

**INDONESIA**

**Trademark Regulations**

as amended by No. 23 on March 31, 1993

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## **CHAPTER I APPLICATION PROCEDURE FOR MARK REGISTRATION**

### **First Part Mark Registration Applications**

#### **Article 1**

(1) The application for a Mark Registration shall be filed in writing in the Indonesian language to the Mark Office, by completing/filling out a form in four-fold.

(2) The form and contents of the Mark Registration Application as referred to in paragraph (1), are as provided in the example, attached to this Government Regulation.

(3) The completion/filling-out of the form for mark registration applications as referred to in paragraph (2), shall be conducted in due observance of the provision of Article 9 paragraphs (2), (3), (4), (5), (6), Article 10 paragraph (2) and Article 13 paragraphs (1) and (2) of the Law Number 19 of 1992 (amended as Law No. 14 of 1997).

#### **Article 2**

Each application for Mark Registration as referred to in Article 1, shall be completed with:

- a. A Statement-Letter/Certificate that the mark, for which a registration is requested, is his property;
- b. Twenty labels of the mark concerned;
- c. The Supplementary State Gazette, containing the establishment deed of the legal entity, or a legal copy of the establishment deed of the legal entity, if the owner of the mark is an Indonesian legal entity;
- d. A Special Power of Attorney, if the Mark Registration is forwarded through a proxy;
- e. The payment of the cost in the framework of the mark registration application, of which the kind and amount are to be determined by the Minister;
- f. The evidence of receipt of the first registration application, creating a priority right, including the translation into the Indonesian language, if the mark registration application is filed by using priority right;
- g. A copy of the collective mark utilization regulation, if the trade mark or service mark registration application will be used a collective mark.

### **Article 3**

(1) The Statement-Letter/Certificate as referred to in Article 2 letter a, shall clearly and definitely state that:

- a. The mark, for which a registration is requested, is his property;
- b. The mark, for which a registration is requested, is not imitating another person's mark as a whole or basically.

(2) The Statement-Letter/Certificate shall be signed by the owner of the mark, and provided with sufficient stamp duty.

(3) The Statement-Letter/Certificate, not using the Indonesian language, shall be accompanied by a translation thereof in the Indonesian language.

### **Article 4**

(1) The mark labels as referred to in Article 2 letter b, shall have the following measurements:

- a. Maximally 9 X 9 cm;
- b. Minimally 2 X 2 cm.

(2) If the mark labels are coloured, then they shall also be accompanied by one label, which is not coloured (black and white).

### **Article 5**

The Special Power of Attorney as referred to in Article 2 letter d, shall be a Special Power of Attorney to file a mark registration application, by stating the mark concerned.

### **Article 6**

The copy of the regulation on the use of a collective mark as referred to in Article 2 letter g, not using the Indonesian language, shall be accompanied by a translation thereof in the Indonesian language.

## **Second Part Applications for Extension of the Protection Period of a Registered Mark**

### **Article 7**

(1) An application for extension of the registered mark protection period, shall be filed in writing in the Indonesian language to the Mark Office, by completing/filling out a form in four-fold.

(2) The form and contents of the extension application form as referred

to in paragraph (1), shall be as the example, attached to this Government Regulation.

#### **Article 8**

All applications for extension of the protection period of a registered mark as referred to in Article 7, shall be completed with:

- a. A Statement-Letter/Certificate, that said mark is still used on the goods or services, produced and traded;
- b. A legal copy of the establishment deed of the legal entity, already legalized by the Minister, if the owner of the mark is an Indonesian legal entity;
- c. Twenty labels of the mark concerned;
- d. A Special Power of Attorney for the extension application of the protection period of the registered mark, if it is filed through a proxy;
- e. The payment of the cost in the framework of the application for extension of the protection period of a registered mark, of which the kind and amount will be determined by the Minister.

#### **Article 9**

(1) The Statement-Letter/Certificate as referred to in Article 8 letter a, shall be given by the owner of the mark, or may also constitute a Certificate, provided by the agency, promoting the business sector or the production of the goods or services concerned.

(2) The Statement-Letter, given by the owner of the mark, shall contain clearly and definitely, that the registered mark, for which an extension of the protection period is requested, is still used on the goods or services, produced or traded.

(3) The Statement-Letter shall be signed by the owner of the mark concerned, and provided with sufficient stamp duty.

(4) If the Statement-Letter/Certificate is not in the Indonesian language, then it shall be accompanied by a translation thereof the Indonesian language.

