

# **Procedures from Filing to Registration of Trademark Application**

Japan Patent Office  
Asia-Pacific Industrial Property Center. JIII

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## **Chapter I: Foreword**

### **1. What is Intellectual Property?**

The term “intellectual property” is usually used to refer generally to mental works created through human intellectual activities. These include industrial property--patents, utility models, designs and trademarks--and copyrights. In the same sense, the terms “intellectual property assets” and “intangible assets” are also used.

Under Article 1(2) of the Paris Convention and Article 2 of the Convention Establishing the World Intellectual Property Organization (WIPO), intellectual property is defined as follows:

#### **Industrial Property Rights**

“The protection of industrial property rights has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition.”

(Paris Convention)

#### **Intellectual Property Rights**

“Intellectual property rights shall include the rights relating to literary, artistic and scientific works; performances of performing artists, phonograms, and broadcasts; inventions in all fields of human endeavor; scientific discoveries; industrial designs; trademarks, service marks, and commercial names and designations; protection against unfair competition; and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.”

(WIPO Convention)

Outline of intellectual property rights protected under each law

(See Reference Material 1.)

**Intellectual property** refers to “inventions, devices, new varieties of plants, designs, works and other properties that are produced through the creative activity of human beings; trademarks, trade names and other marks that are used to indicate goods or services in business activities; as well as trade secrets and other technical or business information that is useful for business activities”.

(Article 2, paragraph 1 of the Japanese Basic Law on Intellectual Property)

**Intellectual property right** refers to “patent rights, utility model rights, plant breeders’ rights, design rights, copyrights, trademark rights, rights stipulated by law pertaining to other intellectual property or rights concerning an interest that is protected by law”.

(Article 2, paragraph 2 of the Japanese Basic Law on Intellectual Property)

## 2. What is a Trademark?

### (1) Trademark under Japanese Trademark Law

Section 2 (Definitions, etc.) of the Japanese Trademark Law (JTL) stipulates that “‘Trademarks in this Law mean characters, signs, three-dimensional shapes or any combination thereof, or any combination thereof with colors (hereinafter referred to as ‘marks’).”

### (2) Trademarks in Society and the Commercial World

Trademarks are marks such as characters, signs or designations, marks used by manufacturers, etc. with various names according to the field of goods, including brands, trademarks, service marks, trade names, shop names, goodwill,



etc. to distinguish their goods from those of others in competition.

(Examples of Trademarks)



### 3. Characteristics of the Japanese Trademark Law

The Japanese trademark system, which protects service marks in a similar way as trademarks, is based on the following principles:

- (1) the first-to-file system (Section 8);
- (2) the substantive examination principle (Section 14);
- (3) the principle of registration (Section 18);
- (4) a post-grant opposition system (Section 42);
- (5) the principle of trial (Section 44); and
- (6) the international classification of designated goods and services, etc.

## **Chapter II: Procedures from Filing to Registration of a Trademark Application**

### **1. Preparations Before Filing a Trademark Application**

- (1) Determine the scope of goods (services) as well as designated goods (services) with consideration to the present and future business
- (2) Select (Name) and design a trademark
- (3) Conduct a search for trademarks and goods (services)  
(with consideration to requirements for registration, grounds for non-registration, ownership and similarity of goods, and other factors)
  - (a) Computer search (earlier registered trademarks)  
(See Reference Material 2.)
  - (b) Manual search (JPO, JIPI, Japan Patent Attorneys Association (JPAA) and others)
- (4) Determine the types of trademark applications and countries in which to file based on an overall evaluation
- (5) Use an industrial property specialist (patent attorney)

### **2. Flowchart of Procedures from the Filing of a Trademark Application to its Registration**

(See Reference Material 3)

### **3. Applying for a Trademark Registration**

Since a trademark right is a right to exclusive use granted to a trademark owner with respect to designated goods or services, an application to register a trademark

needs to clearly define the scope and content of the right applied for.

Therefore, an application for trademark registration needs to be made in writing in a prescribed form with respect to each trademark, designating one or more goods or services. (Section 6, JTL)

(1) Prepare a trademark application (See Reference Material 4.)

(2) Prepare a reproduction of the trademark for which registration is sought

(a) A trademark for which a trademark registration is sought needs to be indicated in an area under the heading “Trademark for which registration is sought” (hereinafter referred to as the ‘trademark indication area’.)

(b) The trademark indication area should be 8 x 8 cm in size, but may be expanded to 15 x 15 cm if necessary.

(c) When a trademark is described directly in the trademark indication area, it must be placed within the square box.

(d) When a sheet of paper indicating the trademark is attached to a trademark application, the size of this sheet must be as specified in (b) above. This sheet of paper is considered to be the trademark indication area.

(e) The trademark needs to be clearly drawn with dark ink or paint, which is not liable to discolor or fade, in such a manner that it does not flake off. Otherwise, it must be printed, photocopied or reproduced so that the mark is clear and unerasable. A trademark composed of characters must be legibly described with fonts (generally ranging between 20 - 42 point characters in size).

(3) Three-Dimensional Trademarks

(a) Indications in a Trademark Application

When a registration is sought for a three-dimensional trademark, “2. Three-dimensional trademark” is added after “1. Trademark for which registration is sought,” with Items 2 to 5 in the application form shifted down.

(b) Indication of the Trademark for Which Registration Is Sought

- ① A three-dimensional trademark needs to be indicated by a drawing or a photograph showing it from one or more directions.
- ② When a three-dimensional trademark is indicated by two or more drawings (not exceeding 15 by 15 cm), they must be shown to the same scale with sufficient blank space provided between them.
- ③ When a three-dimensional trademark is indicated by a photograph, it needs to be indicated within a trademark indication area. If there is no space available on the front page of the trademark application for this indication, the indication can be made in the trademark indication area provided on the second page.
- ④ The size of a photograph should in principle be 8 x 8 cm; no other objects should appear in the background, and the photograph should not be liable to discolor or fade.

(4) Trademarks Composed of Standard Characters

(a) Indications in a Trademark Application

When registration is sought for a trademark composed of standard characters, “2. Standard character trademark” is added after “1. Trademark for which registration is sought,” with Items 2 to 5 in the application form shifted down.

In this case, four documents (duplicates of the trademark) which indicate

the trademark as provided under Section 3 of the Regulations under the Trademark Law need not be attached.

(b) Indication of the Trademark for Which Registration Is Sought

- ① When a trademark is described directly in the trademark indication area, it must be placed within the square box.
- ② The trademark indication area should be 8 x 8 cm, but can be expanded to 15 x 15 cm if necessary.
- ③ For further details see Reference Material 4.

(5) Other Necessary Documents

- (a) A document explaining the production, manufacture or use of the designated goods or services, materials used, construction, efficacy or uses, etc.
- (b) A document explaining the three-dimensional trademark (Regulations under Trademark Law, Section 4(2))
- (c) A written statement requesting the application of special provisions concerning the filing time of an application (JTL Section 9(2))
- (d) A document proving that the applicant is a legal entity eligible for the registration of a collective trademark (Section 7(3))
- (e) A document proving the distinctiveness of a trademark which has become recognized as indicating goods connected with a certain party's business through its use (Section 3(2))
- (f) A document proving power of attorney, etc.

#### 4. Recognition of Filing Date

Except for the cases described in (1) below, the date on which a trademark

application is filed is recognized as the filing date.

(1) Incomplete Applications Submitted on the Filing Date

- (a) The indications for registration of a trademark are not clear.
- (b) The name of the applicant is missing or not clear enough for identification.
- (c) The trademark for which registration is sought is not indicated.
- (d) The designated goods or services are not described.

(2) Amendment to a Trademark Application

- (a) Where requirements for recognizing a filing date are not met, the applicant is invited to make an amendment within a designated time limit.
- (b) To amend a trademark application, a written amendment must be filed.

(See Reference Material 5.)

(3) Recognition of a Filing Date after Amendment

When a deficiency in the requirements for recognizing a filing date is cleared as the result of an amendment, the date on which the amendment is filed is recognized as the filing date for the trademark application.

(4) Dismissal of an Application for Trademark Registration

If an amendment is not filed within the designated time limit, the trademark application concerned will be dismissed.

## 5. Amendments to Application Procedures

It is preferable that an application for the registration of a trademark be filed in an acceptable form. Under certain conditions, however, the procedures for filing a trademark application can be amended.

(1) Deficiencies in Formality

A formality deficiency in a trademark application can be amended or

corrected by the applicant. When a deficiency is found in the formality examination, the applicant is invited to make an amendment. A voluntary or invited amendment needs to be made in written form (see Reference Material 6).

If an amendment is not filed within the designated time limit, the trademark concerned is dismissed.

## (2) Change in Gist

- (a) When a filed amendment to a trademark application is judged to alter the gist of the application, the amendment will be dismissed.

An appeal can be made against the decision to dismiss the amendment.

- (b) Where a new application is filed within a period of 30 days from the decision to dismiss an amendment to a trademark application, the new application is treated as having been filed on the date that the amendment was filed. In this case, the original trademark application is deemed to have been withdrawn.

- (c) The application form for a new application, in the case an amendment to the original application has been dismissed, may be found in Reference Material 7. The relevant application fee is 6,000 yen, plus 15,000 yen for each class.

## 6. Division and Conversion of Trademark Applications

### (1) Division of Trademark Applications (JTL Section 10)

“An applicant may divide a trademark application designating two or more items of goods or services as designated goods or services into one or more new trademark applications provided that the trademark application is pending in examination, trial examination or retrial examination or that a suit against a trial

decision to refuse the trademark application is pending in court.”

To divide a trademark application, an amendment to delete part of the designated goods or services in the original application needs to be filed at the same time as the new application.

The application form for a new trademark application through division of a trademark application can be found in Reference Material 8.

## (2) Conversion of Trademark Applications (JTL Sections 11 and 12)

(a) Where a trademark application fails to satisfy the prescribed requirements for a collective trademark, it can be converted into an ordinary trademark application. The application form for converting a collective trademark application into an ordinary trademark application can be found in Reference Material 9.

(b) A legal entity set forth in Section 7(1) that succeeds rights arising from a trademark application can convert the trademark application into an application to register a collective trademark in the case that the legal entity uses the trademark as a collective trademark.

The application form for registration of a collective trademark by converting an ordinary trademark application can be found in Reference Material 10.

(c) An application for the registration of a defensive mark can be converted into an application for the registration of an ordinary trademark.

(d) An application for trademark registration can be converted into an application for the registration of a defensive mark.

All conversions listed in (a) to (d) above can be made before an examiner’s decision is made or a trial decision becomes final and are conclusive with



respect to the original application. In either case, the converted application is deemed to have been filed on the date on which the original application was filed, and the original application is deemed to have been withdrawn.

## 7. Introduction of the Paperless System for Trademark Applications and Other Procedures

With respect to trademark procedures when the Law Concerning Special Provisions on Procedures, etc. Relating to Industrial Property Rights was established, there were technical difficulties involved in processing halftone and colored data of trademark samples. However, in addition to the resolution of this technical difficulty, and with the aim of making procedures simpler, clerical operations more efficient and the granting of rights quicker; it was decided that procedures related to designs and trials as well as those concerning the Trademark Law would be handled by an electronic data processing system. The “Law Concerning Special Provisions on Procedures, etc. Relating to Industrial Property Rights” was amended and put into effect on January 1, 2000.

## 8. Priority Claims

When a trademark application is filed claiming priority based on an application filed earlier in a member country of the Paris Union within six months, as prescribed in the Paris Convention for the Protection of Industrial Property, the application is recognized as having been filed on the date of the earlier application.

To enjoy this benefit, an applicant must claim priority at the time of filing (by submitting a document describing the filing date of the first trademark application in a member country of the Paris Union, and the country name) and submit a certified copy,

publication or certificate (priority certificate) showing the date and content of the initial trademark application as certified by the country of filing, and a statement indicating the number of the trademark applications within three months from the filing date.

This benefit is accorded to nationals of member countries of the World Trade Organization and the Trademark Law Treaty.

## 9. Notification of Reasons for Refusal and Response

A trademark application is subject to an examination by an examiner.

Elements that can be cited as reasons for a refusal are prescribed in Section 15 of the Trademark Law.

### (1) Reasons for Refusal

#### (a) Examples of Trademarks Lacking in Distinctiveness

##### Common Names of Goods

|                        |                                     |
|------------------------|-------------------------------------|
| マイコン ( <i>maikon</i> ) | Abbreviation of<br>“microcomputer”  |
| WATCH                  | Watch                               |
| CALCULATOR             | Electronic calculator               |
| TANCAL                 | Abbreviation of “calcium carbonate” |

##### Customarily Used Trademarks

|  |                                       |
|--|---------------------------------------|
| 正宗 ( <i>Masamune</i> )                             | Japanese refined <i>saké</i>          |
| 男山 ( <i>Otokoyama</i> )                            | Japanese refined <i>saké</i>          |
| 純正部品 ( <i>junsei buhin</i> , “genuine components”) | Automobile components                 |
| 観光ホテル ( <i>kanko hoteru</i> ,<br>“tourist hotel”)  | Provision of accommodation facilities |

#### Origin and Place of Sale of Goods

|           |                |
|-----------|----------------|
| GEORGIA   | Coffee drink   |
| Hollywood | Perfumes etc.” |
| MEXICO    | Cakes etc.     |

#### Quality of Goods (Service)

|            |                                       |
|------------|---------------------------------------|
| GREAT      | Stationery                            |
| DELUXE     | Provision of accommodation facilities |
| TOKYO GOOD | Clothing, commodities made of cloth   |
| PERFECT    | Perfect                               |

#### Raw Materials of Goods

|       |              |
|-------|--------------|
| Metal | Baseball bat |
|-------|--------------|

#### Use of Goods

|      |                 |
|------|-----------------|
| ROOM | Air conditioner |
|------|-----------------|

#### Shape of Goods

|        |       |
|--------|-------|
| POCKET | Radio |
|--------|-------|

#### Price of Goods

|          |        |
|----------|--------|
| 1 Dollar | Coffee |
|----------|--------|

#### Time of Use of Goods

|        |         |
|--------|---------|
| SUMMER | Clothes |
|--------|---------|

#### Type of Services

|                |                              |
|----------------|------------------------------|
| “SELF SERVICE” | Provision of food and drinks |
|----------------|------------------------------|

#### Commonplace Surnames

OTSUKA, Matsuzaki, etc.

#### Commonplace Names of Legal Entities

ARIGAGOLF, Amano Corporation, etc.

