

THAILAND

Trademark Regulation

Ministerial Regulation No. 5 (B.E. 2560)

Issued Under the Trademark Act B.E. 2534

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Article 1

The provision of Article 3(2) of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

"(2) for a juristic person, a photocopy of its current corporate certificate, issued within six (6) months by a lawful certification authority, may be used; unless it is a juristic person incorporated under foreign law, whose documents in Article 5 shall be submitted, provided that they include a statement verifying its status as an overseas juristic person."

Article 2

The provision of Article 5, paragraph one of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534 shall be repealed and replaced with the following:

"Article 5

Certification of a signatory(s) or appointment of an agent(s) or attorney(s) performed in a foreign country shall be carried out as follows:

(1) In a case of the certification of a signatory(s) only, a competent official of the Thai Embassy or Thai Consulate in the country where the agent(s) or attorney(s) is appointed, shall undertake the certification; or

(2) In the case of the certification of a signatory(s) or appointment of an agent(s) or attorney(s), a chief of an office under the Ministry of Commerce in the country, where the agent(s) or attorney(s) is appointed; a notary public; or a person designated as an authorized witness to documents by the local law, shall undertake the certification."

Article 3

The provision of Article 9 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534 shall be repealed and replaced with the following:

"Article 9

With respect to the certificates and the duplicate copies of certificates, the following forms, as attached to this Ministerial Regulation, shall be used.

- (1) Certificate of Trademark/Service Mark Registration: Form C.M.1;
- (2) Certificate of Certification Mark Registration: Form C.M.2;
- (3) Certificate of Collective Mark Registration: Form C.M.3;

(4) Duplicate Copy of the Certificate of Trademark/Service Mark Registration: Form C.M.4;

(5) Duplicate Copy of the Certificate of Certification Mark Registration: Form C.M.5; and

(6) Duplicate Copy of the Certificate of Collective Mark Registration: Form C.M.6.

Article 4

The provision of Article 10 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534, as amended by the Ministerial Regulation No. 4 (B.E. 2543) issued under the Trademark Act B.E. 2534, shall be repealed and replaced with the following:

"Article 10

An applicant shall file an application enclosed with an identification card."

Article 5

The provision of Article 11 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534, as amended by the Ministerial Regulation No. 4 (B.E. 2543) issued under the Trademark Act B.E. 2534, shall be repealed and replaced with the following:

"Article 11

Images of a trademark displayed in an application shall be clear.

In the case where a trademark applying for registration is a combination of colors, an applicant shall describe the colors and their arrangement.

In the case where a trademark applying for registration is a figure or shape of an object, images of the trademark must show all the figures or shapes thereof, which are essential elements. The applicant may also explain the figures or shapes of the object."

Article 6

The provision of Article 11 bis of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534, as amended by the Ministerial Regulation No. 4 (B.E. 2543) issued under the Trademark Act B.E. 2534, shall be repealed and replaced with the following:

"Article 11 bis

In the event that a trademark being applied for registration is an audio recording or is composed of an audio recording, an applicant shall clearly describe the audio recording and send a clearly recorded audio file. The applicant may submit musical notes, spectrograms or

other materials showing the characteristics of that trademark.”

Article 7

The following shall be added as Article 12, paragraph two of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534:

“In the case where a trademark applying for registration is written in the Chinese language, pronunciations shall adhere to Mandarin and Teochew Chinese.”

Article 8

The provision of Article 12 ter, paragraph one of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534, as amended by the Ministerial Regulation No. 4 (B.E. 2543) issued under the Trademark Act B.E. 2534, shall be repealed and replaced with the following:

“Article 12 ter

In the case of a failure to submit the documents and evidence under Article 12 bis, along with the application, the applicant shall prepare a postponement letter by using a form, as notified and prescribed by the Director-General, when filing their application for trademark registration and their application for exercise of the right under Section 28 bis. In this regard, the Registrar shall have the power to postpone the submission until any date within sixty (60) days as from the filing date.”

