

FINLAND
Trademarks Decree

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Chapter I The Trademark Register

Section 1 [Repealed]

Section 2

The Finnish Patent and Registration Office shall enter a trademark into the Trademark Register once the mark has been registered. The following particulars shall be registered:

- 1) the number and filing date or the date deemed to be the filing date of the trademark application;
- 2) the registration number and the date of registration;
- 3) the name or trade name and the domicile of the proprietor;
- 4) the classes of goods or services and the goods or services covered by the registration;
- 5) a note concerning a collective mark, where applicable;
- 6) an indication of the fact that the registration has no legal effect;
- 7) an entry under section 56g, paragraph 2, of the Trademarks Act (7/1964);
- 8) an entry concerning a measure pursuant to section 56i, paragraph 2, section 56j, paragraph 2, or section 57a of the Trademarks Act;
- 9) an entry concerning a measure pursuant to section 52 of the Trademarks Act;
- 10) an entry concerning the fact that the registration or an application therefor has been divided from an earlier application or registration and the number of the earlier application or registration. Exclusion from protection referred to in section 15 of the Trademarks Act (disclaimer) and a right of priority referred to in section 18 and 30 of the same law shall also be recorded in the register. Similarly, an entry shall be made of the colours of the mark and, at the discretion of the authority, of other description of the trademark.

If the proprietor of the trademark is not domiciled in Finland, the representative of the proprietor shall be entered in the register. The representative shall be recorded also in other cases where considered appropriate by the registering authority.

Section 3

An application for renewal of registration shall be recorded in the register without delay by indicating the filing date. Once a decision has been taken on the case, the decision shall be entered in the register. If the renewal of the trademark is granted for another party than the person last entered in the register as the proprietor,

particulars concerning the new proprietor shall be recorded at the same time.

When a registration, under paragraph 4 of section 22 of the Trademarks Act, is renewed by paying a renewal fee, an entry of the renewal shall be made in the register.

If an application referred to in section 17a of the Trademarks Act for division of a registration has been filed, an entry of the fact shall promptly be made in the register. Once the matter has been decided on, the decision shall be entered in the register.

Section 4

When a trademark is deleted from the register under sections 24 to 26 or section 31 of the Trademarks Act, the date of and reason for the measure shall be recorded in the register.

Section 5

Once a request is made under section 33 or 34 of the Trademarks Act that the assignment of a trademark or the grant of a license be recorded in the register, an entry of the fact shall without delay be made in the register. Once the registering authority has taken a decision on the case, the decision shall be entered in the register. If the request is granted, an entry shall be made of the name or trade name and the domicile of the new proprietor or of the licensee and of the date of the assignment or license agreement. In respect of license agreements, the registering authority shall, according to its discretion in each separate case, record the restrictions on the rights of the license holder stated in the license agreement.

A request for entry in the register of a mortgage agreement under section 33, paragraph 3, of the Trademarks Act shall be recorded in the register and a decision taken without delay on the case. The decision and the date thereof shall be recorded in the register and, if the request is granted, also the name or trade name and the domicile of the mortgage holder as well as the date of the mortgage agreement and the date at which the mortgage right was established.

When it is shown that a license or mortgage right has expired, an entry of the fact shall be recorded in the register with indication of the date of and reason for the measure.

An entry shall also be made in the register of an assignment of a trademark to another party in other case than the one referred to in paragraph 1.

Section 6

Entries shall also be made in the register of decisions and measures other than those referred to in sections 2 to 5 taken by the Finnish Patent and Registration Office in respect of a registered trademark as well as of court decisions communicated to the registering authority in trademark cases other than the one referred to in section 4, if the decision, measure or court decision directly relates to the Trademark Register.

Section 6a

A copy shall be given to the applicant of register entries other than those referred to in paragraph 2 of section 3 as a document of the registration.

Chapter II Applications in trademark matters

Section 7

An application in a trademark matter shall be filed in writing and be signed by the applicant or his representative. A certified translation into Finnish or Swedish shall be submitted to the registering authority of an accompanying document in a foreign language constituting part of the application, if the authority so demands.

Section 8

When registration is sought, a separate application shall be filed in respect of each trademark. The same procedure shall be followed if an application concerns other measures to be taken in respect of a trademark.

