

THAILAND
Trademark Regulation
(B.E. 2535)

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Chapter 1 General Provisions

Article 1

In this Ministerial Regulation:

"application" means an application for registration of a trademark, service mark, certification mark or collective mark, and other applications, which shall cover other oppositions, counterstatements and petitions;

"certificate" means a certificate of trademark registration, certificate of service mark registration, certificate of certification mark registration or certificate of collective mark registration; and

"registration" means a registration of trademark, service mark, certification mark or collective mark.

Article 2

All applications shall be in printed form, as notified and prescribed by the Director-General.

The forms shall be filled and completed in Thai by means of manual typewriter or print-outs, whereby they are signed by the applicants. Applications shall be filed, together with the payable fees, with the Registrar at the Department of Intellectual Property of the Ministry of Commerce, or the Provincial Commercial Offices, or other sections, as notified and prescribed by the Director-General; or sent by registered mail with advice of receipt to the Registrar, the Department of Intellectual Property of the Ministry of Commerce, or by other means, as notified and prescribed by the Director-General; unless otherwise stipulated by other Articles hereof.

In the case of registered mail with advice of receipt under paragraph three, the date of the application's arrival at the Department of Intellectual Property shall be deemed as the filing date.

Article 3

In the case where it is required to attach an identification card to an application:

(1) for a natural person, a photocopy of the national identification card, or other identification cards issued by the government, certificate of alien, or passport may be used; or

(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 4

In filing an application by an agent(s) or an attorney(s), a photocopy of the agent appointment letter or power of attorney, and the identification card of the agent(s) or attorney(s) shall be enclosed.

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.

In the event that the agent appointment letters or the powers of attorney under paragraph one are prepared in Thailand, and a principal or grantor does not reside in Thailand, it is required to submit a photocopy of the passport, temporary residence certificate, or other evidence, proving to the Registrar such person's presence in Thailand during the appointment.

Article 6

If several applications are filed by an applicant, the supporting documents for the first application must be originals. For other applications, photocopies of such supporting documents shall be enclosed, provided that the application number, to which the originals are attached, shall be given.

Article 7

Applicants must certify true copies or photocopies of the supporting documents.

Article 8

With respect to the submission of supporting documents prepared in a foreign language, applicants must provide Thai translations thereof certified by translators.

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.

Chapter 2 Trademarks

Part 1 Application for Trademark Registration

Article 10

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

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 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 12

Trademarks applying for registration, which are written in a foreign language, shall have Thai pronunciations and translations, unless they include foreign-language statements that cannot be translated. The applicant's certification of such pronunciations and translations shall be provided in the application.

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

Article 12 bis

In the case where an applicant wishes to exercise their right under Section 28 bis, an application for trademark registration and an application for the exercise of the right under Section 28 bis shall be submitted, along with the following documents and evidence:

- (1) Evidence proving that the applicant showed goods bearing the

trademark applying for registration at an international trade exhibition;

(2) A certificate for an international trade exhibition issued by the Thai government, if the Thai government undertakes certification of the exhibition; alternatively, a certificate for an international trade exhibition issued by a state agency, state enterprise, or any other public organization of Thailand or of a member country of an international convention or treaty for the protection of trademarks, of which Thailand is also a member, if the state agency, state enterprise, or any other public organization thereof held the international trade exhibition;

(3) A copy of the first foreign application, which is certified by a competent official of that country (if any); and

(4) Copies of the translations of the documents in (1), (2), and (3), if they are prepared in a foreign language.

The international trade exhibition under paragraph one means an exhibition held for the purposes of showing or offering for sale goods to participants, who are from more than two countries.

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.

In the case where the applicant fails to submit the documents and evidence within the specified time limit, the Registrar shall further consider the application, provided that the applicant does not desire to exercise their right under Section 28 bis.

Article 12 quarter

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

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 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 15

The Registrar shall publish applications for registration in a "Trademark Gazette" at the public premises of the Department of Intellectual Property of the Ministry of Commerce.

Article 16

In publishing applications for registration under Article 15, the following particulars shall be presented:

- (1) Application numbers and filing dates;
- (2) Trademarks;
- (3) Classes and lists of goods;
- (4) Names of the applicants and the agents (if any);
- (5) Conditions or limitations (if any);
- (6) Publication dates; and
- (7) Other particulars as the Registrar deems appropriate.

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 18

In publishing a withdrawal under Article 17, the following particulars shall be presented:

- (1) Application number;
- (2) Publication date;
- (3) Date of the Registrar's withdrawal and reasons thereof; and
- (4) Other particulars as the Registrar deems appropriate.

Part 2 Assignment or Inheritance of an Application

Article 19

Assignment of an application for registration shall be carried out as follows.

