

WORLD TRADE ORGANIZATION

ORGANISATION MONDIALE DU COMMERCE

ORGANIZACIÓN MUNDIAL DEL COMERCIO

IP/N/1/JPN/T/1

3 April 1996

(96-1207)

**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**

Japan

The present document reproduces the text of the Trademark Law¹, as notified by Japan under Article 63.2 of the Agreement (see document IP/N/1/JPN/1).

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

**PRINCIPALES LOIS ET REGLEMENTATIONS CONSACREES A
LA PROPRIETE INTELLECTUELLE NOTIFIEES AU TITRE
DE L'ARTICLE 63:2 DE L'ACCORD**

Japon

Le présent document contient le texte de la Loi sur les marques de fabrique ou de commerce¹, notifiée par le Japon au titre de l'article 63:2 de l'Accord (voir le document IP/N/1/JPN/1).

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

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

Japón

En el presente documento se reproduce el texto de la Ley de Marcas de Fábricas o de Comercio¹ notificado por el Japón en virtud de lo dispuesto en el párrafo 2 del artículo 63 del Acuerdo (véase el documento IP/N/1/JPN/1).

¹English only/Anglais seulement/En inglés solamente.

TRADEMARK LAW

(Law No. 127 of April 13, 1959, as amended)*

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* By Law No. 140 of 1962, Law No. 161 of 1962, Law No. 148 of 1964, Law No. 81 of 1965, Law No. 91 of 1970, Law No. 46 of 1975, Law No. 27 of 1978, Law No. 89 of 1978, Law No. 45 of 1981, Law No. 23 of 1984, Law No. 24 of 1984, Law No. 41 of 1985, Law No. 27 of 1987, Law No. 30 of 1990, Law No. 65 of 1991, Law No. 26 of 1993, Law No. 89 of 1993 and Law No. 116 of 1994.

TRADEMARK LAW

Chapter I — General Provisions

(Purpose)

1. — The purpose of this Law shall be to ensure the maintenance of the business reputation of persons using trademarks by protecting trademarks, and thereby to contribute to the development of industry and to protect the interests of consumers.

(Definitions, etc.)

2. — (1) “Trademark” in this Law means the characters, figures or signs or any combination thereof, or any combination thereof with colors (hereinafter referred to as a “mark”):

(i) which are used in respect of goods by a person who produces, certifies or assigns such goods in the course of trade;

(ii) which are used in respect of services by a person who provides or certifies such services in the course of trade (other than as in (i) above).

(2) “Registered trademark” in this Law means a trademark for which a trademark registration has been effected.

(3) “Use” with respect to a mark in this Law means any of the following acts:

(i) acts of applying the mark on the goods or their packaging;

(ii) acts of assigning, delivering, displaying for the purpose of assignment or delivery, or importing, the goods on which or on the packaging of which a mark has been applied;

(iii) acts of applying a mark to articles for use by persons to whom the services are provided (including articles assigned or leased — hereinafter the same) when providing services;

(iv) acts of providing services by use of articles to which a mark has been applied for use by persons to whom the services are provided when providing services;

(v) acts of displaying, for the purpose of providing services, articles to which a mark has been applied and supplied for use in the provision of services) including articles for use by persons to whom the services are provided when providing services — hereinafter the same);

(vi) acts of applying a mark to articles related to the provision of such services belonging to persons to whom the services are provided when providing services;

(vii) acts of displaying or distributing advertisements, price lists or business papers relating to the goods or articles on which a mark has been applied.

(4) In this law, it shall be premised that there may exist services in the scope of similarities of goods and there may exist goods in the scope of similarities of services.

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Chapter II — Trademark Registration and Applications Therefor

(Registrability of trademarks)

3. — (1) Any person may obtain a trademark registration of a trademark to be used in respect of goods or services in connection with his business, except in the case of the following trademarks:

(i) trademarks which consists solely of a mark indicating, in a common way, the common name of the goods or services;

(ii) trademarks which are customarily used in respect of the goods or services;

(iii) trademarks which consist solely of a mark indicating in a common way, the origin, place of sale, quality, raw materials, efficacy, use, quantity, shape or price of the goods, or the method or time of manufacturing or using them; or the location of provision of the services, quality, articles for use in such provision, efficacy, use, quantity, modes, price or method or time of the provision of services;

(iv) trademarks which consist solely of a mark indicating, in a common way, a commonplace surname or name of a legal entity;

(v) trademarks which consist solely of a very simple and commonplace mark;

(vi) in addition to those mentioned in each of the preceding paragraphs, trademarks which do not enable consumers to recognize the goods or services as being connected with a certain person's business.

(2) In the case of a trademark falling under paragraphs (iii) to (v) of the preceding subsection, where, as a result of the use of such trademarks, the consumers are able to recognize the goods or services as being connected with a certain person's business, trademark registration may be obtained notwithstanding the preceding subsection.

(Unregistrable trademarks)

4. — (1) Notwithstanding Section 3, trademark registration shall not be effected in the case of the following trademarks:

(i) trademarks which are identical with, or similar to, the national flag, the imperial chrysanthemum crest, a decoration, a medal of merit, or a foreign national flag;

(ii) trademarks which are identical with or similar to, a State coat of arms or other emblem (other than a national flag) of a country party to the Paris Convention (meaning the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958 and at Stockholm on July 14, 1967 — hereinafter referred to as "the Paris Convention") or a Member of the World Trade Organization which have been designated by the Minister of International Trade and Industry;

(iii) trademarks which are identical with, or similar to, a mark indicating the United Nations or any other international organization and designated by the Minister for International Trade and Industry;

(iv) trademarks which are identical with, or similar to, the Red Cross ensign on a white ground or the title Red Cross or Geneva Cross;

(v) trademarks comprising a mark identical with, or similar to, an official seal or sign which indicates supervision or certification by the Government of Japan or by the Government of a

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country party to the Paris Convention or a Member of the World Trade Organization, or by a local public entity and which has been designated by the Minister for International Trade and Industry, which are used on goods or services identical with, or similar to, the goods or services in respect of which such seal or sign is used;

(vi) trademarks which are identical with, or similar to, a famous mark indicating a State or a local public entity or an agency thereof or a non-profit organization or enterprise working in the public interest;

(vii) trademarks liable to contravene public order or morality;

(viii) trademarks containing the portrait of another person or the name, famous pseudonym, professional name or pen name of another person or the famous abbreviation thereof (except where the consent of the person concerned has been obtained);

(ix) trademarks comprising a mark which is identical with, or similar to, a prize awarded at an exhibition held by the Government or a local public entity (hereinafter referred to as the “Government, etc.”) or at one which is not held by the Government, etc. but has been designated by the Director-General of the Patent Office or at an international exhibition held in a foreign country by its government, etc. or a person authorized thereby (except where the recipient of such a prize uses the mark as part of his trademark);

(x) trademarks which are well known among consumers as indicating the goods or services as being connected with another person’s business, and trademarks similar thereto, and which are used in respect of such goods or services or similar goods or services;

(xi) trademarks which are identical with, or similar to, another person’s registered trademark applied for prior to the filing date of the trademark application concerned and which are used on the designated goods or designated services [meaning the goods or services designated in accordance with Section 6(1) (including its application under Section 68(1)) — hereinafter referred to as the “designated goods or services”] covered by the trademark registration referred to or on similar goods or services;

(xii) trademarks which are identical with another person’s registered defensive mark (meaning a mark registered as a defensive mark — hereinafter referred to as a “registered defensive mark”), and which are used on the designated goods or designated services covered by the defensive mark registration;

(xiii) trademarks which are identical with another person’s trademark (other than a trademark which had not been used by that person during a period of at least one year prior to the day on which the trademark right became extinguished) where one year has not elapsed since the date of extinguishment of the trademark right (or the date on which a trial decision that a trademark registration is to be invalidated became final and conclusive — hereinafter referred to as the “date of extinguishment of the trademark right”), or with a trademark similar to such a trademark, and which are used in respect of the designated goods or designated services covered by the trademark right or in respect of similar goods or services;

(xiv) trademarks which are identical with, or similar to, the name of a variety registered under Section 12^{quater}(1) of the Agricultural Seed and Seedlings Law (Law No. 115 to 1947), and which are used on the seeds or seedlings of the variety concerned or in respect of similar goods or services;

(xv) trademarks which are liable to cause confusion with goods or services connected with another person’s business (other than the trademarks mentioned in paragraphs (x) to (xiv));

(xvi) trademarks liable to be misleading as to the quality of the goods or services;

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(xvii) trademarks comprising a mark indicating an origin of wines or spirits in Japan which has been designated by the Director-General of the Patent Office or a mark indicating an origin of wines or spirits in a Member of the World Trade Organization prohibited to be used on wines or spirits not originating in the region in that member, which are used in respect to wines or spirits not originating in the region in Japan or that member.

(2) Where registration of a trademark falling under paragraph (vi) of the preceding subsection is applied for by the State, a local public entity or an agency thereof or a non-profit organization working in the public interest or a person carrying on a non-profit enterprise working in the public interest, the said paragraph shall not apply.

(3) In the case of a trademark falling under paragraphs (viii), (x), (xv) or (xvii) of subsection (1), the respective provisions shall not apply where the trademark does not fall under the respective paragraph at the time when the trademark application is filed.

(4) Where a trial decision that a trademark registration is to be cancelled under Section 53^{bis} has become final and conclusive and the demandant in the trial applies for registration of the trademark covered by the registration cancelled by the trial decision, or a trademark similar thereto, paragraph (xiii) of subsection (1) shall not apply.

(Applications for trademark registration)

5. — (1) Any person desiring a trademark registration shall submit a request to the Director-General of the Patent Office together with sheets of paper containing a reproduction of the trademark for which registration is sought and any necessary explanations; the request shall state the following:

- (i) the name and the domicile or residence of the applicant for a trademark registration and, in the case of a legal entity, the name of an officer entitled to represent it;
- (ii) the date of submission;
- (iii) the designated goods or designated services and the class of goods or services as prescribed by Cabinet Order referred to in Section 6(1).