## Simple and Commonplace Marks

“AA,” “アイエム (IM),” “TK 35,”

## Examples of Trademarks Composed of Figures

- ① Trial Decision No. 47-5643

Date of Trial Decision: May 7, 1979

(Old Class 9)



- ② Trial Decision No. 52-8689

Date of Trial Decision: March 12, 1979

(Old Class 7)



- ③ Trial Decision No. 49-5495

Date of Trial Decision: November 17, 1976

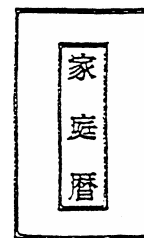
(Old Class 24)



- ④ Trial Decision No. 47-2798

Date of Trial Decision: April 1, 1975

(Old Class 26)



## (b) Examples of Trademarks Falling Under Grounds of Unregistrability

### Examples of Trademarks Falling Under Section 4(1)(viii)

カルダン (Cardin)

Abbreviation of “Pierre Cardin” (Old Class 22)

アンディ・ウィリアムズ

Popular American singer (Old Class 16)

(Andy Williams)

ROLLS-ROYCE

Abbreviation of the name of an automobile manufacturer (Old Class 16)

HILTON・ヒルトン

Abbreviation used by another person (Old Class 33)

### Examples of Trademarks Falling under Section 4(1)(xi)

(Trial and Court Decisions)

#### Trademarks Judged to be Similar in Appearance

①



Tokyo High Court  
(Decision)  
S53 (ke) no.14  
(May 31, 1978)

②



Tokyo High Court  
(Decision)  
S51 (ke) no.139  
(March 29, 1978)

③



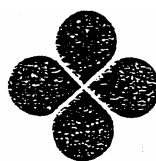
Trial Decision  
H2 no. 20129  
(March 22, 1994)

④



Trial Decision  
H3 no. 21465  
(July 21, 1994)

⑤



ラ ブ ラ ブ

Trial Decision

H2 no. 23418

(December 16, 1994)

### Trademarks Judged to be Similar in Sound

|                |                      |                |
|----------------|----------------------|----------------|
| “エグ/EGG”       | “GOLDEN EGG”         | (Old Class 1)  |
| “PARALOIDO”    | “ポラロイド (“Polaroid”)” | - ditto -      |
| “BARRIER”      | “BARIAN”             | - ditto -      |
| “SUPERLOID”    | “U-Loid”             | - ditto -      |
| “Wed Rex”      | “WEB TEX”            | (Old Class 3)  |
| “THACT”        | “Taft”               | (Old Class 4)  |
| “Colour Charm” | “HI-CHARM”           | - ditto -      |
| “MONOLEX”      | “MOTOREX”            | (Old Class 5)  |
| “KOPIX”        | “KOBEX”              | (Old Class 7)  |
| “LBM”          | “LPM”                | (Old Class 9)  |
| “MINIMAX”      | “MAX”                | (Old Class 10) |
| “XONDEX”       | “LONDEX”             | (Old Class 11) |
| “BARICIR”      | “バルカー (“barukaa”)”   |                |

Tokyo High Court S60 (ke) no. 170

|          |          |
|----------|----------|
| “OLTASE” | “ULTASE” |
|----------|----------|

Tokyo High Court S60 (ke) no. 180

### Examples of Trademarks Judged as Similar in Concept

|  |  |                |
|--|--|----------------|
| “おむすびころりん”<br>( <i>omusubi kororin</i> ) | “おにぎりころりん”<br>( <i>onigiri kororin</i> ) | (Old Class 30) |
|--|--|----------------|

[both of these mean “a rice ball rolling”.]

|          |                     |                |
|----------|---------------------|----------------|
| “サン/SUN” | “太陽” ( <i>sun</i> ) | (Old Class 31) |
|----------|---------------------|----------------|

|   |                                    |                |
|---|------------------------------------|----------------|
| “天使” ( <i>angel</i> )   | “ANGEL/エンゼル”                       | (Old Class 11) |
| “ZOO”   | “動物園” ( <i>zoo</i> )               | (Old Class 30) |
| “男爵” ( <i>baron</i> )   | “BARON”                            | (Old Class 16) |
| “こまどり” ( <i>robin</i> )   | “Robin/ロビン”                        | (Old Class 9)  |
| “Giants”  | “巨人” ( <i>giants</i> )             | (Old Class 19) |
| “PETITFLOWER”   | “LITTLE FLOWER”                    | (Old Class 4)  |
| “謝肉祭” ( <i>carnival</i> )                                       | “カーニバル/CARNIVAL”                   | (Old Class 32) |
| “QUEENS”  | “女王” ( <i>queen</i> )              | (Old Class 32) |
| “王女” ( <i>princess</i> )  | “PRINCESS”                         | (Old Class 32) |
| “京都物語   | “京都語り                              |                |
| [both of these mean “A Tale of Kyoto”.]                         |                                    | (Old Class 32) |
| “ときわの白梅”  | “ときわの梅”                            | (Old Class 32) |
| ( <i>tokiwa noshiraume</i> )                                    | ( <i>tokiwa no ume</i> )           |                |
| “Kenko” (romanization of the                                    | “ヘルス”( <i>health</i> )             |                |
| Japanese word for “health”)                                     | Tokyo High Court 1968 (ke) no. 141 |                |
| “アトム” ( <i>Atom</i> )   | “鉄腕アトム” (Mighty Atom)              |                |
| [both of these are the name of the same character in a cartoon] |                                    |                |

Tokyo High Court 1968 (ke) no. 221

#### Examples of Trademarks Falling under Section 4(1)(xv)

|                                 |                       |                |
|---------------------------------|-----------------------|----------------|
| “サンリストレモンパウダー”                  | “SUNKIST” (Fruits)    | (Old Class 40) |
| ( <i>sunrist lemon powder</i> ) |                       |                |
| “SUNKISS・サンキッス”                 | “SUNKIST” (Fruits)    |                |
| (Old Class 40)                  |                       |                |
| “ONEGA” (Old Class 17)          | “OMEGA” (Watches)     |                |
| “BOLBO” (Old Class 5)           | “VOLVO” (Automobiles) |                |

“パソニ”

(*paasoni*)

(Old Class 24)

“ソニー”

(SONY)

(Electrical machines and instruments, etc.)

- (c) A trademark application filed by parties not agreed on or chosen by the drawing of lots in the case of more than one pending application filed on the same date (JTL Section 8)
- (d) A trademark application filed by the owner of a trademark right or the owner of a right to use a trademark for five years until a trial decision to invalidate the trademark due to illegal use became final and conclusive (Section 51(2), etc.)
- (e) A trademark application filed by a foreign citizen not entitled to enjoy a right (Section 25 of the Patent Law applied *mutatis mutandis* in Section 77)
- (f) A trademark application filed with respect to a trademark which is not registrable under the provisions of international treaties
- (g) A trademark application filed with respect to a trademark composed of more than one trademark or with goods (services) not designated according to the classification set forth by Cabinet Order.

## (2) Notification of Reasons for Refusal

- (a) Where a trademark application falls under one of the items listed in (1) above, before making a decision that the application is to be refused, the examiner must notify the applicant of the reasons for refusal and give an opportunity to submit a statement of arguments, designating an adequate time limit.



(b) Where a trademark described in an application is identical or similar to another party's trademark filed in an application from a previous date, and the trademark in the later application is used for the same or similar designated goods or services as the earlier, the examiner may notify the applicant that the trademark will fall under Section 4(1)(xi) if the other party's trademark is registered, and thereby give the later applicant an opportunity to submit a statement of arguments, designating an appropriate time limit (Section 15-3).

Where this notification has been served and the other applicant's trademark is registered, the examiner need not serve a notification as referred to above (Section 15-3).

#### **-Examples of notification of reasons for refusal**

(1) Example of a case provided in Trademark Law Section 3(1)(iii)

Trademark: Hakodate Onuma Beer

Designated goods: Class 32 "beer"

It has been concluded that the trademark concerned in this trademark application for registration should be refused for the reasons given below.

If the applicant has any arguments to counter the reason, such arguments should be submitted within 40 days from the date on which this notification was dispatched.

#### **Reasons**

The trademark concerned in this trademark application for registration is composed of the characters "Hakodate Onuma" written in standard form, the meaning of which reminds people of Onuma, located in Onuma Koen Station of Hokkaido Hakodate Main Line and the word "Beer", which is the designated goods of this application.

Therefore, using this trademark on the designated goods only serves to indicate the place of production or sale of the goods.

Accordingly, the trademark concerned in this trademark application for registration falls under the case provided in Trademark Law Section 3(1)(iii).

(2) Example of a case provided in Trademark Law Section 3(1)(v)

Trademark: “G-UP”

Designated goods: Class 36 “management of buildings, agencies for lease of buildings and other real estate ventures”

Reasons

The trademark concerned in this trademark application for registration is composed of “G-UP”, one Roman letter “G” and two Roman letters “UP” connected with a hyphen, which are commonly used as a symbol or sign indicating a type or kind of services. Therefore, it has been concluded that the trademark concerned only consists of an extremely simple and commonplace mark.

Accordingly, the trademark concerned in this trademark application for registration falls under the case provided in Trademark Law Section 3(1)(v).

(3) Example of a case provided in Trademark Law Section 4(1)(vii)

Trademark: Minato Mirai 21

Designated goods: Class 32 “meat, eggs, edible marine products, vegetables, fruits, processed food”

Reasons

The trademark concerned in this trademark application for registration is composed of “Minato Mirai 21”, the name of a mega-project Yokohama city has undertaken to

establish itself as an international cultural city. Therefore, the use of this trademark by a private citizen on the designated goods would be contrary to public benefit and, therefore, improper.

Accordingly, the trademark concerned in this trademark application for registration falls under the case provided in Trademark Law Section 4(1)(vii).

(4) Example of a case provided in Trademark Law Section 4(1)(xi)

Reasons

The trademark concerned in this trademark application for registration is identical with, or similar to, the following trademark and is used on goods which are identical with, or similar to, the designated goods covered by the trademark registration. Accordingly, the trademark concerned in this trademark application for registration falls under the case provided in Trademark Law Section 4(1)(xi).

Note

Trademark Registration No. \_\_\_\_\_

(Publication No. \_\_\_\_\_)

(5) Example of the case provided in Trademark Law Section 4(1)(xv)

Trademark: “HEINEKEN”

Designated goods: Class 22 “footwear, umbrellas and parasols, canes, etc.”

Reason

The trademark concerned in this trademark application for registration is extremely similar to “Heineken”, a well-known trademark used by Heineken of the Netherlands for beer. Therefore, using this trademark on the designated goods is liable to cause

confusion as to the source of goods connected with the above company.

Accordingly, the trademark concerned in this trademark application for registration falls under the case provided in Trademark Law, Section 4(1)(xv).

### (3) Applicants' Responses, Such as Written Arguments

In response to a notification of reasons for refusal (see Sections (2)(a) and (b) above) the applicant must respond by filing the following documents.

#### (a) Written Argument (see Reference Material 11)

After gaining an accurate grasp of the reasons for refusal and the cited sections of the law, an argument giving sufficient grounds and evidence to overcome the examiner's reasons should be presented.

### **-Examples of argument**

#### (1) Example of a case provided in Trademark Law Section 3(1)(iii)

Trademark: Hakodate Onuma Beer

Designated goods: Class 32 "beer"

#### Reasons

##### \* <Notification of reasons for refusal>

Omitted

##### \* <Composition of the trademark concerned>

Omitted

##### \* <Requirement for registration of the trademark concerned>

It has been concluded that the letters composing the trademark concerned "remind people of the place of production or sale of the designated goods, i.e., beer". However, in addition to the fact that there is nothing which connects the

designated goods to the place of production or sale, there exists no such geographical name as “Hakodate Onuma”. As it is clear from the Japan General Prefectural Maps and Geographical Names (see Evidence No.\_\_\_\_), General National Cities, Towns and Villages Survey (Evidence No.\_\_\_\_), New Postal Code List of 1997 (Evidence No.\_\_\_\_) and JTB Travel Notebook for Hokkaido (Evidence No.\_\_\_\_), there is no such geographical name as “Hakodate Onuma”. There are two stations named “Onuma” and “Onuma Koen” along the JR Hakodate Main Line. However, that fact would not lead to recognition of the trademark as the place of origin of the product or sale of beer, therefore providing extremely low probability of relevance.

- \* Trademark Examination Guidelines edited by the Japan Patent Office clearly mentions “a name of a country, well-known geographical name (including a name of administrative district, old name of a country and well-known foreign geographical name), busy shopping street and map basically indicate the place of production or sale of goods”. However, it is apparent that “Hakodate Onuma” in the trademark concerned is not a geographical name indicating the name of administrative district or specific area. Therefore, it should be concluded that general consumers would not recognize “Hakodate Onuma” as the place of production or sale of goods.
- \* The following examples in trial will prove that the applicant’s argument as above-mentioned is legitimate and objective.

Trial decision of Trial No.\_\_\_\_ in 19XX

Trademark: Shin-Kobe

(Summary)Shin-Kobe is known as the name of a station along the Sanyo Shinkansen line, but it does not mean Kobe City, an administrative

district therein or any certain area.

Trial decision of Trial No. \_\_\_\_ in 19XX

Trademark: “Shin-Kobe”

(Summary) Same decision as made in the above Shin Kobe case.

Trial decision of Trial No. \_\_\_\_ in 19XX

Trademark: Takasago

(Summary) Although there is a city called Takasago in Hyogo Prefecture, it is  
hardly known as the place of production of Japanese Sake.

Trial decision of Trial No. \_\_\_\_ in 19XX

Trademark: BALTIMORE

(Summary) Although a city by this name exists in the state of Maryland, in the US,  
it is hardly familiar to general consumers as a place of  
production or sale of confectioneries and bread.

Trial decision of Trial No. \_\_\_\_ in 19XX

Trademark: Ishikari

(Summary) There are no facts showing that Ishikari is widely known as a  
place of production or sale of the designated goods.

Trial decision of Trial No. \_\_\_\_ in 19XX

Trademark: Oze Kisoba

(Summary) Although the trademark concerned may remind people of Ozenuma or  
Ozegahara, it is not widely known as the place of  
production or sale of the designated goods.

In order to prove the above argument, the applicant submitted evidence  
(Evidence Nos. \_\_\_\_ to \_\_\_\_ ) to show that many trademarks consisting of the  
names of JR (former National Railway) stations and geographical names have

been filed.

- \* As in the above case, the reason for refusal countering the trademark concerned is hardly objective and both the application of standards, and the decision, were wrongly made. According to the “Examination Standard Guidelines” and examples of examinations and trials, the trademark concerned has sufficiently distinctive features in regard to the applicant’s goods in addition to other’s goods, therefore showing it to meet conditions for registration. (Omitted)

(2) Example of a case provided in Trademark Law Section 3(1)(v)

Trademark: “G-up”

Designated goods: Class 36 “management of buildings, agencies for lease of buildings and others”

Reasons

- \* <Notification of reasons for refusal>

Omitted

- \* <Composition of the trademark concerned>

Omitted

- \* <Requirement for registration of the trademark concerned>

It has been concluded that the characters composing the trademark concerned are “a symbol or sign indicating the type and kind of services”. However, such a decision is superficial and irrational, thereby deemed to be unacceptable by the applicant. The applicant is going to make a counterargument as follows.

