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**Handling of Examinations in Cases Treated as Having No Likelihood of  
Confusion Due to the Existence of a Control Relationship**

Trademark Examination Guidelines, Part III, Chapter 19, Article 4(4)

4. Regarding the expression “no likelihood of confusion”

(3) Cases where the existence of a control relationship is treated as pertaining to “no likelihood of confusion”

Where the applicant and the holder of the cited trademark right have any of the following relationships, the case will be treated as one in which there is no likelihood of confusion:

- (1) Where the holder of the cited trademark right is under the control of the applicant
- (2) Where the applicant is under the control of the holder of the cited trademark right
- (3) Where the applicant and the holder of the cited trademark right are under the control of the same person

With respect to the handling of cases where there is a control relationship between the applicant and the holder of the cited trademark right, the Trademark Examination Guidelines [Revised 13th Edition through Revised 16th Edition] provided in the

provisions of Article 4(1)(xi) of the Trademark Act that such cases were to be treated as not falling under that item. In light of the establishment of Article 4(4) of the Trademark Act and the introduction of the consent system from the Trademark Examination Guidelines [Revised 17th Edition], applicable as of April 1, 2026, the examination guidelines for the above paragraph are to apply, and such cases are to be treated as ones wherein there is no likelihood of confusion.

#### 1. Meaning of “under the control of”

“Under the control of” in 4.(3) of the Trademark Examination Guidelines Part III, Chapter 19, Article 4(4) (hereinafter referred to as the “Guidelines”) means a “subsidiary company” under the Companies Act (Act No. 86 of 2005), or an entity equivalent thereto.

A “subsidiary company” under the Companies Act means any entity which is prescribed by Ministry of Justice Order as the corporation the management of which is controlled by a Company, including, but not limited to, a Stock Company in which a majority of all voting rights are owned by the Company (Article 2, item (iii) of the Companies Act). This “prescribed by Ministry of Justice Order” means the second company, etc. in cases where the first company controls decisions on the financial and business policies of the second company, etc. (a company (including a foreign company), a partnership (including an entity that is equivalent to a partnership in a foreign country), or other business entity equivalent thereto) (Article 3, paragraph (1) and Article 2, paragraph (3), item (ii) of the Ordinance for Enforcement of the Companies Act (Ordinance of the Ministry of Justice No. 12 of 2006)) (see Appendix).

Accordingly, even where the case falls under a so-called grandchild company, it shall

be recognized as being “under the control of” if it is a “subsidiary company” under the Companies Act.

Furthermore, even where the entity is not a company (where it is a general incorporated association, for example), it shall be determined to be “under the control of” if there is a control relationship equivalent to a “subsidiary company” under the Companies Act.

## 2. Evidentiary materials

The applicant shall submit documents evidencing that the relevant entity is a “subsidiary company” under the Companies Act, or an equivalent thereto (Annual Securities Report, Appendix 2 to the final corporation tax return (Statement for the Determination of Family Companies), shareholder register, company brochure, etc.).

## 3. Specific operational policy

Where the submitted documents establish that (1) the holder of the cited trademark right is “under the control of” the applicant, (2) the applicant is “under the control of” the holder of the cited trademark right, or (3) the applicant and the holder of the cited trademark right are both “under the control of” the same person, the case shall be treated as one in which there is no likelihood of confusion, without conducting any specific examination in this regard.

Accordingly, even in cases where the applicant and the holder of the cited trademark right fall under so-called sister companies, if both are “subsidiary companies” of the same parent company under the Companies Act, the case shall be treated as one in which

there is no likelihood of confusion.

However, where the applicant merely asserts that the applicant and the holder of the cited trademark belong to the same corporate group, such a case shall not fall within the scope of this treatment.

#### 4. Processing identical trademarks and identical designated goods or services

Even where a case falls under (1) through (3) above, trademarks that are identical with the cited trademark (including those differing only in scale), and which are to be used for the identical designated goods or services, shall not be eligible for application of the Guidelines.

In addition, “identical designated goods or services” refers to those of the applied trademark that have the same indication as the designated goods or services of the cited trademark (except for those that are included conceptually).

(Note) You can view the Trademark Examination Guidelines by clicking below.

○ [Examination Guidelines for “Article 4\(4\) \(Exceptions to Another Person’s Registered Trademark Applied for Prior to the Filing Date of the Trademark Application Concerned\)”](#)

(Appendix)

■ Extract from the Companies Act (Act No. 86 of 2005)

(Definitions)

Article 2 In this Act, the meanings of the terms listed in the following items are as prescribed respectively in those items.

