

Chapter VIII: Article 8  
(Prior application)

Article 8

(1) Where two or more applications for trademark registration relating to identical or similar trademarks which are to be used in connection with identical or similar goods or services have been filed on different dates, only the applicant who filed the application for trademark registration on the earlier date shall be entitled to register the trademark in question.

(2) Where two or more applications for trademark registration relating to identical or similar trademarks which are to be used in connection with identical or similar goods or services have been filed on the same date, only one applicant who is to be determined by consultations among the applicants who filed such applications shall be entitled to register the trademark in question.

(3) Where an application for trademark registration is abandoned, withdrawn or dismissed, or an examiner's decision or a trial decision on an application for trademark registration becomes final and binding, such application shall, for the purposes of the application of the preceding two paragraphs, be deemed never to have been filed.

(4) In the case of paragraph (2) , the Commissioner of the Patent Office shall require the applicants for trademark registration to arrange consultations among the applicants as set forth in the said paragraph and to report the result thereof, designating a reasonable time limit for such purpose.

(5) Where no agreement is reached in the consultations held pursuant to paragraph (2) or no report is submitted within the designated time limit set forth in the preceding paragraph, only one applicant, selected by a lottery in a fair and just manner conducted by the Commissioner of the Patent Office, shall be entitled to register the trademark in question.

1. Where more than one application for trademark registration are filed on the same date for a mutually same or similar trademark, all the applications will be ordered to hold consultations as prescribed in Article 8(4), along with notice of the reasons of refusal provided in Article 8(2) and (5).

However, this is not the case when a written statement indicating whether an agreement has been reached or not under consultation provided for in Article 8(2) has already been submitted.

2. When a written statement stating that the consultation has failed to determine the single applicant for trademark registration is submitted or no written statement under the preceding paragraph is submitted within the designated time ordered by the Commissioner of the Patent Office, the date of a drawing lot will be fixed by the Commissioner.

3. When an agreement is reached through such consultations and after the trademark is registered for the single applicant related to the trademark, a decision of refusal will be made under Article 8(2) in respect of the other applications. When a single applicant has been determined through the drawing of lots, a decision of refusal will be made under Article 8(5) in respect of the other applications after the trademark is registered for the single applicant related to the trademark.

4. The results of the consultation needs to be submitted, for example, in a form, Form 1, "Notification of Result of Consultations under Article 8(4) of the Trademark Act" (Form 2 "Results of Consultation" for applications after January 1, 2000), an example of which is presented below. When an agreement has been reached for the applicant to register the trademark, a statement proving the agreement reached through consultation must also be submitted, with its example presented below.

Form 1 (For applications prior to December 31, 1999)

**Notification of Result of Consultations under Article 8(4) of Trademark  
Act**

(Date)

To: The Commissioner of the Patent Office

1. Indication of Case:

Application for Registration of Trademark No.

2. Applicant (Identification No.)

Domicile (Residence) :

Name : (Seal)

3. Agent (Identification No.)

Domicile (Residence):

Name : (Seal)

4. Date of Order for Consultations:

5. Parties to Consultations

Domicile (Residence):

Name : (Seal)

(Application for Registration of Trademark No.

6. Result of Consultations

7. List of Documents Attached

(1) Statement Proving Agreement Reached through Consultations ...1

(2)



Example of Statement Proving Agreement Reached through Consultations

<b>Statement Concerning Consultations</b>		(Date)
Application for Registration of Trademark Nos. and Their Applicants		
(1) Application for Registration of Trademark No.		
(International Registration No.            )		
Applicant		
Domicile (Residence):		
Name :		(Seal)
(2) Application for Registration of Trademark No.		
(International Registration No.            )		
Applicant		
Domicile (Residence):		
Name :		(Seal)
Through consultations conducted between the above applicants under Article 8(2) of the Trademark Act, the applicant below has been selected as a person entitled to have his trademark registered.		
Selected Application for Registration of Trademark No.		
(International Registration No.            )		
Applicant		
Domicile (Residence):		
Name :		(Seal)

\* The “Application for Registration of Trademark No.” must be listed as follows:  
“(Year) Application for Trademark Registration No. OOOOOO,” “Application for Trademark Registration No. OOOO-OOOOOO,” “International Registration No. OOOOOOO,” or “International Registration No. OOOOOOO for which subsequent designation has been made on (date).”