The letters “up” in the middle and latter part of the trademark concerned are not recognized as a symbol or sign indicating a type or kind of services but, as it is clearly shown in the attached reference material (a Pocket-Sized

English-Japanese Dictionary, Daigaku Shorin, Loanwords Handbook p.14), those letters primarily remind people of the concepts of “at a higher level, upward, up the river” and are naturally and reasonably recognized by people as such.

It should be understood that the “Trademark Examination Guidelines”, as edited by the Japan Patent Office (Section 3(1)(v)), only apply to trademarks consisting of one or two Roman letters which are recognized as a symbol or sign indicating a type or kind of services or goods.

Therefore, like the trademark concerned, with respect to the word consisting of two Roman letters which is familiar to people as an English word and is used much like Japanese words on a daily basis, such as is done with “on,” “of,” “hi,” “we,” “my”, it is natural and sensible that those words are recognized as having their respective meanings.

In addition, as aforementioned, the trademark concerned is composed of three Roman letters “G-up” in an irregular arrangement (“G” is larger and “up” is written in only half the size of “G”, and those two parts are connected by a hyphen), and the natural sound of “G-up” will be derived from the trademark concerned. Therefore, there is no reason why the trademark concerned should be divided into one Roman letter and two Roman letters as a symbol or sign. Accordingly, it should be determined that the trademark concerned functions as a trademark, as it can distinguish the applicant’s services or goods from the services or goods of others and meets requirements for registration. (Omitted)

(3) Example of a case provided in Trademark Law, Section 4(1)(xi)

Trademark: “上々／しゃんしゃん” “Johjoh” written in Chinese characters/”Shanshan” in Japanese Hiragana” (written vertically in two



lines)

Trademark: “上上／進水式”“Johjoh/Shinsuishiki” in Chinese characters)

(written vertically in two lines)

#### Reasons

- \* <Notification of reasons for refusal >

Omitted

- \* <Composition of the trademark concerned and cited trademark including the designated goods thereof>

Omitted

- \* <Similarity of the trademark concerned and the cited trademark>

First of all, let's look at the characters “上々” and “上上”, part of each of the trademark concerned and the cited trademark in regard to Trademark Law. Both mean “the very best, superb” according to “Kojien” (see Evidence No. \_\_\_\_), and such examples as “天気上々” (“splendid weather”) “出来映え上々” (“excellent craftsmanship”) “気分上々” (“feeling great”) “上々の仕上がり” (“brilliant work”) “上々の式典 (結婚式)” (“wonderful ceremony (wedding ceremony)”) are popularly and very commonly used every day. Moreover, as it is clear from Evidence Nos. \_\_\_\_ to \_\_\_\_, the words “上々” and “上上” are ordinarily used in association with goods in actual commercial activities much like the descriptions “extra-fine” “highest” or “supreme” which show the quality of goods. Therefore, since the words “上々” in the trademark concerned and “上上” in the cited trademark are written in an ordinary way and are used as adjectives, it should be naturally and reasonably judged that they do not fundamentally function as trademarks capable of distinguishing their own and other's goods or indicating the source of goods.

Then, let's compare the trademark concerned and the cited trademark in regard to sound and concept. As mentioned in (\_\_\_\_) above, since the trademark concerned consists of the words “上々” (“Johjoh in Chinese characters”) and “しやんしやん” (“Shanshan in Hiragana”), the sound “shanshan-johjoh” or “shanshan” will naturally come to mind in association with its composition and concept, and the concept “shanshan-johjoh” (meaning clapping hands for joy when a problem is settled) will reasonably arise.

On the other hand, as shown in Evidence No. \_\_\_\_, the sound and concept “shinsuishiki-johjoh” (meaning splendid ceremony held when a new ship or vessel is launched) or “shinsuishiki” will reasonably come to mind by way of the cited trademark in association with its composition.

As aforementioned, the sound (concept) arising from the trademark concerned and from the cited trademark can be sufficiently distinguishable in the light of hearing and concept as well, because the numerous sounds and concepts contained in both trademarks are clearly dissimilar with each other. In addition, let's compare both trademarks in regard to appearance. Although “上々” of the trademark concerned and “上上” of the cited trademark have a common feature in a sense, other parts, that is, “しやんしやん” of the trademark concerned and “進水式” of the cited trademark are totally dissimilar with each other in the light of their appearances. Therefore, both trademarks can be sufficiently distinguishable as a whole because of their appearance.

Accordingly, the trademark concerned and the cited trademark are apparently dissimilar with each other from the viewpoint of not only appearance and concept but also sound. Although the designated goods of both trademarks are identical or similar, the trademark concerned does not fall under the Trademark

Law, Section 4(1)(xi). (Omitted)

(b) Amendment

In many cases, the reasons for refusal involve a failure to satisfy requirements for registration (Section 3(1)) or a conflict with another party's trademark right (Section 4(1)(xi)). To eliminate the reasons for refusal, an amendment may be filed in addition to the written argument as described in (a) above, to delete the goods or services in the application that conflict with the designated goods or services of the cited trademark.

(c) Other Actions

Other responses to a notification of reasons for refusal include a demand for the transfer of the cited trademark right, or a demand for a trial to invalidate the cited trademark on grounds of non-use.

## 10. Decision of Registration and Registration of Establishment of Trademark Right

### (1) Decision of Registration

Where the examiner finds no reason for refusing a trademark application, a decision that the trademark is to be registered will be rendered. Where such a decision is rendered, the Commissioner of the Japan Patent Office (JPO) sends a copy of it to the applicant.

### (2) Payment of Registration Fee

The registration fee is due to be paid within 30 days (this period can be extended upon request by a period not exceeding 30 days) from the date of the dispatch of a copy of the decision of registration. The payment of the registration

can be made using either of the following two methods.

(a) Lump-Sum Payment

A party desiring to register the establishment of a trademark right must, within the period mentioned in (2) above, pay the amount of 66,000 yen multiplied by the number of goods or service classifications covered by the trademark.

(b) Installment Payment

A party desiring to register the establishment of a trademark right must, within the period mentioned in (2) above, pay the amount of 44,000 yen multiplied by the number of goods or service classifications covered by the trademark. A further payment of 44,000 yen per classification must be made no later than five years prior to the expiration of the term of the trademark right.

(3) Registration of the Establishment of a Trademark Right

The Commissioner of the JPO registers the establishment of a trademark right when the registration fee is paid. The trademark right comes into force upon registration of its establishment.

(4) Issuance of Trademark Registration Certificates, etc. (Section 71bis)

The issue of trademark registration certificates has been initiated on the basis of a newly-established provision which states that “when the establishment of a trademark right or a right based on a defensive mark has been registered, the Commissioner of the JPO shall issue to the owner of the right a certificate of trademark registration or a certificate of defensive mark registration.”

The re-issue of a certificate will incur a processing fee based on actual expenses.

#### (5) Publication in the Trademark Gazette

When the establishment of a trademark right is registered, the name of the owner, the number and date of the trademark application, the contents of the trademark as stated in the request, and the designated goods and services, among other items, are to be published in the Trademark Gazette.

The Trademark Gazette is issued in two forms, both as individual volumes covering each class (classes 1 through 42) and as one combined volume.

Copies of the Trademark Gazettes are sold at the Japan Institute of Invention and Innovation and the Japan Patent Information Organization.

### 11. Decision of Refusal

In cases where an applicant receiving notification of reasons for refusal fails to file a written argument, or the argument submitted fails to overcome the reasons for refusal, the examiner shall render a decision that the trademark application is to be refused.

The applicant, if unsatisfied with this decision of refusal, can demand a trial.

A demand for a trial against a decision of refusal needs to be filed within 30 days from the date of the transmittal of the decision.

## **Chapter III: Collective Trademark and Defensive Mark Registration Systems**

### **1. Collective Trademark Registration System**

- (1) The collective trademark registration system allows an organization to register a trademark for use. This system enables members of that organization to work cooperatively so as to enhance the reputation of its collective trademarks; while also contributing to the realization of the organization's aims, such as the revitalization of a specific industrial field or geographical area, or the promotion of special products.
- (2) Organizations eligible to register collective trademarks are as follows:
  1. aggregate corporations or cooperative business associations established under the provisions of Article 34 of the Civil Code;
  2. associations established by special law, and
  3. foreign legal entities corresponding to those listed in 1. and 2. above.
- (3) A collective trademark can be transferred either as an ordinary trademark or a collective trademark. (Section 24ter)
- (4) Members of an organization owning a collective trademark are entitled to use the collective trademark without a license in accordance with regulations set forth by the organization. (Section 31bis)
- (5) Application Form for Registration of Collective Trademark (See Reference Material 13)

An application to register a collective trademark must be accompanied by documents verifying that the applying body is eligible to apply for a collective trademark.

The application fee for a collective trademark is 6,000 yen, plus 15,000 yen for each class of goods designated.

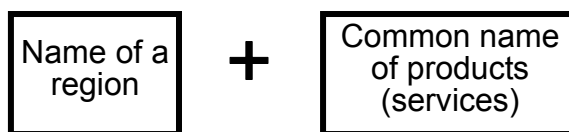
## 2. New System of Regional Collective Trademark

- (1) This system aims to facilitate the maintenance of goodwill traded in the market and to assist in the enhancement of industrial competitiveness while simultaneously stimulating and promoting regional economies by appropriately protecting their regional brands.
- (2) If a trademark made up of the name of a region and the name of the products or services becomes well-known in a certain area, an entity such as an industrial cooperative association may accept registration of that trademark as a regional collective trademark according to the system for regional collective trademarks.

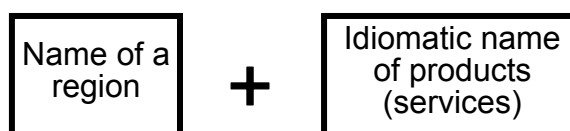
The new system for regional collective trademarks will become effective on April 1, 2006.

Trademarks consist of the name of a region and products, or the name of a region and services.

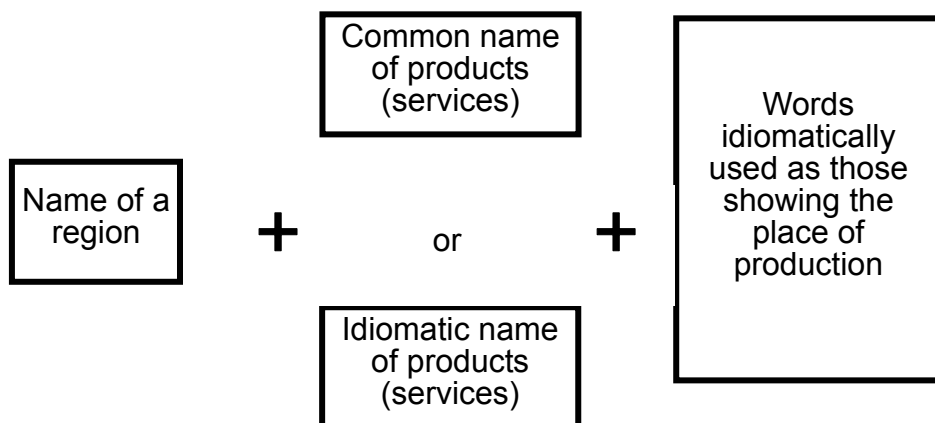
Pattern 1 ex.) XXX apple, XXX noodle



Pattern 2 ex.) XXX grill, XXX beef



Pattern 3 ex.) Genuine XXX brocade





### 3. Defensive Mark Registration System

- (1) The defensive mark system allows the owner of a registered trademark to register a mark that is identical with the registered trademark and concerns different designated goods or services, where the use of this trademark by other parties might cause confusion as to the source of the goods or services, in order to eliminate such use by other parties.
- (2) The only party entitled to register a defensive mark is the owner of the principal registered trademark. If the right to a principal trademark is transferred then the right based on a defensive mark registration is transferred along with it and is extinguished if the principal trademark right is divided or extinguished (Section 66, JTL).
- (3) Application Form for Registration of Defensive Marks (see Reference Material 14)

The application fee for a defensive mark is 12,000 yen, plus 30,000 yen for each class of goods designated.

- (4) Procedures for the Registration of a Renewed Term for Rights Based on a Defensive Mark (see Reference Material 15)

A Request for Registration of a Renewed Term for Rights Based on a Defensive Mark Registration (Form 8, Regulations under the Trademark Law) must be filed within six months from the date of expiration (Section 65ter).

## Examples of Trademarks Approved for Defensive Mark Registration

①

(540)



(111) Trademark Registration No. 2043014

Defensive Mark Registration No. 12

(151) Date of Registration: June 6, 1997

(450) Date of Issuance: July 31, 1997

(210) Application No. Hei 7-28053

(220) Date of Application: March 23, 1995

(732) Owner of Trademark: Nissan Jidosha Kabushiki Kaisha

2, Takara-cho, Kanagawa-ku,

Yokohama-shi, Kanagawa-ken

(740) Agent: Akihiro Ohnishi, patent attorney

(591) Colors have been omitted; please refer to the original.

(500) Number of Classes of Goods and Services: 1

(511)(510) Class of Goods and Services and Designated Goods or

Designated Services:

22. Material fibers, knitted strings, Sanada strings, adhesive-coated strings, twisted strings, nets, nets (excluding metal or cotton nets), cotton for clothes, hammocks, bedding bags, bedding cotton, cloth packaging containers, straw packaging containers, tarpaulins, sails, rain shields, awnings, sunlight shields, shades, Yoshizu curtains, climbing ropes,

mountaineering or camping tents, waxed sewing threads for shoes, sawdust, Kapok, shavings, wood wool, hulls, wax waste, cow hair, human hair, raccoon dog hair, pig bristles (excluding that for use in brushes), feathers, horse hair

②

(540)



(111) Trademark Registration No. 2390423

Defensive Mark Registration No. 9

(151) Date of Registration: June 6, 1997

(450) Date of Issuance: July 31, 1997

(210) Application No. Hei 6-54413

(220) Date of Application: June 2, 1994

(732) Owner of Trademark: Suzuki Jidosha Kabushiki Kaisha

300, Takatsuka-cho, Hamamatsu-shi,

Shizuoka-ken

(500) Number of Classes of Goods and Services: 1

(511)(510) Class of Goods and Services and Designated Goods or

Designated Services:

14. Precious metals; tableware made of precious metals;

nutcrackers, pepper boxes, sugar pots, salt containers, egg stands, napkin holders, napkin rings, trays and toothpick holders made of precious metals; vases, basins, sewing boxes, jewelry boxes, snuffers and candle

stands made of precious metals;

purses, shoe decorations, compacts and wallets made of precious metals;

smoking instruments made of precious metals;

accessories; gems and gemstones and their imitations; watches;

commemorative cups; commemorative stands.

