Trademark Office shall issue a decision on the rejection of said application for registration of a mark.
- (3) A decision on rejection referred to in paragraph (2) shall be made known in writing to the person or legal entity or proxy who filed the application for registration of the mark, stating the reasons therefor.

#### Article 29

- (1) The Mark Certificate shall be issued to the applicant for registration of the mark within a period of 30 (thirty) days at the latest commencing from the date of such mark is registered in the General Register of Marks.
- (2) Where an application for registration of the mark was filed through a proxy, the Mark Certificate referred to in paragraph (1) shall be conveyed to the proxy, with a copy to the owner of the mark.
- (3) The Mark Certificate referred to in paragraph. (1) shall contain:

- a. the full name and address of the owner of the registered mark;
  - b. the full name and address of the proxy, if the application for registration of the mark was filed on the basis of Article 11;
  - c. the date of submission and the filing date of application for registration of a mark;
  - d. the name of the country and the filing date of the first application for registration of a mark, where the application for registration was filed with a priority right;
  - e. label of the registered mark, including information concerning its colours, if the mark contains colour elements, and the mark label uses foreign language and or letters other than the Latin alphabet and or numerals which are not commonly used in Indonesian language, it must be furnished with its Indonesian translation, using the Latin alphabet or numerals which are commonly used in Indonesian language, as well as its pronunciation in the Latin spellings;
  - f. number and date of registration;
  - g. the class and kind of goods and or services for which the mark has been registered;
  - h. the validity period of the mark registration.
- (4) Any person may submit a request for a certified copy of the mark registration as registered in the General Register of Marks.
- (5) The request referred to in paragraph (4) is subject to a fee. the amount of which shall be stipulated in a Ministerial Decree.

#### Article 30

The mark registration number must be set forth on any use of a registered mark, the implementation of which shall be regulated further in a Government Regulation.

#### Part Four Appeal Petitions

### Article 31

- (1) A petition for appeal may be submitted against the refusal of an application for registration of a mark, for reasons and consideration pertaining to substantive matters, referred to in Article 5 or Article 6.
- (2) A petition for appeal shall be submitted in writing to the Trademark Appeal Commission by the applicant, or a legal entity or its proxy for registration of a mark, and a copy thereof shall be sent to the Trademark Office.
- (3) The Trademark Appeal Commission is a special body, permanently presided over by a chairman, who also serves as a member of the Commission, and shall be within the Department headed by the Minister.
- (4) The members of the Trademark Appeal Commission shall be in an odd number, comprising at least 3 (three) persons, consisting of the required experts and or senior Trademark Examiners, who did not carry out the substantive examination on the application for mark registration concerned.
- (5) The chairman and members of the Trademark Appeal Commission shall be appointed and dismissed by the Minister.

### Article 32

- (1) An appeal petition shall be filed describing in detail the objection to the rejection of the application for registration of a mark, stating the reasons therefor.
- (2) The reasons referred to in paragraph (1) must not constitute corrections or improvements of the rejected application for registration of a mark.

### Article 33

- (1) An appeal petition shall be filed within a period of at the latest 3 (three) months from the date of receipt of the notification of rejection of the application for registration of a mark.
- (2) Where said period for an appeal has lapsed without an appeal petition, the rejection of the application for registration of the

mark shall be deemed to have been accepted by the person or legal entity or proxy who filed the application for registration of the mark.

- (3) Where the rejection of the application for registration of the mark has been deemed to have been accepted by the person or legal entity or proxy referred to in paragraph (2), the Trademark Office shall record this fact in the General Register of Marks.

#### Article 34

- (1) The decision of the Trademark Appeal Commission shall be made within a period of 6 (six) months at the latest commencing from the date of receipt of the appeal petition.
- (2) The decision of the Trademark Appeal Commission is final, administratively as well as substantively.
- (3) In the event the Trademark Appeal Commission approves the appeal petition, the Trademark Office shall execute the registration and issue a Mark Certificate in manners referred to in Article 28 and Article 29.
- (4) In the event the Trademark Appeal Commission rejects the appeal petition, the Trademark Office shall within 30 (thirty) days at the latest as from the date of receipt of the decision of the Trademark Appeal Commission, notify said refusal to the person or legal entity or its proxy referred to in Article 31 paragraph (2).

#### Article 35

The organisational structure and the work methods of the Trademark Appeal Commission and the procedure for appeal petitions and examinations as well as settlements shall be regulated further in a Government Regulation.

#### Part Five

##### Extension of Period of Protection of a Registered Mark

### Article 36

- (1) Upon the request of a mark owner, the period of protection of a registered mark may be extended for additional periods of the same duration.
- (2) An application for extension of the period of protection of a registered mark referred to in paragraph (1) shall be filed in writing by the owner or his proxy within a period of not more than 12 (twelve) months and at least 6 (six) months prior to expiry of the period of protection of said registered mark.
- (3) An application for extension of the period of protection of a registered mark referred to in paragraph (2) shall be filed to the Mark Office.
- (4) An application for extension of the period of protection of a registered mark referred to in paragraph (2) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

### Article 37

An application for extension of the period of protection of a registered mark shall be approved if:

- a. the mark concerned is still used on the goods or services stated in the Mark Certificate.
- b. the goods or services referred to in letter a still produced and traded.

### Article 38

- (1) An application for extension of the period of protection of a registered mark shall be rejected by the Trademark Office if it does not fulfil the provisions referred to in Article 36 and Article 37.
- (2) The rejection of an application for extension of the period of protection of a registered mark shall be made known to the owner of the mark or his proxy, stating the reasons therefor.

### Article 39

- (1) An extension of the period of protection of a registered mark shall be recorded in the General Register of Marks and shall be announced in the Official Gazette of Marks.
- (2) An extension of the period of protection of a registered mark shall be made known in writing to the owner of the mark or his proxy.

### Part Six

#### Change of Name or Address of a Registered Mark Owner

### Article 40

- (1) A change of name or address of a registered mark owner shall be made known to the Trademark Office accompanied by a valid copy of the evidence of said change.
- (2) A change of name or address of a registered mark owner which has been recorded by the Trademark Office shall be announced in the Official Gazette of Marks.
- (3) The recording of a change of name or address referred to in paragraph (1) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

## CHAPTER V

### TRANSFER OF RIGHTS OF A REGISTERED MARK

#### Part One

#### Transfer of Rights

### Article 41

- (1) The rights to a registered mark may be transferred by means of:
  - a. inheritance;
  - b. testament;
  - c. donation;

- d. agreement; or
  - e. other reasons recognised by law.
- (2) The transfer of rights to a registered mark referred to in paragraph (1) shall be accompanied by supporting documents.
  - (3) A request that the transfer of rights to a registered mark referred to in paragraph (1) be recorded in the General Register of Marks must be filed to the Trademark Office.
  - (4) A transfer of rights to a registered mark which has been recorded by the Trademark Office shall be announced in the Official Gazette of Marks.
  - (5) The legal consequences of a transfer of rights to a registered mark which has been recorded in the General Register of Mark shall apply to the parties concerned and to third parties.
  - (6) The recording of a transfer of rights to a registered mark referred to in paragraph (1) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

#### Article 42

- (1) A transfer of rights to a registered mark may be accompanied by the transfer of good will or reputation or other things related to the mark.
- (2) A transfer of rights to a registered mark shall only be recorded by the Trademark Office where it is accompanied with a written statement of the recipient that said mark will be used for trade in goods or services.

#### Article 43

The right on a registered service mark of which the method of rendering the service and the results thereof is very closely related to the personal ability or skill of the provider of the service concerned, may be transferred or licensed, provided that there is a guaranty on the quality of the rendering of the service and its result thereof.

## Part Two

### Licensing

#### Article 44

- (1) The owners of a registered mark shall be entitled to grant a license to another person to use all or part of the kinds which belong to one class by an agreement.
- (2) A licensing agreement shall be effective for the entire territory of the Republic of Indonesia, unless agreed otherwise, for a period not exceeding the period of protection of the registered mark concerned.
- (3) The recording of a licensing agreement must be requested of the Trademark Office.
- (4) A licensing agreement referred to in paragraph (3) shall be recorded by the Trademark Office in the General Register of Marks and shall be announced in the Official Gazette of Marks.
- (5) The requirements and procedures for an application to record a licensing agreement shall be further regulated in a Government Regulation.
- (6) The recording of a licensing agreement referred to in paragraph (3) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

#### Article 45

The owner of a registered mark who has given a license to another person referred to in Article 44 paragraph (1) shall continue to be allowed to himself use or to give a license to another third party to use said mark, unless agreed otherwise.

#### Article 46

A licensing agreement may provide that the licensee may give further licenses to third parties.

#### Article 47

The use in Indonesia of a registered mark by a licensee shall be deemed to be the same as the use in Indonesia of said mark by the owner of the mark.

#### Article 48

- (1) A licensing agreement shall be prohibited to contain provisions which may directly or indirectly give rise to effects which damage the Indonesian economy or to contain restrictions which obstruct the ability of the Indonesian people to master and develop technology in general.
- (2) The Trademark Office must reject an application for recording of a licensing agreement which contains prohibited provisions referred to in paragraph (1).
- (3) The Trademark Office shall notify the owner of the mark and the licensee or the proxy in writing of the rejection referred to in paragraph (2), stating the reasons therefor.

#### Article 49

- (1) A good faith licensee of a mark that is subsequently cancelled on the basis of a similarity in principle or in its entirety with another registered mark, shall continue to carry out the licensing agreement as the licensee of an uncanceled mark until the expiry of the period of said licensing agreement.
- (2) A licensee referred to in paragraph (1) shall no longer be obligated to continue the payment of royalties, which would still properly be due to the licensor of the cancelled mark, but instead shall be obligated to make the payment of royalties to the owner of the mark that has not been cancelled.
- (3) Where a licensor has already received royalties as a lump sum from the licensee, said licensor shall be obligated to surrender a portion of the royalties he has received to the owner of the mark that has not been cancelled, in proportion to the remaining period of the licensing agreement.

## Article 50

Provisions regarding licensing agreements referred to in Chapter V Part Two of this Act shall be regulated further in a Government Regulation.

## CHAPTER VI

### DELETION AND CANCELLATION OF REGISTRATION OF A MARK

#### Part One

#### Deletion

#### Article 51

- (1) The deletion of mark registration from the General Register of Marks shall be done by the Trademark Office either at its own initiative or at the request of the owner of the mark concerned.
- (2) The deletion of the registration on the initiative of the Trademark Office may be done if:
  - a. the mark has not been used for 3 (three) consecutive years or more for trade in goods and or services from the date of registration or of the last use, except there is excuse which is acceptable to the Trademark Office; or
  - b. the mark is being used for the kind of goods and or services which is not in pursuant to the kind of goods and or services for which the mark application for registration was filed, including the use of mark which is not in accordance with the registered mark.
- (3) The reasons referred to in paragraph (2) letter a are:
  - a. import prohibition;
  - b. prohibition related to the permit for the distribution of goods using the mark concerned or any temporary decision from the competent authority;

- c. other similar prohibitions imposed by Government Regulation.
- (4) The decision of registration of a mark referred to in paragraph (2) shall be recorded in the General Register of Marks, and shall be announced in the Official Gazette of Marks.
- (5) Objection to the decision to delete the registration of a mark referred to in paragraph (2) may be submitted to the District Court of Central Jakarta or any other district courts to be stipulated in a Presidential Decree.