(i) "Company" means any Stock Company, General Partnership Company, Limited Partnership Company or Limited Liability Company;

(ii) (Omitted)

(iii) "Subsidiary Company" means any entity which is prescribed by Ministry of Justice Order as the corporation the management of which is controlled by a Company, including, but not limited to, a Stock Company in which a majority of all voting rights are owned by the Company;

(iii)-2 through (xxxiv) (Omitted)

■ Extract from the Ordinance for Enforcement of the Companies Act (Ordinance of the Ministry of Justice No. 12 of 2006)

(Subsidiary Companies and Parent Companies)

Article 3

(1) An entity prescribed by Ordinance of the Ministry of Justice as provided for in Article 2, item (iii) of the Act is regarded as the second Company, etc. under that item, where the first Company provided for in the same item controls decisions on the financial and business policies of the second Company, etc.

(2) (Omitted)

(3) The phrase "controls decisions on the financial and business policies" provided in the preceding two paragraphs means the following cases (excluding the cases where it is found to be clear that no control is exercised over determinations on the financial or business policies of the other Company, etc. in light of the financial or business relationships; hereinafter the same applies in this paragraph):

(i) where the rate of the number of voting rights that the first Company (including its Subsidiary Company or Subsidiary Corporation, etc. (meaning the relevant other Company, etc. over whose decisions on financial and business policies a first Company, etc. that is other than a Company has control); hereinafter the same applies in this paragraph) holds in the second Company on its own account to the total number of voting rights of the second Company, etc. (excluding a Company, etc. listed below with which an effective dominant-subordinate relationship is not recognized as existing; hereinafter the same applies in this paragraph) exceeds 50 percent:

(a) a Company, etc. that has become subject to an order for the commencement of rehabilitation proceedings pursuant to the provisions of the Civil Rehabilitation Act (Act No. 225 of 1999);

(b) a stock company that has become subject to an order for the commencement of reorganization proceedings pursuant to the provisions of the Corporate Reorganization Act (Act No. 154 of 2002);

(c) a Company, etc. that has become subject to an order for the commencement of bankruptcy proceedings pursuant to the provisions of the Bankruptcy Act

- (Act No. 75 of 2004); or
- (d) any other Company, etc. equivalent to the Companies, etc. listed in (a) through (c);
- (ii) where the voting rights in a second Company, etc., of the number of that a first Company, etc. holds on its own account is 40 percent or greater of the total number of voting rights in the second Company, etc. (excluding the cases listed in the preceding item), and where any one of the following requirements is satisfied:
- (a) the rate of the first Company's Own and Equivalent Voting Rights (meaning the total number of the following voting rights; the same applies in the following item) in the second Company, etc. exceed 50 percent of the total number of voting rights in the second Company, etc.:
1. voting rights held on the first Company's own account;
  2. voting rights held by persons who are found to exercise their voting rights in accordance with the wishes of the first Company, etc. due to a close relationship therewith in terms of investment, personnel, funds, technology, transactions or other matters; and
  3. voting rights held by persons who have agreed to exercise their voting rights in accordance with the wishes of the first Company, etc.;
- (b) that the rate of the number of the following persons of the first Company, etc. (limited to those capable of exercising influence in connection with decisions on the financial and business policies of the second Company, etc.) exceeds 50 percent of the total number of members on the board of directors or other

equivalent body of the second Company, etc. of:

1. Officers of the first Company, etc.;
2. members who execute business at the first Company, etc.;
3. employees of the first Company, etc.; and
4. a person who was a person listed in 1. through 3;

(c) that an agreement, etc. exists under which the first Company controls decisions on the important financial and business policies of the second Company, etc.;

(d) that the amount of financing (including the amount of financing carried out by a party that has a close relationship with the first Company, etc. in terms of investment, personnel, funds, technology, transactions, etc.) (including guarantees on obligations and provision of collateral; the same applies in (d)) that the first Company, etc. carries out in the second Company, etc. exceeds 50 percent of the total amount of procured funds of the second Company, etc. (limited to funds recorded in the section on liabilities in the balance sheet);

(e) that other facts exist suggesting that the first Company, etc. controls decisions on the financial and business policies of the second Company, etc.; or

(iii) where the number of the Own and Equivalent Voting Rights that the first Company, etc. holds in the second Company, etc. exceeds 50 percent of the total number of voting rights in the second Company, etc. (including where the first Company, etc. does not hold the voting rights on its own account, and excluding the cases listed in the preceding two items), and where any one of the requirements listed in (b) through (e) of the preceding item is satisfied

(4) (Omitted)