

Issuing number: 8-5-2016-004899710
Issuing date: 06/12/2016

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Geneva 20, Switzerland
World Intellectual Property
Organization(WIPO)International Bureau

NOTIFICATION OF EX OFFICIO PROVISIONAL REFUSAL
TO THE INTERNATIONAL BUREAU OF WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)
UNDER RULE 17(1) OF THE COMMON REGULATIONS

1. Office Making the Notification:

Korean Intellectual Property Office (KIPO)
189 Cheongsa-ro, Seo-gu, Daejeon Metropolitan City, 35208, Republic of Korea

2. International Registration Number (Date of Registration/Subsequent Designation):

1274024 (12/02/2015)

3. Name and Address of the Holder:

Volvo Trademark Holding Aktiebolag
c/o AB Volvo SE-405 08 Göteborg Sweden

4. Goods/Services Affected by this Provisional Refusal:

All the designated goods/services

※ Please note that there is no provision in the Korean Trademark Act allowing the examiner to delete Ex Officio the designated goods/services refused by the ground(s) for the Provisional Refusal and to grant protection for the remaining goods/services.

5. Grounds for the Decision:

- ☐ Lack of distinctiveness
- ☐ Conflict with another person's earlier application(s) and/or registration(s)
- ☒ Vagueness and/or broadness of the designated goods/services
- ☐ Unconformity to "a single application for a single trademark rule"
- ☐ Other grounds

※ Please refer to item 9 for the details

6. Provisions of the Korean Trademark Act applicable to the Grounds:

Previous Trademark Act(before the revision under No. 14033 of the Act on February 29, 2016), Article 10(1)

7. Date on which the Provisional Refusal was pronounced (Time Limit):

06/12/2016(06/02/2017)

8. Guidance as to Future Procedure:

1. Where the holder receives this notification, the protection of the international registration is to be refused as a whole unless the holder submits to KIPO, through a representative whose address is in the Republic of Korea, a written opinion (amendment) within two months from the date on which this provisional refusal was pronounced. The holder may also submit to the International Bureau MM6 (Request for the Recording of a Limitation of the List of Goods/Services) within the above time limit.
2. Regarding the time limit, the holder may request the extension of time to submit a written opinion (amendment) to KIPO. The extension will be granted twice for a period of one month, respectively. This request should be made within the given time limit through the above representative.
3. If a request for Limitation is presented to the International Bureau so as to get over the ground for refusal mentioned below, we wish that it could also be informed by e-mail (kipomadrid@korea.kr) at the same time for your convenience.

9. Details of the Provisional Refusal:

The examiner refuses registration, because the identification of 'some' designated goods/services, which are listed below (the underlined goods/services), is not specific or is too broad a definition to accept. Previous Trademark Act(before the revision under No. 14033 of the Act on February 29, 2016), Article 10(1).

However, this reason for refusal could be reviewed if the applicant amends (or deletes) the identification to specify the definite commercial name for the goods/services, or, if there is no commercial name for the goods/services, to describe them and their intended use definitely, as is shown in <Examples> below:

<Broad/Vague identification>

[Class 07] Motors and engines (except for land vehicles); Aeroplane engines; Engines for boats; Engines for marine vessels; Engines not for land vehicles; Hydraulic motors for industrial machines; Agricultural machines; Internal combustion engines for power generation, other than for land vehicles; Air turbines not for land vehicles; Air turbines for ships or aircrafts; Gas turbines for ships or aircrafts; electric generators and alternators; high-frequency generators; Air cleaners (parts of engines); Anti-pollution devices for motors and engines; anti-pollution devices for motors and engines; carburettors, converters for liquid fuels, injectors, injection pumps, fuel pumps, speed governors, injection nozzles and nozzle holders, machine valves, vaporizers, starters, ignition systems, ignition coils, glow plugs, spark plugs, spark plug connectors, lambda probes, magnetos, silencers/mufflers and spark arresters for combustion engines; Fuel filters (parts of engines); Fuel filters for engines for other than for vehicles; Fuel filters for vehicle engines; oil filters, Air filters for automobile engines; Air filters for engines for other than for vehicles; rolling bearings, plain bearings, shafts, shaft seals, gearwheels, drive wheels, speed change gear, pulleys, drive chains and belts, springs, filters, pumps, regulators, relief valves, controls, fans and fan belts, all for engine cooling radiators; cooling fans, Cooling radiators for motors and engines; starters, fuel feed apparatus, oil cooling apparatus, Band brakes (machine elements not for land vehicles); Block brakes [machine elements not for land vehicles]; Brakes for