(1) In the case where an assignor or an assignee requests an assignment of an application for registration, the assignor or the assignee shall file the application enclosed with the following documents:

- (A) An assignment agreement signed by the assignor and assignee; and
- (B) Identification cards of the assignor and assignee.

(2) In the case where the assignor and assignee jointly request the assignment of an application for registration, whereby both parties sign before the Registrar, the assignor and assignee shall attach the documents in (1)(B) to the request.

Article 20

With respect to inheritance of an application, in the event that an applicant dies, provided that neither a testament has been prepared nor interested persons file a petition with the Court appointing an administrator of the estate, an heir of the applicant is allowed to file a request enclosing the following documents and evidence:

- (1) A photocopy of the death certificate, or other documents and evidence indicating the applicant's death;
- (2) An heir's letter affirming that -
 - (A) the deceased did not prepare a testament;
 - (B) no persons have filed a petition with the Court appointing an administrator of the estate; and
 - (C) the total number of the heirs are listed, including the relationships between the deceased and the heirs;
- (3) the heir's or heirs' agreements upon liquidation of the property related to the deceased's mark, and evidence proving the status as the rightful heir or heirs; and
- (4) The identification card(s) of the heir(s).

Article 21

With respect to the inheritance of an application for registration, in the case of having an executor or an administrator of an estate, or a testament indicating that the rights to the application are vested in any person, the executor/administrator or the heir(s) to such rights shall file a request enclosing the following documents and evidence:

- (1) A photocopy of the death certificate, or other documents and

evidence indicating the applicant's death;

(2) A photocopy of the testament or a copy of the Court's Order appointing the administrator of the estate; and

(3) The identification card of the executor/administrator or the heir(s).

Part 3 Registration

Article 23

Upon the Registrar's order approving the registration of any application, a registration number shall be issued, in chronological order, and the registration shall include the following particulars:

- (1) Application number and filing date;
- (2) Registration number and registration date;
- (3) Publication date;
- (4) Name, nationality, address and occupation of the trademark owner;
- (5) Name, nationality, address and occupation of the agent;
- (6) Office or contact address in Thailand;
- (7) Trademark;
- (8) Class and list of goods;
- (9) Conditions, limitations and disclaimers under the provisions of Section 17; and
- (10) Other particulars as the Registrar deems appropriate.

Part 4 Opposition to Registration and Counterstatement to Oppositions

Article 24

An opposer may file an opposition to registration, enclosed with the following documents and evidence:

- (1) One (1) copy of the opposition;
- (2) An identification card; and
- (3) Documents and evidence in support of the opposition.

Article 25

An applicant shall file a counterstatement to the opposition, enclosed with the following documents and evidence:

- (1) Copies of the counterstatement, according to the number of opposers; and
- (2) Documents and evidence in support of the counterstatement.

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.

In the case where the opposer or the applicant fails to submit the documents and evidence within the time limit specified in paragraph one, the Registrar shall further consider the application, and shall not wait for such documents and evidence.

Part 5 Opposer's Registration

Article 27

In the case where an opposer files an application for registration of a trademark, which is identical or similar to the trademark being opposed by them; and a final decision, judgment, or order stipulates that the opposer has the better right, the Registrar shall approve the opposer's registration under Article 23, without publishing the opposer's application.

Article 28

The Registrar shall publish the approval of the opposer's registration at public premises of the Department of Intellectual Property of the Ministry of Commerce by presenting the following particulars.

- (1) Brief information about the former applicant's application for registration;
- (2) Brief information about the opposer's opposition and reasons thereof;
- (3) Brief information about the opposer's application for registration as follows:
 - (A) Name of the opposer;
 - (B) Application number and filing date;
 - (C) Opposer's trademark;
 - (D) Class and list of goods applying for such trademark; and
- (4) Final decisions, judgments or orders regarding said opposition.

Part 6 Certificates and Copies of Certificates for Registration

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 30

Issuance of duplicate copies of any certificates, in all cases, shall be deemed cancellation of the original certificates.

Article 31

Upon the issuance of the certificate or a duplicate copy thereof, it shall be sent to the applicant at their office or contact address in Thailand by registered mail with advice of receipt, or shall be delivered to the applicant or their agent or attorney by hand delivery.

Part 7 Assignment or Inheritance of the Right to a Trademark

Article 32

Assignment or inheritance of the right to a registered trademark shall apply mutatis mutandis to Articles 19, 20 and 21, whereby a certificate for registration is required.

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 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.

Part 8 Amendments to Registration Particulars

Article 34

Except as stipulated in Section 52, the owner of a registered trademark may request amendments to the following registration particulars:

- (1) Withdrawal of an agent;
- (2) Appointment or change of an agent; or
- (3) Nationality, address and occupation of a licensee.

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.

Part 9 Renewal of Registration

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 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.