(2) Where a person desires a trademark registration in respect of a trademark which is similar to his registered trademark or a trademark in his application for a trademark registration and which is to be used on the designated goods or designated services covered by the registered trademark or the trademark in the application, or in respect of a trademark which is identical with or similar to his registered trademark or a trademark in his application for a trademark registration and which is to be used on goods or services similar to the designated goods or designated services covered by the registered trademark or the trademark in the application, the number of the relevant trademark registration or the relevant application for trademark registration shall be stated in the request.

(3) In the portion of the sheets of paper referred to in subsection (1) which contains the reproduction of a trademark, any part which is in the same color as the sheets themselves shall be deemed not to form part of the trademark. However, this provision shall not apply where the area to be colored is specified and it is stated on the sheets that the color to be applied is the same as that of the sheets.

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(Unity in application)

6. — (1) An application for a trademark registration shall relate to a single trademark and shall designate one or more items of goods or services in respect of which the trademark is to be used, in one class of the classification of goods or services, prescribed by Cabinet Order.

(2) The classes of goods or services referred to in the preceding subsection shall not be determinative of the scope of similarity of goods or services.

(Associated trademarks)

7. — (1) The owner of a trademark right shall not, unless he applies for a trademark registration of an associated trademark, obtain registration of a trademark which is similar to his registered trademark and which is to be used on the designated goods or designated services covered by his registered trademark, or of a trademark which is identical with or similar to his registered trademark and which is to be used on goods or services similar to the designated goods or designated services covered by his registered trademark.

(2) When the establishment of a trademark right has been registered in respect of a trademark application relating to an associated trademark, the trademark and the registered trademark with which it is connected shall become associated trademarks with respect to each other.

(3) The owner of a trademark right shall not obtain registration of an associated trademark in respect of any trademark other than those which are similar to his registered trademark and which are to be used on the designated goods or designated services covered by his registered trademark and those which are identical with or similar to his registered trademark and which are to be used on goods or services similar to the designated goods or designated services covered by his registered trademark.

(First-to-file rule)

8. — (1) Where two or more trademark applications relating to identical or similar trademarks which are to be used on identical or similar goods or services are filed on different dates, only the earliest applicant may obtain a trademark registration for the trademark concerned.

(2) Where two or more trademark applications relating to identical or similar trademarks which are to be used on identical or similar goods or services are filed on the same date, only one applicant, agreed upon after mutual consultation among all the applicants, may obtain a trademark registration for the trademark.

(3) Where a trademark application is abandoned, withdrawn or invalidated or where an examiner's decision or trial decision on a trademark application has become final and conclusive, such application shall, for the purposes of the two preceding subsections, be deemed never to have been made.

(4) The Director-General of the Patent Office shall, in the case of subsection (2), order the applicants to hold consultations for an agreement under that subsection and to report the result thereof, within an adequate time limit.

(5) Where no agreement is reached in the consultations under subsection (2) or where the report under the preceding subsection is not made within the time limit designated in accordance with that subsection, registration of the trademark concerned may be obtained only by one ap-

plicant chosen by the drawing of lots conducted in a fair and just manner by the Director-General of the Patent Office.

(Special provisions for time of filing of application)

9. — (1) In the case of a trademark used in respect of goods exhibited or services offered at an exhibition held by the Government, etc. — or at one which is not held by the Government, etc. but has been designated by the Director-General of the Patent Office, or at an international exhibition held by the Government, etc. or a person authorized thereby in the territory of a country party to the Paris Convention or a Member of the World Trade Organization, or at an international exhibition held by the Government, etc. or a person authorized thereby in the territory of a country which is neither a party to the Paris Convention nor a Member of the World Trade Organization but which has been designated by the Director-General of the Patent Office —, provided that the person who exhibited the said goods offered said services has applied for a trademark registration, designating those goods or services, within six months from the date when they were exhibited or offered, the trademark application shall be deemed to have been filed at the time when the goods were exhibited or the services were offered.

(2) Any person who desires the application of the preceding subsection with respect to a trademark in a trademark application shall submit a written statement to that effect to the Director-General of the Patent Office simultaneously with the trademark application. Within 30 days from the filing of the trademark application, he shall also submit to the Director-General of the Patent Office a document proving that the trademark and the goods or services in the trademark application are a trademark and goods or services falling under the said subsection.

9^{bis}. — A priority claim based on an application for trademark registration (limited to a trademark equivalent to that defined in Section 2(1)(ii)) filed in or for a country party to the Paris Convention may be declared as governed by the provisions in Article 4 of the Paris Convention for a priority claim based on the application for trademark registration of the trademark equivalent to that defined in Section 2(1)(i).

(Amendment of designated goods, etc. or reproduction of the trademark for which trademark registration is sought and change of gist)

9^{ter}. — Where, after registration of the establishment of the trademark right, it is found that an amendment of the designated goods or designated services stated in the request or the reproduction of the trademark for which a trademark registration is sought attached to the request, made prior to the transmittal of the ruling that the application is to be published, has changed the gist thereof, the trademark application shall be deemed to have been filed at the time when the amendment in writing was submitted.

9^{quater}. — Where, after the registration of the establishment of the trademark right, it is found that an amendment, made after the transmittal of the ruling that the application is to be published, to the designated goods or designated services stated in the request or the reproduction of the trademark attached to the request seeking a trademark registration, does not comply with Section 16^{bis-duodecies} [including its application under Section 55^{bis}(2) or (3) (including its application under Section 60^{bis}(1))], the trademark registration shall be deemed to have been

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granted on the trademark application without any such amendment.

(Division of trademark applications)

10. — (1) An applicant for a trademark registration may divide a trademark application designating two or more items of goods or services as designated goods or designated services into one or more new trademark applications.

(2) A trademark application may not be divided under the preceding subsection after the examiner's decision or the trial decision with respect to the application has become final and conclusive.

(3) Where a trademark application has been divided under subsection (1), the new trademark application shall be deemed to have been filed at the time of filing of the original application. However, this provision shall not apply for the purposes of Section 9(2) of this Law and Section 43(1) and (2) of the Patent Law (Law No. 121 of 1959) as applied under Section 13(1) of this Law (including its application under Section 43^{bis}(3) of the Patent Law as applied under Section 13(1) of this Law).

(Conversion of applications)

11. — (1) An applicant may convert his application for registration of an associated trademark into an application for registration of an independent trademark (meaning a trademark application other than an application for registration of an associated trademark — hereinafter referred to as an “application for registration of an independent trademark”).

(2) An applicant may convert his application for registration of an independent trademark into an application for registration of an associated trademark.

(3) A trademark application may not be converted under the two preceding subsections after the examiner's decision or the trial decision with respect to the application has become final and conclusive.

(4) Where the conversion of a trademark application under subsection (1) or (2) has been made, the original trademark application shall be deemed to have been withdrawn.

(5) Section 10(3) shall apply mutatis mutandis to the conversion of a trademark application under subsection (1) or (2).

12. — (1) An applicant may convert his application for registration of a defensive mark into an application for trademark registration.

(2) An application may not be converted under the preceding subsection after the examiner's decision or the trial decision with respect to the application for registration of a defensive mark has become final and conclusive.

(3) Sections 10(3) and 11(4) shall apply mutatis mutandis to the conversion of an application under subsection (1).

(Application mutatis mutandis of Patent Law)

13. — (1) Sections 43 and 43^{bis} of the Patent Law shall apply mutatis mutandis to trademark applications. In such a case, “within one year and four months from the earliest date among

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the dates given in each of the following paragraphs” in Section 43(2) of the Patent Law shall read “within three months from the filing date of the trademark application.”

(2) Sections 33 and 34(4) to (7) (right to obtain patent) of the Patent Law shall apply mutatis mutandis to the rights deriving from a trademark application.

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Chapter III — The Examination

(Examination by examiner)

14. — The Director-General of the Patent Office shall have applications for trademark registration and oppositions to the grant of registration examined by an examiner.

(Examiner's decision of refusal)

15. — The examiner shall make a decision that a trademark application is to be refused where it falls under any of the following paragraphs:

(i) the trademark in the trademark application is not registrable in accordance with Section 3, 4(1), 7(1) or (3), 8(2) or (5), 51(2) or 53(2) of this Law or Section 25 of the Patent Law as applied under Section 77(3) of this Law;

(ii) the trademark in the trademark application is not registrable in accordance with the provisions of a treaty;

(iii) the trademark application does not comply with the requirements of Section 6(1);

(iv) the trademark in the trademark application is a trademark or is similar to a trademark which is covered by the rights of a person who has the right to the trademark (but only where such right is equivalent to the trademark right; it is hereinafter referred to as the "right to the trademark") in a country party to the Paris Convention or a Member of the World Trade Organization and which is used in respect of goods or services covered by the right of such person or in respect of similar goods or services, and the trademark application concerned was made, without a legitimate reason and without the authorization of the person who has the right to the trademark, by his agent or representative or by a person who was his agent or representative at any time during the year preceding the filing date of the application. However, this provision shall apply only where the person who has the right to the trademark files an opposition to the grant of registration on the ground that the said application falls under this paragraph.

(Publication of applications)

16. — (1) Where the examiner finds no reason for refusing a trademark application, he shall render a ruling that the application is to be published.

(2) When a ruling that a trademark application is to be published has been rendered, the Director-General of the Patent Office shall publish the application after transmitting the ruling to the applicant for the trademark registration.

(3) The publication of the application shall be effected by publishing the following particulars in the Trademark Gazette (*Shōhyō Kōhō*):

- (i) the name and the domicile or residence of the applicant;
- (ii) the number and the date of the trademark application;
- (iii) the contents of the papers accompanying the request and containing a reproduction of the trademark for which a trademark registration is sought;
- (iv) the designated goods or designated services;
- (v) the number and date of the publication of the application;
- (vi) other necessary particular.

(4) During two months from the publication of the application, the Director-General of

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the Patent Office shall make the application files and their attachments available for public inspection in the Patent Office.

(Declining of amendments)

16^{bis}. — (1) Where an amendment, made before the transmittal of the ruling that the application is to be published, to the designated goods or designated services stated in the request or the reproduction of the trademark attached to the request seeking a trademark registration, would change the gist thereof, the examiner shall decline the amendment by a ruling.

(2) The ruling to decline an amendment under the preceding subsection shall be in writing and state the reasons therefor.

(3) Where a ruling to decline an amendment under subsection (1) has been rendered, the examiner's decision with respect to the trademark application (or a ruling that the application is to be published or the examiner's decision that the application is to be refused when the ruling to decline an amendment under subsection (1) was rendered prior to the ruling that the application is to be published) shall not be rendered before the expiration of 30 days from the transmittal of that ruling.