machines; Conical brakes other than for vehicles; caps for cooling radiators, accelerators, hydraulic pumps, Hydraulic cylinders for machines; hydraulic reservoirs, hydraulic filters, Hydraulic motors for excavators; hydraulic pipes, hydraulic valves, Couplings for machines; Couplings for ships or aircrafts; Couplings other than for vehicles (parts of machines); Machine couplings and transmission components except for land vehicles; gearboxes/transmissions, reverse gears, reduction gears, gearbox controllers, traction control systems, vehicle dynamics control systems, shaft connections, couplings and clutches, couplings and transmission belts; inboard/outboard drive units and sailing boat drive units for inboard engines; hydraulic pumps and motors and components thereof, air pumps as vehicle accessories; bushes and bearings (machine parts); power steering systems, control valves (machine parts), braking valves (machine parts); exhaust-gas turbo-chargers; compressors, Compressed air brakes other than for vehicles; Compressed air reservoirs (parts of machines); Compressed air cylinders for machines; Compressed air motors other than for vehicles; bilge pumps; metal and plastics working machines; machines for the chemical industry, for agriculture, mining, textile machines, machines for the beverage industry; incubators for eggs; agricultural implements (not hand operated); Concrete construction machines; electronic control devices for production technology and servo drives; Machine tools; Broaches (machine tools); Chasers (machine tools); Dies for use with machine tools; Taps (machine tools); Rivet guns (power tools); Tile saws (power tools); electric can openers; hydraulic lift jacks, body and frame aligners; packing and labelling machines, conveyors, conveyor belts; Handling apparatus for loading and unloading; Handling machines, automatic (manipulators); Excavators; Earth moving machines; Loaders (earth moving machines); hydraulic lifting apparatus, cranes, winches; Loader buckets for excavators; Hydraulic grapple for excavators; wood working machines, including delimbing, slashing and debarking equipment; Digging teeth for excavators; Digging teeth for mining machines; Cutters (machines); Cutting stones for metal processing machines; Car vacuum cleaners; Automatic washing machines for vehicles; Vehicle washing installations; Bushings (parts of machines); automatic vending machines; Radiators for motors and engines; Radiators for vehicles; Radiator caps for motors and engines; Radiator caps for vehicles; Compressed air motors for boats; Fans for motors and engines; Fan belts for motors or engines; Bearings (parts of machines).

[Class 09] Satellites for scientific purposes; distillation apparatus for scientific purposes; probes for scientific purposes; nautical apparatus and instruments; surveying instruments; photographic apparatus and instruments; cinematographic machines and apparatus; optical apparatus and instruments except for glasses and photographic apparatus; gas meters; distance measuring apparatus; gauges; electronic meters; weighing apparatus and instruments for standard unit; barometers; instruments for measuring length; level gauges; hygrometers; calorimeters; signalling bells; signal lanterns; rotating lights (signalling); signalling whistles; mirrors for inspecting work; weathering testers; speed checking apparatus for vehicles; electric and electronic video surveillance installations; life saving apparatus and equipment; audiovisual teaching apparatus; voltage testers; electric relays; electric power distribution machines and apparatus; terminals (electricity); transformers (electricity); adapters (electricity); electric contacts; portable rechargers; accumulator boxes; solar batteries; batteries and battery chargers; automatic control apparatus; electric controlling devices for superchargers; automatic controlling devices for turbo compressors; automatic vehicle speed

