

Japan Patent Office (JPO)
4-3, Kasumigaseki 3-chome
Chiyoda-ku
Tokyo 100-8915
JAPAN



日本国特許庁
〒100-8915
東京都千代田区霞が関3-4-3

NOTIFICATION OF PROVISIONAL REFUSAL

This notification is issued by the Japan Patent Office (JPO) in accordance with Rule 17(1) and (2) of the Common Regulations under the Madrid Agreement concerning the International Registration of Marks and the Protocol relating to that Agreement and Section 15-2 and 15-3 of the Japanese Trademark Law.

I. International registration number: 1389253
Mark: (figurative elements)
Date of international registration: 2017/11/24
Holder of the international registration:
Chanel SARL

II. This trademark application* shall be totally refused protection. The grounds for refusal are indicated under Item V. A copy of the corresponding provisions of the Japanese Trademark Law is attached to this notification.

III. This refusal is issued on September/25/2018 by

YAMADA Hiroyuki (Mr.)
Examiner
Madrid Protocol Division
Facsimile: +81-3-3593-2398
Telephone: +81-3-3501-2392

IV. The trademark of this application can be protected subject to amendments to be made by the holder of the international registration as suggested under Item VI. The amendment must be made through the intermediary of a representative domiciled in Japan within three months from the date of pronouncement, as indicated below. If any, the holder may submit to the JPO a written opinion against this provisional refusal through the intermediary of a representative domiciled in Japan by the same date. Alternatively, the holder may request a limitation of the list of goods and/or services in accordance with Rule 25(1)(a) of the Common Regulations. This request must be presented to the International Bureau of WIPO by Official Form MM6.

Note: All communications via telephone and facsimile except for general inquiries will be recorded and stored in the file wrapper disclosed upon request in order to secure transparency.

* A request for territorial extension to Japan under the Protocol relating to the Madrid Agreement is deemed as a trademark application made in Japan in accordance with Section 68-9 of the Japanese Trademark Law.

Continuation sheet

V. The grounds for refusal

Ground 1

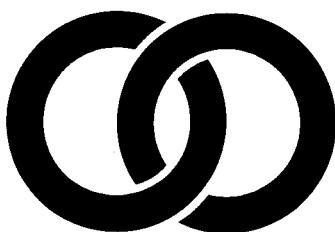
The trademark of this application falls under Section 4(1)(xi) of the Trademark Law because this trademark is identical with or similar to the following trademark(s) and is to be used for the goods and/or services identical with or similar to the designated goods and/or services covered by this(these) trademark registration(s).

Cited registered trademark(s)

No. 1

- National registration No.: 4271948 - Registration date: 1999/05/14
- National application No.: H09-183641 - Application date: 1997/12/09
- Name and address of the holder: Nippon Yakin Kogyo Co., Ltd.
5-8, Kyobashi 1-chome, Chuo-ku, Tokyo, JAPAN

Mark:



Conflicting goods and/or services and their class(es), corresponding to class 03 covered in this application:

International class 01:

化学材からなるろ過用材料，鉍物性ろ過用材料，植物性ろ過用材料，セラミック製ろ過用材料，その他の化学品，植物成長調整剤類，のり及び接着剤（事務用又は家庭用のものを除く。），高級脂肪酸，非鉄金属，非金属鉍物，原料プラスチック，パルプ，工業用粉類，肥料，写真材料，試験紙，人工甘味料，陶磁器用釉薬

No. 2

- National registration No.: 4354850 - Registration date: 2000/01/28
- National application No.: H09-132965 - Application date: 1997/07/02
- Name and address of the holder: Nippon Yakin Kogyo Co., Ltd.
5-8, Kyobashi 1-chome, Chuo-ku, Tokyo, JAPAN

Mark:



Conflicting goods and/or services and their class(es), corresponding to class 18 and 25 covered in this application:

International class 06:

金属製溶接棒，鉄及び鋼からなる線，鉄及び鋼を原材料とする多孔体，鉄及び鋼を原材料とす

Continuation sheet

るフィルター、繊維状の鉄及び鋼、その他の鉄及び鋼、非鉄金属及びその合金からなる線、非鉄金属及びその合金を原材料とする多孔体、非鉄金属及びその合金を原材料とするフィルター、繊維状の非鉄金属及びその合金、その他の非鉄金属及びその合金、塗装鋼板、建築用又は構築用の金属製専用材料、金属製建造物組立セット、金属製貯蔵槽類、金属製の滑車・ばね及びバルブ（機械要素に当たるものを除く。）、金属製ビール樽（「金属製栓・金属製ふた」を除く。）、飲食物用の金属製包装用容器（「金属製栓・金属製ふた」を除く。）、その他の金属製包装用容器（「金属製栓・金属製ふた」を除く。）、金属製荷役用パレット、荷役用ターンテーブル、荷役用トラバーサー、金属製人工魚礁、金属製セメント製品製造用型枠、金属製の可搬式家庭用温室、金属製の吹付け塗装用ブース、金属製航路標識（発光式のものを除く。）、金属製道路標識（発光式又は機械式のものを除く。）、てんてつ機、金属製管継ぎ手、金属製フランジ、キー、コッタ、いかり、金属製ビット、金属製ボラード、かな床、はちの巣、金網、ワイヤロープ、金属製のタオル用ディスペンサー、金属製靴ぬぐいマット、金属製ブラインド、アイゼン、カラビナ、ハーケン、金属製飛び込み台、金属製あぶみ、拍車、つえ用金属製石突き

No. 3

- National registration No.: 4375400 - Registration date: 2000/04/14
- National application No.: H09-004464 - Application date: 1997/01/22
- Name and address of the holder: Nippon Yakin Kogyo Co., Ltd.
5-8, Kyobashi 1-chome, Chuo-ku, Tokyo, JAPAN

Mark:



Conflicting goods and/or services and their class(es), corresponding to class 18 covered in this application:

International class 20:

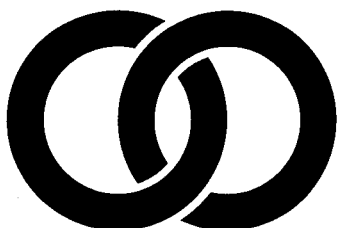
貯蔵槽類（金属製又は石製のものを除く。）、プラスチック製バルブ（機械要素に当たるものを除く。）、荷役用パレット（金属製のものを除く。）、クッション、座布団、まくら、マットレス、うちわ、植物の茎支持具、食品見本模型、人工池、すだれ、せんす、装飾用ビーズカーテン、タオル用ディスペンサー（金属製のものを除く。）、ついたて、ハンガーボード、びょうぶ、麦わらさなだ、すさ、きば、鯨のひげ、甲殻、さんご、人工角、ぞうげ、角、歯、べっこう、骨、海泡石、こはく

No. 4

- National registration No.: 4403756 - Registration date: 2000/07/28
- National application No.: H09-183645 - Application date: 1997/12/09
- Name and address of the holder: Nippon Yakin Kogyo Co., Ltd.
5-8, Kyobashi 1-chome, Chuo-ku, Tokyo, JAPAN

Mark:

Continuation sheet



Conflicting goods and/or services and their class(es), corresponding to class 25 covered in this application:

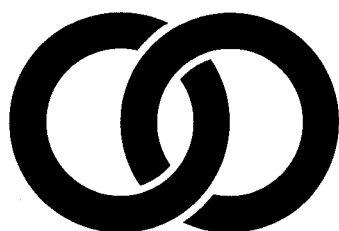
International class 09:

理化学機械器具, 測定機械器具, 配電用又は制御用の機械器具, 電池, 電気磁気測定器, 電線及びケーブル, 写真機械器具, 映画機械器具, 光学機械器具, 眼鏡, 加工ガラス (建築用のものを除く。), 救命用具, 電気通信機械器具, レコード, 電子応用機械器具及びその部品, オゾン発生器, 電解槽, ロケット, 遊園地用機械器具, スロットマシン, 運動技能訓練用シミュレーター, 乗物運転技能訓練用シミュレーター, 回転変流機, 調相機, 電気アイロン, 電気式ヘアカーラー, 電気ブザー, 鉄道用信号機, 乗物の故障の警告用の三角標識, 発光式又は機械式の道路標識, 火災報知機, ガス漏れ警報器, 事故防護用手袋, 消火器, 消火栓, 消火ホース用ノズル, 消防車, 消防艇, スプリンクラー消火装置, 盗難警報器, 保安用ヘルメット, 防火被服, 防じんマスク, 防毒マスク, 磁心, 自動車用シガーライター, 抵抗線, 電極, 溶接マスク, 映写フィルム, スライドフィルム, スライドフィルム用マウント, 録画済みビデオディスク及びビデオテープ, ガソリンステーション用装置, 自動販売機, 駐車場用硬貨作動式ゲート, 金銭登録機, 計算尺, 硬貨の計数用又は選別用の機械, 作業記録機, 写真複写機, 手動計算機, 製図用又は図案用の機械器具, タイムスタンプ, タイムレコーダー, 電気計算機, パンチカードシステム機械, 票数計算機, ビリングマシン, 郵便切手のはり付けチェック装置, ウェイトベルト, ウェットスーツ, 浮袋, エアタンク, 水泳用浮き板, 潜水用機械器具, レギュレーター, アーク溶接機, 家庭用テレビゲームおもちゃ, 金属溶断機, 検卵器, 電気溶接装置, 電動式扉自動開閉装置, メトロノーム, 電気式溶接装置, 溶接用電極, 呼吸マスク用ろ過器, 電気抵抗溶接装置, 溶接機用加圧力計, 水冷装置, 溶接機用トランス, スパッタ除去装置, アーク溶接装置, 溶接用治具