(4) Where an applicant has demanded a trial under Section 45(1) against a ruling to decline an amendment under subsection (1), the examiner shall suspend the examination of the trademark application until the trial decision has become final and conclusive.

16^{ter}. — (1) Where, before the examiner's decision has been rendered, it is found that an amendment, made after the transmittal of the ruling that the application is to be published, to the designated goods or designated services stated in the request or to the sheets of paper attached thereto containing a reproduction of the trademark for which registration is sought, does not comply with Section 16^{duodecies}, the examiner shall decline the amendment by a ruling.

(2) No appeal shall lie from the ruling to decline the amendment under subsection (1). However, this provision shall not apply to the examination in a trial demanded under Section 44(1).

(3) Section 16^{bis}(2) shall apply mutatis mutandis to the ruling to decline the amendment under subsection (1).

(Filing of opposition to the grant of trademark registration)

16^{quater}. — (1) Within two months from the publication of an application for a trademark registration, any person may file an opposition to the grant of the trademark registration with the Director-General of the Patent Office. However, the opposition may not be made on the grounds that the application does not comply with the requirements of Section 6(1).

(2) The opponent shall file a written opposition stating the grounds therefor, together with an indication of the supporting evidence.

16^{quinquies}. — (1) The opponent may not amend the grounds or indication of evidence set forth in the written opposition after 30 days from the expiration of the time limit prescribed in Section 16^{quater}(1).

(2) The Director-General of the Patent Office may, for the benefit of a person residing in

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a place that is remote or difficult of access, extend upon request or ex officio the period prescribed in subsection (1).

16sexies. — When an opposition to the grant of a trademark registration is filed, the examiner shall transmit a copy of the written opposition to the applicant for the trademark registration, giving him an opportunity to submit a written reply, designating an adequate time limit.

16septies. — (1) After the expiration of the time limit for amending the written opposition under Section 16quinquies and the time limit in accordance with Section 16sexies, the examiner shall render a ruling on the opposition.

(2) The ruling shall be in writing and shall state the reasons therefor.

(3) When the ruling has been rendered, a copy of the ruling to the opponent shall be sent by the Director-General of the Patent Office.

(4) No appeal shall lie from the ruling under subsection (1).

16octies. — Sections 146, 150, 151, 169(3) to (6) and 170 of the Patent Law shall apply mutatis mutandis to the examination of an opposition to the grant of a trademark registration.

16novies. — After rendering a ruling under Section 16septies, the examiner shall make a decision as to whether a trademark registration is to be granted or refused with respect to the application for the trademark registration.

16decies. — (1) Where two or more oppositions to the grant of a trademark registration have been filed and the examiner, after examining one of the oppositions, intends to render a decision that the application for the trademark registration is to be refused, he shall not be required to render the ruling under Section 16septies(1) on the other oppositions, notwithstanding that subsection.

(2) Where the ruling under Section 16septies(1) is not required by the virtue of subsection (1), a copy of the examiner's decision that the application for the trademark registration is to be refused shall be sent to the other opponents by the Director-General of the Patent Office.

(Decision in the absence of opposition)

16undecies. — Where no opposition to the grant of a trademark registration is filed within the time limit prescribed in Section 16quater(1), the examiner shall render a decision that the trademark registration is to be granted on the application for the trademark registration unless a decision of refusal is to be made.

(Amendment after ruling for the publication of application)

16duodecies. — Where an applicant for a trademark registration has received a notification under Section 50 of the Patent Law as applied under Section 17 of this Law after the transmittal of the ruling that the application is to be published or after opposition to the grant of the trademark registration has been filed, he may, only within the time limit designated under Section 50 of the Patent Law as applied under Section 17 of this Law or Section 16sexies of this Law,

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make an amendment to the designated goods or designated services stated in the request or the reproduction of the trademark for which registration is sought, with respect to the matters mentioned in the reasons for the refusal or in the grounds for the opposition. However, the amendment shall not change the gist thereof.

(Application mutatis mutandis of Patent Law)

17. — Section 47(2) (qualifications of examiners), Section 48 (exclusion of examiners), Section 50 (notification of reasons for refusal), Section 52 (formal requirements of decision) and Sections 54 (relationship with litigation) of the Patent Law shall apply mutatis mutandis to the examination of trademark applications.

(Application mutatis mutandis of Design Law)

17^{bis}. — (1) Section 17^{ter} (new application for design as amended) of the Design Law (Law No. 125 of 1959) shall apply mutatis mutandis to the case where an amendment is declined by a ruling under Section 16^{bis}(1).

(2) Section 17^{quater} of the Design Law shall apply mutatis mutandis to the extension of the time limit prescribed in Section 17^{ter}(1) as applied under subsection (1) or Section 55^{bis}(1) (including its application under Section 60^{bis}(1)).

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Chapter IV — The Trademark Right*1. The Trademark Right***(Registration of establishment of trademark right)**

18. — (1) A trademark right shall come into force upon registration of its establishment.

(2) The establishment of a trademark right shall be registered when the registration fee under Section 40(1) has been paid.

(3) Upon registration under the preceding subsection, the name and the domicile or residence of the owner of the trademark right, the registration number and the date of registration of the establishment shall be published in the Trademark Gazette.

(Term of trademark right)

19. — (1) The term of a trademark right shall be ten years from the date of registration of its establishment.

(2) The term of a trademark right may be renewed by an application for registration of renewal. Provided, however, that this shall not apply:

(i) where the registered trademark has become a trademark falling under Section 4(1)(i) to (iii), (v), (vii) or (xvi);

(ii) where neither the owner of the trademark right nor the owner of a right of exclusive use nor the owner of a right of non-exclusive use has used the registered trademark (or, if there is another registered trademark which is an associated trademark with respect to the registered trademark, the registered trademark or such other registered trademark) in respect of any item of the designated goods or designated services in Japan within three years prior to the filing of the application for registration of renewal (or prior to the expiration of the time limit prescribed in Section 20(2) if Section 20(3) is applicable).

(3) Where there is a legitimate reason for the failure to use the registered trademark in respect of any item of the designated goods or designated services in the case of paragraph (ii) of the proviso to the preceding subsection, the said paragraph shall not apply.

(Registration of renewal of term)

20. — (1) Any person desiring registration of renewal of the term of a trademark right shall submit a request to the Director-General of the Patent Office stating the following:

(i) the name and the domicile or residence of the applicant and, in the case of a legal entity, the name of an officer representing it;

(ii) the registration number of the trademark registration.

(2) Applications for registration of renewal shall be made within six months prior to the date of expiration of the term.

(3) Where, due to reasons outside his control, a person is unable to apply for registration of renewal within the time limit prescribed in the preceding subsection, he may make such application within 14 days from the date when the reasons ceased to be applicable but not later than two months following the expiration of the said time limit.

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(4) When an application has been made for registration of renewal of the term of a trademark right, the term shall be deemed to have been renewed upon expiration of the term (or, in case of an application under the preceding subsection, on the filing date of such application). However, this provision shall not apply when the examiner's decision that the application is to be refused has become final and conclusive or when renewal of the term of the trademark right has been registered.

20^{bis}. — A person desiring to file an application for registration of renewal shall submit to the Director-General of the Patent Office either of the following documents simultaneously with the filing of such application:

- (i) a document necessary to show that the application does not fall under paragraph (ii) of the proviso to Section 19(2);
- (ii) a document necessary to justify that there is a legitimate reason referred to in Section 19(3).

21. — (1) The examiner shall make a decision that an application for registration of renewal is to be refused where it falls under any one of the following paragraphs:

- (i) the registered trademark in such application falls under paragraph (i) of the proviso to Section 19(2);
- (ii) the application is not deemed as not falling under paragraph (ii) of the proviso to Section 19(2) from the document referred to in Section 20(2) and submitted in accordance with Section 20, or is not deemed as justifying a legitimate reason referred to in Section 19(3) from the document referred to in Section 20(3) and submitted in accordance with Section 20;
- (iii) the applicant is not the owner of the trademark right concerned.

(2) Where the examiner finds no reason for refusing the application for registration of renewal, he shall make a decision that the renewal is to be registered.

22. — Section 14 of this Law as well as Section 48 (exclusion of examiners), Section 50 (notification of reasons for refusal) and Section 52 (formal requirements of examiner's decision) of the Patent Law shall apply mutatis mutandis to the examination of an application for registration of renewal of the term of a trademark right.

(Registration of renewal of term)

23. — (1) When the fee under Section 40(2) has been paid, the renewal of the term of the trademark right shall be registered.

(2) Section 18(3) shall apply mutatis mutandis to the registration under the preceding subsection.

(Transfer of trademark right)

24. — (1) Where there are two or more items of the designated goods or designated services a trademark right may be transferred separately for each such item. However, this provision shall not apply if the item to be separated is similar to any other item of the designated goods or designated services.

(2) The trademark right in associated trademarks may not be transferred independently.

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(3) Public notice of the transfer of a trademark right shall be given in a daily newspaper as prescribed by an ordinance of the Ministry of International Trade and Industry.

(4) The transfer of a trademark right (other than by inheritance or other general succession) shall not be registered until 30 days have elapsed since the public notice under the preceding subsection.

(5) A trademark right under a trademark application filed by the State or a local public entity, or an agency thereof, or a non-profit organization working in the public interest, referred to in Section 4(2), may not be assigned.

(6) A trademark right under a trademark application filed by a person carrying on a non-profit enterprise working in the public interest, referred to in Section 4(2), may be transferred only together with the enterprise itself.

(Effects of trademark right)

25. — The owner of a trademark right shall have an exclusive right to use the registered trademark with respect to the designated goods or designated services. However, where the trademark right is subject to a right of exclusive use, this provision shall not apply to the extent that the owner of that right has an exclusive right to use the registered trademark.