#### **Article 10**

The Power of Attorney as referred to in Article 8 letter d, shall state the mark and registration number of the mark concerned.

### **Article 11**

The change in form and contents of the Mark registration application form as referred to in Article 1 paragraph (2), and the application form for extension of the registered mark protection period as referred to in Article 7 paragraph (2), shall be determined by the Minister.

### **Third Part Applications for the Recording of the Transfer of Right on a Registered Mark**

#### **Article 12**

(1) Applications for the recording of the transfer of right on a registered mark, shall be filed in writing in the Indonesian language to the Mark Office.

(2) Applications for the recording of the transfer of right on a registered mark as referred to in paragraph (1), shall be filed by stating:

- a. The number and registered mark which is transferred;
- b. The name, nationality and complete address of the owner of the registered mark and the recipient of the right on the registered mark, for which the recording of the transfer is applied;
- c. Name of the legal entity and the country where said legal entity is established and is legally subject to, if the owner of the mark or the recipient of the right thereon is a legal entity;
- d. Name and complete address of the proxy in Indonesia, chosen as the address in Indonesia, if the application for the recording of the transfer or right is filed by the owner or recipient of right, residing or permanently domiciled outside the territories of the state of the Republic of Indonesia.

#### **Article 13**

All applications for the recording of the transfer of right on a registered mark, shall be completed with:

- a. A written statement from the recipient of the right, that said mark will be used for the trade of goods or services;
- b. The evidence of the transfer of right on the mark;
- c. The evidence of ownership of the registered mark, of which the right is transferred;
- d. The Supplementary State Gazette, in which the establishment deed of the legal entity is set forth, or a legal copy thereof, if the owner of the registered mark or the recipient of the right thereon is an Indonesian legal entity;

- e. A Special Power of Attorney for the application for a recording of the transfer of right, if it is filed through a proxy;
- f. The payment of the cost in the framework of the application for recording of the transfer of right on a registered mark, of which the amount shall be determined by the Minister.

#### **Article 14**

The written statement and the evidence of the transfer of right as referred to in Article 13 letters a and b, not using the Indonesian language, shall be accompanied by a translation thereof in the Indonesian language.

#### **Article 15**

The Power of Attorney as referred to in Article 13 letter e, shall state the transferred registered mark, including the registration number of the mark concerned.

#### **Fourth Part Applications for the Recording of a Change of the Name and or Address of the Owner of a Registered Mark**

#### **Article 16**

(1) The application for a recording of a change of name and/or address of the owner of the registered mark, shall be filed in writing in the Indonesian language to the Mark Office.

(2) The application for a recording of a change of name and/or address of the owner of the registered mark, shall be filed by stating:

- a. The number and registration of the registered mark, for which a recording of the change of name and/or address is applied;
- b. The names nationality, and addresses of the old and new owners of the registered mark;
- c. The name of the legal entity and the state where said legal entity is established and to which it is subject to, if the owner of the registered mark, for which the recording of the change of name and address of the owner is applied, is a legal entity;
- d. The domicile of the proxy in Indonesia, chosen as his address in Indonesia, if the owner of the mark, for which the recording of the change of name and/or address is applied, resides or is permanently domiciled outside the territories of the State of the Republic of Indonesia.

#### **Article 17**

All applications for the recording of a change of name and/or address,

shall be completed with:

- a. The evidence of the change of name and/or address of the owner of the registered mark, for which the recording is applied for;
- b. A Special Power of Attorney for the application for the recording of the change of name and/or address, filed through a proxy;
- c. The payment of the cost in the framework of the application for the recording of the change of name and/or address.

#### **Article 18**

The evidence of the change of name and/or address as referred to in Article 17 letter a, not using the Indonesian language, shall be accompanied by a translation thereof in the Indonesian language.

#### **Article 19**

The Special Power of Attorney as referred to in Article 17 letter b, shall state the registered mark and the registration number, for which a change of name and/or address is applied for.

#### **Fifth Part Request for Deletion of the Registration of a Registered Mark by the Owner of the Mark**

#### **Article 20**

(1) The request for deletion of the registration of a registered mark by the owner thereof, shall be filed in writing in the Indonesian language to the Mark Office.

(2) The request for deletion of the registration of a registered mark as referred to in paragraph (1), shall be filed by stating the registered mark and the registration number of the mark concerned.

