

ARGENTINA

Trademarks Regulation

Decree No. 558/81 of March 24, 1981

ENTRY INTO FORCE: April 9, 1981

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1.

Goods and services shall be classified according to the following classification:

(not reproduced here)

2.

The National Board of Industrial Property may classify goods and services that are not expressly identified in the classification specified in Section 1. The nature of the product or service shall be given principal importance in order that it may be included in the classes in which similar goods or services are classified. Such classification shall be published in the Trademark Gazette issued by the National Board of Industrial Property.

Without prejudice to the provisions of the preceding paragraph, the National Board of Industrial Property shall, for the classification of goods and services, abide by what is laid down in the Explanatory Notes that appear in the Annex to this Decree.

(The Annex is not reproduced here.)

3. Fees

Procedures before the National Board of Industrial Property shall be subject to the payment of the following fees:

(not reproduced here)

The Secretary of State for Industrial Development shall be authorized to bring the amounts of fees up to date as provided in Section 47 of the Law, and to impose fees for any new services that may be introduced.

4.

No action shall be taken in any procedure where the corresponding application is not accompanied by proof of payment of the prescribed fee.

5. Filing of Applications and Opposition

The filing of applications for the registration and renewal of trademarks and the filing of instruments of opposition may be effected in National Provinces and Territories at the post offices that shall have been specified in the corresponding Regulations.

6.

The Head of the Trademark Department of the National Board of Industrial Property shall issue a register to postmasters in which a record shall

be entered of the application filed, provided that the parties concerned effect the filing in the manner laid down by the Law.

The registers shall be initialed and their pages numbered by the National Board of Industrial Property.

7.

Within two days of filing, the postmaster shall address to the National Board of Industrial Property an authenticated copy of the entry concerned, with certification of a commitment to pay the prescribed fee, and the descriptions, drawings and printing blocks if any.

This documentation shall be committed on receipt to the appropriate register, and the period provided for in Section 12 shall begin.

8. Application for Registration and Renewal; Registration Procedure

Where the applicant is a legal entity, there shall be filed, together with the particulars provided for in Section 10 of the Law, a mention of its registration with the appropriate registries or bodies pursuant to the provisions governing its constitution.

9.

Where appropriate, two printing blocks shall be filed together with the application for registration. The printing blocks shall be of metal or wood and shall permit the mark to be printed clearly and in detail; their dimensions shall not exceed eight centimeters in height by ten centimeters in width. The printing blocks shall be used for the publications specified in Sections 12 and 45 of the Law.

In the case of renewal, only one printing block needs to be filed.

10.

Where the mark is constituted entirely or partly by a drawing, picture or engraving, a facsimile shall be pasted to the descriptions. Ten separate facsimiles shall also be filed.

The facsimiles shall be printed in one color only.

11. Examination of Applications and Registration Procedure

The applicant shall be issued a receipt which shall indicate the mark and the date, time and serial number of filing, the name of the applicant, the goods or services to be identified and the corresponding class. An identical receipt shall be issued by the postmaster.

12.

Within ten days of filing, the application shall be examined to ascertain whether it has been filed in the appropriate class and whether it complies with the formalities specified in Section 10 of the Law, and the applicant shall be informed of the outcome within the following five days. If the application is incorrectly classified, the Board's finding and any background circumstances shall also be notified.

The applicant shall have a period of ten days within which to make the appropriate correction or contest the decision. Within ten days following expiry of that period, publication shall be ordered or a rejection decision pronounced, as the case may be.

13.

Publication of the application shall include the name of the applicant, the date of filing, the goods or services to be identified, the class to which they belong, the serial number of the filing, any priority claimed and, where applicable, the registration number of the industrial property agent entrusted with the filing of the application.

14.

The instrument of opposition shall be filed in duplicate. The opponent shall be issued a receipt bearing the date of filing.

15.

Within 15 days following expiry of the period specified in Section 13 of the Law, the applicant shall be informed of the anticipations cited, grounds for opposition put forward and any other observations made on the subject of the registration of the trademark, together with a copy of the instrument of opposition, which shall specify the date of its filing.

16.

If there are only observations that militate against the grant of registration, the applicant shall have a period of 90 days following notification within which to reply to the observations and make the appropriate corrections. Following such reply or, if there is no reply, on expiry of the period, the National Board of Industrial Property shall have 90 days within which to conclude the case.

17.

Within five days following its receipt, the communication referred to in Section 18 of the Law shall be submitted to the applicant, who shall

have ten days within which to comment on anticipations cited and reply to any other observations regarding the application. If the applicant effects the communication himself, he shall give his comments and replies on presenting it.

The National Board of Industrial Property shall conclude the case within 90 days following the reply to the submission or following expiry of the period for such reply.

18. Notifications

The decision rejecting the application shall be notified to the applicant within five days of being pronounced.

19.

Where trademark applications are withdrawn or abandoned, the applicant shall be notified of the serial number and date of the decision within five days of its being pronounced.