#### Article 51A

- (1) A request for the deletion of registration of a mark by the owner of the mark, either for all or for part of the kinds of goods and or services belonging to one class, shall be submitted to the Trademark Office.
- (2) Where the mark referred to in paragraph (1) is still bound by a valid licensing agreement, deletion may only be done with a written consent of the licensee.
- (3) Exception as to the consent of the licensee referred to in paragraph (2) may only be made possible where the licensee clearly agrees to waive such consent in the licensing agreement.
- (4) The deletion of registration of a mark referred to in paragraph (1) shall be recorded in the General Register of Marks, and shall be announced in the Official Gazette of Marks.
- (5) The recording of deletion of a registered mark referred to in paragraph (4) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

#### Article 52

Third parties shall also be able to file a request for the deletion of the registration of a mark based on reasons referred to in Article 51 paragraph (2) letter a and letter b in the form of a claim filed at:

- a. The District Court of Central Jakarta; or

- b. Other District Courts to be stipulated in a Presidential Decree.

#### Article 53

- (1) The decision of a District Court referred to in Article 52 may not be appealed, instead, a cassation or an application for a reconsideration may directly be submitted to the Supreme Court.
- (2) A copy of the decision of the Court referred to in paragraph (1) shall be forwarded by the Clerk of the District Court concerned to the Trademark Office within 14 (fourteen) days at the latest as from the date of said decision.
- (3) The Trademark Office shall execute the deletion of the mark concerned from the General Register of Marks and announce it in the Official Gazette of Marks if the lawsuit for the deletion of registration of a mark has been awarded and the decision of the Court referred to in paragraph (1) has become final and binding.

#### Article 54

- (1) The deletion of the registration of a mark shall be carried out by the Trademark Office by crossing out the mark concerned in the General Register of Marks and noting the reasons for and the date of said deletion.
- (2) The deletion of the registration of a mark referred to in paragraph (1) shall be made known in writing to the owner of the mark or his proxy, stating the reasons therefor and stressing that as of the date of deletion from the General Register of Marks, the Mark Certificate concerned shall be declared to be null and void.

#### Article 55

The deletion of the registration of a mark shall have the result that the legal protection of the mark concerned shall cease.

## Part Two Cancellation

### Article 56

- (1) A lawsuit for cancellation of a registered mark may be filed by an interested party based on the reasons referred to in Article 4 paragraph (1), Article 5 or Article 6.
- (2) A lawsuit referred to in paragraph (1) may not be submitted by the owner of an unregistered mark.
- (3) The owner of an unregistered well-known mark may file a lawsuit referred to in paragraph (1), after having filed an application for registration of his mark to the Trademark Office.
- (4) The lawsuit for cancellation referred to in paragraph (1) shall be filed against the owner of the mark and the Trademark Office through the District Court referred to in Article 52.
- (5) Where the owner of the mark against which the lawsuit for cancellation has been made is domiciled outside the jurisdiction of the Republic of Indonesia, the lawsuit shall be filed at the District Court of Central Jakarta.

### Article 57

- (1) A claim for cancellation of the registration of a mark shall be filed within a period of 5 (five) years after the date of registration of the mark.
- (2) Exempted from the provision referred to in paragraph (1), a claim for the cancellation of a mark may be filed without a time limit if the mark concerned should have not been registered because it contains elements contrary to morality and the public order.

### Article 58

- (1) The decision of the District Court for cancellation referred to in Article 56 paragraph (4) may not be appealed, instead, a

cassation or an application for a reconsideration may be directly be submitted to the Supreme Court.

- (2) A copy of the decision of the Court referred to in paragraph (1) shall be forwarded by the Clerk of the Court concerned to the Trademark Office within 14 (fourteen) days at the latest as from the date of said decision.
- (3) The Trademark Office shall execute the cancellation of the registration of the mark concerned from the General Register of Marks and shall announce the cancellation in the Official Gazette of Marks when the lawsuit for the cancellation of said mark has been awarded and the decision of the Court referred to in paragraph (1) has become final and binding.

#### Article 59

- (1) The cancellation of the registration of a mark shall be carried out by the Trademark Office by crossing out the mark concerned in the General Register of Marks and noting the reasons for and the date of said cancellation.
- (2) The cancellation of registration of a mark referred to in paragraph (1) shall be made known in writing to the owner of mark or his proxy, stating the reasons therefor and stressing that as of the date of deletion from the General Register of Marks, the Mark Certificate concerned shall be declared to be null and void.
- (3) The crossing out of the registration of a mark in the General Register of Marks referred to in paragraph (1) shall be announced in the Official Gazette of Marks.

#### Article 60

The cancellation of the registration of a mark shall have the result that the legal protection of the mark concerned shall cease.

### CHAPTER VII COLLECTIVE MARKS

#### Article 61

- (1) An application for registration of a mark or a service mark as a collective mark shall only be accepted if it is clearly stated in said application for registration that the mark will be used as a collective mark.
- (2) In addition to the affirmation on the use of a collective mark as intended by paragraph (1), said application for registration must be accompanied by a copy to the regulation on the use of said mark as a collective mark, signed by the owner of the mark concerned.
- (3) The regulation on the use of a collective mark referred to in paragraph (2) must contain, among others:
  - a. the nature, the general characteristics, or the quality of the goods or services, the production and trading of which will use said collective mark;
  - b. provisions for the owner of the collective mark to conduct effective supervision of the use of said mark in accordance with the regulation; and
  - c. sanctions for violations of the regulation on use of the collective mark.

#### Article 62

An application for registration of a collective mark shall be subject to an examination of the completeness of requirements referred to in Article 9, Article 10, Article 12, Article 13, and Article 61.

#### Article 63

Where as a result of the examination of an application for registration of a collective mark, the Trademark Examiner concludes that the application for registration of a mark as a collective mark may be approved, the Trademark Office shall:

- a. register said mark in the General Register of Marks by attaching a copy of the regulation on use of said mark; and

- b. announce the registration of the collective mark together with the regulation on its use in the Official Gazette of Marks.

#### Article 64

- (1) A change in the regulation on the use of a collective mark must be filed to the Trademark Office for recording accompanied by a valid copy evidencing said change.
- (2) The Trademark Office shall record the change referred to in paragraph (1) in the General Register of Marks, and announce it in the Official Gazette of Marks.
- (3) A change in the regulation on the use of a collective mark shall be effective for third parties after it has been recorded in the General Register of Marks.
- (4) The recording of a change in the regulation on the use of a collective mark referred to in paragraph (1) shall be subject to a fee, the amount of which shall be further stipulated in a Ministerial Decree.

#### Article 65

The owner of a registered collective mark may only use said mark together with another person and or legal entity that also uses the collective mark concerned, where the conditions for such use are clearly stated in the regulation on the use of the collective mark.

#### Article 66

- (1) Ownership of a registered collective mark may be transferred only to recipients capable of conducting effective supervision in accordance with the regulation on the use of the collective mark.

- (2) The transfer of rights to a registered collective mark referred to in paragraph (1) must be filed to the Trademark Office for recording.
- (3) The Trademark Office shall record the transfer of rights referred to in paragraph (2) in the General Register of Marks and announce it in the Official Gazette of Marks.
- (4) The recording of the transfer of rights to a registered collective mark referred to in paragraph (2) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

#### Article 67

A registered collective mark may not be licensed to another person or legal entity.

#### Article 68

- (1) The Trademark Office may delete the registration of a collective mark on the basis of:
  - a. a request of the owner of the collective mark with a written consent of all users of the collective mark;
  - b. sufficient evidence that the collective mark has not been used for 3 (three) consecutive years or more after the date of its registration;
  - c. sufficient evidence that the collective mark is being used for kinds of goods or services which do conform with the types of goods or services for which registration was requested; or
  - d. sufficient evidence that the collective mark is not being used in accordance with the regulation on the use of the collective mark.
- (2) An application for deletion of a collective mark referred to in paragraph (1) letter 1 shall be filed to the Trademark Office.
- (3) The deletion of the registration of a collective mark referred to in paragraph (2) shall be recorded in the General Register of Marks and announced in the Official Gazette of Marks.

- (4) The recording of the deletion of the registration of a collective mark referred to in paragraph (3) shall be subject to a fee, the amount of which shall be stipulated in a Ministerial Decree.

#### Article 69

Third parties shall be able to file a request for the deletion of the registration of a collective mark to a District Court referred to in Article 25 based on grounds as referred to in Article 68 letter b, letter c, or letter d.

#### Article 70

In addition to reasons for cancellation referred to in Article 56 paragraph (1), cancellation of the registration of a registered collective mark may also be requested of a district court as referred to Article 52 for the cancellation of a registered collective mark, where the use of the collective mark is contrary to the provisions referred to in Article 61 paragraph (1).

#### Article 71

All provisions in this Act shall be effective with respect to a collective mark, except to the extent stipulated otherwise in this Chapter.

### CHAPTER VIII

#### LAWSUIT FOR INFRINGEMENT OF MARK

#### Article 72

- (1) The owner of a registered mark may file a lawsuit against a person or legal entity who unlawfully uses his mark for goods and services which has similarity in its essential part or its entirety with his mark.

- (2) The lawsuit referred to in paragraph (1) shall be filed at the District Court referred to in Article 52.

### Article 73

The lawsuit referred to in Article 72 may also be filed by a licensee of a registered mark either alone or together with the owner of the pertinent mark.

### Article 74

- (1) Upon a request of the owner of a registered mark or the licensee of a registered mark as the plaintiff, a judge may order the defendant to cease the trade in goods or services which use the said mark without right thereto during the hearings and to prevent greater damages.
- (2) Where the defendant is also demanded to surrender the goods which use the mark without right thereto, a judge may order that the surrender of the goods or the value of the goods be carried out after the decision of the Court has become final and binding, and after the plaintiff has paid the price thereof to the defendant.

### Article 75

No appeal may be filed against a decision of the District Court referred to in Article 72 paragraph (2).

### Article 76

The right to file a claim as regulated in this Chapter shall not detract from the right of the State to prosecute criminal offences in this field of marks.

## CHAPTER IX

## ADMINISTRATION OF MARKS

#### Article 77

The Trademark Office shall conduct the administration of marks as regulated in this Act.

#### Article 78

The Trademark Office shall implement a national documentation of marks and information network system capable of providing information to the public as widely as possible.

#### Article 79

In implementing the administration of marks, the Trademark Office shall receive guidance from and shall be responsible to the Minister.

### CHAPTER IXA

#### GEOGRAPHICAL INDICATION AND SOURCE OF ORIGIN

##### Part One

##### Geographical Indication

#### Article 79A

- (1) Geographical indication shall be protected as a sign which indicates the place of origin of goods, which due to its geographical environment factors, including the factor of the nature, the human or the combination of the two factors, gives a specific characteristics and quality on the goods produced therein.
- (2) Geographical indication shall be protected after registration, based on the application filed by:
  - a. an institution that represents the society in the area which produces the goods concerned, which consists of.

