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A Trial for Rescission to Prevent Confusion Arising from Transfer of Similar Trademark

1. Purpose

This trial for rescission system was established as one of the measures to secure prevention of confusion in response to the abolishment of the associated trademark system, as a result of which it became possible to divide and transfer a similar trademark, as well as to divide and transfer a trademark right with respect to goods and services which have a similar relationship.

(Revised in 1996 "Law No. 68 of 1996")

2. Outline

(1) Where trademark rights which are in conflict with one another become owned by different holders of trademark rights as a result of transfer of trademark right, if the holder of trademark right of one of the registered trademarks uses, for the purpose of unfair competition, the registered trademark for its designated goods or designated services in a manner that causes confusion in connection with the goods (services) pertaining to the business of the holder of trademark right, exclusive right to use, or non-exclusive right to use of the other registered trademark, any person may file a request for a trial for rescission of the trademark registration (Trademark Act Article 52-2).

(2) This trial for rescission may not be requested after a lapse of five years from the date on which the holder of trademark right ceased to use the trademark in the manner provided in the Trademark Act Article 52-2 (Trademark Act Article 52-2 (2) → Trademark Act Article 52).

(3) Where a trial decision to the effect that the trademark registration is to be rescinded becomes final and binding, the trademark right shall become extinguished thereafter (Trademark Act Article 54 (1)).

(4) A holder of the trademark right who is given the trial decision to the effect that the trademark registration is to be rescinded may not be granted a registration of the same trademark or of a

trademark similar thereto in connection with the designated goods or designated services for which the trademark registration has been rescinded, or in connection with goods or services similar thereto, until after a lapse of five years from the date of the trial decision becomes final and binding (Trademark Act Article 52-2 (2) → Trademark Act Article 51 (2), Trademark Act Article 15 (1)).

(Revised Feb. 2015)