

## 25.01

### Handling of a Case when an Applicant Demands the Application of the Provisions of the Proviso to Article 5(6) of the Trademark Act

<Regulation for Enforcement of the Trademark Act, Form No. 2, Note 19>

19. When an applicant demands the provisions of the proviso to Article 5(6) of the Trademark Act be applied, the applicant shall state, in the explanation, "application of the proviso to Article 5(6) of the Trademark Act" followed by the trademark for which registration is sought and to the effect that the same color as that shown in the column in which the trademark is stated should be used by clarifying the area which should be colored by using **leader lines, characters or others**. In this case, establish a column for the "[Name of the material]" in the column for "[List of submitted materials]" and then state "Explanation for the proviso to Article 5(6) of the Trademark Act." However, when the applicant has stated to the effect that the same color as that shown in the column in which the trademark is stated should be used by clarifying the area to be colored in the column for the "[Detailed explanation of the trademark]," the applicant is not required to state to that effect in the explanation.

\* Underline and boldface are used for the purposes of convenience and explanation.

The procedures based on Form No. 2, Note 19 of the Regulation for Enforcement of the Trademark Act in the case of demanding the application of the provisions of the proviso to Article 5(6) of the Trademark Act shall be as follows.

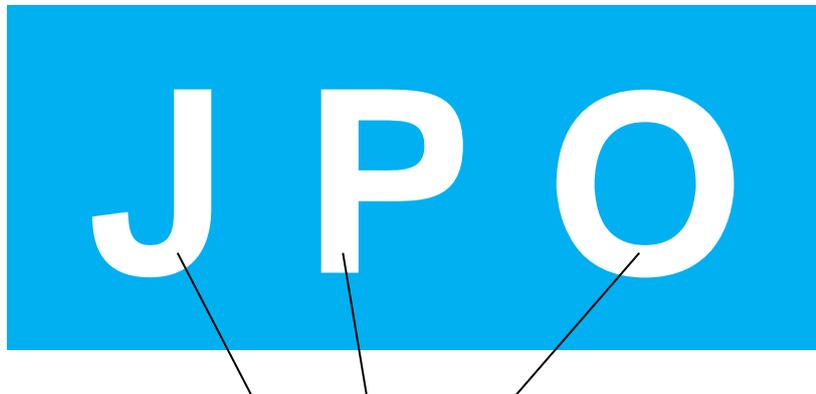
#### 1. Regarding the statement to be made in the "explanation"

The following is an example of an explanation stating to the effect that the applicant demands the application of the provisions of the proviso to Article 5(6) of the Trademark Act.

(1) Case of describing, by using "leader lines," the area which should be colored the same color as that shown in the column in which the trademark is stated.

## Explanation

## Application of the Proviso to Article 5(6) of the Trademark Act



Color these areas the same color (white) as that shown in the column in which the trademark is stated.

The leader lines are used for the purposes of convenience and explanation and do not constitute the trademark.

(2) Case of describing, by using "characters," the area which should be colored the same color as that shown in the column in which the trademark is stated.

## Explanation

## Application of the Proviso to Article 5(6) of the Trademark Act

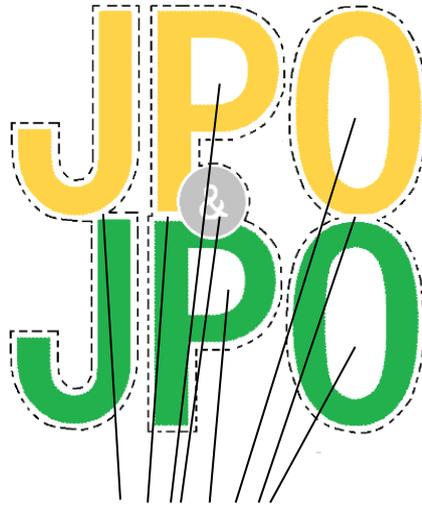


The characters, "JPO," "ジェイピーオー" and "じえいぴいおう" shall be colored the same color (white) as that shown in the column in which the trademark is stated.

(3) Case where describing, by using "dotted lines and leader lines," the area which should be colored the same color as that shown in the column in which the trademark is stated.

Explanation

Application of the Proviso to Article 5(6) of the Trademark Act



Color these areas with the same color (white) as that shown in the column in which the trademark is stated.

The dotted lines and leader lines are used for the purposes of convenience and explanation and do not constitute the trademark.