Part 10 Cancellation of Registration

Article 41

The owner of a registered trademark may request cancellation of their trademark registration by filing an application with the Registrar, and enclosing the registration certificate, along with the following documents and evidence:

- (1) An identification card; and
- (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 42

Upon the Registrar's approval of the cancellation of any registration, the cancellation shall be recorded in the registration, and the certificate thereof shall be canceled. Meanwhile, such cancellation shall be published at the public premises of the Department of Intellectual Property of the Ministry of Commerce.

Article 43

With respect to the publication of the cancellation of registration under Section 59, paragraph three, the Registrar shall comply with Article 15.

In publishing the cancellation under paragraph one, the following particulars shall be presented:

- (1) Application and registration numbers;
- (2) Name of the trademark owner and their agent;
- (3) Office or address registered in Thailand;
- (4) Facts leading to the Registrar's belief that the owner or the agent no longer has a registered office or address in Thailand; and
- (5) Other particulars as the Registrar deems appropriate.

Article 44

Upon the Registrar's order canceling any registration, the cancellation shall be recorded in the registration and the formerly issued certificate thereof shall be deemed terminated.

Orders for a cancellation under paragraph one shall be published at the public premises of the Department of Intellectual Property of the Ministry of Commerce.

Part 11 Application for Registration of Trademark Licensing Agreement

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.

With respect to the application under paragraph one, other than the required particulars pursuant to Section 68, paragraph three, subsections (1) and (2), it is required to show that the person applying to be a registered licensee has the exclusive rights to the trademark, or that the trademark owner may grant licensing rights of their trademark to other persons.

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.

**Part 12 Amendments to Particulars of Trademark Licensing Agreement
Registration**

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.

Part 13 Cancellation of Registration of Trademark Licensing Agreement

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 50

The trademark owner or their licensee shall file an application for cancellation of the registration of a trademark licensing agreement under Section 72, paragraph two, enclosing documents showing termination of the trademark licensing agreement.

Article 51

Requesting cancellation of the registration of a trademark licensing agreement under Section 72, paragraph three, subsections (1) and (2) shall be as follows:

(1) In the case of a request by an interested person, an application, including the reasons for requesting the cancellation of the trademark licensing agreement, shall be filed with the Registrar. Upon the Registrar's receipt of the application, it shall be proposed to the Board [of Trademarks].

(2) In the case of a request by the Registrar, an application, including the reasons for requesting the cancellation of the trademark licensing agreement, shall be filed with the Board.

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 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.

Chapter 3 Service Marks and Certification Marks

Article 54

The provisions of Chapter 2: Trademarks shall apply mutatis mutandis to service marks, and the word "goods" in such Chapter shall mean "services".

Article 55

The provisions of Chapter 2: Trademarks, Parts 1-10 only, shall apply mutatis mutandis to certification marks.

Article 56

The certification mark owner shall file an application for registration of amendments to the 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 58

The assignor shall file an application for approval of the assignment and for registration of the assignment of a certification mark, enclosing the following documents and evidence:

- (1) The registration certificate;
- (2) A certification mark assigning agreement signed by both the assignor and the assignee, or other documents and evidence proving said assignment;
- (3) A certification letter for the assignee's ability, including rules and procedures for certifying the characteristics of the goods or services, as specified in the terms on use of a certification mark; and

(4) Identification cards of the assignor and assignee.

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.

Chapter 4 Collective Marks

Article 59

The provisions of Chapter 2: Trademarks, Parts 1-10 only, shall apply mutatis mutandis to collective marks.

Article 60

An application for collective mark registration shall be filed by the following persons:

(1) In the case where a collective mark is or will be used by persons or juristic persons of any group, whereby their incorporation does not constitute a new and separate juristic person, an application may be filed by all of the persons or juristic persons of the group or by any person or juristic person of the group. If the application is filed by any person or juristic person of the group, the applicant shall indicate that the collective mark is or will be used by any of the persons or juristic persons.

(2) In the case where a collective mark is or will be used by members of an association, cooperative, union, confederation, group of persons, or any other organization, either public or private, it shall file an application for collective mark registration. The applicant shall indicate that the collective mark applying for registration is or will be used by all of the members or by any of the members.

Applications for registration under paragraph one shall be enclosed with the documents and evidence or explanation proving relationships between the persons eligible to use a collective mark.

Article 61

An applicant for a collective mark shall file with the Registrar an application for amendment to the registration particulars related to the collective mark, renewing the collective mark, and requesting cancellation of the collective mark. In the case where the applicant is a person/juristic person under Article 60(1) and that person/juristic person fails to proceed with the registration, the majority number of persons of the group, who are eligible to the collective mark, may assign, in writing, any person of the group to act on behalf of the former applicant.