control apparatus; electric control installations; electronic power controllers; remote control apparatus; remote controls for operating vehicle alarms; charging devices, battery testers, electric mountings, electric blowers; electric accumulators, electric compasses, electric circuit breakers, commutators, electric condensers, electric wiring harnesses, capacitors, relays, electronic time relays, switches, fuses, electrical contacts, electric cables, electric fuses; electric fuse boxes, electrical sensors, electrical sockets, printed electrical circuits, integrated circuits; electric leads; cable connections, cable drums; transformers; electronic headlamp beam adjustment controllers; acceleration measuring sensors for automobiles; speed sensors; air temperature sensors; auto light sensors; brake pad wear sensors; electronic sensors; flow sensors; impact sensors; lateral distance sensors for cars; sensors for use in the control of engines; microwave detectors (radar); ultrasonic vehicle detectors; apparatus and instruments for switching electricity; electronic switches; switchboards; electric switches; solar cells and solar generators; analysers for motor vehicles, namely for exhaust gas analysis, soot particle analysis, brake function analysis, diagnostic apparatus for simulators for the steering and control of vehicles; engine testers, workshop test devices; high-frequency generators, power supply devices, electric powerline filters; semiconductor components, optoelectronic elements; module for optoelectronic elements; apparatus for testing tire air pressure; apparatus for testing vehicle transmissions; wheel testing equipments; apparatus for recording, transmission or reproduction of sound, images and data; data processing apparatus; computers; radio apparatus; video screens; tape players; loudspeakers; amplifiers; telecommunication equipment; car telephone installations; compact disc players; telematics terminals; transmitters for emitting distress signals; navigation instruments; radar apparatus; electronic traffic control apparatus; transport monitoring apparatus; global positioning system (GPS) tracking and location devices; black box for cars; black box for ships; electronic calculators; pocket calculators; magnetic data carriers; computer software; computer hardware; video games software; electronic data carriers; magnetic and optical data carriers; optical data media; blank compact discs; video cassettes; pre-recorded optical and magneto-optical discs (of music); downloadable electronic sound; pre-recorded music electronic media; pre-recorded video recordings (of non-music); downloadable video recordings; storage boxes for digital recording media; storage boxes for magnetic recording media; data processing equipment; highway emergency warning lamps; highway emergency warning cones (luminous); anti-interference devices (electricity); aerials/antennas; gauges, measuring instruments and apparatus, including such for fuel, oil pressure, tyre pressure, compressed air, temperatures, amperage, speed and engine revolutions; mileage recorders, odometers, tachometers; voltage regulators, voltmeters; time recorders, rudder indicators, instrument panels (electric); wireless cluster apparatus; dipsticks, thermostats, signaling lamps; dynamometers, brake testers, automatic steering apparatus for vehicles; temperature control apparatus (thermostats) for vehicles; temperature controllers apparatus for use in vehicle engines; electric motor controllers; electrical controlling devices for engines; internal combustion engine testing apparatus; automatic alarm units, anti-theft warning devices, electronic theft prevention apparatus; computer equipment for electronic parking assistance systems; warning reflectors for traffic signals; fire extinguishing apparatus; electronic monitors and regulators for engines and motors; magnets; tape measures; thermometers; compasses; optical apparatus and instruments except for glasses and photographic apparatus; binoculars; magnifying glasses;

spectacles (optics); optical lenses for sunglasses; sun glasses and goggles, ophthalmic frames; warning triangles; clothing for protection against accidents; protective shoes against accidents or injury; special clothing as lifesaving equipment, workmen's protective face-shields, protective eye pieces and masks; cash registers; level controllers [electrical apparatus], warning triangles, jumper cables, starter cables, safety nets.