- 1) parties who undertake business on goods of natural products or natural resources;
  - 2) producers of agricultural products;
  - 3) people who make handicraft or industrial products;
  - 4) merchants who sell the goods concerned;
  - b. an institution that is given the authority to do so;
  - c. groups of consumers of the goods concerned.
- (3) Provisions concerning announcement referred to in Article 19, Article 20, Article 21, Article 22, Article 23, Article 24, and Article 25 shall be applicable to announcement of application for registration of geographical indication.
- (4) An application for registration of a geographical indication shall be refused by the Trademark Office, if the sign concerned:
- a. is against ethics, public order, likely to deceive or mislead people as of the characteristics, such as features, quality, source of origin, process of production or the usage;
  - b. does not qualify to be registered as a geographical indication.
- (5) Provisions concerning appeal shall be applicable to refusal of registration of geographical indication referred to in paragraph (4).
- (6) A registered geographical indication enjoys a legal protection which persists as far as the features and or the quality on which the protection has been conferred still exist.
- (7) If prior to or on the date of application for registration of a geographical indication as sign has been used in good faith by another party who has no right to register pursuant to the provisions referred to in paragraph (2), the party who has been acting in good faith may continue to use the sign concerned for a period of 2 (two) years as from the date of its registration as a geographical indication.

- (8) Further provisions concerning procedures for registration of geographical indication shall be stipulated in a Government Regulation.

#### Article 79B

- (1) The right holder of a geographical indication may file a lawsuit against an unlawful user of the geographical indication, such as to claim for damages, injunction order as well as disposal of labels of the geographical indication concerned which have been unlawfully used.
- (2) To prevent any further loss on the party whose right has been infringed, a judge may order the defendant to cease any activities of producing, multiplying, and may order to destroy labels of the geographical indication which have been unlawfully used.

#### Article 79C

Provisions referred to in Article 80 shall also be applicable in the implementation of the rights on geographical indication.

#### Part Two

#### Source of Origin

#### Article 79D

Source of origin shall be protected as a sign which:

- a. complies with the provisions of Article 79A paragraph (1), but it has been registered; or
- b. solely indicates the origin of certain goods or services.

#### Article 79E

Provisions referred to in Article 79B and Article 79C shall be applicable on the holder of rights on source of origin.

## CHAPTER X INVESTIGATION

### Article 80

- (1) In addition to investigating officers at the State Police of the Republic of Indonesia, certain civil servants from the department whose scope of duties and responsibilities concern marks shall be granted special authority as investigators referred to in Act No. 8 of 1981 on Criminal Proceedings, to conduct an investigation of criminal offences in the field of marks.
- (2) The civil servant investigator referred to in paragraph (1) shall be authorised to:
  - a. conduct examination of the truth of reports or information relating to criminal offences in the field of marks;
  - b. conduct examination of a person or legal entity suspected of committing criminal offences in the field of marks;
  - c. collect information and evidence from persons or legal entities in connection with incidents of criminal offences in the field of marks;
  - d. conduct examination of the books, records and other documents relating to criminal offences in the field of marks;
  - e. inspect locations on which evidence, books, records, and other documents to be found, as well as to confiscate materials and goods resulting from infringements which can be used as evidence in the criminal trials in the field of marks;
  - f. request expert assistance in the scope of carrying out the duties of investigation of criminal offences in the field of marks;
- (3) The civil servant investigator referred to in paragraph (1) shall inform the investigating officers at the State Police of

the Republic of Indonesia about the initiating and the result of an investigation.

- (4) The civil servant investigator referred to in paragraph (1) shall forward the results of an investigation to the Public Prosecutor through the investigating officers at the State Police of the Republic of Indonesia in view of Act No. 8 of 1981 on Criminal Proceedings.

## CHAPTER XI CRIMINAL PROVISIONS

### Article 81

Any person who deliberately and without right uses a mark which is similar in its entirety to a registered mark owned by another person or another legal entity for the same kind of goods or services produced and or traded shall be sentenced to imprisonment for a maximum period of 7 (seven) years and a fine of a maximum amount of Rp.100,000,000.00 (one hundred million rupiah).

### Article 82

Any person who deliberately and without right uses a mark which is similar in its essential part to a registered mark owned by another person or another legal entity for the same kind of goods or services produced and or traded shall be sentenced to imprisonment for a maximum period of 5 (five) years and a fine of a maximum amount of Rp.50,000,000.00 (fifty million rupiah).

### Article 82A

- (1) Any person who deliberately and without right uses a mark which is similar in its entirety to a geographical indication owned by another person or another legal entity for the same kind of goods shall be sentenced to imprisonment for a

maximum period of 7 (seven) years and a fine of a maximum amount of Rp.100,000,000.00 (one hundred million rupiah).

- (2) Any person who deliberately and without right uses a mark which is similar in its essential part to a geographical indication owned by another person or another legal entity for the same kind of goods or services produced and or traded shall be sentenced to imprisonment for a maximum period of 5 (five) years and a fine of a maximum amount of Rp.50,000,000.00 (fifty million rupiah).
- (3) Provisions referred to in paragraph (1) and paragraph (2) are not applicable to any party who complies with the provisions referred to in Article 79A paragraph (7).
- (4) The representation of actual origin of goods which result from an infringement or words which indicate that the goods concerned are the imitation of registered goods and protected under geographical indication shall not prejudice the applicability of provisions referred to in paragraph (1) and paragraph (2).

#### Article 82B

Any person who deliberately and without right uses a sign which is protected under source of origin on goods or services that is likely to deceive or mislead people as to the origin of the goods or services concerned shall be sentenced to imprisonment for a maximum period of 5 (five) years and a fine of a maximum amount of Rp.50,000,000.00 (fifty million rupiah).

#### Article 83

The criminal offences referred to in Article 81, Article 82, Article 82A and Article 82B shall be felonies.

#### Article 84

- (1) Any person trades in goods and or services that are known or reasonable to be known that the good and or services concerned result from infringement an infringement referred

to in Article 81, Article 82, Article 82A and Article 82B shall be sentenced to imprisonment of a maximum period of 1 (one) year and or a fine of a maximum amount of Rp.10,000,000.00 (ten million rupiah).

- (2) Criminal offences referred to in paragraph (1) shall be felonies.

## CHAPTER XII TRANSITIONAL PROVISIONS

### Article 85

All marks that have been registered on the basis of Act No. 21 of 1961 on Company Marks and Marks and which remain valid on the effective date of this Act shall be declared to continue to be valid in accordance with this Act for the remainder of the period of their registration.

### Article 85A

- (1) An application for renewal of a mark and for the transfer of a mark which has been registered shall be refused by the Trademark Office if the mark concerned has a similarity in its essential part or in its entirety to a well-known mark owned by another person, in accordance with the provisions of Article 6 paragraph (3) and paragraph (4).
- (2) An objection against refusal of the decision referred to in paragraph (1) shall be filed to the District Court referred to in Article 52.

### Article 86

- (1) A claim for cancellation against a mark referred to in Article 85 may be filed at a District Court referred to in Article 52, based on the reasons referred to in Article 5 and Article 6.

- (2) A claim for the cancellation of the registration of a mark referred to in paragraph (1) shall be filed during the period of validity of the registration of said mark.

#### Article 87

An application for registration of a mark, extension of the registration of a mark, registration of the transfer of rights, recording of changes in name and or address, an application for the deletion or cancellation of the registration of a mark that was submitted on the basis of Act No.21 of 1961 on Company Marks and Trademarks, but which has not yet been completed on the effective date of this Act, shall be completed on the basis of this Act.

#### Article 88

All implementing regulations issued on the basis of Act No.21 of 1961 on Company Marks and Trademarks in existence on the effective date of this Act shall be declared to be valid as long as they are not in contradiction to this Act or have not been replaced by new ones on the basis of this Act.

### CHAPTER XIII CONCLUDING PROVISIONS

#### Article 89

Upon the effectiveness of this Act, Law Number 21 of 1961 on Company Marks and Trademarks are declared to no longer be in effect.

ELUCIDATION  
OF  
LAW OF THE REPUBLIC OF INDONESIA NUMBER 14 OF 1997  
ON AMENDMENT OF LAW NO. 19 OF 1992  
CONCERNING  
TRADEMARKS

GENERAL

The Decree of People's Consultative Assembly Number II/MPR/1991 on the Guidelines of State Policy asserts, among others, that the world's progress which brings about any opportunity in support and capable of speeding up the national progress shall be used at its best. In accordance with the directive of the Guidelines of State Policy, it is necessary that all global developments, changes, and inclinations that may influence the national stability as well as the achievement of national objectives are closely monitored in such a way so that anticipating steps of action may be taken.

One of the significant and closely monitored development in the last decade, which is still going to be the inclination in the years to come, is the ever growing globalization flow in social life, economy, culture as well as in other sides of life. In the field of trading, the development of, in particular, information technology and transportation has rapidly increased the activities in this sector and has even merged the world into a single common market.

Considering such facts and inclinations, it is then quite reasonable when there is a strong urge toward regulating for a more appropriate legal protection. Moreover, there are some countries that rely their economic and trading activities on goods and services of fine quality being a result of human intellectuals.

The General Agreement on Tariff and Trade (GATT) as a multilateral trade agreement aimed, basically, to create a free trade and equal treatment, as well as to support the promotion of economic growth and development for human prosperity.

In the framework of the multilateral agreement, in April 1994 in Marakesh, Morocco, a package of trade negotiation deals has been concluded and has become the most comprehensive deals GATT has ever achieved. The negotiation which began in 1986 in Punta del Este, Uruguay, and known as the Uruguay Round covers, among others, the Agreement on Trade Related Aspect of Intellectual Property Rights (TRIPS Agreement).

The TRIPS Agreement established norms and standards of protection for human intellectual works, and laid the international agreement on Intellectual Property Rights as its foundation. In addition, the Agreement also regulates strict implementing rules of legal enforcement of Intellectual Property Rights.

As a signatory of Uruguay Round, Indonesia has ratified the agreement package with Law No. 7 of 1994 concerning the Ratification of the Agreement Establishing the World Trade Organization. In line with the policy, to support the national development progress, particularly after considering the various progresses and changes, Indonesia, which had adopted Law on Corporate Trademarks and Commercial Trademarks in 1961, which was revoked and substituted by Law No. 19 of 1992 on Trademarks, views that it is necessary to carry out an amendment and perfection of the Law.

Apart from the amendment on some provisions that are considered as providing inadequate legal protection for the owner of a trademark, it is also considered necessary to make the adjustment in line with the TRIPS Agreement. The goal is to eliminate various barriers, particularly to facilitate efforts that promote the economic growth as well as national and international trade.

As a consequence of having ratified the Uruguay Round, it is considered necessary to make changes and improvements on the Trademarks Law. Such changes are basically directed to adjust the Law to the *Paris Convention for the Protection of Industrial Property* of 1883 as amended a couple of times, and to perfect some inadequate provisions which do not reflect both the

current need and international practices. To include in the changes is the adjustment to accommodate the TRIPS Agreement.

With such background and consideration in view, therefore, the general area and course of amendment made on Law No. 19 of 1992 on Trademarks covers, among others:

## 1. Improvement

### a. Procedures of Trademarks Registration

Different from the previous provision, this Trademarks Law adopts a principle that one application for registration of a trademark may be submitted for more than one class of goods and or services. This change is made, in particular, to simplify the administration of application for trademark registration. This means that it is no longer necessary to submit separate applications for each class when the application for registration of a trademark is intended for more than one class. However, the required payment of registration fee applicable shall be of an amount in accordance with the number of classes of goods and or services applied for.

Besides, an application for the registration of a trademark that uses a foreign language and or characters other than Roman characters, or numerals, which are not commonly used in the Indonesian language must be furnished with its translation in the Indonesian language, in Roman characters and using numerals commonly used in the Indonesian language, as well as how the trademark is pronounced in Roman spellings.