No. 5

- National registration No.: 4403757 - Registration date: 2000/07/28
- National application No.: H09-183649 - Application date: 1997/12/09
- Name and address of the holder: Nippon Yakin Kogyo Co., Ltd.
5-8, Kyobashi 1-chome, Chuo-ku, Tokyo, JAPAN

Mark:



Conflicting goods and/or services and their class(es), corresponding to class 25 covered in this application:

International class 19:

建築用又は構築用の非金属鉱物, 陶磁製建築専用材料・れんが及び耐火物, リノリウム製建築専用材料, プラスチック製建築専用材料, 合成建築専用材料, アスファルト及びアスファル

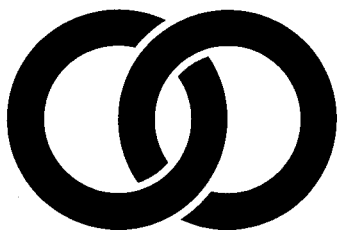
Continuation sheet

ト製の建築用又は構築用の専用材料，ゴム製の建築用又は構築用の専用材料，しっくい，石灰製の建築用又は構築用の専用材料，石こう製の建築用又は構築用の専用材料，繊維製の落石防止網，建造物組立てセット（金属製のものを除く。），セメント及びその製品，木材，石材，建築用ガラス，建具（金属製のものを除く。），鉱物性基礎材料，タール類及びピッチ類，可搬式家庭用温室（金属製のものを除く。），人工魚礁（金属製のものを除く。），セメント製品製造用型枠（金属製のものを除く。），吹付け塗装用ブース（金属製のものを除く。），養鶏用かご（金属製のものを除く。），区画表示帯，土砂崩壊防止用植生板，窓口風防通話板，道路標識及び航路標識（金属製又は発光式のものを除く。），貯蔵槽類（金属製又はプラスチック製のものを除く。），ビット及びボラード（金属製のものを除く。），石製彫刻，石製郵便受け，コンクリート製彫刻，大理石製彫刻，灯ろう，飛び込み台（金属製のものを除く。），墓標及び墓碑用銘板（金属製のものを除く。），合成樹脂製水飲みカバー，ゴム製水飲みカバー，石こう製水飲みカバー，プラスチック製水飲みカバー，陶磁製水飲みカバー，セメント製水飲みカバー，木製水飲みカバー，石製水飲みカバー，リノリウム製水飲みカバー，アスファルト製水飲みカバー，石灰製水飲みカバー，合成樹脂製車止め，ゴム製車止め，石こう製車止め，プラスチック製車止め，陶磁製車止め，セメント製車止め，木製車止め，石製車止め，リノリウム製車止め，アスファルト製車止め，石灰製車止め

No. 6

- National registration No.: 4411746 - Registration date: 2000/08/25
- National application No.: H09-183644 - Application date: 1997/12/09
- Name and address of the holder: Nippon Yakin Kogyo Co., Ltd.
5-8, Kyobashi 1-chome, Chuo-ku, Tokyo, JAPAN

Mark:



Conflicting goods and/or services and their class(es), corresponding to class 25 covered in this application:

International class 08:

手動工具，くわ，鋤，レーキ・組ひも機及び靴製造用靴型（手持ち工具に当たるものに限る。），電気かみそり及び電気バリカン，水中ナイフ，水中ナイフ保持具，ピッケル，五徳，殺虫剤用噴霧器（手持ち工具に当たるものに限る。），十能，火消しつば，火ばし

No. 7

- National registration No.: 5868851 - Registration date: 2016/07/22
- National application No.: 2015-111759 - Application date: 2015/11/13
- Name and address of the holder: SM BRAND MARKETING Co., Ltd.
114, Seolleung-ro 190-gil, Gangnam-gu, SEOUL, REPUBLIC OF KOREA

Mark:

Continuation sheet



STARDIUM

Conflicting goods and/or services and their class(es), corresponding to class 03 covered in this application:

International class 03:

せっけん, シャンプー, 愛玩動物用せっけん, その他のせっけん類, 歯磨き, 化粧品, 顔用ローション (化粧品), 芳香剤

VI. The trademark of this application will be protected if the goods and services are amended/limited as follows: (Examples are underlined. The underlined goods/services are the examples of amendment/limitation of the goods/services shown in V. Sometimes there are no underlined goods/services.)