(Limits of trademark right)

26. — (1) The effects of the trademark right shall not extend to the following trademarks:

(i) trademarks indicating, in a common way, one's own portrait, name, famous pseudonym, professional name or pen name or a famous abbreviation thereof;

(ii) trademarks indicating, in a common way, the common name, origin, place of sale, quality, raw materials, efficacy, use, quantity, shape or price or the method or time of manufacturing or using the designated goods concerned or goods similar thereto or the common name of services similar to the designated goods, location of provision of the services, quality, articles for use in such provision, efficacy, use, quantity, modes, price, or methods or time of such provision;

(iii) trademarks indicating, in a common way, the common name of designated services or services similar thereto, location of provision of the services, quality, articles supplied for use in such provision, efficacy, use, quantity, modes, price, or method or time of such provision or the common name, origin, place of sale, quality, raw materials, efficacy, use, quantity, shape or price, or method or time of manufacturing or using the goods similar to the designated services;

(iv) trademarks customarily used on the designated goods or designated services, or goods or services similar thereto.

(2) Paragraph (i) of the preceding subsection shall not apply where, after registration of the establishment of the trademark right, one's own portrait, name, famous pseudonym, professional name or pen name or a famous abbreviation thereof has been used with the intention of violating the rules of fair competition.

27. — (1) The scope of a registered trademark shall be decided on the basis of the trademark reproduced on the papers accompanying the request.

(2) The scope of the designated goods or designated services shall be decided on the basis

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of the statement in the request.

28. — (1) A request for interpretation may be made to the Patent Office with respect to the effects of a trademark right.

(2) Where such a request is made, the Director-General of the Patent Office shall designate three trial examiners to give the requested interpretation.

(3) Proceedings concerning an interpretation other than those provided for in the preceding subsection shall be prescribed by Cabinet Order.

(Relationship with another's design right, etc.)

29. — Where the use in a given manner of a registered trademark in respect of the designated goods or designated services conflicts with another person's design right under a design application filed prior to the filing date of the trademark application concerned or with another person's copyright taking effect prior to that date, the owner of the trademark right or of the right of exclusive or non-exclusive or non-exclusive use shall not use the registered trademark in such a manner on the part of the designated goods or designated services giving rise to the conflict.

(Rights of exclusive use)

30. — (1) The owner of a trademark right may grant a right of exclusive use with respect to his trademark right. However, this provision shall not apply to a trademark right under an application referred to in Section 4(2).

(2) The owner of a right of exclusive use shall have an exclusive right to use the registered trademark in respect of the designated goods or designated services to the extent laid down in the contract granting such right.

(3) A right of exclusive use may be transferred only with the consent of the owner of the trademark right or in the case of inheritance or other general succession.

(4) Section 77(4) and (5) (establishment of pledge, etc.), Section 97(2) (surrender) and Section 98(i)(ii) and (2) (effects of registration) of the Patent Law shall apply mutatis mutandis to rights of exclusive use.

(Rights of non-exclusive use)

31. — (1) The owner of a trademark right may grant a right of non-exclusive use with respect to his trademark right. However, this provision shall not apply to a trademark right under an application referred to in Section 4(2).

(2) The owner of a right of non-exclusive use shall have the right to use the registered trademark in respect of the designated goods or designated services to the extent laid down in the contract granting such right.

(3) A right of non-exclusive use may be transferred only with the consent of the owner of the trademark right (or only with the consent of such person and of the owner of the right of exclusive use, in the case of a right of non-exclusive use with respect to the right of exclusive use) or in the case of inheritances or other general succession.

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(4) Section 73(1) (joint ownership), Section 94(2) (establishment of pledge), Section 97(3) (surrender) and Section 99(1) and (3) (effects of registration) of the Patent Law shall apply *mutatis mutandis* to rights of non-exclusive use.

(Right to use trademark by virtue of prior use)

32. — (1) Where, from a time prior to the filing by another person of a trademark application and without any intention of violating the rules of fair competition, a person has been using in Japan the trademark in the application or a similar trademark in respect of the designated goods or designated services in the application, or in respect of similar goods or services, and, as a result, the trademark has become well known among consumers as indicating the goods or services as being connected with his business at the time of filing of the trademark application (or at the time of filing of the original trademark application or of submission of an amendment when the trademark application is deemed to have been filed at the time of submission of the amendment in accordance with Section 9^{ter} of this Law or in accordance with Section 17^{ter}(1) of the Design Law as applied under Section 17^{bis}(1) of this Law or 55^{bis}(1) (including its application under Section 60^{bis}(1) of this Law), such person shall have a right to use the trademark in respect of said goods or services provided that he does so continuously. The same shall apply in the case of a person who has succeeded to the business concerned.

(2) The owner of the trademark right or of a right of exclusive use may request the person having a right to use the trademark under the preceding subsection to mark his goods or services with a suitable indication so as to prevent any confusion between the goods or services connected with the owner's business and those connected with the other person's business.

(Right to use trademark due to use prior to registration of demand for invalidation trial)

33. — (1) When a person coming within any of the paragraphs set out below has been using in Japan a registered trademark or a similar trademark in respect of the designated goods or designated services or similar goods or services, prior to the registration of a demand for a trial under Section 46(1), without knowing that a trademark registration falls under any of the paragraphs of the subsection referred to, and the trademark has become well known among consumers as indicating the goods or services as being connected with his business, such person shall have a right to use the trademark in respect of the goods or services provided that he does so continuously. The same shall apply in the case of a person who has succeeded to the business concerned:

(i) the original owner of the trademark right, where one of two or more trademark registrations granted for identical or similar trademarks to be used in respect of identical or similar designated goods or designated services has been invalidated;

(ii) the original owner of the trademark right where his trademark registration has been invalidated and a trademark registration has been granted to the person entitled for identical or similar trademarks to be used on identical or similar designated goods or designated services;

(iii) in the cases referred to in the two preceding paragraphs, a person who, at the time of registration of the demand for a trial under Section 46(1), has a right of exclusive use with respect to the trademark right under the trademark registration that has been invalidated or a right of non-exclusive use which is effective, under Section 99(1) of the Patent Law as applied under

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Section 31(4) of this Law, against the trademark right or the right of exclusive use.

(2) The owner of the trademark right or of the right of exclusive use shall have a right to a reasonable remuneration as consideration for the right of non-exclusive use under the preceding subsection.

(3) Section 32(2) shall apply *mutatis mutandis* to subsection (1).

(Pledges)

34. — (1) Where a trademark right or a right of exclusive or non-exclusive use is the subject of a pledge, the pledgee may not use the registered trademark in respect of the designated goods or designated services except as otherwise provided by contract.

(2) Section 96 (attachment) of the Patent Law shall apply *mutatis mutandis* to pledges on a trademark right or a right of exclusive or non-exclusive use.

(3) Section 98(1)(iii) and (2) (effects of registration) of the Patent Law shall apply *mutatis mutandis* to pledges on a trademark right or a right of exclusive use.

(4) Section 99(3) (effects of registration) of the Patent Law shall apply *mutatis mutandis* to pledges on a right of non-exclusive use.

(Application *mutatis mutandis* of Patent Law)

35. — Section 73 (joint ownership), Section 76 (extinguishment of patent right in absence of heir), Section 97(1) (surrender) and Section 98(1)(i) and (2) (effects of registration) of the Patent Law shall apply *mutatis mutandis* to trademark rights.

2. Infringement

(Injunctions)

36. — (1) The owner of a trademark right or of a right of exclusive use may require a person who is infringing or is likely to infringe the trademark right or right of exclusive use to discontinue or refrain from such infringement.

(2) The owner of a trademark right or of a right of exclusive use who is acting under the preceding subsection may demand the destruction of the articles by which the act of infringement was committed, the removal of the facilities used for the act of infringement, or other measures necessary to prevent the infringement.

(Acts deemed to be infringement)

37. — The following acts shall be deemed to be an infringement of a trademark right or of a right of exclusive use:

(i) use of a trademark similar to the registered trademark in respect of the designated goods or designated services, or use of the registered trademark or of trademark similar thereto in respect of goods or services similar to the designated goods or designated services;

(ii) acts of holding, for the purpose of assignment or delivery, designated goods, or goods which are similar to the designated goods or designated services and to which or on the packaging of which the registered trademark or a trademark similar thereto has been applied;

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(iii) acts of holding or importing articles which are for use by persons to whom the services are provided and to which the registered trademark or a trademark similar thereto has been applied, in the provision of the designated services, or of services similar to the designated services or designated goods, for the purpose of using such articles in the provision of such services;

(iv) acts of assigning or delivering articles which are for use by persons to whom the services are provided and to which the registered trademark or a trademark similar thereto has been applied, in the provision of the designated services, or services similar to the designated services or designated goods, for the purpose of causing such articles to be used in the provision of such services, or acts of holding or importing such articles for the purpose of assigning or delivering them;

(v) acts of holding articles bearing a reproduction of the registered trademark or a trademark similar thereto for the purpose of using such trademark in respect of the designated goods or designated services or of goods or services similar thereto;

(vi) acts of assigning or delivering, or of holding, for the purpose of assignment or delivery, articles bearing a reproduction of the registered trademark or a trademark similar thereto, for the purpose of causing such trademark to be used in respect of the designated goods or designated services or of goods or services similar thereto;

(vii) acts of manufacturing or importing articles bearing a reproduction of the registered trademark or a trademark similar thereto for the purpose of using such trademark, or causing it to be used, in respect of the designated goods or designated services or of goods or services similar thereto;

(viii) acts of manufacturing, assigning, delivering or importing, in the course of trade, articles to be used exclusively for manufacturing goods bearing a reproduction of the registered trademark or a similar trademark.

(Presumption, etc. of amount of damage)

38. — (1) Where the owner of a trademark right or of a right of exclusive use claims, from a person who has intentionally or negligently infringed the trademark right or right of exclusive use, compensation for damage caused to him by the infringement, the profits gained by the infringer through the infringement shall be presumed to be the amount of damage suffered by the owner.

(2) The owner of a trademark right or of a right of exclusive use may claim, from a person who has intentionally or negligently infringed the trademark right or the right of exclusive use, an amount of money which he would normally be entitled to receive for the use of the registered trademark, as the amount of damage suffered by him.

(3) The preceding subsection shall not preclude a claim to damages exceeding the amount referred to therein. In such a case, where there has been neither willfulness nor gross negligence on the part of the person who has infringed the trademark right or the right of exclusive use, the court may take this into consideration when awarding damages.

(Application mutatis mutandis of Patent Law)

39. — Section 103 (presumption of negligence), Section 105 (production of documents) and Section 106 (measures for recovery of reputation) of the Patent Law shall apply mutatis mutandis to the infringement of a trademark right or a right of exclusive use.