### b. Deletion of Registered Trademark

The Registration of a registered trademark may be deleted for a reason that it is not used within a consecutive period of 3 (three) years or more in the trading of goods or services as from the date of registration or last use.

Nevertheless, this Law provides exception toward the provision above that is in the event that the non-use of the registered trademark is beyond the authority of the owner, such as for the reason of import prohibition or other limitations as imposed by the Government.

c. Protection of Well-Known Trademarks

The protection of well-known trademarks is derived from the consideration that the imitation of a well-known trademark which is a property of another person is basically founded on a bad intent, in particular, to take advantage of the popularity of another person's trademark. Therefore it must not benefit any protection.

Under this Law, the mechanism of protection of well-known trademarks is built through the initiative of the owner of the trademark concerned as referred to in Article 56 paragraph (3) of Law No. 19 of 1992, as well as through the refusal of the Trademarks Office against any application for the registration of a trademark which shows similarity in its essential part or in its entirety with a well-known trademark.

d. Criminal Sanction

The perfection is basically done in the wordings of criminal sanction that is previously written as "every person" and changed into "whosoever". This amendment is meant to avoid a wrong interpretation that a violation by legal entity is not punishable under criminal sanction. In addition, this is a matter of consistency as of the coverage of trademark protection that is limited to goods and or services of the same kinds. Therefore, the principle is upheld in the provisions of criminal sanction.

## 2. Addition

### Coverage of Protection Regulation

Besides the protection on goods and services, this Law also regulates the protection of geographical indication, being a sign that indicates the place of origin of certain goods, an area which because of the geographical environment factors, including the nature or human factors or combination of the two factors, gives specific characteristics or quality on goods produced therein.

In addition, this Law also regulates the protection of source of origin, being a sign which is almost similar to a sign protected as geographical indication, only that the protection is granted without having to be registered.

## 3. Changes

### Transfer of Registered Trademarks

A registered service mark, of which the method of rendering the services and the results thereof is very closely related to personal ability or skill of the person rendering it, may be transferred or licensed to another party on the condition that it shall be accompanied with a quality guaranty from the owner of the service mark concerned. In the previous legislation such transfer could not be done. Furthermore, this Law determines that the transfer of such a service mark may only be carried out if there is a guaranty that the services traded is actually of the same quality. This is important to affirm in order to guard and protect the consumers interests.

## ARTICLE BY ARTICLE

### Figure 1

A refusal of the Trademark Office shall be made against any application for the registration of a trademark that is similar either in its essential part or in its entirety, for goods and or services.

As of the criteria of well-known trademarks, besides having to consider the common knowledge of the public, the determination shall also be based on the reputation of the trademark concerned that is achieved through promotional activities carried out by the owner, and accompanied with proof of the registration of the trademark concerned in other countries (if any). If the above conditions are not considered adequate, a Judge may order an independent agency to carry out a survey to find out whether the trademark concerned is well-known or not.

Furthermore, see also the elucidation of previous Article 6 paragraph (2) letter a.

## Figure 2

Basically, a trademark registration may be applied for more than one class of goods and or services. It is something that is left to the consideration of the owner of a trademark. In the event a proprietor of a trademark intends to use his trademark for a number of goods and or services that belong to more than one class, he must not be burdened by administration procedures that oblige him to submit a separate application for each class of the goods and or services concerned.

For that reason, with this amendment, the trademark registration procedures become simpler. Apart from simplifying the administration, the possibility to submit one application for the registration of a trademark for more than one class of goods and or services will also simplify the examination task. However, the required payment of registration fee for such an application shall be of an amount in conformity with the number of classes of goods and or services for which an application is applied. Anyhow, such administration facilitation does not contravene the essence of Article 6 paragraph (1), which

provides that legal protection shall be conferred on goods and or services within those particular kinds.

Figure 3

The change is actually an addition on the requirement that shall be fulfilled by a person who files an application for the registration of a trademark. The requirement is in the form of an explanation on how to pronounce in Latin spellings of foreign language used, or numerals being applied for registration as a trademark, such as the pronunciation of the word "TIGER" has to be written in Latin alphabet with its pronunciation as "TAIGER". This is important to emphasize in order to ease the task of trademark examination officer to decide whether there is any similarity in term of pronunciation between the trademark that is being applied and a registered trademark which belongs to another person. Thus, when there is an application for the registration of a trademark of which the pronunciation written in Latin alphabet is found to be similar with a trademark that has been registered and belongs to another person, and even though they are different in writing/spelling, the Trademark Office shall refuse the application for the trademark concerned.

Figure 4

The additional provision concerning "or in member countries of the World Trade Organization" is a consequence of the participation of Indonesia within the World Trade Organization.

Furthermore, see also the elucidation of the previous Article 12.

Figure 5

With this additional requirement of "its pronunciation written in Latin alphabet " as part of the requirement for

registration of a trademark as required by Article 10, it shall follow that such the same requirement shall also be prescribed in provision concerning the announcement of application for registration of a trademark.

Furthermore, see also the elucidation of the previous Article 21 letter a.

#### Figure 6

See the elucidation of Figure 5. Furthermore, the change in letter g, from previously read as " on which the trademark is registered" into "for which the trademark has been registered" is meant to clarify what it means in the requirement concerned.

See also the elucidation of the previous Article 29.

#### Figure 7

The changes in provision of paragraph (1), that is substituting the word "and " with the word "or" is meant to clarify an understanding that qualifying one of the conditions for refusal of application for the registration of a trademark would qualify the person whose application was refused to submit an appeal.

Furthermore, see also the elucidation of the previous Article 31.

#### Figure 8

The changes concern with reference, from previously referring to Article 33 paragraph (2) to referring to Article 31 paragraph (2). It is meant to refer to a more appropriate reference Article.

Furthermore, see also the elucidation of the previously Article 34.

#### Figure 9

As of ownership of trademark on goods, the right upon a service trademark basically may also be transferred. It is

necessary to regulate explicitly here so that transfer and licensing practices that have been taking place have a clear legal foundation. The transfer of right upon service mark may only be carried out when there is a guaranty from the owner of the service mark, the holder of the service mark, or the licensee, to preserve the quality of the services they trade.

For that reason, it is necessary for the owner of a service mark (a license or a party who transfers the service mark concerned) to set a special guidance concerning the method or procedures on how to render the services on which the service mark is attached to. In the event that the transfer, for example, relates to hairdressing, then the quality guaranty may be in the form of a certificate issued by the licensor who qualifies as guaranty upon the personal ability or skill of the licensee who renders the services in trade.

Figure 10

The amendment of Article 51 of which the substance is divided into two Articles, being the new Article 51 and Article 51A, is meant to clarify the rules concerning the deletion of trademarks registration. Considering the different initiators toward a deletion, the rules on deletion of the registration of a trademark are defined in a more systematic way by splitting up the Article into a new Article 51 that accommodates the provision concerning deletion of trademarks registration initiated by the Trademark Office, and Article 51A that regulates then deletion initiated by the owner of a trademark.

To be able to delete the registration of a trademark on her own initiative, the Trademarks Office may actively search for evidence or avails herself with any information from the community to be used as consideration. In implementing the authority of the Trademark Office, the

owner of the trademark shall be given an opportunity to defend himself in order to preclude the provision concerning deletion, by presenting defenses that may be put into the consideration of the Trademark Office. Such defenses are, for instance, medication or food and beverages products of which the circulation license is a competence of another government office, or temporary court decision concerning an order to stop using the trademark during a case proceeding.

An objection against the decision on the deletion of a trademark registration by the Trademark Office may be filed in the form of a civil action submitted at the District Court of Central Jakarta or any other District Courts as determined with a Presidential Decree.

With this opportunity to file an action of objection, thus the right of the owner of a trademark is preserved.

On the other hand, the deletion of a trademark registration may only be initiated by the owner of trademark concerned, if such a plan is agreeable to the licensee. The requirement of a written approval of the licensee is meant to protect the interest of the party concerned.

Furthermore, see also the elucidation of the previous Article 5.

#### Figure 11

The amendment in provision of paragraph (1) is made by adding a phrase "instead, a cassation or an application for a reconsideration may directly submitted to the Supreme Court". This is to clarify that the mechanism of settlement against an action concerning the deletion of a trademark registration may not be appealed to the Court of Appeal. Nevertheless, if there is an objection against the decision then a *cassation* or an application for a reconsideration may be filed at the Supreme Court.

Furthermore, see also the elucidation of the previous Article 53.

#### Figure 12

The amendment of provision in Article 56 is made on paragraph (1), paragraph (2), and paragraph (4). The additional reason that refers to Article 4 paragraph (1) is to clarify the purpose of or the conception contained in Article 56, which is to review the status of a trademark that has been registered with a hidden intention or bad intent on the part of the person who applied for the registration. Meanwhile, the purpose of amendment of paragraph (4), is to clarify the existence of the right of any person or legal entity who has interests in it to file an action of trademark cancellation. With this amendment then the elucidation of paragraph (4) can be amended at the same time. This means that the elucidation of paragraph (4) shall be read with an understanding that an action for cancellation which is filed at the District Court against the owner of a trademark and the Trademark Office does not in any way prejudice the chances of the plaintiff to bring an action to the State Administrative Court, provided the action fulfills the requirement as referred to in Article 53 paragraph (2) and Article 55 of Law No. 5 of 1986 concerning the State Administrative Court.

#### Figure 13

As in the case of action for trademark delction, a decision of cancellation of a trademark may not be appealed but *cassation* or application for a re-consideration may directly be requested at the Supreme Court.

Figure 14

This is to adjust to the amendment of provision in Article 6. In addition, the provision in this Article does not explicitly mention anymore the content of a legal action. It is because the content of a legal action is meant fully to serve the interests of the parties concerned. In practice, the content of a legal action may be to claim damages for losses incurred, to seek injunction to restrain trademark use, or to claim damages for all profit which could have been earned.

Figure 15

Different from trademarks, a geographical indication is a sign which indicates origin of goods which because of the geographical factors, including the nature or human factor or a combination of the two factors have given specific characteristics and quality to the goods which is produced therein.

The sign that is used as an indication may be in the kind of a label that is attached to the goods produced. The sign may take the form of a name of an area or region, words, pictures, letters or combination of those elements.

The name of a place may be originated from a name that can be found on a geographical map or a name that because of continuous use becomes re-known as the place of origin of the goods concerned.

The protection of geographical indication covers goods that are produced by nature, agricultural products, handicraft products and other certain industrial goods. When the requirements are fulfilled, a geographical indication may be registered, in particular, for the sake of legal certainty. The registration is applied to the Trademark Office by an institution that represents the community in the area that produces the goods concerned.

Besides that, a registration may be applied by an institution which is authorized to do so and such an institution can be a Government institution or other formal institutions. In addition, a group of consumers of goods using a sign that is protected under the geographical indication may also apply for registration. This can be done because the protection of geographical indication, as the case of trademarks, is also built to protect the community of consumers in a sense that it is built to avoid activities that might deceive or mislead community, when a sign which should have been registered as geographical indication, is used by another party in good faith; even before it is registered. Therefore, this Law provides a possibility of joint-use of the sign by the owner of the sign and another party for a certain period of time. This is based on consideration to set a balance between the two interests.

After the period of 2 (two) years elapses there shall only be one right holder of the geographical indication who is entitled to use the sign concerned. It is admitted that this provision gives an impression that the holder of a right of geographical indication is given a priority of protection. Such impression is not incorrect, for the main factor of geographical indication is nature, human ability or a combination of the two that is relatively permanent and very much attached to that particular place.

