

## 26.02

### **Handling of a Case in which, after Comparing the Application for the Registration of the Renewal of the Duration of a Right Based on a Registered Defensive Mark with the Register, the Applicant is Found to be Different from the Owner of the Right Based on the Defensive Mark**

1. When, after comparing the application for the registration of a renewal of a right based on the registered defensive mark with the register, the applicant is found to be different from the owner of the right based on the registered defensive mark, the examiner sends a notification of reasons for refusal pursuant to Article 65-4(1)(ii) of the Trademark Act.

2. When a statement is made to the effect that an application for registration of a transfer or an application for registration of a change (correction) in the indication of the registered title holder was submitted at the time of filing an application for the registration of the duration of a right based on a defensive mark, the examiner does not immediately send a notification of reasons for refusal, even if the applicant is found to be different from the owner of the right based on a defensive mark after comparing the application with the register. Instead, the examiner compares them again after a certain period of time (the period required for processing the registration of transfer, etc.) and handles the matter as below.

(1) If the applicant is still different from the owner of the right based on the defensive mark even after the registration of transfer, etc. has been completed (or if the registration of transfer, etc. has not been implemented due to dismissal of the application for registration of transfer, etc.), the examiner sends the notification of reasons for refusal referred to in Item 1. above.

(2) If the applicant is found to be the owner of the right based on the defensive mark after the registration of transfer, etc., the examiner does not send the notification of reasons for refusal referred to in Item 1. above.

3. When the transfer is registered after the filing of an application for the registration of a renewal of the duration of a right based on a defensive mark, the examiner notifies<sup>1</sup> the applicant that the application procedure will proceed by recognizing the owner of the right based on a defensive mark: after the registration of transfer, to be

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<sup>1</sup> The examiner shall notify the Formality Examination Office that the procedures will be continued and request the Office to record the procedures in a file stored in an electronic computer used by the Patent Office.

the applicant. Then, the examiner proceeds with the examination. (The examiner does not send the notification of reasons for refusal referred to in Item 1. above.)

4. When a change (correction) in the indication of the registered title holder is registered after the filing of an application for the registration of a renewal of the duration of a right based on a defensive mark, the examiner considers the domicile (residence) and name of the applicant to have been changed to the indication after the registration of a change (correction) and conducts subsequent procedures. (The examiner does not send the notification of reasons for refusal referred to in Item 1. above.)

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

Examination Guidelines for Trademarks:

Article 65-2, 3, and 4 (Duration of right based on defensive mark registration)

Article 68-9, 68-10, 68-11, 68-12, 68-13, 68-15, 68-16, 68-17, 68-18, 68-20 and 68-28 (Special provisions relating to international applications for trademark registration)