If the applicant wishes to extend the registration to cover goods of other art than those referred to in the application, he shall file a separate application to that effect.

Section 9

An application for trademark registration shall contain the following particulars:

- 1) the name or trade name and the domicile and address of the applicant;
- 2) if the applicant has appointed a representative, the representative's name, domicile and address;
- 3) the trademark presented in the form of a figure, words, letters or numerals, or as a graphical representation of the shape of the goods or their packing; and
- 4) an indication of the goods or services for which the registration of the mark is requested and an indication of the class in which the article or service, according to the applicant, in each separate case is to be classified.

Paragraph 2 has been repealed by Decree No. 188/96.

If the application concerns registration of a trademark that consists of a figure or of a word, letter, numeral or combination thereof with special typography, the application shall be accompanied by ten copies of reproducible representations of the mark copied on archive-quality paper, of a maximum size of 8 x 8 cm. If colour registration is applied for, the colours of the mark shall also be stated in the application.

Paragraph 4 has been repealed by Decree No. 258/92.

If the applicant does not carry on a business in Finland, the application shall be accompanied by an extract from the Trade Register of his home state showing that he has had the trademark registered there for the goods that the application concerns in this country (certificate of registration in country of origin). Provisions concerning exemption granted to persons carrying on a business in certain countries from the obligation to present the certificate of registration in country of origin are laid down in the Trademarks Act. An application for registration of a collective mark shall also be accompanied by the documents referred to in section 3 of the Act on Collective Marks. (795/80).

Section 9a

When an application is divided under section 17a of the Trademarks Act the applicant shall file a new application in respect of the same mark into which part of the goods covered by the original application have been divided. In the same connection a list of the goods remaining with the original application (parent application) shall be submitted to be annexed to the parent application. The new application shall state that it is divided from an earlier application, and the new application shall be filed in compliance with the provisions of Section 17 of the Trademarks Act.

Section 10

In matters concerning trademark registrations, the applicant shall, where the registering authority considers it necessary, submit a written description of or by technical means show what the mark is intended to represent and what, in the applicant's mind, is characteristic of the mark.

If the application concerns registration of the shape of goods or their packing, the applicant shall, where the registering authority considers it necessary, submit specimens thereof to the authority.

Section 11

An opposition under section 20, paragraph 2, or section 56c, paragraph 2, of the Trademarks Act shall be filed in writing in two copies with the Finnish Patent and Registration Office. An appendage to the opposition document shall also, where possible, be filed in two copies.

A statement of the grounds for the opposition shall be given, and the opposition shall specify the goods or services that it concerns. The provisions of paragraph 1 correspondingly apply to an explanation or a statement given on account of an opposition.

Section 12

An application for renewal of registration shall contain the following particulars:

- 1) the name or trade name and the domicile and address of the applicant;
- 2) the name, domicile and address of a new representative;
- 3) an indication of the restriction on the scope of protection that the applicant desires to be effected, and in such a case, of the goods or services and classes that the registration according to the applicant thereafter would concern; and
- 4) an indication of the class in which, according to the applicant, the article or service in each specific case is to be classified, providing that this has not already been entered in the register.

Where the registration is under section 22, paragraph 4, of the Trademarks Act renewed by paying a renewal fee, the registration number and the name and address of the payer are to be indicated.

Section 13

An application under section 23 of the Trademarks Act concerning alteration of a registered trademark shall contain the following particulars:

- 1) the name or trade name and the domicile and address of the applicant;
- 2) the name, domicile and address of a new representative; and
- 3) a clear indication of the alteration that the applicant wishes to be done.

If the applicant is other than the person entered as the proprietor of the mark in the register, the application shall be accompanied by a document providing proof of the applicant's entitlement to the mark. The application shall be accompanied by the representations or colour representations of the mark referred to in section 9.

Section 14

An application concerning recording in the Trademark Register of an assignment or other transfer of a registered trademark shall contain the same particulars of the applicant as those referred to in section

9, paragraph 1. If the particulars are furnished by a person other than the new proprietor of the trademark, an indication of the consent of the proprietor to the measure requested shall be included in the application documents.