#### **Article 21**

All requests for deletion of the registration of a registered mark, shall be completed with:

- a. The evidence of the identity of the owner of the registered mark, for which the deletion is requested;
- b. A Special Power of Attorney for the request for deletion if it is filed through a proxy;
- c. A written statement of the approval of the recipient of the license, if the mark registration, for which the deletion is requested, is still committed in a license agreement.
- d. The payment of the cost in the framework of the request for deletion



of the registration of a registered mark, of which the amount shall be determined by the Minister.

#### **Article 22**

The Special Power of Attorney as referred to in Article 21 letter b, shall state the registered mark and the registration number of the mark concerned.

#### **Sixth Part Applications and Re-Registrations**

#### **Article 23**

(1) The application for mark registration, extension of the registered mark protection period, the recording of a transfer of right, change of name and/or address, deletion and cancellation of the registration of a registered mark, already filed based on the Law Number 21 of 1961 concerning a Company Mark or a Trade Mark, which however, is not yet completed on the date of the commencement of the effectiveness of the Law Number 19 of 1992 on Marks, shall be refiled, in accordance with the provisions of this Government Regulation.

(2) The application as referred to in paragraph (1), shall be refiled within a grace period of six months after the date of the effectiveness of the Law Number 19 of 1992 on Marks.

(3) If the application as referred to in paragraph (1), is filed within the grace period as provided in paragraph (2), then the date of the initial application shall be stipulated as the date of the receipt of the application.

(4) In case of an application for registration of a mark, at the latest fourteen days since the date of the receipt of said re-application, the Mark Office shall publish the application for the mark registration concerned, in accordance with the provision of Article 20 paragraph (1) of the Law Number 19 of 1992 on Marks.

(5) If the application as referred to in paragraph (1), is not refiled within the grace period as provided in paragraph (2), then said application shall be regarded as withdrawn.

#### **Article 24**

A registered mark, of which the effectiveness of the protection period

will expire between April 1, 1993 through February 1, 1994, the application for extension of the protection period can be filed before the expiry of the protection period of the mark, and within the period as referred to in Article 23 paragraph (2).

**Article 25**

In case the application for extension of the protection period of a registered mark as referred to in Article 23 (1) and Article 24, is approved by the Mark Office, then legal protection shall be granted for a period of ten years, retroactively effective as of the date of the expiry of the protection of the mark concerned, based on the Law Number 21 of 1961 on Company Marks and Trade Marks.

**Article 26**

For marks registered based on the Law Number 21 of 1961 on Company Marks and Trade Marks, of which the extension of the protection period has been approved by the Mark Office after April 1, 1993, the cancellation thereof can be requested, based on the provisions in the Law Number 19 of 1992 on Marks.

## **CHAPTER II AMENDMENT AND WITHDRAWAL OF MARK REGISTRATION APPLICATIONS**

### **Article 27**

(1) Amendments in an application for mark registration can only be permitted for the change of name and/or address of the owner of the mark concerned.

(2) The amendments as referred to in paragraph (1), shall be filed before said application is published as provided in Article 20 paragraph (1) of the Law Number 19 of 1992 on Marks.

### **Article 28**

(1) Amendments in the application for a mark registration, besides those provided in Article 27 paragraph (1), shall only be permitted by way of withdrawing the said application for mark registration, and by filling a new mark registration application.

(2) The withdrawal of an application for mark registration as referred to in paragraph (1) as well as other applications provided in the Law Number 19 of 1992 on Marks, shall only be permitted as long as said application has not yet obtained a decision from the Mark Office.

(3) The withdrawal of an application as referred to in paragraph (2), conducted by a proxy, shall be conducted based on a Special Power of Attorney for the purpose of said withdrawal.

(4) In case an application is withdrawn as referred to in paragraph (2), all costs already paid to the Mark Office, cannot be withdrawn.

### CHAPTER III INCLUSION OF MARK REGISTRATION NUMBERS

#### Article 29

(1) The owner of a registered mark shall state the registration number thereof on any use of the mark concerned by mentioning:

The Mark Registration R Number:

(2) The registration number as referred to in paragraph (1), shall be the number granted by the Mark Office, of which the protection period of the mark is still effective, and which is already recorded in the Marks Official Gazette.

(3) If the goods produced or traded use a packing, then the registration number shall be stated on said packing.

(4) If the goods/services produced or traded, are not using a packing, then the registration number shall be stated in the catalogues, brochures, as well as the manuals of the goods and services concerned.

#### **CHAPTER IV CONCLUDING PROVISION**

##### **Article 30**

This Government Regulation shall be effective as of April 1, 1993. For public knowledge, it is instructed to promulgate this Government regulation by inserting it in the State Gazette of the Republic of Indonesia.