## **Chapter IV: Opposition System**

The opposition system, so as to protect public interests, allows third parties to file oppositions to trademark registrations as long as it is within a certain period of time following establishment of the right. The JPO, based on the receipt of this request, reviews the appropriateness of its disposition to register the trademark and corrects any defective dispositions of the registration, in order to further increase the reliability of trademark registrations.

The shift to a post-registration opposition system is expected to accelerate trademark registrations.

### **1. Flowchart of Procedures for Filing an Opposition to the Grant of a Trademark Registration (see Reference Material 16)**

### **2. Filing an Opposition (JTL Section 43bis)**

Any party can file an opposition, together with the grounds for the opposition and evidence, to a trademark registration within two months from the publication of its registration in a gazette. If two or more designated goods or services are covered by the trademark registration, an opposition may be filed with respect to each of these designated goods or services.

### **3. Trial Examinations and Decisions on Opposition**

Trial examinations and decisions concerning oppositions are conducted by collegial bodies of three or five trial examiners. Trial examinations of two or more oppositions concerning the same trademark right are combined.

In a trial case, decisions determine whether a trademark registration is revoked or maintained.

Decisions are made in writing, and a copy is transmitted to the trademark owner and the party who filed the opposition.

The owner of the trademark may, if dissatisfied with a decision of revocation, appeal to the Tokyo High Court.

## **Chapter V: Term of Trademark Right and Requests for Registration of Term Renewal**

The term of a trademark right is 10 years from the registered date of its establishment. The term can be renewed upon request an unlimited number of times (JTL, Section 19).

Unlike patents and design rights, which grant an exclusive right for a limited period of time and thereafter release the protected matter for public use, a trademark protects the trust accumulated by the trademark owner through business activities. The trademark system must therefore allow trademark rights to continue to exist as long as they are in use.

### **1. Preparations for Filing a Request**

If there has been a change in the address or other details of the owner of the trademark right during the term of the trademark right, an application to register a change to the details of the trademark owner must first be made. It is also advisable to confirm matters registered in the Trademark Register before filing a request for registration of a term renewal for a trademark right.

### **2. Procedures to Request Registration of a Term Renewal for a Trademark Right**

Applications for term renewals must be made by filing a Request for Registration of a Term Renewal for a Registered Trademark Right (see Reference Material 17).

The fee for registering a term renewal is 151,000 yen multiplied by the number

of classes per case or, in the case of payment in installments, 101,000 yen multiplied by the number of classes. The payment must be made at the time the above request is filed.

### 3. Period for Filing Requests for Registration of a Term Renewal for a Trademark Right

A request for the registration of a term renewal for a trademark right needs to be filed within the six months prior to the term expiration date. A request for registration of a term renewal may be filed within the six months following the term expiration, conditional on the payment of a surcharge in addition to the normal registration fee.

### 4. Restoration of Trademark Rights (Section 21)

If a request for the registration of a term renewal is not filed within six months following the date of expiration, the trademark right is deemed to have been extinguished on the expiration date. In the case that one is unable to request registration of a term renewal due to reasons outside of one's control, a request can be made within 14 days (or two months for a resident abroad) from the date on which these reasons ceased to apply, but no later than six months from the expiration of the above period. In such cases, however, a surcharge must be paid in addition to the normal registration fee.

Where a request to register a term renewal is made under the above provision, the term is deemed to have been renewed on the original date of expiration.



## **Chapter VI: Trial System for Trademarks**

Each trademark application is subject to being refused or registered based on the decision passed down after its formality and substantive examinations. If registered, the trademark should not be allowed to remain defective or unused, as this would contravene the interests of the applicant and the general public.

The purpose of the trial system is to correct JPO dispositions where they are deficient, and to eliminate any inappropriate conditions after registration.

### **1. Form to Demand a Trial (see Reference Material 18)**

### **2. Types of Trials**

- (1) Trial against a Decision of Refusal (Section 44)
- (2) Trial against a Ruling Declining an Amendment (Section 45)
- (3) Trial to Invalidate a Trademark Registration (Section 46)
- (4) Trial to Cancel a Trademark Registration (Sections 50 to 54)
- (5) Trial to Invalidate a Reclassification (Section 14, Supplementary Provisions)
- (6) Trial to Counter a Decision to Refuse Reclassification (Section 16, Supplementary Provisions)

### **Example of a form demanding a trial (grounds for a demand)**

(in the case of a trial against the decision of refusal)

1. Indication of the case
2. Number of classes
3. Demandant (omitted)

#### 4. Agent

#### 5. Relief sought in the demand

The demandant demands a trial decision to the effect that the decision of refusal given on (month) (day), (year) in regard to the trademark application for registration No. \_\_\_\_ should be revoked and the trademark concerned should be registered.

#### 6. Grounds for the demand

##### <Composition of the trademark concerned>

As mentioned in the application papers and documents showing the trademark (Evidence No. \_\_\_\_), the trademark concerned consists of Japanese hiragana letters spelling out “colour timer” written in the same typeface laterally, and registration was filed on (month) (day), (year) for class \_\_\_\_ “measuring or testing machines and instruments”, and thereafter the designated goods were amended as class “sheet for showing time passing” by a written amendment on (month) (day), (year).

##### <Reasons for refusal>

As to the trademark concerned in this trademark application for registration, the following decision was made. The trademark concerned generally “consists of Japanese hiragana letters spelling out “colour timer” written in an ordinary way and simply reminds people of “equipment showing time passing by a coloured indicator”. Therefore, the trademark concerned only shows the function or quality of goods when it is used on the designated goods and cannot serve as a trademark distinguishing the goods in itself.

Accordingly, the trademark concerned in this trademark application for registration falls under the case provided in Trademark Law Section 3(1)(iii). Although the applicant has presented various statements in the argument, they are not sufficient for reversing the above decision”.

<Requirements for registration> (reasons why the trademark concerned does not fall under the case provided in Trademark Law Section 3(1)(iii))

The trademark concerned is composed as aforementioned. First of all, let's review the above decision, i.e., "the trademark concerned simply reminds people generally of "equipment showing time passing by a coloured indicator"" and let's consider whether it is an appropriate and reasonable decision or not.

In regard to the letters composing the trademark concerned, the trademark concerned does not immediately lead to the meaning of "equipment showing time passing by a coloured indicator" as pointed out in the decision, because the words "colour" and "timer" respectively have different meanings. In addition, although those words are respectively used on a daily basis much like their Japanese equivalents, "colour timer" is not an idiom or set phrase with a specific meaning and there are no examples of such. Therefore, the trademark concerned does not remind many people of a specific meaning or concept. The decision that the trademark concerned reminds people of "equipment showing time passing by a coloured indicator" is biased, and not objective and reasonable.

The initial part of the trademark concerned, the hiragana letters spelling "colour", is translated, as by a dictionary (Evidence No. \_\_\_\_), into "Colour" and means "colour, tint, natural colour"; the latter part consists of letters spelling "timer" with the meaning, according to Random House Dictionary (Evidence No. \_\_\_\_), of "time recording clerk, equipment to automatically announce time, timing device". Both words remind people of a specific meaning and concept only when connected with other words. "Colour television", "colour film", "open colour", "colour printer", "part timer", "self timer" and "auto timer" serve as examples of common usage, which have specific and apparent meanings and concepts.

The trademark concerned is a coined word created on the basis of the applicant's patent (Evidence No. \_\_\_\_), and the idea of connecting "colour" and "timer" in a seamless way is innovative. The trademark concerned may remind people of some, vague meanings or images but not specific meanings or concepts.

Incidentally, the verbal expression used in the decision stated that the trademark concerned simply reminds people generally of "equipment showing time passing by a coloured indicator" and, as such, is ambiguous and obscure. The decision that the trademark concerned reminds people of a specific meaning or concept goes off the point and is not justifiable.

In addition, since the ambiguous/obscure meaning and concept of the "colour timer" trademark concerned does not directly or clearly show the quality or function of goods, the trademark concerned is sufficiently equipped with a distinctive feature.

As it is clear from the "Examination Standard Guidelines 4" edited by the Japan Patent Office (Evidence No. \_\_\_\_), the trademark concerned satisfies the registration requirement stating that "a trademark which indirectly shows "quality", "efficacy" or "use" of the designated goods does not fall under the case provided in Trademark Law Section 3(1)(iii)."

There are a lot of registered trademarks given as follows which include "colour" as does the trademark concerned, like "colour XXX", in the field of goods which are identical with or similar to the designated goods of the trademark concerned. This fact proves that the trademark concerned has sufficiently distinctive features and that those trademarks are coined words. (Omitted)

<Conclusion>

The applicant's argument and evidence in connection with the trademark

concerned comply with examples and examination standards of the Japan Patent Office. The trademark concerned does not remind people of an “ambiguous and obscure” meaning but should be recognized as a coined word, which is natural and reasonable. Therefore, the trademark concerned may serve as a trademark with distinctive features of its own and does not fall under the case provided in Trademark Law Section 3(1)(iii). (Omitted)

7. Method of proof (omitted)

8. Attached documents (omitted)

## **Chapter VII: Reclassification of Goods Designated under Former Classifications**

Reclassification is the system by which the designated goods allotted trademark rights via trademark applications filed on or before March 31, 1992 (trademark rights under the old classifications under the Trademark Laws of 1899, 1909, 1921 and 1957) were reclassified under the International Classification (Section 2, Supplementary Provisions to the JTL).

### **1. Flowchart of Procedures for the Reclassification of Designated Goods (see Reference Material 19)**

### **2. The Range and Period of Reclassification**

#### **(1) Starting Date for the Acceptance of Applications**

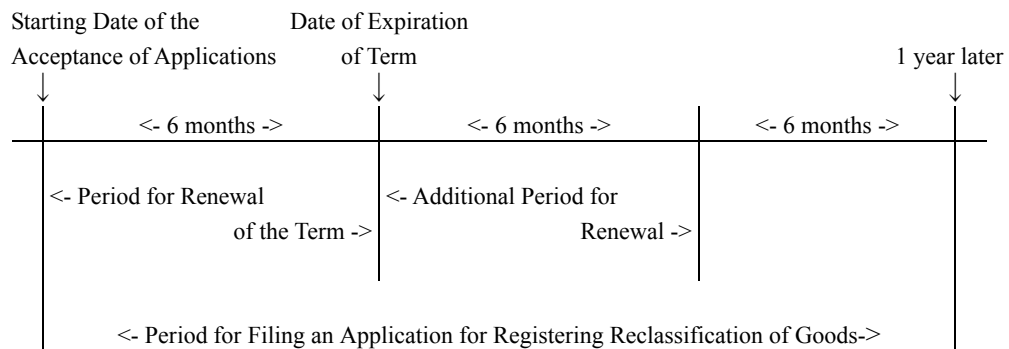
Applications for registration of a reclassification for designated goods will be accepted on a date after April 1, 1998 as designated by the Commissioner of the JPO.

#### **(2) Application Period**

Applications for registration of reclassifications are to be made during the period following the starting date of acceptance 6 months prior to the first expiration date up to one year after the expiration date.

The JPO will send notification that the period for filing an application for reclassification registration is nearing its end, to the trademark right owner whose right is subject to reclassification.

### <Period for Filing an Application for Registering Reclassification of Goods>



### (3) Procedure for Filing an Application for Registering Reclassification of Goods

Application Form for Registering Reclassification of Goods (see Reference Material 20)

(Note)

An application for reclassification must not include designated goods that are outside the scope of the trademark right concerned. In cases where the right of use or a pledge is established with respect to a registered trademark, an application to reclassify its designated goods requires the consent of the user or pledgee.

The application for registering a reclassification and the registration itself are free of charge.

In the event that no application for registration of a reclassification has been filed within the prescribed period, the trademark right will lapse on the following expiration date of the term.

### (4) Examples of Reclassifications

|                       |                              |
|-----------------------|------------------------------|
| 1: Registration under | Reclassification to Present  |
| Trademark Law of 1899 | International Classification |

Class 18: “Calculation  
instruments”

Class 9: “Slide rules”

Class 16: “Abacuses”

## 2: Registration under Trademark

Law of 1921

Class 4: “Soap”

Class 3: “Soap (excluding medicated soap  
in the Japanese Pharmacopoeia)”

Class 5: “Medicated soaps in the Japanese  
Pharmacopoeia”

## 3: Registration under Trademark

Law of 1921

Class 69: “Telephone sets”

Class 9: “Telephone sets”

## 4: Registration under Trademark

Law of 1957

Class 19: “Mail boxes”

Class 6: “Metal mail boxes”

Class 19: “Stone mail boxes”

Class 20: “Mail boxes  
(excluding metal and stone mail boxes)”

5: Class 25: “Painting materials”

Class 2: “Paints”

Class 8: “Palette knives”

Class 16: “Painting materials”



## **Chapter VIII: Accelerated Examination System**

Usually, from the time of its filing to a decision regarding registration, it takes a trademark application roughly 25 months to be processed. However, there are many cases where the trademark application needs to be registered urgently. The accelerated examination system is designed to cope with delays in examinations and to meet a demand for more expeditious registration of trademark rights, by carrying out accelerated examinations (trials) under certain conditions.

### **1. Requirements for Applications for Accelerated Examination**

The requirements for trademark applications subject to accelerated examinations are as follows:

- (1) an application for the registration of a trademark which is already in use by the applicant, or which the applicant is preparing to use; and
- (2) an application which contains a trademark or trademark similar thereof already being used by another party for the same designated goods or services, or similar goods or services, while at the same time, the application needs to be registered urgently owing to a pending license agreement, warning, etc.

### **2. Procedures for Accelerated Examination**

A request for the accelerated examination of a trademark application may be filed by the applicant on or after the application date, by submitting an “Explanation of Circumstances for Accelerated Examination” accompanied by a prior trademark search report concerning the trademark application.

### 3. Form for Explanation of Circumstances on Accelerated Examination

(see Reference Material 21)

Example of an explanation of circumstances relating to accelerated examination  
(trial examination)

1. Indication of case (omitted)

2. Submitter (applicant or demandant) (omitted)

3. Agent (omitted)

4. Explanation of use

(1) User of the trademark

Applicant or demandant

(2) Product/service name for which the trademark is used

“Golf shoes”

(3) Period in which the trademark has been used

Since (month) 1997

(4) Place in which the trademark is used

Business headquarters of \_\_\_\_\_ K.K.,

located at \_\_\_\_\_, Chiyoda-ku, Tokyo

(5) Document proving the trademark has been used

Brochure for the goods, “golf shoes,” is attached heretofore as a material proving  
that the trademark concerned in this application has actually been used.