In the event that a sign that should have been protected is not registered, then the protection of the sign shall be based on the source of origin. Besides that, a source of origin also covers signs that simply indicate the origin of certain goods or services. It means that upon source of origin is given a protection without registration. The reason for protecting source of origin is related to efforts to give protection to producers and community of consumers of the goods and services concerned.

Figure 16

This amendment is made to clarify the authority of Civil Servant Investigators, and the procedures on the implementation of the task as well as their inter-relation with the Investigators of the State Police of the Republic of Indonesia and the Public Prosecutors. A clear provision regarding investigation is important for investigative apparatus in carrying out their tasks. Therefore it is necessary to clarify that even though Civil Servant Investigators within the Ministry of which the task and responsibility includes management of trademarks, are vested with an special authority to be investigators, this does not eliminate the function of the Investigators of the State Police of the Republic of Indonesia as the Main Investigators. In carrying out their tasks, Civil Servant Investigators are under the coordination and supervision of the Investigators of the State Police of the Republic of Indonesia. Therefore, during the course of investigation Civil Servant Investigators need to consult with the Investigators of the State Police of the Republic of Indonesia. It is in this stage of investigation that the Investigators of the State Police of the Republic of Indonesia give technical direction concerning the format and the content of Deed of Investigation and at the same time check the truth of the content of the Deed. After the investigation is over, the result of investigation shall be submitted by the Civil Servant Investigators to the Investigators of the State Police of the Republic of Indonesia, who in turns shall proceed it immediately to the the Public Prosecutor. This is in accordance with the principle laid down in Article 6, Article 7 and Article 107 of Law No 8 of 1981 concerning Criminal Proceedings.

Bearing in mind this principle, thus the word "through" in paragraph (4) is not necessarily to be understood as stating that the Investigators of the State Police of the

Republic of Indonesia may or shall undertake reinvestigation. For, technically, the assistance on investigation as well as on the booking of result of investigation basically has been given during a period in which Civil Servant Investigators carrying his investigation. That way, the principle of fast and effective procedures as prescribed by Criminal Proceedings Law can be implemented.

Figure 17

The changes of the phrase "every person" with the phrase "whosoever" is meant to clarify the principle that both a person and legal entity are subject to criminal sanction

Figure 18

See the elucidation of Figure 17

Figure 19

Self- explanatory

Figure 20

Self- explanatory

Figure 21

Self- explanatory

Figure 22

This provision is needed particularly to give a legal foundation for the Trademark Office to refuse an application for renewal of the registration of a trademark that has been registered at the Trademark Office under Law No. 21 of 1961 concerning Corporate Trademarks And Commercial Trademarks.

Article II

Self- explanatory

SUPPLEMENTARY STATE GAZETTE OF THE REPUBLIC  
OF INDONESIA NUMBER 3681

LAW OF THE REPUBLIC OF INDONESIA

NO. 19 YEAR 1992

CONCERNING

TRADEMARKS

(UNOFFICIAL TRANSLATION)

L A W  
OF THE REPUBLIC OF INDONESIA  
NUMBER 19 OF 1992  
CONCERNING

T R A D E M A R K S

BY THE GRACE OF THE ONE AND ONLY GOD

THE PRESIDENT OF THE REPUBLIC OF INDONESIA

- Considering: a. that the Republic of Indonesia is a constitutional state based on the Pancasila principles and the 1945 Constitution, which is pursuing a materially and spiritually just and prosperous society;
- b. that in light of carrying out the national development in general and development in the economic sector in particular, trademarks as a manifestation of intellectual work possess a significant role in the smooth conduct of business and in the improvement of trade in goods or services;
- c. that with due regard to such important role of trademarks, measures are deemed necessary to improve the regulation and protection thereof, which so far is being regulated by Law No.21 of 1961 concerning Company Marks and Trademarks, as it is no longer appropriate to the developing circumstances and needs;
- d. that in relation to the considerations referred to above, it is deemed necessary to improve the regulation of trademarks by law.

Recalling : 1. Article 5 paragraph (1), article 20 paragraph (1), and article 33 of the 1945 Constitution;  
2. Law No.8 of 1981 on Criminal Procedural Law (Statute Book of 1981 No.76, Supplement to the Statute Book No. 3209).

With the consent of  
THE ~~PEOPLE'S~~ REPRESENTATIVES ASSEMBLY  
OF THE REPUBLIC OF INDONESIA.

HAS DECIDED:

To enact: THE LAW ON TRADEMARKS.

## CHAPTER I GENERAL PROVISIONS

### Article 1

As defined under this Law:

1. Mark is a sign in the form of a picture, name, words, letters, numbers, color arrangement or a combination of such elements, having distinguishable characteristics and is used in trade activities of goods or services;
2. Trademark is a mark used on goods traded by a person or by several persons jointly, or by a legal entity, in order to distinguish them from other similar kinds of goods;
3. Service mark is a mark used on services traded by a person or by several persons jointly, or by a legal entity, in order to distinguish them from other similar kinds of services;

4. Collective mark is a mark used on goods or services with the same characteristics as jointly traded by several persons or legal entities, in order to distinguish them from other goods or services of the same kind;
5. License is a permit given by the proprietor of the registered mark to another person or several persons jointly or a legal entity to use such mark, either for the entire or for part of the type of registered goods or services;
6. Minister is the minister whose scope of tasks and responsibilities cover the establishment and administration of trademarks;
7. Trademark Office is an organizational unit within a governmental department exercising the tasks and authorities in the field of trademarks.

## CHAPTER II COVERAGE OF TRADEMARKS

### First part General

#### Article 2

Marks as regulated in this Law shall cover Trademarks and Service Marks.

#### Article 3

The right to a trademark is an exclusive right conferred by the State to the proprietor of the trademark, registered in the General Register of Trademarks, for a specified period of time, to be used by himself or to be licensed to another person or to several other persons jointly or to a legal entity for its use.

#### Article 4

- (1) A trademark can only be registered based on an application submitted with good intentions by the proprietor of the trademark.
- (2) The proprietor of the trademark referred to in paragraph (1) may comprise one person or several persons jointly, or a legal corporate body.

#### Second Part

#### Marks Which Cannot Be Registered and Which Will Be Refused

#### Article 5

A trademark cannot be registered if it is bearing one of the following elements:

- a. it is in contradiction with ethical norms and public order;
- b. it does not bear distinguishable features;
- c. it has become public property; or
- d. it constitutes an explanation of or is related to the goods or services being applied for registration.

#### Article 6

- (1) An application for the registration of a trademark will be refused by the Office of Marks if it shows a similarity in its basic elements or in its entirety with a trademark owned by other people which has already been registered prior to this application for the same kind of goods or services and which are categorized within one class.
- (2) An application for registration of a trademark will also be refused by the Office of Mark if:
  - a. it constitutes the name of a famous person, photograph, the trademark and name of a legal corporate body belonging to another person which is already renowned, unless upon written approval of the parties entitled thereto;

- b. it constitutes an imitation or a resemblance of a name or abbreviation of a name, flag or coat of arms, a symbol, or an emblem of a country, or of national as well as international institutions, unless upon written approval of the authorized party;
- c. it constitutes an imitation or a resemblance of an official sign or seal or stamp used by a country or government organization, unless upon written approval of the authorized party; or
- d. it constitutes a creation of another person which is protected by Copyright, unless upon written approval of the holder of said Copyright.

### Third Part

#### Protection Period

#### Registered Marks

#### Article 7

A registered mark shall be valid for a period of ten years as of the date of its registration and shall be retroactively valid as of the receipt date of the application for registration of the trademark concerned.

### CHAPTER III

#### APPLICATION FOR REGISTRATION OF A MARK

#### First part

#### General

#### Article 8

- (1) An application for registration of a trademark may only be submitted for one class of goods or services.
- (2) The application as referred to in paragraph (1) shall clearly mention the kind of goods or services belonging to a specific class.

- (3) The classes of goods and services as referred to in paragraph (1) shall be established by Government Regulation.

#### Article 9

- (1) The application for registration of a trademark shall be submitted in writing in the Indonesian language to the Office of Marks.
- (2) The application for registration of a trademark shall contain:
- a. the date, month and year;
  - b. the full name, citizenship and address of the proprietor of the trademark;
  - c. the full name and address of the proxy, when such application for registration of the trademark is submitted through a proxy;
  - d. the specified address in Indonesia, when the proprietor of the trademark does not reside in Indonesia;
  - e. the specification of colors, when the trademark applied for registration contains color elements;
  - f. the class and type of goods and services where for registration is applied;
  - g. country and date of the first time application for registration of the trademark, in case the application has been submitted under the right of priority.
- (3) The application letter for registration of a trademark referred to in paragraph (2) shall be signed by the proprietor of the trademark or his/her proxy.
- (4) If the application for registration of a trademark is applied for by several persons or legal corporate bodies jointly entitled to such trademark, all the names of the persons or legal corporate bodies submitting the application shall be stated, and one particular address shall be specified as their address.

- (5) If the application for registration of a trademark is submitted as referred to in paragraph (4), such application shall be signed by one of the persons or by the representative of the legal corporate body entitled to the trademark, and by enclosing written approvals of the other persons or legal corporate bodies entitled thereto.
- (6) In the event the application referred to in paragraph (4) is submitted through a proxy, a Power of Attorney therefor must be signed by all individuals entitled to the trademark concerned.

#### Article 10

- (1) The application for registration of a trademark as referred to in article 9 shall be furnished with:
  - a. a written statement that the trademark being submitted for registration is his/her property;
  - b. 20 (twenty) specimens of labels of the pertinent trademark;
  - c. a Supplement to the State Bulletin containing the deed of incorporation of the legal corporate body or a valid copy of the deed, if the proprietor of the trademark is a legal corporate body;
  - d. a power of attorney, if the application for registration is submitted through a proxy; and
  - e. the full payment of the fee for the application for registration of a trademark, the kind and amount whereof shall be stipulated by the Minister.
- (2) The label of a trademark, using a foreign language or containing other than Roman characters or numerals which are commonly used in the Indonesian language, shall be furnished with its translation into Indonesian using Roman characters, and numerals commonly used in the Indonesian language.
- (3) Additional provisions concerning the application for registration of a trademark shall be further stipulated by Government Regulation.

#### Article 11

- (1) The application for registration of a trademark submitted by the proprietor or the entitled person thereto, while not being a resident or not having a permanent domicile in the territory of the Republic of Indonesia, shall be submitted through a proxy in Indonesia.
- (2) The proprietor or the person entitled to the trademark as referred to in paragraph (1) above, shall state and chose a domicile of his proxy as his/her address in Indonesia.

#### Second Part

#### Application for Registration Under the Right of Priority

#### Article 12

The application for registration of a trademark under the right of priority, as provided for in the international convention concerning the protection of trademarks, which is adhered to by the State of the Republic of Indonesia, shall be submitted within the period of six months computed from the date of the receipt of the first time application for registration of the trademark in another country, which also adheres to such convention.

#### Article 13

- (1) In addition to the requirements called for in article 9 and article 10, the application for registration of a trademark under the right of priority shall be furnished with a proof of the receipt of the first time application for registration, from which such right of priority originates.
- (2) If it is deemed necessary, the Office of trademarks may request, that the proof related to the right of property as referred to in paragraph (1), be translated into the Indonesian language.