20.

When registration is granted, the applicant shall be informed that he has to collect the certificate of grant within ten days; if he fails to do so, the file shall be committed to the archives.

21.

Notifications under this Decree shall be made in accordance with the provisions of the Law on Administrative Procedures and its regulatory provisions, or by registered letter with a request for advice of receipt. All periods provided for in this Decree shall be counted in elapsed days.

22. Abstention from Judicial Proceedings

Where the parties decide to abstain from judicial action, they shall do so in writing either together or separately. Within ten days of receipt of the declarations of abstention from both parties, a period of ten days shall be allowed for each party to make a submission and to offer whatever proof he may consider relevant. Such proof shall be produced within 30 days of having been offered and, on expiry of that period, a final decision shall be issued within the following 90 days.

23. Recording of Transfers

For the registration of a change of ownership or the transfer of a registration or application, the following shall be filed:

(a) a request, which shall give the names and addresses of the assignor and assignee, the serial number of the grant in the register and a copy of the documents attesting the transfer or change of ownership; the assignee shall elect domicile in the Federal Capital for this purpose; the transfer may be effected by means of the form drawn up for that purpose by the National Board of Industrial Property;

(b) the certificate of trademark registration, or a new certificate attesting such registration;

(c) proof of payment of the fee.

24. Requests for New Certificates

In order to obtain a new certificate attesting the grant of registration, the person concerned shall file a request accompanied by a copy of the description, together with proof of payment of the appropriate fee.

When more than one certificate is requested for the same registration, it shall be permissible to make a single request, which shall be accompanied by as many copies of the descriptions as certificates are required, and the appropriate fee shall be paid for each such certificate.

At the request of any interested party, a certificate shall be issued that states the name of the mark, the goods that it identifies, the dates and serial numbers of the application and registration, the name of the owner and any other particulars that may be requested on the dealings associated with the file concerned.

25. Advertising

The certificate of registration granted to the owner of a mark consisting of an advertising slogan shall contain the mention *marca de frase publicitaria* (slogan mark). The same mention shall be included in certificates for marks consisting of an advertising slogan or any other word or sign that is or may be registered individually as a mark.

26. Publications

The publication of applications for registration shall be made in the Trademark Gazette issued by the National Board of Industrial Property. At the request of the interested party and at his expense, the Gazette shall publish a notice of renunciation of a registered mark.

27.

The publication provided for in Section 45 of the Law shall be made in the Review (*Revista*) published by the National Board of Industrial Property.

28.

The publication provided for in Section 45 of the Law shall record the mark, the serial number of the decision regarding registration, abandonment, withdrawal or refusal, as the case may be, and, in correlative order, the name of the owner, the goods or services identified, the class to which the mark belongs and, where applicable, the registration number of the industrial property agent entrusted with the proceedings.

In the case of transfer, the publication shall state only the name of the new owner, the registration number, the appropriate class, the date of the entry and, where applicable, the registration number of the industrial property agent entrusted with the proceedings.

29.

The costs occasioned by the publications provided for in the Law shall be covered by the appropriate credits in the special account for the State Secretariat for Industrial Development, National Board of Industrial Property, Services Rendered on Request, into which sums collected for such services shall be paid.

The State Secretariat for Industrial Development shall set the prices of publications and the selling price of the Trademark Gazette and of the monthly Review, which shall not be higher than the tariff of the Official Gazette for comparable services.

30. Applicants and Agents

The following may conduct dealings with the National Board of Industrial Property:

- (a) applicants, whether natural persons or legal entities;
- (b) their agents with general powers of attorney;
- (c) registered industrial property agents.

31.

When the industrial property agent is acting as authorized representative, he is not required to file the appropriate power of attorney except where he is requested to do so by an interested party or by the National Board of Industrial Property.

If the agent is acting as business manager, he shall obtain a power of attorney within 60 days and shall include it in the file concerned; failing that, his status as business manager must be confirmed.

32.

The National Board of Industrial Property shall be authorized to enact purely procedural provisions concerning the conduct of business arising from the implementation of this Decree.

33.

The Decree of December 5, 1900, regulating Law No. 3.975, the Decree of July 30, 1912, establishing the classification of goods, and Decrees Nos. 4.065/32, 68.514/35, 111.715/37, 7.309/61 and 10.261/61 are hereby repealed.

34.

The Resolutions of the Ministry of Agriculture of June 14, 1912, August 21, 1912, May 12, 1915, January 20, 1926, June 18, 1932, April 29, 1935, and No. 418 of April 11, 1938, are hereby repealed, as are Resolution No. 307/60 of the State Secretariat for Industry and Mining, Resolution No. 133/79 of the State Secretariat for Industrial Development, and Rulings Nos. 4/56, 4/60, 3/61 and 9/62 of the National Board of Industrial Property.

35.

The above shall be communicated, published, conveyed to the National Board of Official Registration and placed on record.