5. Explanation of urgent circumstances

(1) User of the trademark

Address: \_\_\_\_\_, \_\_\_\_\_-ku, Nagoya-shi, Aichi-ken

Name: \_\_\_\_\_ K.K. representative: \_\_\_\_\_

(2) Product name for which the trademark was used: “Golf shoes”

(3) Period in which the trademark has been used

Since about (month) 1998

(4) Place in which the trademark was used

Sports shops in Nagoya-shi

A company called \_\_\_\_\_ manufactured “golf shoes” from about (month) 1998, and attached a trademark confusingly similar to the trademark concerned in this application to those “golf shoes” without the applicant’s permission. These shoes were then sold the same in sport shops in or around Nagoya-shi. The “golf shoes” which the company called \_\_\_\_\_ sells and applies the trademark thereto are as per the enclosed photograph. This trademark is identical with or similar to the trademark concerned in this application, and the “golf shoes” are included in the designated goods of this application and are identical with the goods which the applicant is using.

6. Argument to the effect that the trademark concerned does not fall under the reason for refusal

(In the case of accelerated trial examination)

The trademark concerned was refused because it was similar to the cited trademark under the registration No. \_\_\_\_\_ and so it fell under the Trademark Law, Section 4(1)(i). However, comparing the sound of “XXX” of the trademark concerned and “XXhX” of the cited trademark, the different parts “X” and “hX” are clearly dissimilar from the viewpoint of tone. When both trademarks, which are short, are pronounced without a break, they sound clearly differently in the light of

impression and tone of sound. In addition, not only the appearance but also the concept of each trademark is not similar at all. Therefore the trademark concerned is not similar to the cited trademark.

(In the case of accelerated examination)

The trademark concerned consists of the letters “YYYY”, and it is equipped with distinctive features as a trademark in connection with the designated goods. According to the “search for prior trademarks”, there are no prior trademark applications or registered trademarks which are identical with, or similar to, the trademark concerned in connection with the trademark and the designated goods. No other reason for refusal can be found against the trademark concerned.

7. List of documents attached

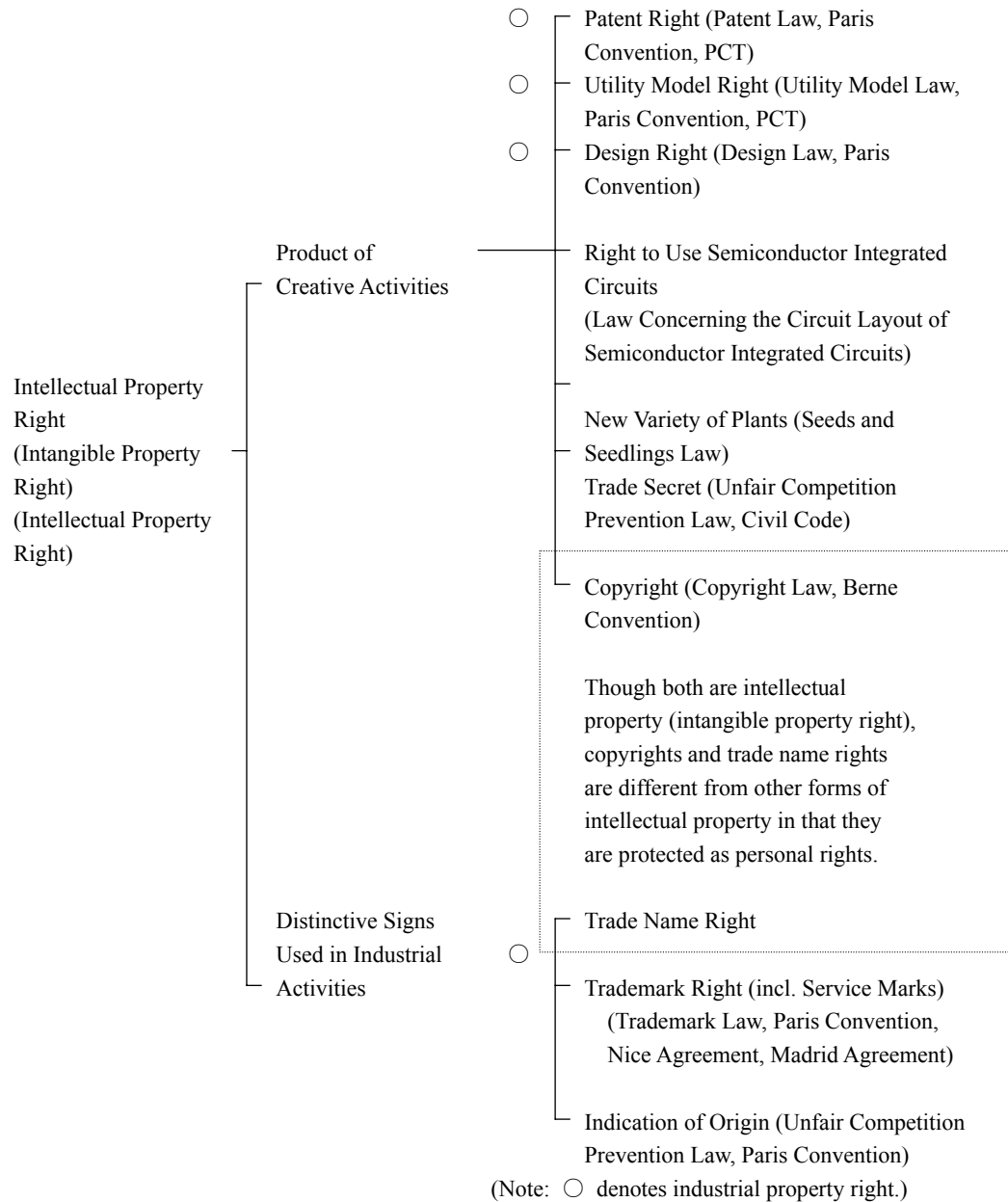
- (1) Document proving the trademark is used (brochure of the goods “golf shoes”)
- (2) Photograph of the “golf shoes” to which the company called \_\_\_\_\_ attaches the trademark
- (3) Search for prior trademarks conducted by the “Japan Patent Information Organization”

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## (1) Outline of Intellectual Property Protected under Each Law



(2) Computer Search of Similar Trademarks - Case (a)

JAPIO Distributed Processing Trademark Search System

Main Menu

| Button                | Description   |
|-----------------------|---|
| Text Search           | Search of described matters and indication of its result<br>Print   |
| Phonetic Search       | Search of similar sounds(sounds, classes, similar goods group code) and indication of its result<br>Print |
| Information           | Indication of status of accumulated news and data, charging information, etc.                             |
| Historical Data Print | Print history of executed search, indication, etc.  |
| Exit                  |   |

Phonetic Search Screen

Phonetic Search [Max No. 002]

File(F) Display(D) Print(P) Clear(C) Window(W) Help(H)

Condition for Search

| Sound                | Class                | Similar Sound Group  |
|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> |

Search History

| No. | Sound     | Class | Similar Sound Group |
|-----|-----------|-------|---------------------|
| 1.  | エイベック     | 36    | 34 ?                |
| 2.  | ハツメイキョウカイ | 41    |                     |
| 3.  |           |       |                     |
| 4.  |           |       |                     |
| 5.  |           |       |                     |

Intra-Historical Data Calculation

| Formula 1            | Formula 2            | Formula 3            | Formula 4            | Formula 5            | Total Hits           |
|----------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> | <input type="text"/> |

Execute Search List Return

Set Historical Data No.

AND OR



List of Search Results for Term “エイペック”(“APEC”)

| Result of Database Search Search Term: apec |            |           |              |                          |
|---|------------|-----------|--------------|--------------------------|
| Display(D)                                  | Print(P)   | Window(W) | Help(H)      |                          |
| 0000001                                     | 0494123    | 告 2-01    | エーク          | エーク                      |
| 0000002                                     | 0518301    | 告 2-01    | エボック\EBOC    | エボック                     |
| 0000003                                     | 0528509    | 告 2-01    | エーベル         | エーベル                     |
| 0000004                                     | 0582463(分) | 告 2-70    | ELEC\エレック    | エレック                     |
| 0000005                                     | 1496218    | 告 1-34    | エスベックス       | エスベックス                   |
| 0000006                                     | 1764703    | 告 1-34    | ALPEX        | アルベックス, エルベックス           |
| 0000007                                     | 1766787    | 告 1-34    | SIVEX        | シベックス, サイベックス            |
| 0000008                                     | 1961556    | 告 1-34    | GEPEG        | ゲベック, ジベック               |
| 0000009                                     | 2054734    | 告 1-34    | ESPEX        | エスベックス                   |
| 0000010                                     | 2161567    | 告 1-34    | EYPEL        | アイベル, エイベル               |
| 0000011                                     | 2168706    | 告 1-34    | HIPEX        | ハイベックス, ヒベックス, ベックス      |
| 0000012                                     | 2171700    | 告 1-34    | EFEC         | エフベック                    |
| 0000013                                     | 2208635    | 告 1-34    | アベック         | アベック                     |
| 0000014                                     | 2318052    | 告 1-34    | LABEC        | ラベック, レベック               |
| 0000015                                     | 2507321    | 告 1-34    | E BEL        | エベル                      |
| 0000016                                     | 2605025    | 告 1-34    | E!poc        | エボック, イイボック, ビイオオシイ      |
| 0000017                                     | 2633946    | 告 1-34    | マイベックス\MYBEX | マイベックス                   |
| 0000018                                     | 2671734    | 告 1-34    | マイベック\MIPEC  | マイベック, ミベック              |
| 0000019                                     | 2695549    | 告 1-34    | HI-PEX       | ハイベックス, ベックス             |
| 0000020                                     | 2708459    | 告 1-34    | ATEC         | エイテック, アテック              |
| 0000021                                     | 2709979    | 告 1-34    | エイテック        | エイテック                    |
| 0000022                                     | 3206232    | 告 0-19    | ジェイテック       | ジェイテック                   |
| 0000023                                     | 3289640    | 告 0-18    | avextrex     | エイエイベックス, エイベックス, ト      |
| 0000024                                     | 3289641    | 告 0-18    | avextrex     | エイベックス, トラックス, エイベックス, ア |
| 0000025                                     | 3289642    | 告 0-18    | エイベックス・トラックス | エイベックス, トラックス, エイベックス, ト |
| 0000026                                     | 06-087805  | 告 0-19    | Jテック         | ジェイテック, テック              |
| 0000027                                     | 06-004080  | 告 0-18    | EIFFEL       | エッフェル                    |
| 0000028                                     | 06-123224  | 告 0-18    | Eiffel       | エッフェル                    |
| 0000029                                     | 07-003422  | 告 0-03    | APEX         | アベックス, エイベックス            |
| 0000030                                     | 07-075038  | 告 0-01    | JMAC         | ジェイマック                   |
| 0000031                                     | 07-108867  | 告 0-17    | レベック         | レベック                     |
| 0000032                                     | 08-115199  | 告 0-18    | OPAQUE\オペーク  | オペーク                     |
| 0000033                                     | 08-125262  | 告 0-18    | OPAQUE       | オペイク, オパーク               |
| 0000034                                     | 09-004152  | 告 0-18    | A-PARK\エーパーク | エーパーク, パーク               |
| 0000035                                     | 09-007518  | 告 0-19    | ASUZAC       | アスザック, アサザック, エイスザック     |
| 0000036                                     | 09-016488  | 告 0-18    | エデック\EDECK   | エデック, イーデック, エデッキ, イーデッキ |

List of Search Results for Term “ハツメイキョウカイ”(Hatsumei Kyoukai, the JIII):

| Result of Database Search Search Term: hatsumeikyokai |          |           |         |                        |
|---|----------|-----------|---------|------------------------|
| Display(D)  | Print(P) | Window(W) | Help(H) |                        |
| 0000001   | 3060122  | 告 0-41    | 日本発毛協会  | ニッポンハツモーキョーカイ, ニッポンハツキ |
| 0000003   | 3258905  | 告 0-41    | 日本発毛協会  | ニッポンハツモーキョーカイ, ハツモーキョー |

(2) Computer Search of Similar Trademarks - Case (b)

August 14, 1997

Trademark Search Report

To:

Research Department  
Brandy International  
Toyo Ekimae Bldg. 11F,  
2-2-20, Toyo, Koto-ku,  
Tokyo, Japan 135  
TEL: 03-5683-7210  
FAX: 03-5683-7213

|   |  |          |
|---|--|----------|
| Target Trademark and Its Sound  |  |          |
| Trademark   | APEC   |          |
| Sound   | エーペック  |          |
| Classes and Goods or Services Searched  |  |          |
| Classification  | International Classification   | Class 16 |
|   | Old Japanese Classification  | Class 26 |
| Goods or Services<br>Similar Goods<br>Group Code indicated in<br>brackets “( )” | Printed matter (26A01)   |          |
| Period Searched   |  |          |
| International Classification  | Publication: Up to May 27, 1997<br>Application: Up to November 1996 (Class 16) |          |
| Old Japanese Classification   | Publication: Up to May 27, 1997<br>Application: Up to March 1992 (Class 26)    |          |
| Reference Nos.  | Your Reference No.<br>Our Reference No.: FS970518E                             |          |

## 【Report of Search Results】

Trademark [APEC]

Group Code: 26A01

The following is a list of trademarks similar in sound and / or related to the trademark for which a search was requested.