The application shall be accompanied by:

- 1) a document showing that the trademark has been assigned and containing a statement of the goods or services that the assignment of the trademark concerns where the assignment does not concern the registration as a whole; and
- 2) a proper certificate of registration in country of origin, where appropriate under section 28 of the Trademarks Act.

Section 15

An application for registration of a license concerning a trademark can be filed by either the proprietor of the trademark or the licensee. The application shall contain an indication of the name or trade name, domicile and address of the licensee, the date of the licencing agreement and also an indication of any restrictions on the rights of the licensee that may have been agreed on. The licensing agreement shall accompany the application.

Section 16

An application for entry in the register of a mortgage agreement shall contain an indication of the name or trade name, domicile and address of the mortgage holder and the date of the mortgage agreement. The mortgage agreement shall accompany the application.

Chapter III Procedure in matters concerning registration

Section 17

If trademark registration has been applied for in a foreign State that is party to the Paris Convention for the Protection of Industrial Property (Finnish Treaty Series 43/75) or to the Agreement Establishing the World Trade Organization (Finnish Treaty Series 5/95) and if registration of the mark is applied for in Finland within six months of the filing of the application in that foreign State, the application filed in Finland shall be considered, in relation to other applications as well as to the bringing into use of other trade symbols, to have been made at the same time as the application was filed in the foreign State. This provision also applies if trademark registration has been applied for in such application filed outside Finland as the registering authority for special reasons considers equal to an application filed in a Contracting State.

To obtain a right of priority referred to in paragraph 1, the applicant shall claim it in a written statement within one month of the date of filing the application in Finland and at the same time indicate where and when the application the priority of which is claimed has been filed, and, as soon as possible, the number of that application. If the priority does not concern all goods or services, the goods or services it concerns shall also be specified.

Section 17a

The registering authority may for special reasons by official action invite the applicant within a specified time limit, in order to prove the right of priority claimed, to submit to the authority a certification of the filing date of the application the priority of which is claimed and of the name of the applicant, as well as a copy of the application and the trademark it concerns. The certification shall be issued by the authority that has received the application the priority of which is claimed and the copy be certified by the same authority. The time limit referred to above shall not be ordered to expire before three months have passed from the filing of the application in Finland.

Failure to comply with an official action referred to in paragraph 1 shall result in loss of the right of priority.

Section 17b

The right of priority in respect of each article or service can only

be granted on the basis of the first application for trademark registration filed outside Finland.

Section 17c

A priority claim under section 18 of the Trademarks Act shall be filed within the time limit laid down in paragraph 2 of section 17. The applicant shall, where necessary, provide proof to the effect that the exhibition is to be deemed international.

Section 18

Where an opposition under section 20, paragraph 2, or section 56c, paragraph 2, of the Trademarks Act is filed against a registration and the opposition is not manifestly ungrounded, the proprietor of the registration shall be invited to submit his statement within a specified time limit.

Section 19

In cases concerning deletion from the register of a trademark and in matters concerning registration referred to in sections 23, 33 and 34 of the Trademarks Act, the same procedure shall be applied as is laid down in section 19 of the same Act in respect of the processing of registration applications.

If the proprietor of a trademark requests that the trademark be deleted, and an entry on a licence has been recorded in the register, the licensee shall be notified of the request, where necessary, and be given an opportunity to submit his statement.

Section 20

The registering authority has an obligation to answer any inquiries by the public as to whether or not a particular word mark has been entered into the Trademark Register.

Chapter IV Notification

Section 21

Public notices under the Trademarks Act shall be given in the Trademark Gazette published by the Finnish Patent and Registration Office.

The application documents with all the appendages concerning a registration or the documents concerning an international registration shall be kept available for two months from the publication date of the public notice at the Finnish Patent and Registration Office to anyone who wishes to obtain information on the registration.