Article 9

The following shall be added as Article 12 quarter of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534:

“Article 12 quarter

An applicant shall indicate the list of goods according to its class under the Ministry of Commerce’s notification.”

Article 10

The provision of Article 13 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534, as amended by the Ministerial Regulation No. 4 (B.E. 2543) issued under the Trademark Act B.E. 2534, shall be repealed and replaced with the following:

“Article 13

Requesting amendments to registration particulars in an application shall be carried out as follows:

(1) In the case of amendments to non-essential elements of a trademark, an application displaying the to-be-amended trademark shall be filed;
or

(2) In the case of amendments to other registration particulars, an application enclosing one copy of each document and evidence for the amendment to such particulars shall be filed.”

Article 11

The provision of Article 14 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

“Article 14

In the case where an applicant wishes to amend any parts, which are essential elements of a trademark applying for registration, or to add a list of goods, an applicant shall file a new application for trademark registration.”

Article 12

The provision of Article 16(2) of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

“(2) Trademarks;”

Article 13

The provision of Article 17 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

“Article 17

In publishing a withdrawal of an order for publication of an application for trademark registration, the Registrar shall comply with Article 15.”

Article 14

The provision of Article 22 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed.

Article 15

The provision of Article 23(7) of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

“(7) Trademark;”

Article 16

The provision of Article 26, paragraph one of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

"Article 26

In the case of a failure to submit the documents and evidence in support of the opposition under Article 24(3) or of the counterstatement under Article 25(2), the opposer or the applicant shall prepare a postponement letter when filing such opposition or counterstatement. In this regard, a postponement is allowed until any date within sixty (60) days, as from the filing date."

Article 17

The provision of Article 28(3)(C) of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534, as amended by the Ministerial Regulation No. 4 (B.E. 2543) issued under the Trademark Act B.E. 2534, shall be repealed and replaced with the following:

"(C) Opposer's trademark;"

Article 18

The provision of Article 29 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

"Article 29

In the case where a certificate is materially damaged or lost, the trademark owner may request a duplicate copy thereof by filing an application, enclosed with the original certificate or the owner's or agent's confirmation letter with reasons for the loss."

Article 19

The provision of Article 33 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

"Article 33

Upon the Registrar's order approving the registration of an assignment or inheritance of the right to a trademark, such registration shall be recorded in the registration, and a new certificate for registration shall be issued to the assignee. The formerly issued certificate is deemed terminated."

Article 20

The following shall be added as Article 33-1 in Part 7: Assignment or Inheritance of the Right to a Trademark of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534:

"Article 33-1

Upon the Registrar's order approving the registration of an assignment or inheritance of the right to a trademark for certain goods, the following shall be carried out:

- (1) Such registration shall be recorded in the registration;
- (2) A new registration number and a new registration for the assigned or inherited goods shall be issued; and
- (3) A new certificate for trademark registration shall be issued to the assignor and assignee, whereby the formerly issued certificate is deemed terminated.

If a trademark licensing agreement for the trademark, which is assigned or inherited under paragraph one, has been registered, the Registrar shall record said trademark licensing agreement in a registration."

Article 21

The provisions of Articles 35 and 36 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

"Article 35

The trademark owner shall file an application for any amendment to the registration particulars, enclosing one copy of each document and evidence for the amendment to such particulars.

Article 36

Upon the Registrar's approval of the amendment to the registration particulars, the amendment shall be recorded in the registration, and a notification letter shall be given to the trademark owner."

Article 22

The provision of Article 37 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534, as amended by the Ministerial Regulation No. 4 (B.E. 2543) issued under the Trademark Act B.E. 2534, shall be repealed and replaced with the following:

"Article 37

The trademark owner shall file an application for renewal of their registration and indicate the list of goods bearing the trademark according to its class."

Article 23

The provision of Article 38 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534 shall be repealed.