- (3) If the requirements referred to in paragraph (1) and paragraph (2) are not being met within a period of ~~not~~ longer than three months after expiration of the right to submit the application for registration under the right of priority as referred to in Article 12, the application for registration of a trademark under the right for priority shall be assumed as having been withdrawn.
- (4) The Office of Marks shall notify such assumption of withdrawal, as referred to in article (3) in writing to the person or legal entity or its proxy, being the applicant for registration of the trademark, by stating the reasons of said withdrawal.

### Third Part

#### Examination on the Completeness of the Requirements For the Registration of Trademarks

#### Article 14

- (1) The Office of Marks shall conduct an examination on the completeness of the requirements for the registration of trademarks as referred to in Article 9, article 10, article 12 and article 13.
- (2) In the event of any deficiency in complying with the requirements as referred to in paragraph (1), the Office of Marks shall request that such deficiency be removed within three months as of the receipt date of the request for removal of such deficiency by the Office of Marks.
- (3) If such deficiency is related to the requirements as referred to in article 13, the period of time for removal of deficiencies shall not exceed three months as of the date of expiration of the period of time for the submission of the application for registration of the trademark under the right of priority.

#### Article 15

- (1) If such deficiency has not been removed in the respective period of time as referred to in article 14, paragraph (2) or paragraph (3), the application for registration of the trademark shall be assumed as having been withdrawn.
- (2) The Office of Trademarks shall inform the applicant for registration of the trademark, in writing, of such assumption of withdrawal, by stating the reasons thereof.

#### Fourth Part

##### Receipt of the Application for Registration of Trademarks

#### Article 16

- (1) If the examination proves that all the requirements as called for in Article 9, article 10, article 12 and article 13 have been fulfilled, the date of receipt of the documents of application for registration of the trademark shall be established as the date of receipt of the application.
- (2) The date of receipt of the application for registration of a trademark as referred to in paragraph (1) above, shall be recorded by the Office of Trademarks.

#### Fifth Part

##### Changes on and Withdrawal of the Application for Registration of Trademarks

#### Article 17

- (1) Any change on the application for registration of a trademark will only be allowed by withdrawing the previous application and submitting a new application for registration.

- (2) Additional provisions on changes and withdrawals of applications as referred to in paragraph (1) shall be regulated by Government Regulation.

#### Article 18

- (1) As long as no decision of the Office of Trademarks has been received, an application for Trademark registration can be withdrawn by the person or legal entity or its proxy who has submitted the application for Trademark registration.
- (2) If such withdrawal as referred to in paragraph (1) is done by a proxy, it must be done based on a power of attorney especially prepared for such withdrawal.
- (3) In the event that an application for registration of a Trademark is withdrawn, all fees paid to the Office of Trademarks will not be refundable.

### CHAPTER IV REGISTRATION OF A MARK First part Announcements

#### Article 19

The Office of Trademarks shall within 14 days at the latest as from the receipt of the application for registration of the trademark, announce the application for registration of a Trademark, which has complied with requirements as referred to in article 9 and article 10 and in the event that it has been applied for under the right of priority, it must also have complied with requirements as stipulated in article 12 and article 13.

#### Article 20

- (1) The announcement shall be for the duration of six months and shall be made by:

- a. placement on an announcement board specifically provided for such purpose, to be easily and clearly noticed by the public; and
  - b. placement in the Official Trademark Bulletin, which is periodically published by the Office of Trademarks.
- (2) The commencement date of announcement of the application for registration of the trademark will be recorded by the Office of Trademarks.

#### Article 21

The announcement will be conducted by stating:

- a. The name and address of the owner of the Trademark, as well as the name and address of his proxy when the application for registration of the Trademark was submitted through a proxy; c.
- b. The class and kind of goods or services for which an application of registration of its trademark has been submitted;
- c. The date of receipt of the application for registration of the trademark;
- d. The name of the country and date of receipt of the first registration of the Trademark, in the event that it was submitted under the right of priority; and
- e. a sample of trademark label, including information concerning its colors if the trademark uses color elements, and if the trademark label is using a foreign language it must be furnished with its Indonesian translation, using Roman letters and numerals commonly used in the Indonesian language.

Second Part  
Objections and Refutations

Article 22

- (1) During the period of announcement, any person or legal entity can submit his objections in writing to the Office of Trademarks against the application for registration of the trademark concerned.
- (2) Objections as referred to in paragraph (1) can be submitted, if there are adequate reasons along with evidence, that according to this law, the trademark for which registration is being applied, cannot be accepted for registration and must be refused.
- (3) Should there be objections being submitted as referred to in paragraph (1), the Office of Trademarks shall then within 14 days at the latest as from the date of receipt of the objections, send a copy with the content of the objections to the person or legal entity or his proxy being the applicant for registration of the mark concerned.

Article 23

- (1) The person or legal entity or his proxy, who has submitted an application for registration of the trademark is entitled to submit his refutations against objections as referred to in Article 22, to the Office of Trademarks.
- (2) Refutations as referred to in paragraph (1) shall be submitted in writing not later than two months as from the date of receipt of the the letter sent by the Office of Trademarks delivering the copy with the content of the objections.

Article 24

The Office of Trademarks shall use the objections and refutations as additional material in conducting its examination on the application for registration of the trademark concerned.

Third Part  
Substantive Examination

Article 25

- (1) Upon expiry of the announcement period as referred to in article 20, or in the event of objections during the announcement period, upon receipt of refutations received, the Office of Trademarks shall conduct a substantive examinations on the application for registration of the trademark.
- (2) Examination shall be conducted with due regard to article 5 and article 6, and to objections and refutations, if any.

Article 26

The examination shall be completed not later than nine months, computed as from:

- a. the date of expiry of the announcement period, or
- b. the date of expiry of the period for submission of refutations

Article 27

- (1) Examination shall be conducted by the Trademark Examiner, who has the required expertise and qualifications for a Trademark examiner at the Office of Trademarks.
- (2) The Trademark Examiner shall have the position of a functional officer and appointed and dismissed by the Minister on the basis of specific requirements.
- (3) To the Trademark Examiner shall be conferred a functional career and allowances additional to other rights in conformity with the prevailing regulatory legislation.

Article 28

- (1) In the event that the Trademark Examiner as referred to in Article 27, paragraph (1) is of the conclusion that the application for registration of the trademark can be approved, the Office for Trademarks will then:

- a. register such trademark in the General Register of Trademarks;
  - b. inform the person or legal entity or its proxy being the applicant for registration of the trademark, that the trademark concerned has been registered;
  - c. Issue a Trademark Certificate; and
  - d. announce said registration in the Official Bulletin of Trademarks.
- (2) In the event that the Trademark Examiner as referred to in Article 27 paragraph (1) is of the conclusion that the application for registration of the trademark should be refused, the Office for Trademarks will then stipulate a decision concerning the rejection of the application for registration of the trademark.
- (3) The decision concerning the rejection as referred to in paragraph (2) above, shall be conveyed in writing to the person or legal entity or its proxy who had submitted the application for registration of the trademark, whereby the reasons for said rejection will also be stated.
- (4) In the event that objections had been submitted, the Office for Trademarks will send a copy of the letter of notification concerning the registration or refusal of a trademark to the person or legal entity or its proxy who had submitted such objections.

#### Article 29

- (1) The Certificate of Trademark shall be issued to the applicant for registration of the trademark within a period of not later than thirty days computed from the date such trademark was registered in the General Register for Trademarks.
- (2) In the event that the application for registration of the trademark was submitted through a proxy, the Certificate of Trademark referred to in paragraph (1) shall be conveyed in writing to the proxy, with a copy of the letter to the proprietor of the trademark.
- (3) The Certificate of Trademark as referred to in paragraph (1) shall contain :

- a. the full name and address of the proprietor of the registered trademark;
  - b. the full name and address of the proxy, in the event that the application for registration of the trademark was submitted according to Article 11;
  - c. the date of submission and the date of receipt of the application for registration of the trademark;
  - d. the name of the the country and the date of application for registration of the trademark for the first time, in the event that the application for registration was submitted under the right of priority;
  - e. the label of the registered trademark, including information of the kind of colour if such trademark uses colour elements and if the trademark label is using a foreign language it should be furnished with its Indonesian translation, in Roman characters and numerals, as commonly used in the Indonesian language;
  - f. the number and date of registration;
  - g. the class and kind of goods and services for which the trademark was registered; and
  - h. the validity period of the Trademark registration;
- (4) Any person can submit a request for an excerpt of the official registration of Trademarks as published in the General Register for Trademarks.
- (5) Such a request for an official excerpt as referred to in paragraph (4) will be subject to a payment of which the amount will be determined by a Minister's decision.

#### Article 30

It is an obligation to always state the registration number of a Trademark whenever using a registered trademark, of which its execution will be further regulated by a Government Regulation.

Fourth Part  
Petition for Appeal

Article 31

- (1) A Petition for Appeal may be submitted against the refusal of an application for registration of a trademark, stating the reasons and basic considerations regarding substantive matters, as referred to in article 5 and article 6.
- (2) A Petition for Appeal shall be submitted in writing to the Appeal Commission for Trademarks by the applicant for registration of the trademark, or legal entity or its proxy, and a copy thereof should be sent to the Office for Trademarks.
- (3) The Appeal Commission on Trademarks shall be a special agency, permanently chaired by a Chairman, who is concurrently a member of the Commission, and shall be positioned within the department headed by the Minister.
- (4) The members of the Appeal Commission on Marks shall be in an uneven number, comprising not less than three persons, and shall be composed of the required experts and/or several Senior Trademark Examiner, who will not conduct substantive examination on the application for registration of the trademark concerned.
- (5) The chairman and members of the Appeal Commission on Marks shall be appointed and dismissed by the Minister.

Article 32

- (1) A Petition for Appeal shall be submitted with a complete description of the objections on the refusal of the application for registration of the trademark, and the reasons thereof.
- (2) The reasons as referred to in paragraph (1) shall not constitute corrections or improvements on the application for the registration of the trademark that has been refused.

#### Article 33

- (1) A Petition for Appeal shall be submitted not later than three months as from the date of receipt of the notification letter of refusal of the application for registration of the trademark.
- (2) When the period of time for the submission of a Petition for Appeal has expired without any Petition for Appeal being submitted, the refusal of the application for registration of the trademark shall be considered as accepted by the person, legal entity or its proxy, who applied for registration of the trademark.
- (3) In the event that the refusal of the application for registration of the trademark has been considered as accepted by the person, legal entity or its proxy as referred to in paragraph (2), the Office of Trademarks shall record it in the General Register for Trademarks.

#### Article 34

- (1) The decision of the Appeal Commission on Trademarks shall be made not later than six months computed from the date of receipt of the Petition for Appeal.
- (2) The decision of the Appeal Commission on Trademarks shall be final, administratively as well as substantively.
- (3) In the event that the Appeal Commission on Trademarks approves the Petition for Appeal, the Office of Trademarks shall execute the registration and issue the Certificate of Trademark in the way as referred to in article 29.
- (4) If the Appeal Commission on trademarks refuses the Petition for Appeal, the Office of Marks shall within thirty days at the latest as from that date of receipt of the decision of the Appeal Commission, notify said refusal to the person or legal entity or its proxy as referred to in Article 33, paragraph (2).

#### Article 35

The organization structure, the working procedures of the Appeal Commission on Trademarks, the procedures of petition, the examination of appeals, and the settlement thereof shall be further regulated by Government Regulation.