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3. *The Registration Fee*

(Registration fee)

40. — (1) A person who obtains registration of a trademark right shall pay 66,000 yen, for each case, as a registration fee.

(2) A person who obtains registration of renewal of the term of a trademark right shall pay 130,000 yen, for each case, as a registration fee.

(3) The two preceding subsections shall not apply to trademark rights belonging to the State.

(4) The payment of the fee under subsection (1) or (2) shall be made by patent revenue stamps as prescribed by an ordinance of the Ministry of International Trade and Industry.

(Time limit for payment of registration fee)

41. — (1) The registration fee under Section 40(1) shall be paid within 30 days from the transmittal of the examiner's decision or trial decision that the trademark registration is to be effected.

(2) The registration fee under Section 40(2) shall be paid within 30 days from the transmittal of the examiner's decision or trial decision that the registration of renewal of term is to be effected (or from the expiration of the term when such transmittal occurred before its expiration).

(3) Upon the request of a person liable to pay a registration fee, the Director-General of the Patent Office may extend the period prescribed in the two preceding subsections by a period not exceeding 30 days.

(Refund of registration fee paid by mistake or in excess)

42. — (1) A registration fee paid by mistake or in excess shall be refunded on the request of the person making the payment.

(2) No refund of a registration fee under the preceding subsection may be requested after one year from the date of payment.

(Application mutatis mutandis of Patent Law)

43. — Section 110 (payment of annual fees by an interested person) of the Patent Law shall apply mutatis mutandis to the payment of the registration fee.

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Chapter V — Trial

(Trial against examiner's decision of refusal)

44. — (1) A person who has received the examiner's decision that his application is to be refused and is dissatisfied may demand a trial thereon within 30 days from the transmittal of the examiner's decision.

(2) Where, due to reasons outside his control, a person is unable to demand a trial under the preceding subsection within the time limit prescribed therein, he may, notwithstanding that subsection, make the demand within 14 days (where he is a resident abroad, within two months) from the date when the reason ceased to be applicable but not later than six months following the expiration of the said time limit.

(Trial against ruling to decline amendment)

45. — (1) A person who has received a ruling to decline an amendment under Section 16^{bis}(1) and is dissatisfied may demand a trial thereon within 30 days from the transmittal of the ruling. However, this provision shall not apply when a new application for trademark registration has been filed under Section 17^{ter}(1) of the Design Law as applied under Section 17^{bis}(1) of this Law.

(2) Section 44(2) shall apply mutatis mutandis to the demand for a trial under the preceding subsection.

(Trial for invalidation of trademark registration)

46. — (1) In the following cases, a trial may be demanded for the invalidation of a trademark registration. In such event, if two or more items of designated goods or designated services are covered by the trademark registration, the trial may be demanded with respect to each of such designated goods or designated services:

(i) where the registration has been effected contrary to Section 3, 4(1), 7(1) or (3), 8(1), (2) or (5), 51(2) or 53(2) or to Section 25 of the Patent Law as applied under Section 77(3) of this Law;

(ii) where the registration has been effected contrary to the provisions of a treaty;

(iii) where the registration has been effected in respect of a trademark application filed by a person who has not succeeded to the right deriving from the trademark application;

(iv) where, after the registration, the owner of the trademark right has become a person who can no longer enjoy such right under Section 25 of the Patent Law as applied under Section 77(3) of this Law or the registration no longer complies with a treaty.

(2) Even after the extinguishment of a trademark right, a trial under the preceding subsection may be demanded.

(3) Where a trial under subsection (1) has been demanded, the trial examiner-in-chief shall notify the owner of a right of exclusive use with respect to the trademark right and other persons who have any registered rights relating to the trademark registration.

47. — Where a trademark registration has been effected contrary to Section 3, 4(1)(viii) or (xi) to (xv), 7(1) or (3) or 8(1), (2) or (5), or contrary to Section 4(1)(x) or (xvii) (except where

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registration was obtained with the intention of violating the rules of fair competition), or where a trademark registration falls under Section 46(1)(iii), a trial on the trademark registration may not be demanded under Section 46(1) after five years from the registration of the establishment of the trademark right.

(Trial for invalidation of registration of renewal of term of trademark right)

48. — (1) In the following cases, a trial may be demanded for the invalidation of a registration of renewal of the term of a trademark right. In such an event, if two or more items of designated goods or designated services are covered by the registration of renewal, the trial may be demanded with respect to each of such designated goods or designated services:

- (i) where registration of renewal has been effected contrary to the proviso to Section 19(2);
- (ii) where registration of renewal has been effected on an application by a person who is not the owner of the trademark right concerned.

(2) Section 46(2) shall apply *mutatis mutandis* to the demand for a trial under the preceding subsection.

49. — Where a registration of renewal of the term of a trademark right has been effected contrary to paragraph (ii) of the proviso to Section 19(2) or falls under Section 48(1)(ii), a trial on the registration of renewal may not be demanded under Section 48(1) after five years from the registration of renewal.

(Trial for cancellation of trademark registration)

50. — (1) Where neither the owner of the trademark right nor the owner of a right of exclusive use nor the owner of a right of non-exclusive use has been continuously using, in Japan for three years or more, the registered trademark in respect of each item of the designated goods or designated services, a trial may be demanded for the cancellation of registration of the trademark with respect to such designated goods or designated services.

(2) In the case where a trial under the preceding subsection has been demanded, unless the defendant can prove that either the owner of the trademark right or the owner of a right of exclusive use or the owner of a right of non-exclusive use has used in Japan within three years prior to the registration of the demand for the trial the registered trademark (or if there is another registered trademark which is an associated trademark with respect to the registered trademark, the registered trademark or such other registered trademark) in respect of any item of the designated goods or designated services to which the demand referred to relates, the owner of the trademark shall not avert the cancellation of the registered trademark for the designated goods or designated services. However, this shall not apply where the defendant justifies that there is a legitimate reason for the failure to use the registered trademark in respect of the designated goods or designated services.

51. — (1) Where the owner of the trademark right intentionally uses a trademark similar to the registered trademark in respect of the designated goods or designated services, or intentionally uses the registered trademark or similar trademark in respect of goods or designated services similar to the designated goods or designated services in a way which may be misleading as to the quality of the goods or services or which may cause confusion with goods or serv-

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ices connected with any other person's business, any person may demand a trial for the cancellation of the trademark registration.

(2) Where a trademark registration has been cancelled under the preceding subsection, the former owner of the trademark right may not obtain a trademark registration of the same or a similar trademark, for the designated goods or designated services covered by the trademark registration or for goods or services similar thereto, until five years have elapsed since the date when the trial decision ordering cancellation became final and conclusive.

52. — The trial under Section 51(1) may not be demanded after five years from the date on which the owner of a trademark right ceased to use the trademark in the manner referred to in that subsection.

53. — (1) Where the owner of a right of exclusive or non-exclusive use uses the registered trademark or a similar trademark in respect of the designated goods or designated services or goods or services similar thereto in a way which may be misleading as to the quality of the goods or services or which may cause confusion with goods or services connected with any other person's business, any person may demand a trial for the cancellation of the trademark registration. However, this provision shall not apply where the owner of the trademark right was both unaware of the fact and taking appropriate care.

(2) Where a trademark registration has been cancelled under the preceding subsection, the former owner of the trademark right and the former owner of the right of exclusive or non-exclusive use who had used the mark in the way referred to in the preceding subsection may not obtain a trademark registration of the registered trademark or a similar trademark, for the designated goods or designated services covered by the trademark registration or for goods or services similar thereto, until five years have elapsed since the date when the trial decision ordering cancellation became final and conclusive.

(3) Section 52 shall apply *mutatis mutandis* to the trial under subsection (1).

53^{bis}. — Where a registered trademark is the trademark of a person who has the right to the trademark in a country party to the Paris Convention or a Member of the World Trade Organization or is similar to such a trademark, and the goods or services relating to such right or similar goods or services have been made the designated goods or designated services, and moreover the trademark application concerned was made, without a legitimate reason and without the authorization of the person who has the right to the trademark, by his agent or representative or by a person who was his agent or representative at any time during the year preceding the filing date of the application, the person who has the right to the trademark may demand a trial for the cancellation of its registration.

53^{ter}. — The trial under Section 53^{bis} may not be demanded after five years from the registration of the establishment of the trademark right.

54. — When a trial decision ordering cancellation of a trademark registration has become final and conclusive, the trademark right shall from that moment become extinguished.

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55. — Section 46(3) shall apply mutatis mutandis to the trials demanded under Sections 48(1), 50(1), 51(1) and 53^{bis}.

(Special provisions for trials against examiner's decision of refusal)

55^{bis}. — (1) Sections 16^{bis} and 16^{ter} of this Law and Section 17^{ter} of the Design Law shall apply mutatis mutandis to a trial under Section 44(1) of this Law. In such a case, “has demanded a trial under Section 45(1)” in Section 16^{bis}(4) shall read “has instituted an action under Section 63(1)” and “Section 16^{duodecies}” in Section 16^{ter}(1) shall read “Section 16^{duodecies} (including its application under Section 55^{bis}(2) and (3)).”

(2) Section 16^{duodecies} of this Law and Section 50 of the Patent Law shall apply mutatis mutandis where a reason for refusal which was not contained in the examiner's decision is found in the trial under Section 44(1).

(3) Sections 16, 16^{quater} to 16^{septies} and 16^{novies} to 16^{duodecies} shall apply mutatis mutandis where a demand for a trial under Section 44(1) is to be allowed. In such a case, “Director-General of the Patent Office” in Section 16^{quinquies}(2) and “examiner” in Section 16^{sexies} shall read “trial examiner-in-chief.”

(4) Where a demand for a trial under Section 44(1) is to be allowed with respect to the application for a trademark registration and has already been published, a trial decision shall be rendered without a further publication of the application, notwithstanding subsection (3).

(5) When an opposition to the grant of the trademark registration has been mailed under Section 16^{quater} as applied under subsection (3), the trial examiner in charge of the trial under Section 44(1) shall render a ruling on the opposition through a trial.

(6) Subsection (3) shall not apply where a trial decision under Section 160(1) of the Patent Law as applied under Section 56(1) of this Law is rendered.