[Class 16] Paper, cardboard; paper cubes; note books; note cards; note paper; printed matter, including books, instruction books, (computer/computer software) manuals, periodicals, magazines, newspapers, calendars, posters, stickers, banners and pennants of paper, country and road maps, spare parts lists, maintenance manuals, advertising materials, printed publications relating to automotive subjects; bookbinding material; adhesives for stationery or household purposes; artists' materials, paint brushes; photographs; stationery, including pens and pencils; typewriters and office requisites (except furniture), including pen stands, letter holders, paper knives; instructional and teaching material (except apparatus); plastic materials for packaging, including plastic carrier bags; printers' type; printing blocks; money clips.

[Class 37] Building construction; installation services of electrical and electronic apparatus and equipment; automobile electric appliance installation; installation of windows in vehicles; installation theft prevention devices in vehicles; automobile polishing; maintenance of interior and exterior of automobiles; automobile internals repair; repair of automobile dents; burglar alarm repair or maintenance; painting of automobiles; repair and maintenance of automobiles and parts thereof; automobile body repair and finishing for others; repair of motor vehicle parts and fittings; automobile detailing; providing information relating to the repair or maintenance of automobiles; car repair and maintenance; motor vehicle repair; custom installation of automobile interiors; automotive amplifiers installation; rebuilding of automobile engines; automobile appearance restoration; automobile decoration; automobile cleaning and car washing; tuning of motor vehicles; automobile refinishing; change of parts for automobiles; repair or maintenance of heating and cooling systems for motor cars; automobile supplies repair; replacement of engines for land vehicles; emergency road side vehicle repair assistance; rental of hand-operated tools; maintenance, servicing and repair of motor vehicles in motor-sport events; reservation of garage services for the maintenance and repair of motor vehicles; providing information relating to vehicle repair; consultancy and advisory services relating to motor vehicle repair during motor-sports events.

[Class 39] Transport, also of persons; salvaging, transportation, warehousing; rescue operations (transport); rescue of ships in distress; packaging of goods; packaging articles for transportation; transport/storage and packaging of goods; warehousing; transportation of goods; rental of vehicles, engines/motors and machines (including drive units and construction and transport machines); consultation in the field of traffic and transport, including mobile telematics applications; logistic services; traffic information and control services; route guidance services; travel arrangement and tourist information services.

<Examples>

[Class 07] gearboxes/transmissions, reverse gears, reduction gears, gearbox controllers, traction control systems, vehicle dynamics control systems, shaft connections, couplings and clutches, couplings and transmission belts. → Gear boxes other than for vehicles; Transmissions other than for vehicles; etc.

[Class 07] starters. → starters for motors and engines; Kick starters for motorcycles; etc.

[Class 09] relays. → relays, electric; etc.

[Class 16] paper cubes. → boxes of paper; etc.

[Class 39] logistic services. → Transportation logistics services; etc.

[Class 39] rental of engines/motors and machines (including drive units and construction and transport machines); → rental of aircraft engines; etc.

Please note that, while an application may be amended to clarify or limit the identification, addition to the identification is not permitted. Therefore, the applicant may not amend to include any goods that are not within the scope of the goods and services recited in the present identification. Previous Trademark Act(before the revision under No. 14033 of the Act on February 29, 2016), Article 14(1), 16(1).

Upon amendment, the examiner may issue another notification of provisional refusal if he finds new grounds for refusal.

10. Official Seal or Signature by the Office:

KIPO Examiner KIM, Jun Tae 

<< Information >>

If the holder has any questions or needs assistance in responding to this notification, please contact the examiner.

