

ITALY

Trademark Regulations

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TABLE OF CONTENTS

TITLE I DOCUMENTS FOR THE REGISTRATION

CHAPTER I APPLICATIONS IN GENERAL

Article 1

Article 2 [Repealed]

Article 3

Article 4

Article 5

Article 6

Article 7

Article 8

Article 9

Article 10

Article 11

Article 12

Article 13

Article 14

Article 15

CHAPTER II DOCUMENTS FOR REGISTRATIONS OBTAINED ABROAD AND FOR
PRIORITIES

Article 16

Article 17

Article 18

Article 19

Article 20

Article 21

Article 22

Article 23

Article 24

CHAPTER III FILING OF APPLICATIONS

Article 25-28 [Repealed]

TITLE II REGISTRATIONS

CHAPTER I EXAMINATION AND OBSERVATIONS

Article 29

Article 30

Article 31

Article 32

Article 33-34 [Repealed]

CHAPTER II REGISTER OF CERTIFICATES AND OF CERTIFICATES OF REGISTRATION

Article 35

Article 36

Article 37

TITLE III FEES AND REFUNDS

Article 38

Article 39

Article 40

Article 41

Article 42 [Repealed]

Article 43

TITLE IV RECORDING OF DOCUMENTS

Article 44

Article 45

Article 46

Article 47

Article 48

Article 49

Article 50

TITLE V APPEALS AND RELEVANT PROCEDURE

Article 51

Article 52

Article 53

Article 54

Article 55

Article 56

Article 57

Article 58

Article 59
Article 60
Article 61
Article 62

TITLE VI CONSULTATION AND PUBLICATION

Article 63
Article 64
Article 65
Article 66
Article 67
Article 68
Article 69
Article 70

TITLE VII INTERNATIONAL REGISTRATIONS

Article 71

TITLE VIII MISCELLANEOUS PROVISIONS

Article 72
Article 73
Article 74
Article 75

TITLE I DOCUMENTS FOR THE REGISTRATION

CHAPTER I APPLICATIONS IN GENERAL

Article 1

[1] Pursuant to Royal Decree No. 929 of June 21, 1942, an application for the registration of a trademark may be filed, both by Italian and foreign citizens acting as individuals, companies, associations or non-profitable organizations, or even by several individuals collectively, who intend to use the same trademark.

[2] The application filed by a company, an association or a non-profitable organization must indicate the name and registered office of the company or organization.

Article 2 [Repealed]

Article 3

[1] The application must contain:

1) the surname, given name, nationality and domicile of the applicant and, where applicable, of his agent.

Any change in the domicile indicated in the application shall be communicated to the Italian Patent and Trademark Office;

2) a brief statement of the details of the trademark;

3) the indication of the kind of goods or services which the trademark is intended to distinguish.

[2] A single application may not contain a request for several registrations, nor a request for one registration covering several trademarks.

Article 4

[1] The declaration of protection must be attached to the application.

[2] Such declaration must contain:

1) a description of the trademark, pointing out the features of its various parts;

2) a specimen of the trademark to be affixed to the declaration;

3) the list of the products (goods) or services which the trademark is intended to distinguish;

4) an indication of how the trademark is affixed to said products or services, whether as a label, an engraving, a relief or otherwise.

Article 5

The description of the trademark shall contain a reference to the color or colors, including black and white, if such colours are a characteristic of the trademark.

Article 6

[1] The specimen of the trademark to be affixed to the declaration of protection, obtained by mechanical means on ordinary white paper, shall not be larger than the official stamped paper, excluding margins.

[2] The specimen of the trademark cannot include references to any registrations or patents of invention or of industrial models, not even if they relate to the goods or services that the trademark is intended to distinguish.

Article 7

The declaration of protection of the trademark, drawn up in three original copies and signed by the applicant or the agent, must be indelibly and clearly written or printed on the appropriate stamped paper or on paper of the same format bearing a duly cancelled revenue stamp.

Article 8

[1] Besides the above-mentioned declaration of protection, the application shall be accompanied by:

- 1) the prescribed acknowledgment of payment in the form established by Article 38 below, proving the payment of the due fees;
- 2) the prescribed revenue stamp to be affixed on the statement of registration;
- 3) the typographic stamp, capable of reproducing the trademark in all its parts;
- 4) eight copies, exempt from stamp duty, obtained from the typographic stamp and, where colour protection is claimed, eight additional copies exempt from stamp duty, identical with the specimen of the trademark affixed to the declaration of protection.