Section 22

A public notice under section 20 of the Trademarks Act shall contain the following particulars:

- 1) the date of publication, if a public notice of the application is given before registration;
- 2) the number of the trademark application;
- 3) the registration number;
- 4) the trademark;
- 5) the filing date or the date that is deemed to be the filing date of the application;
- 6) the date of registration;
- 7) the name or trade name and domicile of the proprietor;
- 8) if the proprietor has appointed a representative, the name of the representative;
- 9) the classes of goods or services to be covered by the trademark right;
- 10) a note concerning a collective mark;
- 11) where an application is under section 56i, paragraph 1, or section 56j, paragraph 1, based on an international registration, the number and date of that registration;
- 12) if the application has been divided from an earlier application, the number of the parent application;
- 13) if a new application has been divided from the application, the number of the divisional application;
- 14) the application number of the Community trade mark application, if the application under section 57a of the Trademarks Act is based on an application forwarded by the Community Trade Mark Office.

The public notice shall furthermore contain a list of the colours in the mark and, at the registering authority's discretion, other description of the mark, as well as a mention of a disclaimer and a

right of priority referred to in section 2, paragraph 2.

The public notice shall inform of the possibility to file an opposition against the registration under section 20, paragraph 2, of the Trademarks Act.

Section 22a

A public notice under section 56c of the Trademarks Act shall contain the following particulars:

- 1) the date of publication;
- 2) the number of the international registration;
- 3) the trademark;
- 4) the date of the international registration;
- 5) the name or trade name and domicile of the proprietor;
- 6) if the proprietor has appointed a representative, the name of the representative;
- 7) the classes of goods or services to be covered by the trademark right; and
- 8) a note concerning a collective mark.

Furthermore, the public notice shall contain, if the mark is in colour, a mention of that fact and, at the registering authority's discretion, other description of the mark, as well as a mention of a disclaimer or a right of priority.

The public notice shall inform of the possibility to file an opposition against the international registration under section 56c, paragraph 2, of the Trademarks Act.

Section 23

A public notice under section 21, paragraph 1, and section 56d, paragraph 3, of the Trademarks Act shall contain the registration number and the name or trade name of the proprietor.

Section 24

The registration number shall be indicated in a public notice under section 24 and section 56h of the Trademarks Act concerning deletion from the register and restriction of the scope of protection of a trademark, and in a public notice under section 56k of the Trademarks Act concerning renewal of registration.

Section 25

A public notice under section 33, paragraph 1, section 34, paragraph 1, and section 56k of the Trademarks Act concerning a transfer of a

trademark and registration of or notification concerning a license shall state the registration number, the name or trade name and domicile of the new proprietor or the licensee and any other particulars considered necessary by the registering authority.

Section 26

A public notice concerning an alteration in a trademark shall indicate the registration number, the trademark as altered, and the name or trade name and domicile of the proprietor.

Section 26a

A public notice under section 56g, paragraph 2, of the Trademarks Act shall state the number of the Finnish registration that has been replaced and the number of the valid international registration.

Chapter V

Sections 27 and 27a [repealed]

Chapter VI Special provisions

Section 28

This Decree shall enter into force on June 1, 1964. The following are hereby repealed:

the Decree issued on September 30, 1921 (230/21) containing amended provisions on protection of certain foreign patents and trademarks, if it continues to be in force;

the Decree issued on July 15, 1963 (383/63) on Fees Payable in Patent and Trademark Matters, if it contains provisions on fees payable in trademark matters; and the Declaration on the Protection of Trademarks issued on April 4, 1889.

Section 29

Before a public notice under section 20 of the Trademarks Act is given in respect of an application for trademark registration that has been filed but on which no decision has been taken before June 1, 1964, the applicant shall pay the fees referred to in section 27. The amount of the fee is determined by the number of the classes covered by the application at the time of publication. The amount that the applicant has earlier paid as registration fee shall be subtracted from the amount of the fee. Where an application of this kind at the time of giving public notice does not cover goods in more than three classes, no other fees shall be collected from the applicant beyond the registration fee he has paid.

Where an application filed before June 1, 1964 is refused, dismissed or withdrawn, half of the amount of the registration fee paid shall be returned to the applicant.

Section 30

If an application for renewal of such trademark registration whose term of registration has expired before said date is pending on June 1, 1964, no further fee shall be collected from the applicant who already has in the prescribed order paid the fees under the Decree on Fees Payable in Patent and Trademark Matters. In other cases fees shall be collected in accordance with the provisions of this Decree for renewal applications pending on June 1, 1964.

Section 31 [repealed]