E-mail: kipomadrid@korea.kr, telephone: (82) (42) 481 8564 or Fax: (82) (42) 472 3507

Extract from the Korean Trademark Act

(the previous Act before the revision under No. 14033 of the Act on February 29, 2016)

Article 3 Persons Entitled to Register a Trademark

A person who uses or intends to use a trademark in the Republic of Korea is entitled to trademark registration; however, employees of the Korean Intellectual Property Office or employees of the Intellectual Property Tribunal are not entitled to register trademarks during their employment at the office or tribunal except in the case of inheritance or a bequest.

Article 5-3 Trademark Administrators for Nonresidents

(1) No one who does not have an address or place of business in the Republic of Korea (hereinafter referred to as "nonresident") may, except where such nonresident (referring to a representative in cases of a corporation) is sojourning in the Republic of Korea, undergo trademark-related procedures or file an action against any disposition issued by an administrative agency pursuant to this Act or an order under this Act, without a representative for trademarks who has an address or place of business in the Republic of Korea (hereinafter referred to as "trademark administrator").

(2) A trademark administrator shall, within the extent of power delegated to him/her, represent the principal in a trial on trademark-related procedures or any disposition made by an administrative agency pursuant to this Act or an order under this Act.

Article 5-14 Extension, etc. of Periods

(1) For persons in areas with poor transportation service, the Commissioner of the Korean Intellectual Property Office or the President of the Intellectual Property Trial and Appeal Board (IPTAB) may, upon request or ex officio, extend the period for amending the reasons, etc. mentioned in a written objection to trademark registration under Article 26 and the period for requesting a trial under Article 70-2 or 70-3.

(2) When having determined the period for trademark-related procedures pursuant to this Act, the Commissioner of the Korean Intellectual Property Office, President of the Korean Intellectual Property Trial and Appeal Board (IPTAB), presiding administrative trademark judge or examiner may, upon request, shorten or extend such period, or may extend such period ex officio. In such cases, the Commissioner of the Korean Intellectual Property Office, etc. shall determine whether to shorten or extend the period so as not to unduly infringe on an interest of any interested party in the relevant procedures.

(3) When having determined the deadline for trademark-related procedures pursuant to this Act, the presiding administrative trademark judge or examiner may change the deadline upon request or ex officio.

Article 6 Requirements for Trademark Registration

(1) Trademark registration may be obtained except any of the following cases:

(i) where the trademark consists solely of a mark indicating, in a common way, the usual name of the goods;

(ii) where the trademark is customarily used on the goods;

(iii) where the trademark consists solely of a mark indicating, in a common way, the place of production, quality, raw materials, efficacy, use, quantity, shape (including the shape of the packaging), price, production method, processing method, usage or using time of the goods;

(iv) where the trademark consists solely of a conspicuous geographical name, an abbreviation of it or a map;

(v) where the trademark consists solely of a mark indicating, in a common way, a common surname or a title;

(vi) where the trademark consists solely of a simple and commonplace mark; or

(vii) in addition to the cases mentioned in sub-paragraphs (i) to (vi) of this Article, where the trademark does not enable consumers to discriminate whose goods are indicated.

(2) Notwithstanding a trademark falls under paragraphs (1)(iii) to (vi) of this Article, where the trademark has become, as a result of using it before the application for registration under Article 9 of this Act, especially recognized by consumers whose goods are indicated, it may be registered for the designated goods (i.e. designated goods and supplementary designated goods as defined in Articles 10(1) and 47(2) (iii) of this Act. The same shall apply hereinafter.) on which the trademark has been used;

(3) Notwithstanding a mark falls under paragraph (1)(iii) (restricted to 'the place of production') or (1)(iv) of this Article, where the mark is a geographical indication on specific goods, it may be registered as a collective mark for a geographical indication for the designated goods on which the geographical indication has been used.