[2] If there is an agent, a power of attorney or a letter of

appointment shall also be attached to the application in accordance with Article 77 of Royal Decree No. 929 of June 21, 1942.

Article 9

In addition to the documents indicated in Articles 4 and 8 above, the application for registration of a collective trademark shall also be accompanied by a copy of the Regulations set forth by Article 2, paragraph 2, of Royal Decree No. 929 of June 21, 1942.

Article 10

The typographic stamp measuring 24 mm in height, base included, shall be, both in width and in length, at least 15 mm and not more than 10 cm.

Article 11

[1] The application for the renewal of a trademark registration must be made by the proprietor of the registration or by his assignee.

[2] The application must indicate the registration number and the starting date of validity of the first filing certificate as well as the numbers of any renewal certificates.

[3] The application for renewal, together with the receipt from payment of the due fees, must be filed within the last twelve months preceding the expiration of the ten-year term in force at the time of filing the application.

[4] After the expiration of the aforesaid term, the application for the renewal of the registration may be filed within a further period of six months, provided that an additional fee is paid.

Article 12

[1] If one wants to modify the trademark in accordance with Article 5 of Law No. 929 of June 21, 1942 and further amendments, the application for renewal shall be made in the form requested for applications for first registrations. The application shall be accompanied by the documents indicated in Articles 4, 8 and 9 of the present Regulations.

[2] If the prior trademark belongs to more than one person, the application for renewal may be filed by one person on behalf of the

others.

Article 13

Except for the provision set forth in Article 26 below, if some documents are missing at the time of the filing, the missing documents may be supplied within two months of the filing date.

Article 14

The letter of appointment shall be signed by the applicant and countersigned by the appointee.

Article 15

An agent who has filed a general power of attorney may refer to it in any subsequent application for registration made in the name of the same applicant.

CHAPTER II DOCUMENTS FOR REGISTRATIONS OBTAINED ABROAD AND FOR PRIORITIES

Article 16

[1] Whoever, in registering his trademark, refers to a prior registration for the same trademark obtained in a different country, by him or by his assignee, must enclose with the declaration a certificate showing the date and reference number of the foreign registration.

[2] If the foreign registration is in the name of third parties, the applicant shall submit the title authorizing the transfer of the trademark.

Article 17

[1] Whenever priority is claimed on account of an application originally filed in another country, a document containing a reproduction of the trademark filed in such other country, as well as a list of the goods to which the trademark refers showing the name of the applicant, the filing date, and the trademark registration number and date, if the trademark has already been registered, shall be enclosed with the application claiming the priority, in accordance with the international conventions in force.

[2] If the foreign application was filed by others, the applicant shall also submit the title authorizing the transfer of the

trademark.

Article 18

[1] The documents referred to in Articles 16 and 17 above, shall be accompanied by an Italian translation.

[2] The Italian Patent and Trademark Office shall have the right to request that the translation be certified by the diplomatic or consular authorities of the country in which the document was prepared, or by an official translator.

[3] Certificates, likewise translated and issued by directors or presidents of the offices of member States of the International Union for the Protection of Industrial Property, shall be exempt from legalization and may be replaced by official publications, bearing the official stamp or certification of the issuing office.

[4] The applicant shall be responsible for the exact conformity of the aforesaid translations with the originals.

[5] All foreign documents and translations thereof are subject to stamp duty in accordance with the provisions in force.

Article 19

A claim for priority rights shall refer to the first application originally filed in one of the States members of the International Union for the Protection of Industrial Property.

Article 20

[1] If separate applications have been filed abroad on different dates for various parts of the same trademark and it is sought to claim priority right on such parts, a separate application must be filed for each part, even if together they constitute a single trademark.

[2] Where a single application contains claims for several registrations or filings of the aforesaid different parts of a same trademark, Article 27 of Royal Decree No. 929 of June 21, 1942 shall apply to the separate new applications.

Article 21

[1] If the ministerial decree granting temporary protection to new trademarks affixed to goods or materials relating to the provision of services displayed at an exhibition has been issued and priority rights for such temporary protection have been claimed in accordance with Articles 6 and 7 of Royal Decree No. 929 of June 21, 1942, the applicant must enclose with the application for registration, a certificate drawn up on the prescribed stamped paper, duly legalized and issued by the executive or managing committee or by the Presidential Office of the exhibition.