Fifth Part  
Extension of the validity Period  
for Registered Trademarks

Article 36

- (1) Upon request of the proprietor of the trademark, the validity period for the registered trademark may be extended repeatedly for a similar period of time.
- (2) The application for extension of the validity period of a registered trademark shall be submitted in writing to the Office of Trademarks within a period of not more than twelve months and not less than six months prior to the expiration date of the validity period of the registered Trademarks.
- 03) The application for extension of the validity period of a registered trademark as referred to in paragraph (2) shall be submitted to the Office for Trademarks.
- (4) The application for extension of the validity period of a registered Trademark as referred to in paragraph (2) shall be subject to a payment of which the amount shall be determined by a Minister's decision.

Article 37

The application for extension of the validity period of a registered trademark shall be approved if:

- a. the pertinent trademark is still being used on the goods and services as stated in its Certificate of Trademark.
- b. the goods and services referred to in point a. above, are still being produced and traded.

Article 38

- (1) A request for extension of the validity period of a registered Trademark shall be refused by the Office for Trademarks, if requirements as stipulated in Article 26 and Article 37 are not being met.
- (2) A refusal of of a request for extension of the validity period of a registered Trademark shall be notified in writing to the proprietor of the Trademark or his proxy, whereby the reasons for said refusal will be stated.

#### Article 39

- (1) The extension of the validity period of a registered Trademark shall be recorded in the General Register of Trademarks and shall be published in an Official Announcement for Trademarks.
- (2) The extension of the validity period of a registered Trademark shall be made known in writing to the proprietor of said Trademark or his proxy.

#### Sixth Part

##### Change of Name and/or Address of the Proprietor of A Registered Mark

#### Article 40

- (1) Any change of name and/or the address of the proprietor of a registered Trademark shall be notified to the Office for Trademarks in order that it be recorded on the General Register for Trademarks along with valid copies being the evidence of such changes.
- (2) Any change of name and/or address of the proprietor of a registered Trademark shall be recorded by the Office for Trademarks and published in the Official Announcement of Trademarks.
- (3) The administration of the change of the name and/or the address of the proprietor of a registered trademark shall be subject to a payment of which the amount will be determined by a Minister's decision.

#### CHAPTER V

##### ASSIGNMENT OF RIGHT ON A TRADEMARK

#### First Part

##### Assignment of Right

#### Article 41

- (1) Right on a registered trademark may be transferred by way of:

- a. inheritance;
  - b. a testament;
  - c. a gift;
  - d. an agreement; or
  - e. other causes justified by law.
- (2) The transfer of right on a trademark as referred to in paragraph (1) shall be accompanied by supporting documents.
  - (3) In the event that a transfer of right on a registered trademark has taken place, it is obligated to submit an application to the Office of Trademarks for the registration of said transfer in the General Register for Trademarks.
  - (4) The transfer of right on the trademark which has been registered at the Office of Trademarks shall be announced in the Official Bulletin of Trademarks.
  - (5) The legal consequences of the transfer of right on a trademark shall be in force to all related parties as well as to third parties, when said transfer has been recorded in General Register of Trademarks.
  - (6) The registration of a transfer of right on a trademark as referred to in paragraph (1) above, shall be subject to a payment of which its amount shall be determined by means of a Minister's decision.

#### Article 42

- (1) The transfer of right on a trademark may be accompanied by the transfer of a good name or reputation or other matters related to such trademark.
- (2) The transfer of right on a trademark, shall only be registered by the Office of Trademarks if it is furnished with a written statement from the beneficiary of said right that the trademark concerned shall be utilized for trading activities of the related goods or services.

#### Article 43

The right on a registered service trademark of which the method of rendering the services and the results thereof is very closely related to or even determined by the personal ability or skill of the individual who renders the services concerned, cannot be transferred in whatever form or way.

#### Second Part, L i c e n s e

#### Article 44

- (1) The proprietor of a registered trademark is entitled to extend a license to another person, based on an agreement, to use his/her trademark partly or wholly, for the type of goods or services belonging to a specific class.
- (2) The license agreement is valid for the entire territory of the Republic of Indonesia, unless otherwise stated, for a period of time not exceeding the validity period of the registered trademark concerned.
- (3) An application for registration must be sent to the Office of Trademarks, in order to have a license agreement registered.
- (4) A license agreement as referred to in paragraph (3) shall be recorded in the General Register for Trademarks and shall be published in the Official Bulletin of Trademarks.
- (5) Conditions and procedures for the application for registration of a license agreement shall be further stipulated by means of Government Regulations.
- (6) The registration of a License agreement as referred to in paragraph (3) shall be subject to a payment of which the amount shall be determined by a Minister's decision.

#### Article 45

The proprietor of the registered trademark who has extended a license to other people as referred to in Article 44, paragraph (1) shall remain entitled to use his trademark for himself or extend a license to another third party to use said trademark, unless otherwise stipulated in the agreement.

Article 46

It can be stipulated in the license agreement that the licensee can further extend a license to a third party.

Article 47

The use of a trademark registered in Indonesia by the trademark licensee, is considered the same as the use of said trademark by its proprietor in Indonesia.

Article 48

- (1) It is prohibited to include provisions in the license agreement, which may directly or indirectly cause detrimental effects on the Indonesian economy, or contain limitations which obstruct the ability of the Indonesian nation in its efforts to master and develop its technology in general.
- (2) The Trademarks office is obligated to refuse any application for registration of a license agreement, which contains limitations as referred to in paragraph (1).
- (3) The Trademarks Office shall inform the proprietor of the trademark and the licensee or his proxy, in writing, of the refusal as referred to in paragraph (2), whereby stating the reasons for said refusal.

Article 49

- (1) The licensee, in good faith, of a trademark which is later revoked based on the existence of similarities in its principles or in its entirety with another registered trademark, shall remain entitled to utilize such license as being a license on a trademark which was not revoked, until the expiry date of said license agreement.

- (2) The licensee as referred to in paragraph (1) is then not any more obligated to continue payment of royalties which he would have to make to the licensor of the revoked trademark, but he will be obligated to pay royalties to the proprietor of the trademark that has not been revoked.
- (3) In the event that the licensor has already received all royalties at once from the licensee, the licensor is then obligated to pay royalties to the proprietor of the unrevoked license, of which the amount should be proportional to the remaining validity period of the license agreement.

#### Article 50

Further provisions concerning license agreements as referred to in Chapter V, Second Part, this law shall be further stipulated by means of Government Regulation.

### CHAPTER VI ABOLITION AND ANNULMENT OF REGISTRATION OF A MARK

#### First Part Abolition

#### Article 51

- (1) Abolition of registration of a trademark from the General Register of Trademarks shall be done by the Office of Trademarks, either on her own initiative or based on a request of the proprietor of the trademark concerned.
- (2) Abolition of registration on the initiative of the Office of Marks may be done if sufficient evidence is found that:

- a. the pertinent trademark has not been used consecutively for three years or more in the trade of goods and services, computed from the date of registration or from the date of last usage; or
  - b. the pertinent trademark has been used for types of goods or services which is not in line with the kind of goods or services for which the application for registration was submitted.
- (3) Request for the abolition of registration of a trademark by the proprietor of the trademark, either for all or for part of the types of goods or services belonging to one class, shall be submitted to the Office of Trademarks.
- (4) the abolition of the registration of a trademark as referred to in paragraph (3) shall be recorded in the General Register for Trademarks, and shall be published in the Official Trademark Bulletin.
- (5) In the event that a trademark as referred to in paragraph (3) is still under obligations of a valid license agreement, abolition can only be done if it is supported by a written approval from the licensee.
- (6) An exception to an agreement as referred to in paragraph (5) will only be possible when the licensee distinctly agrees on the renouncement of such approval as included in the license agreement.
- (7) The registration of the abolition of a registered Trademark as referred to in paragraph (4) will be subject to a payment of which the amount will be determined by means of a Minister's decision.

#### Article 52

Abolition of a registered trademark based on reasons as referred to in Article 51 paragraph (2) point a. and point b. can also be done by a third party in the form of a claim through :

- a. Central Jakarta District Court; or
- b. Another District Court, which shall be determined by a Presidential Decision.

#### Article 53

- (1) Upon Judgment of the Court of First Instance as referred to in Article 52, a Petition for Appeal cannot be submitted.
- (2) A copy of the judgment of the judicature as referred to in paragraph (1) shall be immediately conveyed by the Registrar of the Court of First Instance of the district concerned to the Office of Trademarks, not later than fourteen days as from the date of said judgement.
- (3) The Office of Marks shall execute the abolition of the trademark concerned, from the General Register of Trademarks, and announce it in the Official Bulletin of Trademark, if such claim for the abolition of registration of the trademark has been accepted, and the judgement of the judicature, as referred to in paragraph (1), has acquired a definite legal power.

#### Article 54

- (1) Abolition of registration of a trademark shall be conducted by the Office of Trademarks by crossing out the pertinent trademark from the General Register of Trademarks, and by providing a note regarding the reasons and date of such abolition.
- (2) Abolition of registration of the trademark as referred to in paragraph (1) shall be made known in writing to the proprietor of the trademark or his/her proxy, whereby mentioning the reasons therefor, and confirming that as of the date of the deletion from the General Register of Trademarks, the Certificate of Trademark concerned shall be declared as no longer valid.

#### Article 55

The abolition of registration of a trademark shall have the effect that legal protection of the registered trademark concerned is thereby terminated.

#### Second Part

#### Annulment

#### Article 56

- (1) Claim for annulment of the registration of a trademark may be made by the party having interest in the matter based on reasons as referred to in Article 5 and Article 6.
- (2) A claim as referred to in paragraph (1) cannot be made by the proprietor of an unregistered trademark.
- (3) The proprietor of a well-known but unregistered trademark can make a claim as referred to paragraph (1), upon having submitted an application for registration of his trademark to the Office of Trademarks.
- (4) The claim for annulment shall be submitted to the proprietor of the trademark and the Office of Trademarks, through the Court of First Instance as referred to in Article 52.
- (5) In the event that the proprietor of the trademark, to which the claim for annulment was made, does not reside in the territory of the Republic of Indonesia, such claim shall be submitted through the Central Jakarta District Court of First Instance.

#### Article 57

- (1) A Claim for the annulment of the registration of a trademark shall be submitted within a period of five years computed from the date of registration of said trademark.
- (2) Excluded from the provision as referred to in paragraph (1), a claim for annulment may be submitted without time limit, if the pertinent trademark should not have been registered because of its containing elements which are in contradiction with ethics and public order.

Article 58

- (1) On the judgment of the District Court of First Instance as referred to in Article 56 paragraph (4), a petition for appeal cannot be submitted.
- (2) A copy of the judgment of the judicature as referred to in paragraph (1) shall be forwarded to the Office of Trademarks by the Court of First Instance of the district concerned not later than within fourteen days as from the date of said judgement.
- (3) The Office of Trademarks shall execute the annulment of the registration of a pertinent trademark in the General Register of Trademarks and shall announce such matter in the Official Bulletin of Trademarks if such claim for annulment has been approved and the judgement of the judicature as referred to in paragraph (1) has acquired definite legal power.