Article 7 Unregistrable Trademarks

(1) Notwithstanding Article 6, trademark registration may not be obtained in any of the following cases:

(i) trademarks that are identical or similar to the following: the national flag, the national emblem, military flags, medals, decorations or badges of the Republic of Korea; the national flags or emblems of foreign countries; the medals, decorations or badges of the countries of the union of the Paris Convention for the Protection of Intellectual Property (hereinafter referred to as 'the Paris Convention'), the

members of the World Trade Organization or the contracting parties to the Trademark Law Treaty; the names or marks of the Red Cross, Olympic organizations or other well-known international organizations; seals or signs that are used for supervision or certification by the Republic of Korea, the countries of the union of the Paris Convention, the members of the World Trade Organization, the contracting parties to the Trademark Law Treaty or the public organizations of these;

(ii) trademarks that falsely indicate a connection with, or that criticize, insult or are liable to defame any nation, race, ethnic group, public organization, religion or well-known deceased person;

(iii) trademarks that are identical or similar to well-known marks that indicate nonprofit businesses of a nation, a public organization or its agencies or a public corporation, or that indicate nonprofit public services; However, this provision does not apply where the nation, the public organization or its agencies, the public corporation or the body of nonprofit public services applies to register its own marks;

(iv) trademarks that are liable to disturb public order or morality;

(v) trademarks comprising a mark that is identical or similar to a medal, certificate of merit or decoration awarded at an exhibition held

by or with the authorization of the government of the Republic of Korea or of the government of a foreign country; However, this provision does not apply where the person who has been awarded the medal, certificate of merit or decoration use it as part of the trademark on the goods for which the medal, certificate of merit or decoration was awarded at the exhibition;

(vi) trademarks containing the name, title, trade name, portrait, signature, seal, literary name, stage name, pen name or an abbreviation thereof of a well-known person, unless the consent of the person concerned has been obtained;

(vii) trademarks that are identical or similar to another person's registered trademark (excluding a registered collective mark for a geographical indication) when the former are applied for registration after the latter has been registered and when the former are to be used on goods that are identical or similar to the designated goods of the latter;

(viii) trademarks that are identical or similar to another person's registered collective mark for a geographical indication when the former are applied for registration after the latter has been registered and when the former are to be used on goods that are identical with the designated goods of the latter;

(ix) trademarks that are identical or similar to another person's registered trademark (excluding a registered collective mark for a geographical indication) when not more than a year has elapsed since the date on which the latter trademark right expired (that is, in case of a trial decision invalidating a trademark registration, the date on which the trial decision became final) and when the former are to be used on goods that are identical or similar to the designated goods of the latter;

(x) trademarks that are identical or similar to another person's registered collective mark for a geographical indication when not more than a year has elapsed since the date on which the right of the registered collective mark for a geographical indication expired (that is, in case of a trial decision invalidating the registration of a collective mark for a geographical indication, the date on which the trial decision became final) and when the former are to be used on goods that are identical with the designated goods of the latter;

(xi) trademarks that are identical or similar to a trademark (excluding a geographical indication) that is especially recognized among consumers as to indicate the other person's goods, when the former are to be used on goods that are identical or similar to those of the person;

(xii) trademarks that are identical or similar to another person's geographical indication that is especially recognized among consumers as to indicate a certain region's goods, when the trademarks are to be used on goods that are identical with those using the geographical indication;

(xiii) trademarks that are liable to cause confusion with the goods or services of another person's that are especially recognized among consumers;

(xiv) trademarks that are liable to mislead or deceive consumers on the quality of the goods;

(xv) trademarks that are identical or similar to a trademark that is especially recognized among consumers inside or outside the Republic of Korea as to indicate the goods of a particular person, and that are used with unjust purposes such as to obtain unfair profits or to inflict harm on that person;

(xvi) trademarks that are identical or similar to a geographical indication that is especially recognized among consumers inside or outside the Republic of Korea as to indicate the goods of a certain region, and that are used with unjust purposes such as to obtain unfair profits or to inflict harm on the legitimate users of that geographical indication;

(xvii) trademarks that consist solely of three-dimensional shapes which are essential for securing the functions of goods to be registered or their packaging;

(x iv) trademarks that consist of, or include, a geographical indication of the origin of wines or spirits in a member state of the World Trade Organization, to be used on wines, spirits or the like; However, this provision does not apply where a legitimate user of a geographical indication applies to register a collective mark for the geographical indication designating the relevant goods under Article 9(3) of this Act.