Class Publication No. [K] Registration No. [T] Renewal Trademark Sound

(Prepared by BRANDY)

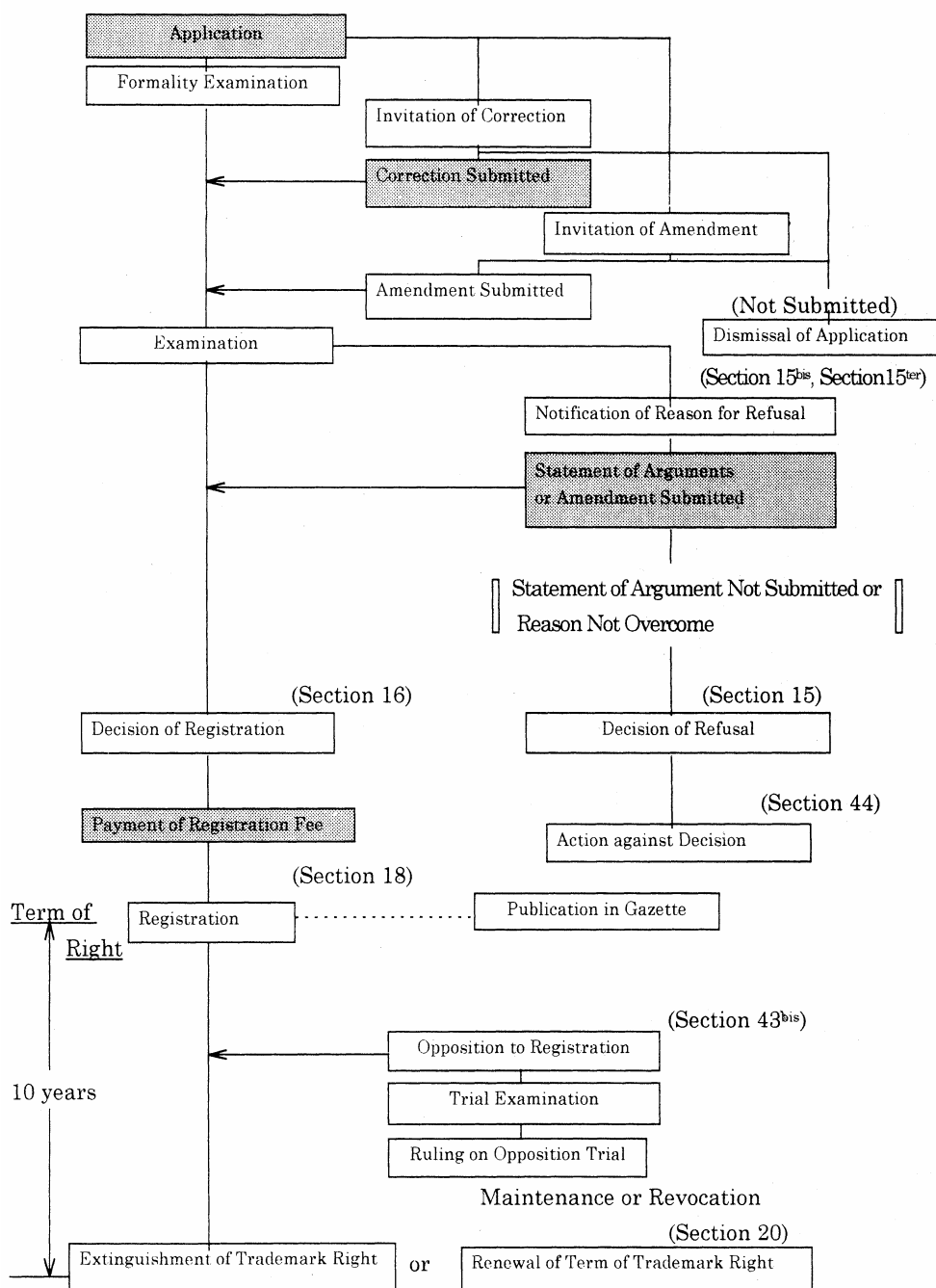
① K16 H08-039103K 3240444T アパ° ア/ APAC アパ° ア

Lapsed trademarks are indicated with an asterisk, and are only extracted and underlined.

|                                |  |                  |                                |  |
|--------------------------------|--|------------------|--------------------------------|--|
| Trademark                      | アパ° ャ@APAC   |                  |                                | Image                                  |
| Information                    |  |                  |                                |  |
| Sound                          | アパ° ャ  |                  |                                | アパ° ャ                                  |
| Application No.                | (H05-086869)   | (H05.08.24)      | Type of Application (Ordinary) | APAC                                   |
| Publication No.                | (H08-039103)   | (H08.03.29)      | Priority Date (H05.08.24)      |  |
| Registration No.               | ( 3240444)   | (H08.12.25)      | No. of Divisions ( )           |  |
| Issue Date of Publication ( )  |  |                  | Defensive Mark No. ( )         |  |
| Date of Expiration (H18.12.25) |  |                  |                                |  |
| Installment Payment (Nil)      |  |                  |                                | Date of Second Installment Payment ( ) |
| Application for                |  |                  | Date of Renewal                | Renewal Application( )                 |
| Renewal Registration ( )       |  | Registration ( ) | Decision of Refusal ( )        |  |
| Final Disposition( )           |  |                  |                                |  |
| Law                            | Trademark Law of 1992  |                  |                                |  |
| Class of Goods                 | 16   |                  |                                |  |
| Similar Goods Group Code       | 26A01  |                  |                                |  |
| Designated Goods               | Printed matters  |                  |                                |  |
| Proprietor                     | Kabushiki Kaisha APAMAN  |                  |                                |  |
| Address                        | No. 1-6-1, Minami-cho, Kichijoji, Musashino-shi, Tokyo                     |                  |                                |  |
| Agent                          |  |                  |                                |  |
| Additional Information         |  |                  |                                |  |
|                                | Color (Nil)  | Figure (Nil)     | Section 5(4) (Nil)             | Section 3(2) (Nil)                     |
|                                | No Demand for Right (Nil) Standard Character (Nil) Three-Dimensional (Nil) |                  |                                |  |
| Duplicated Registration (0)    |  |                  |                                |  |
| Trial Information (0)          |  |                  |                                |  |
| Opposition (0)                 |  |                  |                                |  |

### (3) Flowchart of Procedures from Filing of Trademark Application to Registration

Note: Described in Application is a procedure which needs to be taken by the applicant



#### (4) Application Form for Registration of Trademark

[illegible]

(5) Written Correction Form

| CORRECTION                                    |  |
|---|--|
| (Patent Revenue Stamp)                        |  |
| ( yen)  |  |
| (Date:  | ↑ )  |
| To: The Director-General of the Patent Office | Preferable to write in   |
| 1. Indication of Case                         |  |
| Trademark Application No. H -                 |  |
| 2. Applicant for trademark registration       |  |
| (Identification number)←                      | (Not required if no ID number is written in or has not been notified)  |
| Domicile (Residence) :←                       | (Can be omitted if an ID number is given above)  |
| Name:←  | (Seal)   |
|   | (In case where the applicant is a legal entity, "Representative" needed below but not required if the procedure is taken through an agent)             |
| (Nationality)←                                | (Required in case where the applicant is a foreigner but not required in case where the name of a country in the address is the same as "Nationality") |
| 3. Agent ←                                    | (Not required in case where the procedure is not taken through an agent)   |
| (Identification number)                       |  |
| Domicile (Residence) :                        |  |
| Name:   | (Seal)   |
| 4. Subject of the correction                  |  |
| 5. Contents of the correction                 |  |
| 6. List of documents attached                 |  |

## (6) Written Amendment Form

| AMENDMENT                        |  |
|----------------------------------|--|
| (Patent Revenue Stamp)<br>( yen) | <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>To: The Director-General of the Patent Office<br/>(Trial Examiner-in-Chief)<br/>(Examiner)</p> </div> <div style="width: 35%; text-align: right;"> <p>(Date: _____)</p> </div> </div> <div style="border: 1px solid black; width: 200px; height: 20px; margin-top: 5px; text-align: center; font-size: 0.8em;">             Preferable to write in           </div>  |
| 1.                               | <p>Indication of Case</p> <p>Trademark Application No. H -</p>   |
| 2.                               | <p>Person who makes an amendment</p> <p>Relationship with Case Trademark Applicant</p><br><div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <p>(Identification number) ← (Not required if no ID number is written in<br/>or has not been notified)</p> <p>Domicile (Residence) :</p> <p>Name: ←</p> </div> <div style="width: 55%; text-align: right;"> <p>(Seal)</p> <p>(In case where the applicant is a legal entity. "Representative"<br/>needed below but not required if the procedure is taken through<br/>an agent)</p> </div> </div> |
| 3.                               | <p>Agent ← (Not required in case where the procedure is<br/>not taken through an agent)</p> <p>(Identification number)</p> <p>Domicile (Residence) :</p> <p>Name: (Seal)</p>   |
| 4.                               | No. of classes of goods and services to be increased by the amendment  |
| 5.                               | Name of Document Subject to the amendment  |
| 6.                               | Name of item subject to the amendment  |
| 7.                               | Contents of the amendment  |
| 8.                               | List of documents attached   |

Note 1: In case where the order was issued by the Appeal Examiner-in-chief or the examiner, the amendment shall be addressed to the respective examiner, and in any other cases, it shall be addressed to the Commissioner of the JPO.

# APPLICATION FOR REGISTRATION OF A TRADEMARK

(Patent Revenue Stamp)

( yen)

Application under Section 17<sup>ter</sup>(1) of

Design Law applied mutatis mutandis in

Section 17<sup>bis</sup>(1) of the Trademark Law

(Date:

)

To: The Director-General of the Patent Office

1. Trademark for which registration is sought

↑  
Preferable to write in

In case of a trademark composed of standard characters, add "2. Standard characters and, in case of a three-dimensional trademark, "2. Three-dimensional trademark" and shift the following items down.

2. Designated goods and/or designated services and classes of the classification of goods and services

Class :

Designated goods (services) :

(Not required if no ID number is written in or has not been notified

3. Identification of original application for trademark registration

4. Applicant for trademark registration

(Identification number)

(Can be omitted if an ID number is given above)

Domicile (Residence) :

Name:

(In case where the applicant is a legal entity, "Representative" needed below but not required if the application is made through an agent)

(Nationality) :

(Required in case where the applicant is a foreigner but not required in case where the name of a country in the address is the same as "Nationality"

5. Agent

(Identification number)

(Not required in case where the application is not made through an agent)

Domicile (Residence) :

Name:

(Seal)

6. List of documents attached

(1) Reproduction of the trademark for which a registration is sought

(2) .....

4

(In case where the trademark is composed of standard characters, a reproduction not required in the above box or separately fitted)



(8) New Application Form for Registration of Trademark (by a divisional application)

| APPLICATION FOR REGISTRATION OF A TRADEMARK  |  |
|--|--|
| (Patent Revenue Stamp)<br>(                      yen)  | <div style="border: 1px solid black; padding: 2px; text-align: center;">Application under Section 10(1) of the Trademark Law</div>   |
| (Date:                      )  |  |
| To: The Director-General of the Patent Office<br>1. Trademark for which registration is sought   | <div style="border: 1px solid black; height: 20px; margin-bottom: 5px;"></div> <div style="border: 1px solid black; padding: 2px; font-size: small;">             In case of a trademark composed of standard characters, add "2. Standard characters and, in case of a three-dimensional trademark, "2. Three-dimensional trademark" and shift the following items down.           </div> |
| 2. Designated goods and/or designated services and classes of the classification of goods and services<br>Class :                      (Not required if no ID number is written in or has not been notified)<br>Designated goods (services) :  |  |
| 3. Identification of original application for trademark registration   |  |
| 4. Applicant for trademark registration<br>(Identification number)                      (Can be omitted if an ID number is given above)<br>Domicile (Residence) :                      (Seal)<br>Name:                      (In case where the applicant is a legal entity, "Representative" needed below but not required if the application is made through an agent)<br>(Nationality) :                      (Required in case where the applicant is a foreigner but not required in case where the name of a country in the address is the same as "Nationality") |  |
| 5. Agent                      (Not required in case where the application is not made through an agent)<br>(Identification number)<br>Domicile (Residence) :                      (Seal)<br>Name:  |  |
| 6. List of documents attached<br>(1) Reproduction of the trademark for which a registration is sought<br>(2) .....   |  |
| <div style="border: 1px solid black; padding: 2px; font-size: small;">             (In case where the trademark is composed of standard characters, a reproduction not required in the above box or separately fitted)           </div>  |  |

(9) Application Form for Registration of Trademark (to convert a collective trademark application into an ordinary trademark application)

| APPLICATION FOR REGISTRATION OF A TRADEMARK   |  |
|---|--|
| <p>(Patent Revenue Stamp)<br/>(                      yen)</p>   | <p style="text-align: right;">Application under Section<br/>11(1) of the Trademark Law</p>                                 |
| <p>(Date:                      )</p>  |  |
| <p>To:      The Director-General of the Patent Office</p>   | <p>↑</p>   |
| <p>1.      Trademark for which registration is sought</p> <div style="border: 1px solid black; width: 100px; height: 80px; margin: 10px auto;"></div>   | <div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: 150px;"> <p>Preferable to write in</p> </div> |
| <div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: 350px;"> <p>In case of a trademark composed of standard characters, add "2. Standard characters and, in case of a three-dimensional trademark, "2. Three-dimensional trademark" and shift the following items down.</p> </div> |  |
| <p>2.      Designated goods and/or designated services and classes of the classification of goods and services</p>  |  |
| <p style="margin-left: 40px;">Class :                      (Not required if no ID number is written in or has not been notified)</p>  |  |
| <p style="margin-left: 40px;">Designated goods (services) :</p>   |  |
| <p>3.      Identification of original application for trademark registration</p>  | <p>↑</p>   |
| <p>4.      Applicant for trademark registration</p>   | <p>(Can be omitted if an ID number is given above)</p>   |
| <p>(Identification number)      ←</p>   | <p>↑</p>   |
| <p>Domicile (Residence) :      ←</p>  | <p>↑</p>   |
| <p>Name:                      (Seal)</p>  | <p>↑</p>   |
| <p>(Nationality) :      ←</p>   | <p>↑</p>   |
| <p>(In case where the applicant is a legal entity, "Representative" needed below but not required if the application is made through an agent)</p>  |  |
| <p>(Required in case where the applicant is a foreigner but not required in case where the name of a country in the address is the same as "Nationality")</p>   |  |
| <p>5.      Agent      ←</p>   | <p>(Not required in case where the application is not made through an agent)</p>   |
| <p>(Identification number)</p>  | <p>↑</p>   |
| <p>Domicile (Residence) :</p>   | <p>↑</p>   |
| <p>Name:                      (Seal)</p>  | <p>↑</p>   |
| <p>6.      List of documents attached</p>   |  |
| <p>(1) Reproduction of the trademark for which a registration is sought</p>   |  |
| <p>(2)      .....</p>   | <p>4</p>   |
| <div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: 450px;"> <p>(In case where the trademark is composed of standard characters, a reproduction not required in the above box or separately fitted)</p> </div>   |  |