(Application mutatis mutandis of Patent Law)

56. — (1) Sections 125, 131(1) and (2), 132, 133, 134(1), (3) and (4), 135 to 154, 155(1) and (2), 156 to 158, 160(1) and (2), 161 and 167 to 170 (effects of trial decision, demands for trial, trial examiners, trial proceeding, relationship with litigation and costs of trial) of the Patent Law shall apply mutatis mutandis to trials under this Law. In such a case, “Section 123(1) or 125^{bis}(1)” in Section 132(1), 145(1), 167 and 169(1) of the Patent Law shall read “Section 46(1), 48(1), 50(1), 53(1) or 53^{bis} of the Trademark Law,” and “Section 121(1)” in Section 161, and “Section 121(1) or 126(1)” in Section 169(3) of the Patent Law shall read “Section 44(1) or 45(1) of the Trademark Law.”

(2) Section 155(3) (withdrawal of demand for trial) of the Patent Law shall apply mutatis mutandis to the trials under Section 46(1) and 48(1).

(Application mutatis mutandis of Design Law)

56^{bis}. — Section 51 of the Design Law shall apply mutatis mutandis to a trial under Section 45(1) of this Law.

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Chapter VI — Retrial and Litigation

(Demand for retrial)

57. — (1) Any party may demand a retrial against a final and conclusive trial decision.

(2) Sections 420(1) and (2) and 421 (grounds for retrial) of the Code of Civil Procedure (Law No. 29 of 1890) shall apply *mutatis mutandis* to demands for a retrial under the preceding subsection.

58. — (1) Where the demandant and the defendant in a trial have in collusion caused a trial decision to be rendered, with the purpose of injuring the rights or interest of a third person, such person may demand a retrial against the final and conclusive trial decision.

(2) In such a retrial, the demandant and the defendant shall be made joint defendants.

(Restriction on effects of trademark right restored by retrial)

59. — Where a trademark right relating to an invalidated or cancelled trademark registration or to an invalidated registration of renewal of term has been restored through a retrial, the effects of the trademark right shall not extend to the following acts:

(i) the use in good faith of the registered trademark in respect of the designated goods or designated services after the trial decision became final and conclusive but before the registration of the demand for a retrial;

(ii) the acts mentioned in each paragraph of Section 37 performed in good faith after the trial decision became final and conclusive but before the registration of the demand for a retrial.

60. — (1) Where a trademark right relating to an invalidated or cancelled trademark registration or to an invalidated registration of renewal of term has been restored through a retrial, or where the establishment of a trademark right of the renewal of its term, under a trademark application or application for registration or renewal which was refused by a trial decision, has been registered through a retrial, and where a person has, in good faith, been using the registered trademark in Japan or a trademark similar thereto on the designated goods or designated services or goods or services similar thereto after the trial decision became final and conclusive but before the registration of the demand for a retrial and, as a result, the trademark has become well-known among consumers as indicating the goods or services as being connected with his business at the time of registration of the demand for a retrial, such person shall have a right to use the trademark in the goods or services provided that he does so continuously. The same shall apply in the case of a person who has succeeded to the business concerned.

(2) Section 32(2) shall apply *mutatis mutandis* to the preceding subsection.

60^{bis}. — (1) Section 55^{bis} shall apply *mutatis mutandis* to a retrial against the final and conclusive trial decision on a trial under Section 44(1).

(2) Section 56^{bis} shall apply *mutatis mutandis* to a retrial against the final and conclusive trial decision on a trial under Section 45(1).

— TRADEMARK LAW —

(Application mutatis mutandis of Patent Law)

61. — Section 173 (time limit for demand for retrial) and Section 174(3) and (5) (application of provisions on trial, etc.) of the Patent Law shall apply mutatis mutandis to retrials under this Law. In such case, “Section 123(1) or 125^{bis}(1)” in Section 174(3) of the Patent Law shall read “Section 46(1), 48(1), 50(1), 51(1), 53(1) or 53^{bis} of the Trademark Law.”

(Application mutatis mutandis of Design Law)

62. — (1) Section 58(2) of the Design Law shall apply mutatis mutandis to a retrial against the final and conclusive trial decision on a trial under Section 44(1) of this Law.

(2) Section 58(3) of the Design Law shall apply mutatis mutandis to a retrial against the final and conclusive trial decision on a trial under Section 45(1) of this Law.

(Actions against trial decisions, etc.)

63. — (1) An action against a trial decision or a ruling to decline an amendment under Section 16^{bis}(1) as applied under Section 55^{bis}(1) (including its application under Section 60^{bis}(1)) or an action against a ruling of dismissal of a demand for a trial or retrial shall come under the exclusive jurisdiction of the Tokyo High Court.

(2) Section 178(2) to (6) (time limit for institution of action, etc.) and Sections 179 to 182 (defendant in the action, notification of institution of action, annulment of trial decisions or ruling, and sending of certified copy of judgment) of the Patent Law shall apply mutatis mutandis to actions under the preceding subsection. In such a case, “Section 123(1) or 125(1)” in Section 179 of the Patent Law shall read “Section 46(1), 48(1), 50(1), 51(1), 53(1) or 53^{bis} of the Trademark Law.”

(Relationship between administrative appeal and litigation)

63^{bis}. — Section 184^{bis} (relationship between administrative appeal and litigation) of the Patent Law shall apply mutatis mutandis to actions for the annulment of measures (with the exception of measures under Section 77(7)) taken under this Law or an order or ordinance thereunder.

— TRADEMARK LAW —

Chapter VII — Defensive Marks**(Registrability of defensive marks)**

64. — (1) The owner of a trademark right may, when his registered trademark in respect of goods has become well-known among consumers as indicating the designated goods as being connected with his business and when the use of the registered trademark by any other person in respect of goods other than the designated goods covered by the registered trademark and goods similar thereto or services similar to the designated goods is likely to cause confusion between such goods or services and the designated goods in connection with his business, obtain a defensive mark registration of a mark identical with the registered trademark with respect to goods or services for which such possibility of confusion exists.

(2) The owner of a trademark right may, when his registered trademark in respect of services has become well known among consumers as indicating the designated services as being connected with his business and when the use of the registered trademark by any other person in respect of services other than the designated services covered by the registered trademark and services similar thereto or goods similar to the designated services is likely to cause confusion between such services or goods and designated services in connection with his business, obtain a defensive mark registration of a mark identical with the registered trademark with respect to services or goods for which such possibility of confusion exists.

(Conversion of applications)

65. — (1) An applicant may convert his application for trademark registration into an application for registration of a defensive mark.

(2) An application may not be converted under the preceding subsection after the transmittal of the ruling that the trademark application is to be published.

(3) Sections 10(3) and 11(4) shall apply mutatis mutandis to the conversion of an application under subsection (1).

(Dependence of right based on defensive mark registration)

66. — (1) Where the principal trademark right is transferred, the right based on a defensive mark registration shall be transferred together with the principal trademark right. However, if the latter right has been divided and transferred, the right based on the defensive mark registration shall be extinguished.

(2) The right based on a defensive mark registration shall be extinguished if the principal trademark right is extinguished.

(Acts deemed to be an infringement)

67. — The following acts shall be deemed to be an infringement of the principal trademark right or a right of exclusive use:

(i) use of a registered defensive mark in respect of the designated goods or designated services;

(ii) acts of holding, for the purpose of assignment or delivery, the designated goods on which or on the packaging of which the registered defensive mark has been applied;

— TRADEMARK LAW —

(iii) acts of holding or importing articles which are for use by persons to whom the services are provided and to which the registered defensive mark has been applied, in the provision of the designated services, for the purpose of using such articles in the provision of such services;

(iv) acts of assigning or delivering articles which are for use by persons to whom the services are provided and to which the registered defensive mark has been applied, in the provision of the designated services, for the purpose of causing such articles to be used in the provision of such service, or acts of holding or importing such articles for the purpose of assigning or delivering them;

(v) acts of holding goods bearing a reproduction of the registered defensive mark for the purpose of using such a mark in respect of the designated goods or designated services;

(vi) acts of assigning or delivering, or of holding for the purpose of assignment or delivery, goods bearing a reproduction of the registered defensive mark, for the purpose of causing such defensive mark to be used in respect of the designated goods or designated services;

(vii) acts of manufacturing or importing goods bearing a reproduction of the registered defensive mark for the purpose of using such defensive mark, or causing it to be used, in respect of the designated goods or designated services.

(Application mutatis mutandis of provisions on trademarks)

68. — (1) Sections 5(1) and (3), 6(1), 9^{bis} to 10 and 13(1) shall apply mutatis mutandis to applications for registration of defensive marks. In such a case “(iii) the designated goods or designated services and the class of goods or services as prescribed by Cabinet Order referred to in Section 6(1)” in Section 5(1) shall read “(iii) the designated goods or designated services and the class of goods and services as prescribed by Cabinet Order referred to in Section 6(1); (iv) the registration number of the principal trademark registration to which the application for registration of the defensive mark relates.”

(2) Sections 14 to 17^{bis} shall apply mutatis mutandis to the examination of applications for registration of a defensive mark. In such a case, “Section 3, 4(1), 7(1) or (3), 8(2) or (5), 51(2) or 53(2)” in Section 15(1) shall read “Section 64.”

(3) Sections 18, 19(1) and (2) — with the exception of paragraph (ii) of the proviso to Sections 19(2)–20, 21(1)(i) and (iii) and (2), 22, 23, 26 to 28, 32, 33, 40 to 43 and 69 shall apply mutatis mutandis to the right based on a defensive mark registration. In such a case, “has become a trademark falling under Section 4(1)(i) to (iii), (v), (vii) or (xvi)” in the proviso to Section 19(2) and “falls under paragraph (i) of the proviso to Section 19(2)” in Section 21(1)(i) shall read “is no longer registrable as a defensive mark under Section 64.”

(4) Sections 44 to 46, 53^{bis} to 54 and 55^{bis} to 56^{bis} shall apply mutatis mutandis to trials relating to defensive mark registrations. In such a case, “Section 3, 4(1), 7(1) or (3), 8(1), (2) or (5), 51(2) or 53(2)” in Section 46(1)(i) shall read “Section 64,” and “a treaty” in paragraph (iv) of the same subsection shall read “Section 64 or a treaty.”