(x v). Any trademark which is identical or similar to a name of varieties registered pursuant to Article 109 of the Act on the Protection of New Varieties of Plants, and which is to be used for goods identical or similar to such name of varieties;

(x vi). Any trademark which is identical or similar to another person's geographical indication registered pursuant to Article 32 of the Agricultural and Marine Products Quality Control Act, and which is to be used for goods identical or recognized as identical to the goods using such geographical indications;

(x vii). Any trademark which is identical or similar to another person's geographical indication protected pursuant to free trade agreements that have been concluded between the Republic of Korea and foreign countries in a bilateral or multilateral manner and come into effect, or any trademark which consists of or contains such geographical indications and is to be used for goods identical or recognized as identical to the goods using such geographical indications;

(x viii). Any trademark, identical or similar to another person's trademark, which has been applied for registration for the identical or similar goods in the knowledge, through contractual relations such as partnership and employment, business relations, or other relations, that the trademark is being used or prepared for use by such person.

(2) Paragraph (1)(vi), (vii), (vii^{bis}), (viii), (viii^{bis}), (ix), (ix^{bis}), and (x) shall apply to relevant trademarks at the time of an application for trademark registration: Provided, That whether an applicant for trademark registration (hereinafter referred to as "applicant") corresponds to a person under the relevant provision shall be determined at the time of a decision on whether to grant or reject trademark registration (hereinafter referred to as "decision on whether to grant or reject trademark registration").

(3) Where a requester for a trial for revocation of trademark registration on the ground of Article 73(1)(iii) is identical to an applicant of such trademark registration, any of the following subparagraphs applies after the date of request for a trial for such revocation, whether the relevant application for trademark registration falls under paragraph (1)(vii), (vii^{bis}), (viii) or (viii^{bis}) shall be determined at the time of a decision on whether to grant or reject trademark registration, notwithstanding the main sentence of paragraph (2)

(i) Where a period under the proviso to Article 43 (2) elapses;

(ii) Where a trademark rights holder relinquishes all of his/her trademark rights or some of designated goods under Article 59;

(iii) Where a trial decision on revocation of trademark registration under Article 73(1)(iii) becomes final and conclusive.

(4) Paragraph (1) (viii) and (viii^{bis}) shall not apply to any of the following cases:

(i) Where a registered trademark has not been used for one year or more retrospectively after trademark rights became invalid;

(ii) Where an appropriate applicant applies for trademark registration, after a trial decision on invalidation or revocation becomes final and conclusive by reason that a registered trademark violates the provision of paragraph (1) (vi), (ix), (ix^{bis}), (x), (xi), (xii) and (xii^{bis}) of this Article or Article 8 or 73(1)(vii);

(iii) Where an application for trademark registration is made after the period of six months under the proviso to Article 43 (2) expires without any application for the registration for renewal of the duration of registered trademark rights;

(iv) Where a trademark subject to registration contains a mark identical or similar to a registered trademark for which a trial for revocation under Article 73(1)(iii) has been requested;

(v) Deleted.

(5) Where a trial for revocation of trademark registration is requested on the grounds that it falls under Article 73(1) (ii), (iii) and (v) through (xiii), and any of the following subparagraphs applies after the date of request for such trial, neither the trademark rights holder nor any person who uses the trademark may apply for the registration of trademarks identical or similar to an extinguished trademark for goods identical or similar to the designated goods (in cases of a geographical collective mark, referring to goods identical or recognized as identical to the designated goods) unless they make an application for trademark registration after three years from the date on which any of the following subparagraphs becomes applicable:

(i) Where trademark rights are extinguished due to the expiry of the duration;

(ii) Where a trademark rights holder abandons some of trademark rights or designated goods;

(iii) Where a trial decision on revocation of trademark registration becomes final and conclusive.