[2] The certificate shall contain:

- 1) surname, given name, and domicile of the exhibitor;
- 2) the date on which the goods or the materials bearing the trademark were delivered for the exhibition;
- 3) a summary description of the trademark specifying whether the trademark consists of a word, a figure or a sign and describing same, and pointing out the trademark's features so as to allow its identification.

[3] A specimen of the trademark must be affixed to the certificate, whenever possible.

[4] If the exhibition is held in a foreign country, the aforesaid certificate issued by the bodies corresponding to those referred to in the first paragraph herein, must be certified by the competent Italian consular authorities and legalized by the Ministry of Foreign Affairs.

Article 22

The priority date of an application for a registration filed abroad can still be claimed even if the special term prescribed for the exhibition held in a foreign country in accordance with paragraph two of Article 7 of Royal Decree No. 929 of June 21, 1942, has expired.

Article 23

If the applicant for the registration is not the exhibitor, the applicant shall produce the title of acquirement permitting the transfer of the trademark.

Article 24

[1] A claim for priority rights must be mentioned on the application for registration.

[2] The registration is in any case granted without mentioning the priority, if within six months of the filing date of the application the prescribed documents have not been filed in the required form.

CHAPTER III FILING OF APPLICATIONS

Articles 25-28 [Repealed]

TITLE II REGISTRATIONS

CHAPTER I EXAMINATION AND OBSERVATIONS

Article 29

The applicant may withdraw his application at any time during the course of examination and before the Office has reached a decision on the registration.

Article 30

[1] Before the Office has granted the registration, the applicant shall have the right to make formal corrections to the declaration of protection originally filed, by means of signed marginal notes.

[2] The request for the rectification of the aforesaid declaration of protection must be grounded.

[3] In this connection, the Office sets forth, from time to time, appropriate cautionary forms. In any case, the rectified document must be returned to the Office within the terms set forth in Article 33 below.

Article 31

[1] Upon request by the Italian Patent and Trademark Office, the applicant shall complete or amend his application or documents, where this is necessary to better determine the scope of the required protection.

Article 32

The applicant of a renewal registration must prove his title if he is the assignee of the proprietor of the prior registrations.

Articles 33-34 [Repealed]

CHAPTER II REGISTER OF CERTIFICATES AND OF CERTIFICATES OF REGISTRATION

Article 35

[1] The original copy of the trademark registration certificate shall be signed by the director of the Italian Patent and Trademark Office or by an officer appointed by him.

[2] The first filing registration certificate shall contain the following information:

- a) the registration serial number;
- b) the office and date of filing and the serial number of the application;
- c) the surname, given name, residence and domicile of the applicant or, if the applicant is a company, an association or a non-profitable organization, its name and location;
- d) a specimen of the trademark;
- e) a list of the goods or services which the trademark is intended to distinguish;
- f) details of the previous trademark registration obtained in the country of origin, or of the previous filing made abroad;
- g) details prescribed by the last paragraph of Article 7 of Royal Decree No. 929 of June 21, 1942, when priority for temporary protection in exhibitions is claimed;
- h) the registration date of the trademark.

[3] A note must be taken on the original copy of the registration certificate of the documents listed in Article 49 and of the changes set forth in Article 76 of Royal Decree No. 929 of June 21, 1942.

Article 36

The original copy of the renewal certificates must contain, in addition to the information provided for by letters a), b), c) and h) of Article 35 paragraph 2, details of the first registration as well as the serial number of the renewal.

Article 37

[1] The details referred to in Article 35 paragraph 2 are recorded in the original copy of the first filing certificate.

[2] A copy of the declaration of protection shall be attached to the first filing or renewal certificates if the trademark was modified as indicated in Article 5 of Law No. 929 of June 21, 1942 and subsequent amendments.

TITLE III FEES AND REFUNDS

Article 38

[1] The prescribed fees, with the exception of revenue stamps, shall be paid by postal money orders, into the relevant current account in the name of the Rome Registration Office, on the special form for government fees and duties.

[2] [Repealed]

Article 39

Payments made by ordinary postal money order or by telegraphic money order made out to the Ministry of Industry, Commerce and Handicrafts, Italian Trademark and Patent Office, are nevertheless permitted. The sender shall ensure that the ordinary postal orders are sent to the aforesaid Office by registered mail. The Ministry shall endorse ordinary postal or telegraphic orders in favour of the Procurator of the Rome Registration Office.

