

Part IX: Article 9 (Special provisions at the time of filing of application)

Article 9 (1) Where an application for trademark registration is filed in connection with a trademark used for goods or services exhibited at an exhibition held by the Government, etc., an exhibition held by those who are not the Government, etc. that conforms to the standards specified by the Commissioner of the Patent Office, an international exhibition held by the Government, etc. of a country of the Union to the Paris Convention, a member of the World Trade Organization or a Contracting Party to the Trademark Law Treaty or by those authorized thereby to hold such an exhibition in its territory, or an international exhibition held by the Government, etc. of a country which is not a country of the Union of the Paris Convention, a member of the World Trade Organization or a Contracting Party to the Trademark Law Treaty or by those authorized thereby to hold such exhibition in its territory that conforms to the standards specified by the Commissioner of the Patent Office, by the exhibitor of such goods or services bearing the trademark within six months from the date of exhibition of such goods or services, the said application shall be deemed to have been filed at the time of exhibition of such goods or services.

(2) Any person who desires to apply the preceding paragraph in connection with a trademark relating to an application for trademark registration shall submit to the Commissioner of the Patent Office a document stating thereof at the time of filing of the application for trademark registration, and documents proving the fact that the trademark pertaining to an application for trademark registration and its designated goods or designated services fall under the trademark and goods or services provided in the said paragraph (referred to as a "certificate" in the following paragraph and paragraph (4)), within thirty days from the filing date of an application for the trademark registration.

(3) Where a person submitting a certificate is unable to submit the certificate within the time limit under the preceding paragraph, the said person may, in accordance with Ordinance of the Ministry of Economy, Trade and Industry, submit the said certificate to the Commissioner of the Patent Office only within the time limit as provided in Ordinance of the Ministry of Economy, Trade and Industry, even after the expiration of the time limit.

(4) Where, due to reasons beyond the control of the person, the person submitting a certificate is unable to submit the certificate within the time limit for submission of the certificate pursuant to the preceding paragraph, notwithstanding the said paragraph, submit the certificate to the Commissioner of the Patent Office within 14 days (two months for resident abroad) from the date on which the reasons for not submitting ceased to be applicable, but not later than six

months after the expiration of the said time limit.

1. Part III, Chapter 8, Item 1 (Article 4(1)(ix)) of the Guidelines applies mutatis mutandis to "exhibitions."

2. Regarding the expression "that conforms to the standards specified by the Commissioner of the Patent Office"

The "standards specified by the Commissioner of the Patent Office" are shown in Notification No. 6 of JPO in 2012 (see below) and judgment will be made based on whether or not these standards are conformed to.

Part III, Chapter 8, Item 2 (Article 4(1)(ix)) of the Guidelines applies mutatis mutandis to the judgments described in (i) and (ii) below of said Notification.

Notification No. 6 of JPO of 2012 (extract of the requirements)

"(i) The events are held for the purpose of contributing to the development of industry wherein articles, etc. related to the industry are disclosed and displayed regardless of the name of the event such as "exhibition" or "trade fairs."

(ii) The venue and time of the event, qualifications of exhibitors and visitors, number of exhibitors as well as the kind and quantity of the articles on exhibition are deemed appropriate in light of the purpose of that item (note).

(iii) An exhibition held in Japan is one co-sponsored or aided by the government, etc., or equivalent thereto."

(Note) The term "that paragraph" refers to Article 9(1) of the Trademark Act.

3. Certificate

In alleging the application of the special provisions at the time of filing based on Article 9(1), the fact of exhibition or display may, for example, be made based on the following methods of evidence.

(1) Applicant's certificate of exhibition issued by the organizer of the exhibition

(2) Brochure indicating the fact of exhibition

(Note) The contents of the notification stated are as of the time when these Examination Guidelines were prepared.