2. Regarding the statements to be made in the "detailed explanation of the trademark"

(1) Regarding motion marks, hologram marks, and position marks

When an applicant has described, by using "characters," the area which should be colored the same color as that shown in the column in which the trademark is stated in the "detailed explanation of the trademark" for motion marks, hologram marks or position marks, the applicant may have the provisions of the proviso to Article 5(6) of the Trademark Act applied without submitting an explanation.

(2) Regarding color marks

For color marks, specify the color by stating the color name, combination ratio of the three primary colors (RGB), the numbers used in the color sample book and other matters for the same color as that shown in the column in which the trademark is stated in the "detailed explanation of the trademark."

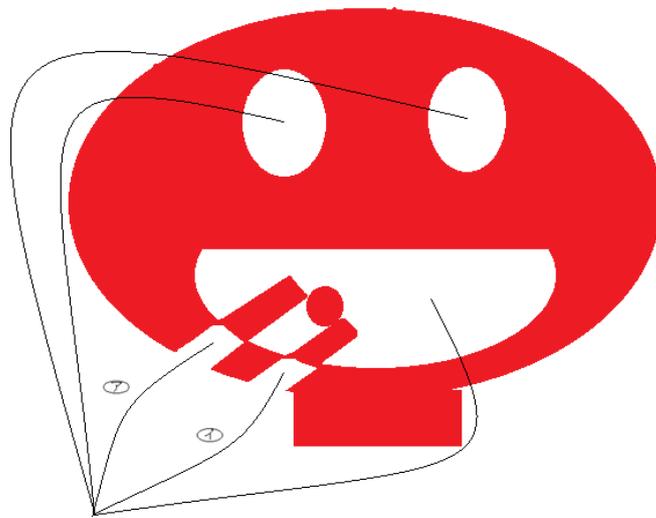
3. Regarding the case where the description of the area which should be colored the same color as that shown in the column in which the trademark is stated is unclear

When an applicant has prepared an explanation stating a demand for the application of the provisions of the proviso to Article 5(6) of the Trademark Act but the area which should be colored the same color as that shown in the column in which the trademark is stated is unclear, the examiner shall order the applicant to make an amendment to clarify such area.

(Example) Unclear description of the areas

Explanation

Application of the Proviso to Article 5(6) of the Trademark Act



Color these areas with the same color (white) as that shown in the column in which the trademark is stated.

The leader lines are used for the purposes of convenience and explanation and do not constitute the trademark.

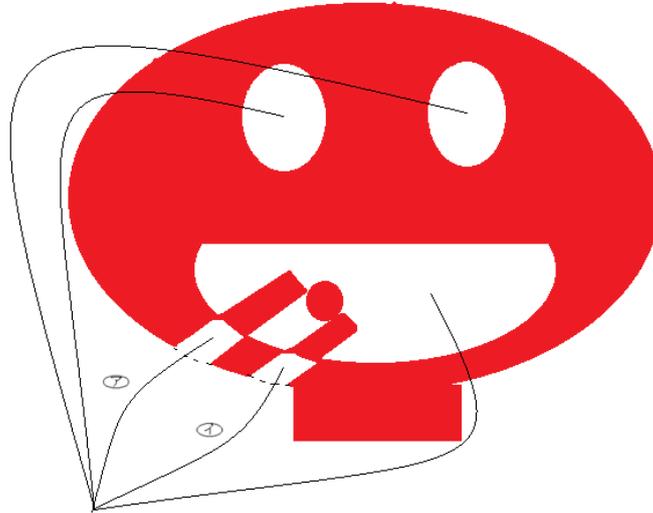
(Explanation)

The portions indicated by leader lines A and B do not clearly designate the areas which should be colored the same color (white) as that shown in the column in which the trademark is stated and such areas should be clarified.

(Example) Description clearly designating the area

Explanation

Application of the proviso to Article 5(6) of the Trademark Act



Color these areas with the same color (white) as that shown in the column in which the trademark stated.

The dotted lines and leader lines are used for the purposes of convenience and explanation and do not constitute the trademark.

4. When an applicant makes a statement demanding the application of the provisions of the proviso to Article 5(6) of the Trademark Act in an international application for trademark registration, unless there is some difference between such statement and the trademark for which registration is sought, the provisions of the proviso to Article 5(6) of the Trademark Act shall be applied.

(Note) Click below to see the Examination Guidelines for Trademarks

Examination Guidelines for Trademarks

- \* Article 5 (Applications for trademark registration)
- \* Article 16-2 and Article 17-2 (Dismissal of amendment)