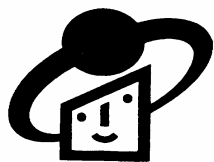
(10) Application Form for Registration of Trademark (to convert an ordinary trademark into a collective trademark application)

| APPLICATION FOR REGISTRATION OF A COLLECTIVE TRADEMARK  |   |
|---|---|
| <p>(Patent Revenue Stamp)<br/>(                      yen)</p>   | <p style="text-align: right;">Application under Section 11(2)<br/>of the Trademark Law</p>  |
| <p>(Date:                      )</p>  |   |
| <p>To: The Director-General of the Patent Office</p> <p>1. Trademark for which registration is sought</p> <div style="border: 1px solid black; width: 100px; height: 60px; margin: 10px auto;"></div>   | <div style="border: 1px solid black; width: 150px; height: 20px; margin: 10px auto; text-align: center;">             Preferable to write in           </div> <div style="border: 1px solid black; padding: 5px; margin: 10px auto; width: 350px;"> <p style="font-size: small;">In case of a trademark composed of standard characters, add "2. Standard characters and, in case of a three-dimensional trademark, "2. Three-dimensional trademark" and shift the following items down.</p> </div> |
| <p>2. Designated goods and/or designated services and classes of the classification of goods and services</p> <p style="margin-left: 40px;">Class :                      (Not required if no ID number is written in or has not been notified)</p> <p style="margin-left: 40px;">Designated goods (services) :</p>  |   |
| <p>3. Identification of original application for trademark registration</p> <p>3. Applicant for trademark registration</p> <p style="margin-left: 40px;">(Identification number)                      (Can be omitted if an ID number is given above)</p> <p style="margin-left: 40px;">Domicile (Residence) :                      (Seal)</p> <p style="margin-left: 40px;">Name:                      (In case where the applicant is a legal entity, "Representative" needed below but not required if the application is made through an agent)</p> <p style="margin-left: 40px;">(Nationality)                      (Required in case where the applicant is a foreigner but not required in case where the name of a country in the address is the same as "Nationality")</p> |   |
| <p>4. Agent                      (Not required in case where the application is not made through an agent)</p> <p style="margin-left: 40px;">(Identification number)</p> <p style="margin-left: 40px;">Domicile (Residence) :</p> <p style="margin-left: 40px;">Name:                      (In case where the trademark is composed of standard characters, a reproduction not required in the above box or separately fitted) (Seal)</p>   |   |
| <p>5. List of documents attached</p> <p style="margin-left: 40px;">(1) Reproduction of the trademark for which a registration is sought                      4</p> <p style="margin-left: 40px;">(2) Statement certifying the applicant is a legal entity as stipulated in Section 7(1) of the Trademark Law                      1</p> <p style="margin-left: 40px;">(3) ...</p>   |   |

(11) Form for Arguments

| STATEMENT OF ARGUMENTS   |  |
|--|--|
| (Patent Revenue Stamp)<br>( yen)   | (Date: )   |
| To: The Director-General of the Patent Office<br>(Trial Examiner-in-Chief)   | ↑<br>Preferable to write in  |
| 1. Indication of Case<br>Trademark Application No. H -   |  |
| 2. Applicant for trademark registration<br>(Identification number)   | (Not required if no ID number is written<br>in or has not been notified)   |
| Domicile (Residence) :   | (Can be omitted if an ID number<br>is given above)   |
| Name: (Seal)   |  |
| (In case where the applicant is a legal entity, "Representative"<br>needed below but not required if the procedure is taken through<br>an agent) |  |
| (Nationality) :  | (Required in case where the applicant is a foreigner<br>but not required in case where the name of a country<br>in the address is the same as "Nationality") |
| 3. Agent (Identification number)   | (Not required in case where the procedure is not<br>taken through an agent)  |
| Domicile (Residence) :   |  |
| Name: (Seal)   |  |
| 4. Grounds   |  |
| 5. Method of proof   |  |
| 6. List of documents attached  |  |

(12) Trademark Gazette (Abstract・Samples)



平成 9 (1997). 7.31 発行

ISSUED ON JULY 31, 1997

商

標

公

報

TRADEMARK GAZETTE

9 (1997)—91

第 6244 号

NO. 6244

商標登録番号 4000001～4001000

防護標章登録 17件

Trademark No 4000001 to 4001000

Defensive Marks 17

日 本 国 特 許 庁

Japanese Patent Office

## Classification of Goods and Services

| International Classification |  | Old Classification<br>(Japanese)  |
|------------------------------|--|---|
| CLASS 1                      | Chemicals used in industry, science or agriculture   | CLASS 1, CLASS 2,<br>CLASS 3, CLASS 4,<br>CLASS 5   |
| CLASS 2                      | Paints, colorants and anti-corrosive preparations  |   |
| CLASS 3                      | Cleaning preparations and cosmetics  |   |
| CLASS 4                      | Industrial oils and greases, fuels and illuminants   |   |
| CLASS 5                      | Pharmaceutical preparations  |   |
| CLASS 6                      | Base metals and base metal products  | CLASS 6, CLASS 7,<br>CLASS 8, CLASS 9,<br>CLASS 10,<br>CLASS 11,<br>CLASS 12,<br>CLASS 13           |
| CLASS 7                      | Finishing machines, motors and engines (except for land vehicles) and other machines   |   |
| CLASS 8                      | Hand operated tools  |   |
| CLASS 9                      | Scientific, nautical, surveying, photographic, acoustic, imaging, weighing, signaling, checking, life-saving, teaching, calculating or data processing mechanical instruments and electric or optical mechanical instruments |   |
| CLASS 10                     | Medical apparatus, medical supplies  |   |
| CLASS 11                     | Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes   |   |
| CLASS 12                     | Vehicles and other equipment for locomotion  |   |
| CLASS 13                     | Firearms and pyrotechnical products  |   |
| CLASS 19                     | Non-metallic building materials  |   |
| CLASS 14                     | Precious metals, goods made of precious metals, jewelry, clocks and watches  | CLASS 14,<br>CLASS 15,<br>CLASS 16,<br>CLASS 17,<br>CLASS 18,<br>CLASS 21,<br>CLASS 22,<br>CLASS 23 |
| CLASS 18                     | Leather and leather imitations, traveling goods and harness and saddlery   |   |
| CLASS 22                     | Ropes, canvas goods, material for stuffing and raw fibers for textiles   |   |
| CLASS 23                     | Yarns and threads for textiles   |   |
| CLASS 24                     | Textiles and textile covers for household use  |   |
| CLASS 25                     | Clothing and footwear  |   |
| CLASS 26                     | Sewing goods   |   |

|          |  |  |
|----------|--|--|
| CLASS 15 | Musical instruments  | CLASS 19,<br>CLASS 20,<br>CLASS 24,<br>CLASS 25,<br>CLASS 26,<br>CLASS 27,<br>CLASS 34 |
| CLASS 16 | Paper, paper goods and office supplies   |  |
| CLASS 17 | Electrical, thermal and acoustic insulating materials and material plastics  |  |
| CLASS 20 | Furniture and plastic goods not included in other classes  |  |
| CLASS 21 | Hand-operated utensils and apparatus for household and kitchen use, toilet utensils, cosmetics,  |  |
| CLASS 27 | glassware and porcelains   |  |
| CLASS 28 | Carpets and floor mats and non-textile wall hangings Toys, game machines, sporting and gymnastic   |  |
| CLASS 34 | instruments<br>Tobacco, smoking goods and matches  |  |
| CLASS 29 | Animal Foodstuffs, processed vegetables and other edible garden products   | CLASS 28,<br>CLASS 29,<br>CLASS 30,<br>CLASS 31,<br>CLASS 32,<br>CLASS 33              |
| CLASS 30 | Processed vegetable foodstuffs (not included in other classes) and seasonings  |  |
| CLASS 31 | Unprocessed land products, live animals and plants and feedstuffs  |  |
| CLASS 32 | Non-alcoholic beverages and beers  |  |
| CLASS 33 | Alcoholic beverages except beers   |  |
| CLASS 35 | Advertising, business management or administration and office functions  |  |
| CLASS 36 | Financial, insurance and real estate transactions  |  |
| CLASS 37 | Construction, installation and repair  |  |
| CLASS 38 | Telecommunications   |  |
| CLASS 39 | Transport, packaging and storage, and travel arrangement   |  |
| CLASS 40 | Processing or other treatment of goods   |  |
| CLASS 41 | Education, training, entertainment, sporting and cultural activities   |  |
| CLASS 42 | Providing of food and drink, providing of accommodation/lodgings, medical, hygienic and beauty care, veterinary diagnosis, agricultural services, legal services, researches, computer programming and services that cannot be placed in other classes |  |

(The classes of the International Classification are in accordance with the Attached Table of the Regulations under the Trademark Law.)

Notes: 1. The International Classification is a classification in accordance with the Attached Table in the Regulations under the Trademark Law.

As the International Classification was revised on November 10, 1995, the Attached Table prescribed in Section 3 of the Regulations under the Trademark Law as set forth in Section 1 of the Cabinet Order Concerning Enforcement of the Trademark Law (Cabinet Order No. 19 of 1960) was revised (Cabinet Order No. 66 of 1996). The revised table became applicable to trademark applications on January 1, 1997.

2. The old classification (Japanese) is a classification set forth in the Attached Table of the Regulations under the Trademark Law (before its revision which became effective under Cabinet Order No. 299 of 1991).



### (13) Application Form for Registration of Collective Trademark

APPLICATION FOR REGISTRATION OF A COLLECTIVE TRADEMARK

# (14) Application Form for Registration of Defensive Mark

| APPLICATION FOR REGISTRATION OF A DEFENSIVE MARK   |  |
|--|--|
| <div style="display: flex; justify-content: space-between;"> <div style="width: 40%;"> <p>(Patent Revenue Stamp)</p> <p>( yen)</p> </div> <div style="width: 40%; text-align: right;"> <p>(Date: )</p> </div> </div>   |  |
| <p>To: The Director-General of the Patent Office</p>   |  |
| <p>1. Defensive mark for which registration is sought</p> <div style="border: 1px solid black; width: 100px; height: 60px; margin: 10px auto;"></div>  | <div style="border: 1px solid black; padding: 5px; text-align: center;"> <p>↑</p> <p>Preferable to write in</p> </div> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>In case of a defensive mark composed of standard characters, add "2. Standard characters and, in case of a three-dimensional trademark, "2. Three-dimensional trademark" and shift the following items down.</p> </div> |
| <p>2. Designated goods and/or designated services and classes of the classification of goods and services</p>  |  |
| <div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>Class :</p> <p>Designated goods (services) :</p> </div> <div style="width: 35%; font-size: small;"> <p>(Not required if no ID number is written in or has not been notified)</p> </div> </div> |  |
| <p>3. No. of the principal trademark registration</p>  |  |
| <p>4. Applicant for defensive mark registration (Identification number)</p>  |  |
| <p>Domicile (Residence) :</p>  |  |
| <p>Name: (Seal)</p>  |  |
| <p style="text-align: center; font-size: small;">(In case where the applicant is a legal entity, "Representative" needed below but not required if the application is made through an agent)</p>   |  |
| <p>(Nationality) : (Required in case where the applicant is a foreigner but not required in case where the name of a country in the address is the same as "Nationality")</p>  |  |
| <p>5. Agent (Identification number)</p>  |  |
| <p>Domicile (Residence) :</p>  |  |
| <p>Name: (Seal)</p>  |  |
| <p>6. List of documents attached</p>   |  |
| <p>(1) Reproduction of the defensive mark for which a registration is sought</p>   |  |
| <p>(2) .....</p>   |  |
| <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p>(In case where the defensive mark is composed of standard characters, a reproduction not required in the above box or separately fitted)</p> </div>  |  |

APPLICATION FOR REGISTRATION OF RIGHT  
BASED ON DEFENSIVE MARK REGISTRATION

(Patent Revenue Stamp)  
(                      yen)

(Date:                      )

To:      The Director-General of the Patent Office

Preferable to write in

1.      No. of defensive mark registration
2.      Applicant for trademark registration      (Not required if no ID number is  
(Identification number)      ←      written in or has not been notified)

Domicile (Residence) :      ←      (Can be omitted if an ID  
 Name:      ←      number is given above)  
 (Seal)  
 (In case where the applicant is a legal  
 entity. "Representative" needed below  
 but not required if the procedure is taken  
 through an agent)

(Nationality) :      ←      (Required in case where the applicant is a  
 foreigner but not required in case where the  
 name of a country in the address is the same  
 as "Nationality")

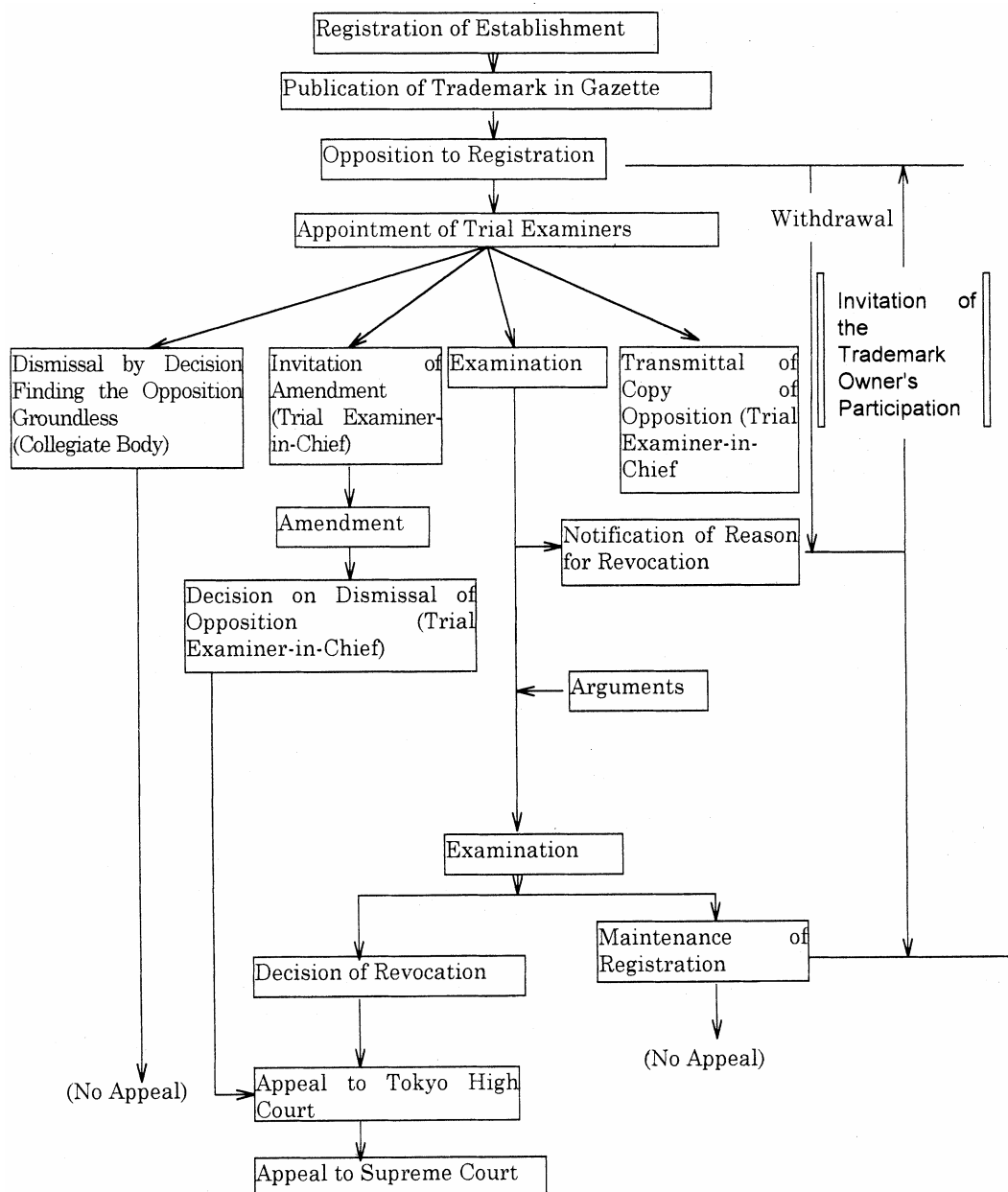
3.      Agent      ←      (Not required in case where the procedure  
(Identification number)      is not taken through an agent)

Domicile (Residence) :  
 Name:      (Seal)

4.      List of documents attached  
(1) ...

1. This form must be prepared on an A4-size sheet (210mm x 297mm).
2. The application fee is 12,000 yen plus 30,000 per class. The fee may be revised in the future.
3. To reduce the number of classes of goods and services in an application for registration of renewal of the term for a defensive mark registration, provide a section “2. Classes of goods and services” under “1. No. of defensive mark registration,” and specify the classes of goods and services of which term are to be renewed (e.g. “Class 1,” “Class 2,” etc..).