Article 59

- (1) The annulment of the registration of a trademark is executed by the Office of Trademarks, by crossing out the trademark concerned in the General Register for Trademarks, whereby providing notations as to the reasons and date of the annulment.
- (2) The annulment of the registration of a trademark as referred to in paragraph (1) shall be made known in writing to the proprietor of the trademark or his proxy, whereby mentioning the reasons therefor, along with the confirmation that, as of the date of deletion of said trademark from the General Register for Trademarks, the related Certificate of Trademark is declared as void.
- (3) The removal of the registration of a certain trademark from the General Register of Trademarks, as referred to in paragraph (1) shall be published in the Official Bulletin of Trademarks.

Article 60

The annulment of the registration of a trademark has the effect that legal protection of said trademark no longer exist.

CHAPTER VII  
COLLECTIVE MARKS

Article 61

- (1) An application for registration of a trademark on goods or services as a Collective Trademark can only be accepted, if such application for registration explicitly states that such trademark will be used as a Collective Trademark.
- (2) Additional to the stipulation concerning the use of a Collective Trademark as referred to in paragraph (1), such an application for registration shall also be furnished with a copy of the regulation on the use of a trademark as a Collective Trademark, signed by the proprietor of the trademark concerned.
- (3) The regulation on the use of Collective Trademarks as referred to in paragraph (2) should among others contain the following:
  - a. the nature, general characteristics or quality of the goods and services, of which its production and trade will be using the abovementioned Collective Trademark.
  - b. stipulations to be adhered to by the proprietor that he will conduct effective supervision on the use of said trademark in accordance with prevailing regulations.; and
  - c. sanctions in the event of violation of regulations on the use of such Collective Trademark.

Article 62

On the application for registration of a Collective Trademark, an examination shall be conducted on the completeness of the requirements as referred to in article 9, article 10, article 12, article 13 and article 60.

#### Article 63

In the event that, from the findings of the examination on the application for registration of a Collective Trademark, the Office of Trademarks concludes such application can be approved, the Office of Trademarks shall then:

- a. register such trademark in the General Register of Trademarks whereby enclosing a Copy of the Regulation on the use of such trademark; and
- b. announce the registration, of the Collective Trademark in the Official Bulletin of Trademarks, together with the Regulation on the use of such trademark.

#### Article 64

- (1) Any changes on the regulation for the use of a Collective Trademark, must be submitted to the Office of Trademarks for registration along with valid copies of documents being evidence of said changes.
- (2) Changes as referred to in paragraph (1) shall be recorded by the Office of Trademarks, and shall be announced in the Official Bulletin of Trademarks.
- (3) Changes on regulations on the use of a Collective Trademark, after being recorded in the General Register for Trademarks, shall be valid for third parties as well.
- (4) The registration of amendments on a regulations on the use of Collective Trademarks as referred to in paragraph (1) shall be subject to a payment of which the amount will be determined by a Minister's decision.

#### Article 65

The proprietor of a registered Collective Trademark may only use such trademark collectively with other companies, organizations or other associations which are also using the Collective Trademark concerned, if the terms and conditions for such collective use have been expressly stated in the agreement on the use of said Collective Trademark.

Article 66

- (1) Proprietorship of a registered Collective Trademark can only be assigned to a beneficiary if he is capable of conducting effective supervision on its use according to regulations on the use of Collective Trademarks.
- (2) The assignment of the right on a registered Collective Trademark as referred to in paragraph (1) must be submitted for registration at the Office of Trademarks.
- (3) The assignment of a right on a Trademark as referred to in paragraph (2) shall be registered in the General Register of Trademarks and shall be published in the Official Bulletin of Trademarks.
- (4) The registration of an assignment of a right on a registered Collective Trademark as referred to in paragraph (2), will be subject to a payment of which the amount will be determined by a Minister's decision.

Article 67

A registered Collective Trademark cannot be licensed to other people or corporate bodies.

Article 68

- (1) The Office of Trademarks may abolish the registration of a Collective Trademark on the basis of:
  - a. the request of the proprietor of such Collective Trademark upon a written approval of all users of the Collective Trademark;
  - b. sufficient evidence that such Collective Trademark has not been used for three successive years or more, computed from the date of its registration;
  - c. sufficient evidence that the Collective Trademark has been used for kinds of goods or services which are not in accordance with the kind of goods and services that were submitted for registration.
  - d. sufficient evidence that the Collective Trademark concerned has not been used in accordance with regulations on the use of Collective Trademarks.

- (2) A request for abolition of the registration of a Collective Trademark as referred to in paragraph (1), point a. should be submitted to the Office of Trademarks.
- (3) The abolition of the registration of a Collective Trademark as referred to in paragraph (2), will be recorded in the General Register of Trademarks, and published in the Official Bulletin of Trademarks.
- (4) The registration of the abolition of a registered Collective Trademark as referred to in paragraph (3) will be subject to a payment of which the amount will be determined by a minister's decision.

#### Article 69

A request for the abolition of the registration of a Collective Trademark may also be submitted by a third party in the form of a claim, through the Court of First Instance, as referred to in Article 52 based on reasons as referred to in Article 68, point h., point c., or point d.

#### Article 70

Apart from the reasons for abolition as referred to in Article 56 paragraph (1), a registered Collective Trademark can also be submitted for abolition to the District Court of First Instance as referred to in Article 52, if the use of such Collective Trademark has been contradictive to regulations as referred to in Article 61 paragraph (1).

#### Article 71

The entire provisions of this law shall be applicable to Collective Trademarks, unless otherwise explicitly stated in this Chapter.

CHAPTER VIII  
CLAIMS OF INDEMNITY

Article 72

- (1) The proprietor of a registered trademark may make a claim against a person or legal entity who illegally uses his trademark, either in its basic elements or in its complete entity, which claim can be in the form of a demand for indemnity and termination of the illegal use of such trademark.
- (2) The claim as referred to in paragraph (1) shall be submitted through the District Court of first Instance as referred to in Article 52.

Article 73

Claims of indemnity as referred to in article 70 may also be submitted by the licensee of a registered trademark, either individually or jointly with the proprietor of the pertinent trademark.

Article 74

- (1) Upon request of the proprietor of a trademark or the licensee of a registered trademark, in his/her capacity of plaintiff, during the examination period and to prevent more substantial damages, the judge may instruct the defendant to terminate the trade of goods and services with unauthorized use of such trademark.
- (2) If on the unauthorized use of such registered trademark is also claimed the surrender of goods or of the value of goods which bear such trademark, the judge may instruct that such surrender of goods or of the value of goods shall only be executed after the judgement of the court has acquired definite legal power, and after the plaintiff has paid indemnity to the defendant.

#### Article 75

On the judgment of the Court of the First Instance, as referred to in Article 72 paragraph (2), a petition for appeal cannot be submitted.

#### Article 76

The right to submit claim, as regulated in this Chapter, shall not be to the prejudice of the State's right to prosecute crime in the field of trademarks.

### CHAPTER IX MANAGEMENT OF MARKS

#### Article 77

The administration of trademarks as referred to in this law shall be carried out by the Office of Trademarks.

#### Article 78

The Trademarks Office shall maintain a nationwide documentation and information network on Trademarks, in order to be able to provide information concerning Trademarks to the public at large.

#### Article 79

In carrying out the management of trademarks, the Trademarks Office shall obtain directives from and be responsible to the Minister.

### CHAPTER X INVESTIGATION

#### Article 80

- (1) Apart from Investigators from the State Police Force of the Republic of Indonesia, civil servants from Departments whose scope of duties and responsibilities concerns

Trademark matters, can be given the authority of conducting investigations on criminal actions in the field of Trademarks, as referred to in Law No. 8 of 1981, concerning Criminal Procedural Law.

(2) A civil servant investigator as referred to in paragraph (1) is authorized:

- a. to conduct investigations as to the truth of reports and informations concerning criminal actions in the field of trademarks.
- b. to conduct investigations on persons or institutions who are being suspected of having committed criminal actions in the field of trademarks.
- c. to collect information and exhibits from people or institutions in connection with criminal actions in the field of trademarks;
- d. to conduct investigations on bookkeepings, records and other documents related to criminal actions in the field of trademark;
- e. to conduct investigations at certain locations where it is suspected that exhibits can be found, such as bookkeepings, records and other documents and confiscate goods as well as other items being results of criminal actions which can be used as exhibits in a criminal case in the field of trademarks.; and
- f. to request the assistance of experts in order to carry out their duties in investigations on criminal actions in the field of trademarks

(3) A civil servant being authorized to conduct investigations as referred to in paragraph (1) shall inform the Public Prosecutor of the commencement of an investigation and send him a report on the result of such investigation, pursuant to stipulations in Article 107 of Law No. 8 of 1981 concerning the Criminal Procedural Law.

CHAPTER XI  
PENAL PROVISIONS

Article 81

Anybody who intentionally and without due authorization uses a trademark, similar with the complete entity of a registered trademark which is the property of another person, for the same types of goods or services being produced and/or traded, shall be subject to imprisonment for a maximum period of seven years and a fine of a maximum amount of Rp. 100.000.000 (one hundred million rupiahs).

Article 82

Anybody who intentionally and without due authorization uses a trademark, similar to the basic elements of a registered trademark being the property of another person or legal entity, for the same types of goods or services being produced and traded, shall be subject to imprisonment for a maximum period of seven years and a fine of a maximum amount of Rp. 50,000,000.- (fifty million rupiahs).

Article 83

A criminal action as referred to in Article 81 and and Article 82 is a felony.

Article 84

- (1) Anybody who is trading goods or services which are known or ought to be known as goods and services that are using a registered trademark being the property of another person without authority, shall be subject to imprisonment for a maximum period of one year and a fine of a maximum amount of Rp. 10,000,000.- (ten thousand rupiahs).
- (2) The criminal action as referred to in paragraph (1) is a misdemeanor.

## CHAPTER XII TRANSITIONAL PROVISIONS

### Article 85

All trademarks which have been registered on the basis of Law No. 21 of 1961, concerning Company Marks and Trade Marks, and which are still valid at the time of enforcement of this Law, shall be declared to remain valid according to this Law, for the remaining validity period of its registration.

### Article 86

- (1) Against a trademark as referred to in Article 85 a claim for abolition can be submitted through the District Court of First Instance as referred to in Article 52, based on reasons as referred to in Article 5 and Article 6.
- (2) A claim for abolition of the registration of a trademark as referred to in paragraph (1), can only be submitted within the validity period of the registration of the trademark concerned.

### Article 87

The application for registration, extension of registration, registration of the assignment of right, the registration of changes in name and address, requests for deletion or abolition of the registration of a trademark, which is submitted based on Law No. 21 of 1961 concerning Company Mark and Trademark, but which has not been finalized at the date of enforcement of this law, shall be further processed based on this law.

### Article 88

All implementary regulations which are formulated based on Law No. 21 of 1961 concerning Company marks and trademarks which already existed on the date of enforcement of this law shall be declared as to remain valid in so far it is not in contradiction or replaced with new provisions based on this law.

CHAPTER XIII  
CLOSING PROVISIONS

Article 89

With this Law coming into force, Law number . 21 of 1961, concerning Company Marks and Trademarks, shall be declared as no longer valid.

Article 90

This Law shall come into force on April 1, 1993.

In order to make this Law public, the promulgation thereof shall be instructed to be done by a insertion thereof the Statute Book of the Republic of Indonesia.

Ratified in Jakarta  
On 28 August 1992  
PRESIDENT OF THE R.I.

SOEHARTO

Promulgated in Jakarta  
On 28 August 1992  
THE MINISTER/STATE SECRETARY

MOERDIONO

---