Article 40

[1] The reason for payment and the name and domicile of the payer shall clearly appear on the receipt of the form for the payment into the current account set forth in Article 38 above.

[2] If payment is made by ordinary postal money order or by telegraphic money order, the aforesaid indications shall appear on the relevant receipt or on the text of the telegram.

Article 41

[1] Where the provisions of Articles 38 and 40 have been respected, payments made by the postal current accounts service shall be dated:

- 1) from the day of the payment, if the amount due was paid directly to the post office;
- 2) from the day when the drawer's postal account was charged, if the payment of the amount due was made by postal transfer to a different postal current account.

[2] When the provisions of Article 40 have been respected, the provision referred to in No. 1 above shall also apply to payments made by postal or telegraphic orders.

Article 42 [Repealed]

Article 43

[1] In the cases provided for by Royal Decree No. 929 of June 21, 1942, refunding of fees shall be authorized by the Ministry of Industry and Commerce. The aforesaid refunds do not refer to application fees, which are not refundable.

[2] Such authorization shall be granted ex officio when the fees to be refunded concern an application for registration irrevocably rejected or an appeal granted by the Ministry of Industry, Commerce and Handicrafts; in other cases, refunds shall be granted upon request which must be drawn up on the appropriate stamped paper by the person so entitled.

[3] Refunds shall be noted on the original registration certificates and, if they relate to withdrawn or rejected applications, they shall be noted in the applications themselves.

TITLE IV RECORDING OF DOCUMENTS

Article 44

[1] An application for recording a document or decision referred to under Article 49 of Royal Decree No. 929 of June 21, 1942, shall be drawn up in two copies in accordance with the provisions concerning revenue stamps.

[2] The application shall contain:

- 1) the surname, given name and domicile of the applicant and of his agent, if any;
- 2) the surname and given name of the holder of the registration and the number and date of the registration;
- 3) the date and the nature of the document to be recorded and, in case of a public deed, the name of the notary who received it;
- 4) the indication of the object of the document to be recorded.

[3] [Repealed]

Article 45

[1] The request for recording, provided for in the preceding Article, shall be accompanied by:

- 1) the legal document to be recorded, in compliance with the laws governing registration;
- 2) the receipt proving payment of the prescribed fee.

[2] If the document referred to in No. 1 is in a language other than Italian, it shall be accompanied by a translation into Italian, certified by the diplomatic or consular authorities of the country where the document was drawn up, or by an official translator.

[3] If there is an agent, it shall also be accompanied by the power of attorney or the letter of appointment in due form.

Article 46

For each recording, the original registration certificates shall indicate:

- 1) the date of submission of the application, which shall be that of the recording;
- 2) the surname, given name and domicile of the successor in title or the trade name and registered office, in case of companies or non-

profitable organizations and, where applicable, the surname, given name and domicile of the agent;

3) the nature of the rights to which the recording refers.

Article 47

Documents and decisions provided for in Article 49 of Royal Decree No. 929 of June 21, 1942 and pertaining to registrations applied for but not yet granted, shall be recorded in the applications; however, they shall be noted in the original registration certificates at the time of their release.

Article 48

[1] The Italian Patent and Trademark Office shall return to the applicant a copy of the application with a declaration of the recording made.

[2] Documents and decision submitted for recording shall be kept by the Office.

Article 49

Decisions received by the Office in accordance with Article 60, paragraph 3, of Royal Decree No. 929 of June 21, 1942, shall be included in the files of the corresponding trademarks. Decisions declaring the nullity or forfeiture shall be recorded in the original certificates of registration and shall be published in the Bulletin of Patents for Inventions, Designs and Trademarks.

Article 50

[1] Requests for the cancellation of a recording shall be made in the same form and following the same procedure as those for requests for recording.

[2] Cancellation shall be effected by annotations in the margin.

TITLE V APPEALS AND RELEVANT PROCEDURE

Article 51

[1] The Board of Appeal, referred to in Article 71 of Royal Decree No. 1127 of 29 June, 1939, shall be assisted by a secretariat whose members shall be appointed either in the same decree establishing the Board or in a separate decree.

[2] The members of the said secretariat shall be chosen from the officials of the Italian Patent and Trademark Office.

Article 52

[1] Appeals set forth in Royal Decree No. 929 of June 21, 1942 shall be submitted to the offices listed in Article 2 above, or sent directly, by registered mail, to the secretariat of the Board of Appeal, at the Italian Patent and Trademark Office.