(5) Sections 57 to 63^{bis} shall apply mutatis mutandis to retrials and litigation relating to defensive mark registrations. In such a case, “each paragraph of Section 37” in Section 59(ii) shall read “Section 67(ii) to (vii).”

— TRADEMARK LAW —

Chapter VIII — Miscellaneous Provisions

68^{bis}. — With respect to a procedure relating to a trademark application, a defensive mark application, a demand or other procedure relating to trademark or defensive mark registration, the person carrying on such procedure may make an amendment only during the pendency of the case in the examination, trial or retrial. However, he may not make an amendment to the designated goods or designated services stated in the request or the reproduction of the trademark for which registration is sought, after the transmittal of the ruling that the application is to be published, except where the amendment is permissible in accordance with Section 16^{duodécies} [including its application under Section 55^{bis}(2) or (3) (including its application under Section 60^{bis}(1) (including its application under Section 68(5)) or Section 68(4)) or Section 68(2)].

(Exceptional provisions on trademark right with two or more designated goods or designated services)

69. — (1) For the purpose of the provisions of Section 33(1) of this Law, Section 97(1) of 98(1)(i) of the Patent Law as applied under Section 35 of this Law, Section 46(2) (including its application under Section 48(2)) of this law, Section 54 of this Law, Section 125 of the Patent Law as applied under Section 56(1) of this Law, Section 132(1) of the Patent Law as applied either under Section 56(1) of this Law or under Section 174(3) of the Patent Law as applied under Section 61 of this Law, Section 59, 60 or 71(1)(i) or 75(2)(v) of this Law, relating to trademark registration of the trademark right, where there are two or more items or designated goods or designated services, the trademark registration shall be deemed to have been effected, or a trademark right shall be deemed to exist for each of such designated goods or designated services.

(2) For the purposes of the provisions of Section 59 or 60 relating to trademark registration or the trademark right, where there are two or more items of designated goods or designated services, registration of renewal of the term of the trademark right shall be deemed to have been effected for each of such designated goods or designated services.

(Exceptional provisions on trademarks, etc. similar to registered trademarks)

70. — (1) The references to “registered trademark” in paragraph (ii) of the proviso to Section 19(2) or Section 19(3), 25, 29, 30(2), 31(2), 34(1), 38(2), 50, 59(i), 64, 73 and 74 shall include trademarks which are similar to the registered trademark and would be considered identical if they had the same coloring.

(2) The references to “registered defensive mark” in Sections 4(1)(xii) and 67 shall include marks which are similar to the registered defensive mark and would be considered identical if they had the same coloring.

(3) The references to “trademark similar to the registered trademark” in Sections 37(i) and 51(1) shall not include trademarks which are similar to the registered trademark and would be considered identical if they had the same coloring.

— TRADEMARK LAW —

(Registration in Trademark Register)

71. — (1) The following matters shall be registered in the Trademark Register kept in the Patent Office:

(i) the establishment, renewal of term, transfer, modification, extinguishment or restriction on disposal of a trademark right;

(ii) the establishment, renewal of term, transfer or extinguishment of a right based on a defensive mark registration;

(iii) the establishment, maintenance, transfer, modification, extinguishment or restriction on disposal of a right of exclusive or non-exclusive use;

(iv) the establishment, transfer, modification, extinguishment or restriction on disposal of rights in a pledge upon a trademark right or a right of exclusive or non-exclusive use.

(2) The Trademark Register, either in whole or in part, may be prepared by means of magnetic tapes (including other materials on which matters can be accurately recorded by an equivalent method — hereinafter referred to as “magnetic tapes”).

(3) Other matters relating to registration that are not provided for in this Law shall be prescribed by Cabinet Order.

(Request for certification, etc.)

72. — Anyone may request the Director-General of the Patent Office to issue a certificate, a copy or an extract of documents, to allow the inspection of copying of documents or to issue documents whose contents are recorded in the part of the Trademark Register prepared by magnetic tapes, where such documents relate to trademark or defensive mark registrations. However, this provision shall not apply in the case of documents which are liable to contravene public order or morality.

(Indication of existence of trademark registration)

73. — The owner of a trademark right or of a right of exclusive or non-exclusive use shall, when applying a registered trademark to the designated goods or their packaging, or to articles for use in the provision of the designated services, or in the provision of the designated services, to articles related to the provision of relevant designated services belonging to persons to whom the services are provided, take steps to attach to the trademark an indication to the effect that the trademark is a registered trademark (hereinafter referred to as “indication of trademark registration”) as prescribed in an ordinance of the Ministry of International Trade and Industry.

(Prohibition of false marking)

74. — No person may commit any of the following acts:

(i) acts of attaching to such trademark an indication of a trademark registration or an indication confusingly similar thereto when using a trademark which is not a registered trademark;

(ii) acts of attaching to such trademark an indication of a trademark registration or an indication confusingly similar thereto when using a registered trademark in relation to goods or services other than the designated goods or designated services;

(iii) acts of holding, for the purpose of assignment or delivery, goods to which or to the packaging of which a trademark other than a registered trademark has been attached, which are other than the designated goods to which or to the packaging of which a trademark registered

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in relation to goods has been attached, or to which or to the packaging of which a trademark registered in respect to services has been attached, and in respect of which an indication of a trademark registration, or an indication confusingly similar thereto, has been attached to such trademark;

(iv) acts of holding, in the provision of services, articles which are for use by persons to whom the services are provided and to which a trademark other than a registered trademark has been applied, which, in the provision of services other than the designated services, are for use by persons to whom the services are provided and to which a trademark registered in respect to services has been applied, or which, in the course or providing services are to be supplied for use by persons to whom the services are provided and to which a trademark registered in respect to goods has been applied, and in respect of which an indication of a trademark registration, or an indication confusingly similar thereto, has been attached to such trademark (such articles being referred to in the next paragraph as “articles with a false indication of trademark registration in respect to services”);

(v) acts of assigning or delivering, or of holding or importing for the purpose of assignment or delivery, articles with a false indication of trademark registration in respect to services, for the purpose of causing such articles to be used in the provision of such services.

(Trademark Gazette)

75. — (1) The Patent Office shall publish the Trademark Gazette (*Shōhyō Kōhō*).

(2) In addition to the particulars provided for in this Law, the Trademark Gazette shall contain:

(i) examiner’s decisions of refusal, or abandonment, withdrawal or invalidation of an application for a trademark registration, after the publication of the application;

(ii) successions to the right deriving from an application for a trademark registration after the publication of the application;

(iii) rulings, made after the publication of the application, to decline an amendment under Section 16^{bis}(1) [including its application under Section 55^{bis}(1) (including its application under Section 60^{bis}(1) (including its application under Section 68(5)) or Section 68(4)) or Section 68(2)];

(iv) amendments, made after publication of the application, to the designated goods or designated services stated in the request or to the reproduction of the trademark for which registration is sought;

(v) extinguishment of trademark rights (excluding extinguishment due to expiration of term);

(vi) demands for a trial or retrial or withdrawals thereof, or final and conclusive decisions of a trial or retrial;

(vii) final judgments in an action under Section 63(1).

(Fees)

76. — (1) The person specified hereunder shall pay the fee the amount of which shall be prescribed by Cabinet Order with the actual costs taken into consideration:

(i) person making notification of succession in accordance with Section 34(4) of the Patent Law as applied under Section 13(2) of this Law;

(ii) person requesting extension of time limit under Section 16^{quinquies}(2) [including its application under Section 55^{bis}(3) (including its application under Section 60^{bis}(1) (including its

application under Section 68(5)) or Section 68(4)) or Section 68(2)], Section 17^{quater} of the Design Law as applied under Section 17^{bis}(2) (including its application under Section 68(2)) of this Law, Section 4 or 5(1) of the Patent Law as applied under Section 41(3) (including its application under Section 68(3) or 77(1) of this Law, or change of date in accordance with Section 5(2) of the Patent Law as applied under Section 77(1) of this Law;

- (iii) person requesting issuance of certificate in accordance with Section 72;
- (iv) person requesting issuance of copy or extract of documents in accordance with Section 72;
- (v) person requesting inspection or copying of documents in accordance with Section 72;
- (vi) person requesting issuance of documents containing matters recorded in that part of the Trademark Register as prepared on magnetic tape, in accordance with Section 72.

(2) The persons specified in the left-hand column of the attached table shall pay the fee the amount of which shall be prescribed by Cabinet Order within the limit of the amounts specified in the right-hand column of the table.

(3) The two preceding subsections shall not apply where the person specified in the left-hand column of the table is the State.

(4) The payment of the fee under subsection (1) or (2) shall be made by patent revenue stamps as prescribed by an ordinance of Ministry of International Trade and Industry.

(5) A fee paid by mistake or in excess shall be refunded upon the request of the person making the payment.

(6) No request for a refund of a fee under the preceding subsection may be made after one year from the date of payment.

(Application mutatis mutandis of Patent Law)

77. — (1) Sections 3 to 5 (time limits and dates) of the Patent Law shall apply mutatis mutandis to the time limits and dates prescribed in this Law. In such a case, “Section 121(1)” in Section 4 of the Patent Law shall read “Section 44(1) or 45(1) of the Trademark Law,” and “examiner-in-chief” in Section 5(2) of the Patent Law shall read “examiner-in-chief or examiner.”

(2) Sections 6 to 16, 17(3) and (4), 18 to 24 as well as Section 194 (proceedings) of the Patent Law shall apply mutatis mutandis to trademark and defensive mark applications, demands and any other proceedings relating to trademark or defensive mark registrations. In such a case, “Section 121(1)” in Section 9 of the Patent Law shall read “Section 44(1) or 45(1) of the Trademark Law,” and “Section 121(1)” in Section 9 of the Patent Law shall read “44(1) or 45(1) of the Trademark Law.”

(3) Section 25 (enjoyment of rights by aliens) of the Patent Law shall apply mutatis mutandis to trademark rights and other rights relating to trademark registrations.

(4) Section 26 (effect of treaties) of the Patent Law shall apply mutatis mutandis to trademark and defensive mark registrations.

(5) Sections 189 to 192 (transmittal) of the Patent Law shall apply mutatis mutandis to transmittal under this Law.

(6) Section 195^{ter} of the Patent Law shall apply mutatis mutandis to measures under this Law or an order or ordinance thereunder this Law.