(16) Flowchart of Procedures for Filing an Opposition to the Grant of a Trademark Registration



(17) Application Form for Registration of Renewal of the Term of Registered Trademark Right

|   |  |
|---|--|
| <div style="border: 1px solid black; width: 100px; height: 50px; margin-bottom: 5px;"></div> (Patent Revenue Stamp) | (                      yen)  |
| <b>【Name of Document】</b> APPLICATION FOR REGISTRATION OF RENEWAL<br>OF TERM OF REGISTRATED TRADEMARK RIGHT         |  |
| ( <b>【Date of Filing】</b> )   | <div style="border: 1px solid black; display: inline-block; padding: 2px 10px;">Preferable to write in</div> |
| <b>【Addressee】</b> The Director-General of the Patent Office  |  |
| <b>【Trademark Registration No.】</b>   |  |
| <b>【Applicant】</b>  |  |
| ( <b>【Identification No.】</b> )   | (Not required if no ID number is written in or<br>has not been notified)                                     |
| <b>【Postal Code】</b>  |  |
| <b>【Domicile (Residence)】</b>   |  |
| <b>【Name】</b>   | (Can be omitted if an ID number is given above)      (Seal) or (ID Label)                                    |
| <b>【Agent】</b>  |  |
| (Not required in case where the procedure is not<br>taken through an agent)   |  |
| ( <b>【Identification No.】</b> )   |  |
| <b>【Postal Code】</b>  |  |
| <b>【Domicile (Residence)】</b>   |  |
| <b>【Name】</b>   | (Seal) or (ID Label)   |
| ( <b>【Indication of Payment】</b> )  |  |
| (This item included with "installment<br>payment" indicated. only when an<br>installment payment is made)           |  |
| ( <b>【Indication of Registration Fee】</b> )   |  |
| ( <b>【Deposit Account No.】</b> )  |  |
| ( <b>【Sum of Payment】</b> )   |  |
| <b>【List of documents attached】</b>   |  |

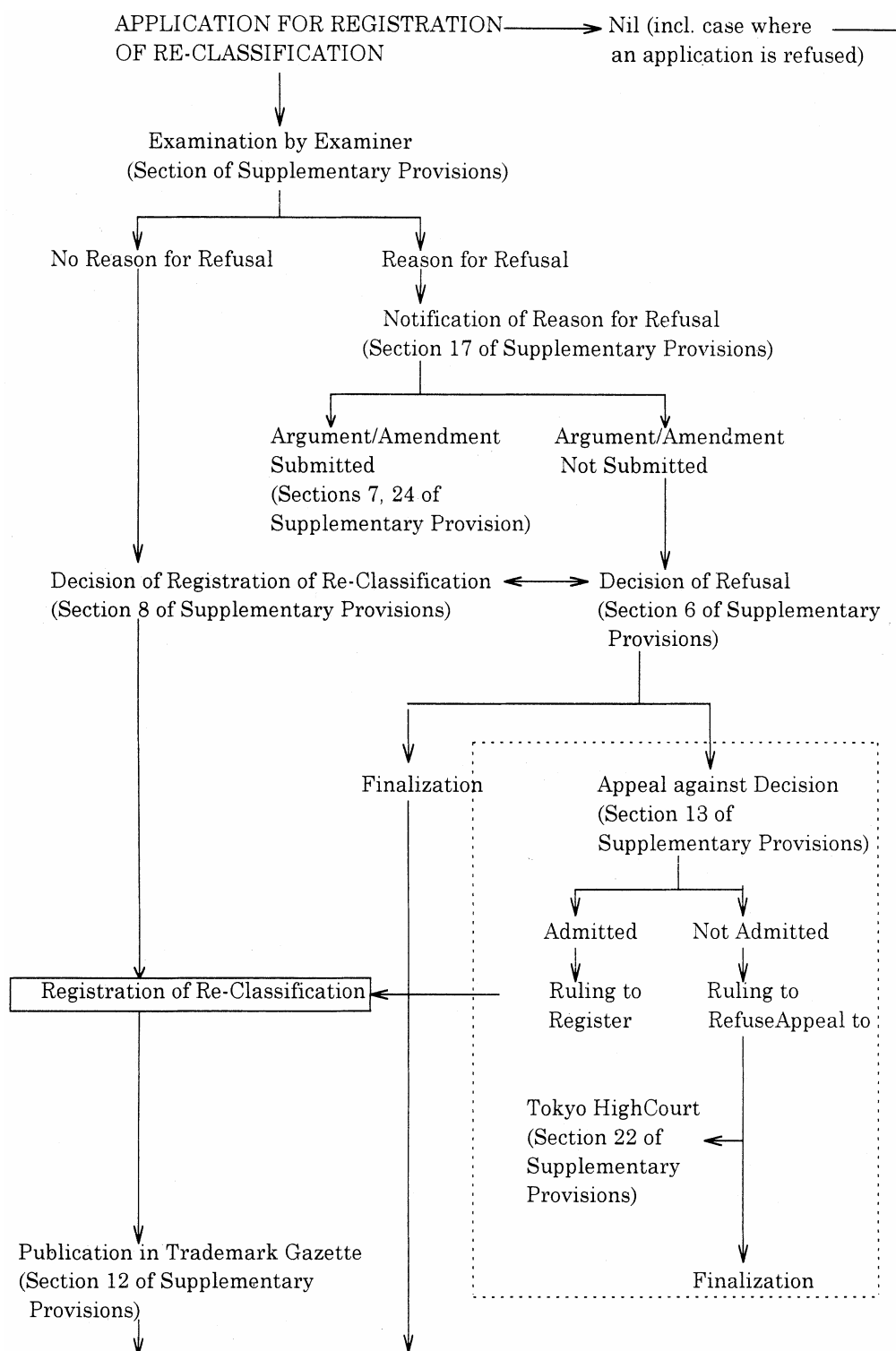
Notes:

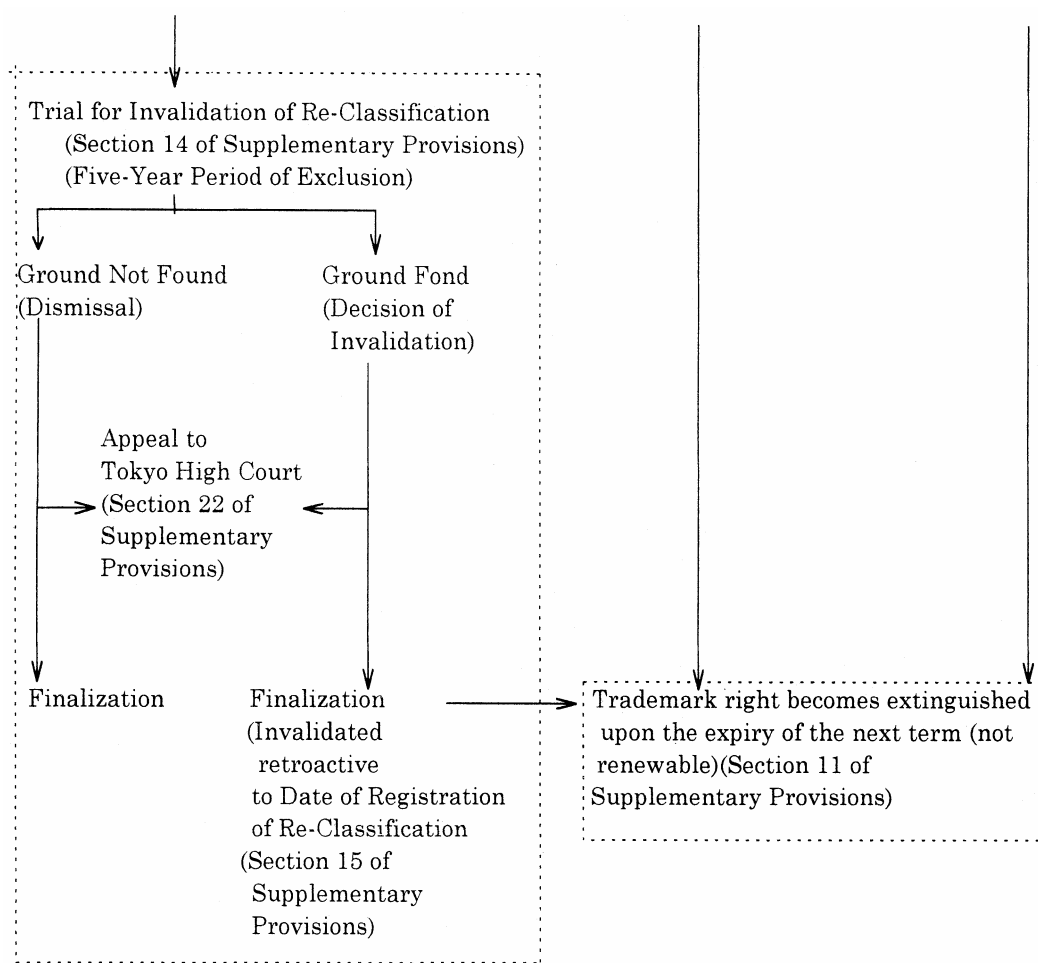
1. The form must be prepared on an A4-size sheet (210mm x 297mm).
2. Registration fee
  - (1) A patent revenue stamp should be fixed in a box in the upper-left space with the amount described in brackets below. It should not be affixed a seal over two edges.
  - (2) In the case where the registration fee is paid in cash through a bank, etc., a certificate of payment (for submission to the JPO) must be attached to a separate sheet of paper which should accompany the application.

## (18) Form for Demand for Trial

|   |                  |                                      |
|---|------------------|--------------------------------------|
| <div style="border: 1px solid black; width: 100px; height: 100px; margin: auto; position: relative;"> <span style="position: absolute; top: 5px; left: 5px; font-size: small;">Patent<br/>Revenue<br/>Stamp</span> </div> | DEMAND FOR TRIAL | Date: _____                          |
| (                  yen)   |                  |                                      |
| To:        The Director-General of the Patent Office  |                  |                                      |
| 1. Indication of case<br><br>2. Demandant<br>(Identification No.)<br>Address (Domicile)<br>Name<br>(Nationality)  |                  | <br><br><br><br><br><br><br>(S Seal) |
| 3. Agent<br>(Identification No.)<br>Address (Domicile)<br>Name  |                  | <br><br><br><br>(S Seal)             |
| 4. Defendant<br>Address (Domicile)<br>Name  |                  |                                      |
| 5. Contents of Demand<br>6. Ground for Demand<br>7. Method of proof<br>8. List of documents attached  |                  |                                      |

(19) Flowchart of Procedures for Reclassification of Goods







(20) Application Form for Registration of Reclassification of Goods

| APPLICATION FOR REGISTRATION OF RE-CLASSIFICATION OF GOODS |   |
|--|---|
| (Patent Revenue Stamp)                                     |   |
| (  | yen)  |
| (Date: )   |   |
| To:  | The Director-General of the Patent Office   |
|  | <div>↑<br/>Preferable to write in</div>   |
| 1.   | No. of trademark registration<br>Registration No.   |
| 2.   | Designated goods and services and their classes<br>Class<br>Designated Goods  |
| 3.   | Applicant for registration of re-classification<br>(Identification number) ← (Not required if no ID number is written in or has not been notified)<br><br>Domicile (Residence) : ← (Can be omitted if an ID number is given above)<br><br>Name: ← (In case where the applicant is a legal entity. "Representative" needed below but not required if the procedure is taken through an agent) (Seal)<br><br>(Nationality) : ← (Required in case where the applicant is a foreigner but not required in case where the name of a country in the address is the same as "Nationality") |
| 4.   | Agent ← (Not required in case where the procedure is not taken through an agent)<br>(Identification number)<br>Domicile (Residence) :<br>Name: (Seal)   |
| 5.   | List of documents attached<br>(1) ...   |

(21) Form for Explanation of Circumstances on Accelerated Examination

| STATEMENT EXPLAINING FACT OF URGENCY IN EXAMINATION |  |
|---|--|
|   | Date:  |
| To:   | Director-General of the Patent Office  |
| 1.  | Indication of case<br>H -  |
| 2.  | Filing person (Applicant)<br>(Identification No.)<br>Address (Domicile)<br>Name (Seal)   |
| 3.  | Agent<br>(Identification No.)<br>Address (Domicile)<br>Name (Seal)   |
| 4.  | Explanation of state of use<br>(1) User of the trademark<br>(2) Name of products using the trademark (Name of service)<br>(3) Time of the use<br>(4) Place of the use<br>(5) Documents proving the actual use of the trademark |
| 5.  | Explanation of fact of urgency   |
| 6.  | Prior Trademark Search Result  |
| 7.  | List of documents attached   |

## Further Reading

1. Council for Study on Revision of the Industrial Property System, *Explanation of Industrial Property-Related Laws and Guide to the Japanese Trademark Law* (Japan Institute of Invention and Innovation).
2. Council for Study on Revision of the Industrial Property System, *Guide to Trademark Law* (Japan Institute of Invention and Innovation)
3. Kudo, Kanji, *Explanation of Examination Standards* (Japan Institute of Invention and Innovation).
4. Japanese Patent Office, ed., *Trademark Application Handbook* (Japan Institute of Invention and Innovation).
5. *THE OSAKA BRAND*, (Japan Institute of Invention and Innovation, Osaka branch)
6. Matsuda, Osami, ed., *A Collection of Similar Trademarks* (Patent Japan).