

Part 11: Article 4(1)(xiii) (Another Person's Trademark Where One Year Has not Elapsed Since the Date of Extinguishment of the Trademark Right)

is a trademark of another person (excluding those which had not been used by the said person for a period of one year or longer from the date the trademark right became extinguished) the right to which has been extinguished for a period of shorter than one year from the date of the extinguishment of the said trademark right (or the date on which a ruling to the effect that the trademark registration is to be rescinded or a trial decision to the effect that the trademark registration is to be invalidated is rendered, the same shall apply hereinafter) or a trademark similar thereto, if such a trademark is used in connection with the designated goods or designated services in connection with the trademark right of such other person or goods or services similar thereto;

1. This paragraph needs to be carefully applied as the term of a registered trademark right can be renewed upon a request for the registration of a renewal of the term filed under Article 20(3) or Article 21(1) even after the expiration of its term.

2. This provision of this paragraph does not apply in case where a demandant for a trial for the invalidation of a registered trademark right under Article 53-2, after receiving a trial decision that the trademark right is to be invalidated, files an application for a trademark registration with respect to a trademark identical with or similar to the invalidated trademark and the designated goods or designated services identical with or similar to the designated goods or designated services of the invalidated trademark (Refer to Article 4(4)).