(6) The provisions of paragraph (1) 7-2, 8-2, and 9-2 shall not apply between homonymous geographical collective marks.

Article 8 First-to-File Rule

(1) Where two or more applications for registration are filed on different dates for identical or similar trademarks that are to be used on identical or similar goods, only the applicant having the earlier filing date may obtain registration for the trademark.

Article 10 A Single Application for a Single Trademark

(1) The person seeking to register a trademark shall file an application for each trademark, designating one or more classes of goods from the classification of goods prescribed by ordinance of the Ministry of Commerce, Industry and Energy. In this case, goods and services may be designated together in a single application.

(2) The classes of goods referred to in paragraph (1) of this Article may not be construed to decide the scope of the similarity of goods.

Article 23 Decision to Refuse Trademark Registration and Notification of Reasons for Refusal

(1) The examiner shall refuse trademark registration in any of the following cases:

(i) where the trademark is unregistrable under the proviso of Article 3, Articles 6 to 8, 10(1), 12(2) (second sentence), (5) and (7) to (9) of this Act or Article 25 of the Patent Act applied under Article 5 of this Act;

(ii) where the trademark violates a treaty;

(iii) where the trademark is identical or similar to a trademark registered in the territory of a country that is a party to a treaty and has been filed by a person who is an agent or a representative (or who was an agent or a representative within one year before the filing date) of the owner of the trademark, without any rightful reason such as obtaining the owner's authorization, for designated goods that are identical or similar to those of the owner's trademark. However, this provision applies only when an opposition or information under Article 22(3) of this Act has been filed by the owner;

(iv) where the trademark does not conform to the definition of a mark under Article 2(1)(i) to (iii) or (iv) of this Act; or where, in the case of a collective mark for a geographical indication, the geographical indication and the mark do not conform to the definitions of a geographical indication or a mark under paragraphs (ii^{bis}) and (iii^{quater}) of the Article 2(1) of this Act;

(v) where, in case of an application to register a collective mark for a geographical indication, a person, who conducts business activities such as producing, manufacturing or processing goods that are eligible for the geographical indication, is in fact prohibited from joining an association by the articles of association, or by provisions in the articles of association providing conditions for subscription that are too difficult for the person to fulfill and so on;

(vi) where the articles of association, referred to in Article 9(3) of this Act, fail to mention all or some of the provisions that govern the use of the collective mark as prescribed by Presidential Decree.

(2) When refusing trademark registration under paragraph (1) of this Article, the examiner shall notify the applicant of the reasons for refusal and give the applicant an opportunity to submit a written opinion within a designated period.

Article 70^{bis} Trial against Decision of Refusal

Any person dissatisfied with a decision to refuse registration of a trademark, to refuse supplementary registration of designated goods, to refuse to renew the term of a registered trademark or to refuse registration of the reclassification of goods (hereinafter referred to as 'a decision of refusal') may file a request for trial within thirty days from the date of receiving a certified copy of the decision of refusal.

Article 70^{ter} Trial against a Decision to Reject an Amendment

Any person dissatisfied with a decision to reject an amendment under Article 17(1) may file a request for trial within thirty days from the date of receiving a certified copy of the decision.

Article 92-3 Service of Documents on Nonresidents

(1) If a nonresident has a trademark administrator, the document to be served on the nonresident shall be served on the trademark administrator: Provided, That the foregoing shall not apply where an examiner notifies the applicant for the international registration of trademarks of the grounds for rejection through the International Bureau under Article 86-24.

(2) If a nonresident does not have a trademark administrator, the document to be served on the nonresident may be sent by registered air mail.

(3) When a document is sent by registered air mail pursuant to paragraph (2), it shall be deemed served on the date it is sent.