Article 24

The provisions of Articles 39 and 40 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

"Article 39

In the case of the Ministry of Commerce's notification on changes to the classes of goods, if there is a list of goods in a class that is different from whatsoever has been registered, the trademark owner shall file an application for renewal of the registration, whereby the list of goods bearing the trademark shall be indicated according to its class under the Ministry of Commerce's notification.

Article 40

Upon the Registrar's approval of the renewal of registration, such renewal shall be recorded in the registration, and a renewed certificate thereof shall be issued to the trademark owner."

Article 25

The provision of Article 41(2) of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

"(2) In the case of a trademark licensing agreement, each of the licensees shall be indicated and their consent thereto shall be attached, unless otherwise stipulated by such license agreement."

Article 26

The provision of Article 45, paragraph one of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

"Article 45

In applying for registration of a trademark licensing agreement, the trademark owner and the person applying to be a registered licensee shall file an application, enclosing the trademark licensing agreement, which must be signed by both the trademark owner and the person applying to be a registered licensee."

Article 27

The provisions of Articles 46, 47, 48 and 49 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

Article 46

Upon the Registrar's order approving the registration of a trademark licensing agreement, such registration shall be recorded in the registration, and the trademark licensing agreement shall be returned to the trademark owner.

Article 47

The trademark owner and the licensee shall jointly file an application for amendment to the particulars of a trademark licensing agreement registration, provided that the amended parts shall be expressly indicated. Additionally, the amended trademark licensing agreement, as signed by the trademark owner and the licensee, shall be enclosed.

Article 48

Upon the Registrar's order approving the amendment to the particulars of the trademark licensing agreement registration, the amended particulars shall be recorded in the registration, and the trademark licensing agreement shall subsequently be returned to the trademark owner.

Article 49

The trademark owner and their licensee shall jointly file an application for cancellation of the registration of a trademark licensing agreement under Section 72, paragraph one, enclosing the trademark licensing agreement."

Article 28

The provision of Article 52 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act B.E. 2534 shall be repealed and replaced with the following:

Article 52

Upon the Registrar's order canceling a trademark licensing agreement under Article 49, the cancellation shall be recorded in the registration and on the trademark licensing agreement. Subsequently, the trademark licensing agreement shall be returned to the trademark owner."

Article 29

The provision of Article 53 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534, as amended by the Ministerial Regulation No. 4 (B.E. 2543) issued under the Trademark Act B.E. 2534, shall be repealed and replaced with the following:

"Article 53

In the case of the Registrar's final order or the Board's final decision under Section 74, or the Board's final decision under Section 75, or the Court's final judgment that the registration of a trademark licensing agreement be canceled, the Registrar shall summon the trademark owner to submit the trademark licensing agreement and shall record the cancellation in the registration and on the trademark licensing agreement. Subsequently, the trademark licensing agreement shall be returned to the trademark owner."

Article 30

The provisions of Articles 56 and 57 of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534 shall be repealed and replaced with the following:

"Article 56

The certification mark owner shall file an application for registration of amendments to terms on the use of a certification mark, enclosing the following documents and evidence:

- (1) Amended term on the use of a certification mark or the amended parts thereof;
- (2) Documents and evidence proving certification ability pursuant to the terms requesting the amendment; and
- (3) Documents and evidence or explanation proving that the amendments will not affect the public's benefits.

Article 57

Upon the Registrar's approval of the registration of the amendment to the terms on the use of a certification mark, the amendment shall be recorded in the registration, and the main points of the amended terms shall be published. A notification letter thereof shall be sent to the certification mark owner."

Article 31

The provision of Article 58, paragraph two of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534 shall be repealed and replaced with the following:

"Upon the Registrar's order approving the assignment under paragraph one, the assignment of the certification mark shall be registered and recorded in the registration, and a new registration certificate shall be issued to the assignee. The formerly issued certificate is deemed terminated."

Article 32

The attachments of the Ministerial Regulation (B.E. 2535) issued under the Trademark Act N.E. 2534 shall be repealed and replaced with the attachments of this Ministerial Regulation.

Given on July 14, 2017

Apiradi Tantraporn

Minister of Commerce