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(7) Section 195^{ter} (restriction on appeals under the Administrative Appeal Law) of the Patent Law shall apply mutatis mutandis to rulings to decline an amendment, examiners' decisions, trial decisions and rulings of dismissal of a demand for trial or retrial under this Law as well as to measures from which no appeal lies under this Law.

(Transition Provisions)

77^{bis}. — When Cabinet Order is made or repealed pursuant to the provisions of this Law, any requisite transitional provisions (including penal provisions) may, to the extent deemed necessary and reasonable, be made by means of such Cabinet Orders.

— TRADEMARK LAW —

Chapter IX — Penal Provisions**(Offense of infringement)**

78. — Any person who has infringed a trademark right or a right of exclusive use shall be liable to imprisonment with labor not exceeding five years or to a fine not exceeding 500,000 yen.

(Offense of fraud)

79. — Any person who has obtained a trademark or defensive mark registration or a registration of renewal of the term of a trademark right or right based on a defensive mark registration, or a trial decision, by means of a fraudulent act shall be liable to imprisonment with labor not exceeding three years or to a fine not exceeding 200,000 yen.

(Offense of false marking)

80. — Any person infringing Section 74 shall be liable to imprisonment with labor not exceeding three years or to a fine not exceeding 200,000 yen.

(Offense of perjury, etc.)

81. — (1) A witness, expert witness or interpreter who, having taken an oath under this Law, has made a false statement or has given a false expert opinion or has interpreted falsely before the Patent Office or a court commissioned thereby shall be liable to imprisonment with labor for a term of not less than three months nor more than ten years.

(2) Where a person committing the offense in the preceding subsection has made a voluntary confession before the examiner's decision or trial decision concerning the case has become final and conclusive, his sentence may be reduced or suppressed.

(Dual liability)

82. — Where an officer representing a legal entity or a representative, employee or any other servant of a legal entity or of a natural person has committed an act in violation of Sections 78 to 80, with regard to the business of the legal entity or natural person, the legal entity of the natural person shall, in addition to the offender, be liable to the fine prescribed in those sections.

(Administrative penalties)

83. — Where a person who has taken an oath under Section 267(2) or 336 of the Code of Civil Procedure — as applied under Section 151 of the Patent Law as applied either under Section 160^{ies} (including its application under Section 68(2)) or 56(1) (including its application under Section 68(4)) of this Law, under Section 174(3) of the Patent Law as applied under Section 61 (including its application under Section 68(5)) of this Law or under Section 58(2) of the Design Law as applied under Section 62(1) (including its application under Section 68(5)) of this Law or under Section 58(3) of the Design Law as applied under Section 62(2) (including its application under Section 68(5)) of this Law — and has made a false statement before the Patent Office or a court commissioned thereby, he shall be liable to an administrative penalty not exceeding 100,000 yen.

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84. — Where a person who has been summoned by the Patent Office or a court commissioned thereby in accordance with this Law has failed to appear or has refused to take an oath, to make a statement, to testify, to give an expert opinion or to interpret, without a legitimate reason, he shall be liable to an administrative penalty not exceeding 100,000 yen.

85. — Where a person who has been ordered by the Patent Office or a court commissioned thereby to produce or show documents or other evidence in accordance with the provisions of this Law relating to the examination or preservation of evidence has failed to comply with the order, without a legitimate reason, he shall be liable to an administrative penalty not exceeding 100,000 yen.

Supplementary Provision
(Law No. 127 of 1959)

The entry into force of this Law shall be established by another law.

.....

Supplementary Provisions
(Extract from Law No. 91 of 1970)

(Entry into force)

1. — This Law shall enter into force on January 1, 1971.

.....

(Transitory measures incident to revision of Trademark Law)

8. — Sections 2 and 5 of these Supplementary Provisions shall apply mutatis mutandis to the transitory measures that are incident to the revision of the Trademark Law under Section 4.

(Delegation to Cabinet Order)

9. — In addition to those provided for in the preceding sections, the transitory measures necessary for the implementation of this Law shall be prescribed by Cabinet Order.

Supplementary Provisions
(Extract from Law No. 46 of 1975)

(Entry into force)

1. — This Law shall enter into force on January 1, 1976, with the following exceptions:

(i) amended Section 40(1) and (2), and the amended table attached to the Trademark Law shall enter into force on the day of promulgation of this Law;

(ii) amended Sections 4(1)(ii) and 9(1) of the Trademark Law, shall enter into force on the day on which become effective the provisions of Articles 1 to 12 of the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December

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14, 1900, at Washington on June 2, 1911, at the Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958 and at Stockholm on July 14, 1967, in accordance with Article 20(2)(c) of said Paris Convention;

(iii) amended Section 19(2), newly added Section 19(3), newly added Section 20^{bis}, and amended Sections 21(1), 49, 68(3) and 70(1) of the Trademark Law, and Section 5(2) of these Supplementary Provisions shall enter into force on the day on which three years counting from the day of promulgation of this Law have elapsed.

.....

(Transitory measures incident to revision of Patent Law)

2. — (1) A patent application which is pending in the Patent Office at the time of entry into force of this Law shall, except for the fee to be paid in accordance with Section 195(1) of the Patent Law after its revision, be dealt with as heretofore until the examiner's decision or trial decision with respect to the application which has become final and conclusive.

(3) The grounds for invalidation of a patent resulting from a patent application filed before the entry into force of this Law shall be as heretofore.

(Transitory measures incident to revision of Trademark Law)

5. — (1) A trial under Section 50(1) of the Trademark Law which is pending in the Patent Office at the time of entry into force of this Law shall be dealt with as heretofore.

(2) Section 2(1) of these Supplementary Provisions shall apply *mutatis mutandis* to an application for registration of renewal of the term of a trademark right which is pending in the Patent Office at the time of entry into force of paragraph (iii) of the proviso to Section 1 of these Supplementary Provisions, and Section 2(3) of these Supplementary Provisions shall apply *mutatis mutandis* to the grounds for invalidation of a registration of renewal of the term of a trademark right resulting from an application for registration of renewal filed before the day on which three years counting from the day of promulgation of this Law have elapsed.

Supplementary Provisions

(Extract from Law No. 45 of 1981)

(Entry into force)

1. — This Law shall enter into force from the day of promulgation. . . . However, . . . the amended provisions of Section 107(1) of the Patent Law, the amended provisions of Section 31(1) of the Utility Model Law, the amended provisions of Section 42(1) and (2) of the Design Law, the amended provisions of Section 40(1) and (2) of the Trademark Law . . . shall enter into force on June 1, 1981.

— TRADEMARK LAW —

Supplementary Provisions

(Extract from Law No. 41 of 1985)

(Entry into force)

1. — This Law shall enter into force on the day to be set by Cabinet Order within six months from the day of promulgation. . . .

Supplementary Provisions

(Extract from Law No. 27 of 1987)

(Entry into force)

1. — This Law shall enter into force on January 1, 1988.

However, the following provisions shall enter into force on June 1, 1987:

. . . . Section 40 and “Attached Table” (Related to Section 76).

Supplementary Provisions

(Extract from Law No. 30 of 1990)

(Entry into force)

1. — This Law shall enter into force on December 1, 1990.

Supplementary Provisions

(Extract from Law No. 65 of 1991)

(Entry into force, etc.)

1. — This Law shall come into force as of a day* to be determined by Cabinet Order within a period not exceeding one year counting from the day of promulgation. However, the provisions for amending Section 9, the provisions for adding a further Section after Section 9, the provisions for amending Sections 37 and 67 as well as a part of the provision for amending Section 68(1) to add the words “Section 9bis” after “Section 6(1),” and the provisions of Section 14(2) of the Ancillary Provision shall come into force as of a day the elapsing of six months** from the day on which this Law comes into force, and the provisions of Sections 37 and 67 of the amended Trademark Law (hereinafter referred to as “the new Law”) shall apply to acts subsequent to that day.

* April 1, 1992.

** October 1, 1992.

— TRADEMARK LAW —

Supplementary Provisions
(Extract from Law No. 26 of 1993)

(Entry into force)

1. — This Law shall come into force as of a day to be determined by Cabinet Order within a period not exceeding one year counting from the day of promulgation.

Supplementary Provisions
(Extract from Law No. 116 of 1994)

(Entry into force)

1. — This Law shall enter into force on July 1, 1995. However, the provisions indicated in the following paragraphs shall enter into force on the date specified respectively in the said paragraphs:

(i) The amended provisions of Section 30(3) of the Patent Law prescribed in Section 1; the provisions prescribed in Section 5 (excluding the amended provisions of Sections 10(3), 13(1), 44(2) and 63^{bis} of the Trademark Law); and the provisions prescribed in Section 9:

— July 1, 1995 or the day on which the Marrakesh Agreement Establishing the World Trade Organization become effective in Japan . . . whichever is later;

(ii) The provisions prescribed in Section 2; the amended provisions of Section 3^{bis}(1) (limited to the part amending “publication of application” into “publication of the Patent Gazette containing the matters referred to in each paragraph thereof”), 10(5) and (6), 14(4) and 39(3), the amended provisions of Section 45 (excluding the part adding a subsection to this section), the amended provisions of Section 50^{bis} (limited to the part amending “Section 174(2)” into “Section 174(3)” and “Section 193(2)(v)” into “Section 193(2)(iv)”), the amended provisions of Section 53(2) and the amended provisions of Section 62, of the Utility Model Law;

the amended provisions of Sections 13(3), 19, 58, 68(1) and 75 of the Design Law;

the provisions prescribed in Section 6;

the amended provisions of the Patent Attorney Law prescribed in Section 7; and

the provisions of Sections 8, 9, 10(2), 17 and 19:

— January 1, 1996.

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Attached Table
(Related to Section 76)

Person liable to pay	Amounts
1. Person filing application for trademark registration, defensive mark registration, or renewal of term of trademark right or right based on defensive mark registration.	¥21,000 per case (¥43,000 in the case of a trademark application relating to an associated trademark)
2. Person filing opposition to grant of registration	¥11,000 per case
3. Person requesting interpretation in accordance with Section 28(1) (including its application under Section 68(3))	¥40,000 per case
4. Person demanding trial or retrial	¥55,000 per case
5. Person demanding intervention in trial or retrial	¥55,000 per case