[2] Three copies on unstamped paper shall be attached to the original copy of the appeal. However, the secretariat of the Board shall be entitled to request additional copies from the interested parties.

Article 53

For each appeal, the chairman of the Board shall appoint a rapporteur and, in the case of technical questions, he may also appoint one or more assistant rapporteurs chosen from the associated technical experts.

Article 54

[1] The Board shall always be entitled to decide upon the means of examination it deems appropriate and may fix its modalities.

[2] During the period of examination, the chairman, or the rapporteur appointed by him, may call upon the parties to obtain any clarification.

Article 55

Where the examination is not necessary, or after the completion thereof, the chairman shall set a date for the discussion of the appeal before the Board.

Article 56

The sessions of the Board shall only be valid if an absolute majority of members having a deliberative vote are present.

Article 57

[1] An appellant making the relevant request in sufficient time, and in any case at least three days before the discussion of his appeal, shall have the right to explain orally the reasons for the appeal, provided that he is present at the date and time set for the discussion of his appeal, which shall be notified to him in due time by the secretariat of the Board.

[2] The appellant may be assisted by a lawyer and also a technical expert.

Article 58

[1] Following the opening of the session, the rapporteur shall give his report on the appeal.

[2] The parties or their representatives shall then supply their explanations and, should the members of the Board so request, the director of the Office or an official of such office appointed by him shall supply the information and documentation requested.

Article 59

[1] Any interested party may submit explanatory reports to the Board before the discussion of the appeal is closed.

[2] New facts liable to influence the final decision that emerge during the discussion shall be communicated to the parties.

Article 60

The Board shall in any case have the right to order the adjournment of the decision or examination to a later session.

Article 61

[1] The Board shall make its decision once the appellant has withdrawn.

[2] The rapporteur, or another member of the Board, shall be responsible for drawing up the decision.

[3] The secretariat of the Board shall notify the decision to the interested party or where applicable to his agent by registered mail. The substantive part of the decision shall be published in the Bulletin of Patents for Inventions and Designs and of Trademarks. Nevertheless the Board may order that the decisions be entirely published in such Bulletin, when they concern questions of principle and when such publication cannot be prejudicial.

[4] The appellant may obtain at any time copies of the decision at his own expense by paying the required revenue stamp and secretarial costs.

Article 62

[1] The Ministry of Industry, Commerce and Handicrafts may submit any question of principle concerning trademark registrations and any other related question to the Board in order to obtain its opinion.

[2] The chairman of the Board may call upon other technical experts, in addition to those provided for by Article 71 of Royal Decree No. 1127 of 29 June, 1939.

TITLE VI CONSULTATION AND PUBLICATION

Article 63

The public shall have the right to consult the certificates of registration subject to a request submitted on the prescribed stamped paper and payment of inspection fees to the Office. The public may also consult, in the same manner and upon payment of the prescribed fees, the applications for registrations and the relevant files.

Article 64

[1] The Office shall make available to the public, for consultation, the application and one copy of the declaration of protection of the trademark, as well as all other documents relating to the registration of the trademark.

[2] The provisions of the preceding Article shall also apply to the consultation of the said deeds and documents.

[3] The public may also consult, in the same manner and upon payment to the Office of the inspection fees, the documents relating to foreign registrations enclosed with applications claiming priority of filings made abroad, as well as the documents relating to other priorities.

Article 65

[1] The Director of the Office may authorize copies of the applications and declarations of protection, as well as of other documents available to the public, to any person submitting a request on the prescribed stamped paper, subject to any precautions that the Director may deem necessary to avoid damage or deterioration of the copy available to the public.

[2] Copies for which certification of conformity with the copy available to the public is requested, shall bear the prescribed revenue stamp.

[3] The Ministry of Industry, Commerce and Handicrafts may however establish that copying and reproducing said deeds and documents, including photographic reproductions, shall be the exclusive domain of the Italian Patent and Trademark Office and shall be subject to

payment of secretarial fees.

Article 66

Authenticated copies and excerpts from the register of registration certificates and certificates relating to extracts from other registers, as well as duplicates of original registrations, shall be made exclusively by the Italian Patent and Trademark Office, upon request which must be drawn up on the prescribed stamped paper indicating the number of the registration of which a copy or excerpt has been requested, and subject to the payment to the Office of the secretarial costs. The provisions of the law on revenue stamps shall be applicable to such copies and excerpts as well as to certificates and duplicates of registration certificates.

Article 67

Certification of authenticity of the copies referred to in Article 79 of Royal Decree No. 929 of June 21, 1942 shall be subject to the payment of secretarial costs to be paid to the Office for each sheet of stamped paper.

Article 68

[1] The extent of the fees specified in the present Regulations shall be laid down in a decree by the Minister of Industry and Commerce in conjunction with the Minister of Finance.

[2] The tariffs for the copies and photographs made by the Italian Patent and Trademark Office are fixed in the same way.

Article 69

[1] The trademark registrations, divided into classes, and the recordings made shall be published at least monthly in the Bulletin of Patents for Inventions, Designs, and Trademarks.

[2] Such publication shall include, in addition to the reproduction of the trademarks, the basic facts contained in the certificates of registration as well as in the declarations of protection and in the applications for recordings, respectively.

[3] The Bulletin may also contain both analytical indexes of trademarks protected by registration and alphabetical indexes of the proprietors of granted registrations.

[4] Communication shall also be given in the Bulletin of the details of internationally registered trademarks by referring to the publications of the Bulletin of the World Intellectual Property Organisation of Geneva, "Les Marques Internationales", containing the information concerning such trademarks, as these publications are received.

Article 70

[1] Each publication of the Bulletin of Patents for Invention, Designs, and Trademarks shall be sent, free of charge, to the offices and to the entities mentioned in a list which shall be drawn up by the Ministry of Industry, Commerce and Handicrafts.

[2] The said publications are also sent, in exchange, to the patent offices of other countries.

[3] The publications of the Bulletin of the World Intellectual Property Organisation of Geneva, "Les Marques Internationales", including references of the internationally registered trademarks shall also be forwarded, at no charge, to the offices and entities referred to in the first paragraph, as these publications are received.

TITLE VII INTERNATIONAL REGISTRATIONS

Article 71

Until otherwise provided, the provisions of the Regulations approved by Royal Decree No. 561 of December 28, 1902 shall remain in force, except for the provisions of Royal Decree No. 929 of June 21, 1942, and of the present Regulations.

TITLE VIII MISCELLANEOUS PROVISIONS

Article 72

[1] The Minister of Industry and Commerce shall have the right to establish, by decree, the models in conformity with which the applications and other documents concerning trademark registrations shall be drawn up.

[2] If an application or other document does not conform to the models provided for in the previous paragraph, the interested parties shall be obliged to complete or clarify the application or documents accordingly.

Article 73

[1] Entities organizing exhibitions, at least three months before the opening of the exhibition, shall file, with the Ministry of Industry, Commerce and Handicrafts, an application drawn up on the prescribed stamped paper, for the purpose of obtaining the temporary protection of trademarks set out in Article 6 of Royal Decree No. 929 of June 21, 1942.

[2] The ministerial decree authorizing the said temporary protection, shall be published in the Official Gazette of the Italian Republic before the opening of the exhibition. Such decree shall be published in the Bulletin of Patents for Inventions, Designs, and Trademarks.

[3] The said temporary protection may be granted with a single application and with a single decree to industrial inventions and industrial models as well as to trademarks affixed to goods and services displayed in a same exhibition.

Article 74

[1] Until otherwise provided, the provisions of Royal Decree No. 2730 of October 23, 1884 and of Ministerial Decree of May 8, 1914, concerning the Italian Patent and Trademark Office's relations with the public, shall remain in force where they do not contradict the provisions of Royal Decree No. 929 of June 21, 1942 or the present Regulations.

[2] In the absence of the Ministerial Decree referred to in Article 68 above, the provisions currently in force in respect of

secretarial costs and fees for copying and photographing shall remain into force.

Article 75

[1] The following decrees, as far as their effects in trademark registration matters are concerned, are repealed from the date set forth in Article 2 of the decree approving the present Regulations with respect to:

- 1) Royal Decree No. 526 of March 20, 1913, approving the Regulations for the implementation of Law No. 4577 of August 30, 1868, on trademarks and trademarks of manufacture;
- 2) Ministerial Decree of October 21, 1921, providing for the documents to be filed by foreign applicants for industrial property registrations and for recordings of trademarks of manufacture, and thus for the recognition of their rights arising from the prior filing made abroad.

[2] Any other provision contrary to the present Regulations is also repealed as of the aforesaid date.