3 Essential oils; artificial nails for cosmetic use; nail art stickers.

18 Leather and imitations of leather; animal skins; trunks, carrying cases, suitcases and traveling sets [leatherware]; wallets; purses (coin purses); garment bags for travel; bags; card holders; business card cases; music cases; vanity cases; briefcases; handbags, backpacks, wheeled bags; bags for climbers and campers, travel bags, beach bags, school bags; collars or clothing for animals; shopping bags; bags or small bags (envelopes, pouches) of leather for packaging; key cases; attache cases; luggage tags of leather; hat boxes of leather.

25 Shirts; clothing of leather or imitation of leather; belts (clothing); furs (clothing); gloves (clothing); scarves; shawls; neckties; hosiery; socks; bedroom slippers; tights; underwear; sleep masks; money belts [clothing].

Extract from the Japanese Trademark Law

Article 3 Requirements for trademark registration

- (1) Any trademark to be used in connection with goods or services pertaining to the business of an applicant may be registered, unless the trademark:
- (i) consists solely of a mark indicating, in a common manner, the common name of the goods or services;
 - (ii) is customarily used in connection with the goods or services;
 - (iii) consists solely of a mark indicating, in a common manner, in the case of goods, the place of origin, place of sale, quality, raw materials, efficacy, intended purpose, shape (including shape of packages; the same shall apply in Article 26(1)(ii) and (iii)), the method or features including time of production or use, quantity, price, or, in the case of services, the location of provision, quality, articles to be used in such provision, efficacy, intended purpose, modes, method or features including time, quantity or price of provision;
 - (iv) consists solely of a mark indicating, in a common manner, a common surname or name of a juridical person;
 - (v) consists solely of a very simple and common mark; or
 - (vi) is in addition to those listed in each of the preceding items, a trademark by which consumers are not able to recognize the goods or services as those pertaining to a business of a particular person.
- (2) Notwithstanding the preceding paragraph, a trademark that falls under any of items (iii) to (v) of the preceding paragraph may be registered if, as a result of the use of the trademark, consumers are able to recognize the goods or services as those pertaining to a business of a particular person.

Article 4 Unregistrable trademarks

- (1) Notwithstanding the preceding Article, no trademark shall be registered if the trademark:
- (i) is identical with, or similar to, the national flag, the imperial chrysanthemum crest, a decoration, a medal or a foreign national flag;
 - (ii) is identical with, or similar to, the coats of arms or any other State emblems (except national flags of any country of the Union to the Paris Convention, member of the World Trade Organization or Contracting Party to the Trademark Law Treaty) of a country of the Union to the Paris Convention (refers to the Paris Convention for the Protection of Industrial Property of March 20, 1883, as revised at Brussels on December 14, 1900, at Washington on June 2, 1911, at the Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958 and at Stockholm on July 14, 1967; the same shall apply hereinafter), a member of the World Trade Organization or a Contracting Party to the Trademark Law Treaty designated by the Minister of Economy, Trade and Industry;
 - (iii) is identical with, or similar to, a mark indicating the United Nations or any other international organization (referred to as "international organization" in (b)) which has been designated by the Minister of Economy, Trade and Industry (excluding those listed in the following);
 - (a) is identical with, or similar to, a trademark which is well known among consumers as that indicating goods or services in connection with the applicant's business, if such a trademark is used in connection with such goods or services or goods or services similar thereto; and
 - (b) is identical with, or similar to, a mark indicating abbreviation of any international organization, which has been used for goods or services that is not likely to mislead as to connection to the international organization;
 - (iv) is identical with, or similar to, the emblems or titles in Article 1 of the Act Concerning Restriction on the Use of Emblems and Titles of the Red Cross and Others (Act No.159 of 1947) or the distinctive emblem in Article 158(1) of the Act Concerning Measures to Protect Japanese Citizens During Armed Attacks and Others (Act No.112 of 2004);
 - (v) is comprised of a mark identical with, or similar to, an official hallmark or sign indicating control or warranty by the national or a local government of Japan, a country of the Union to the Paris Convention, a member of the World Trade Organization or a Contracting Party to the Trademark Law Treaty which has been designated by the Minister of Economy, Trade and Industry, if such a trademark is used in connection with goods or services identical with, or similar to, the goods or services in connection with which the hallmark or sign is used;
 - (vi) is identical with, or similar to, a famous mark indicating the State, a local government, an agency thereof, a non-profit organization undertaking a business for public interest, or a non-profit enterprise undertaking a business for public interest;
 - (vii) is likely to cause damage to public policy;
 - (viii) contains the portrait of another person, or the name, famous pseudonym, professional name or pen name of another person, or famous abbreviation thereof (except those the registration of which has been approved by the person concerned);
 - (ix) is comprised of a mark identical with, or similar to, a prize awarded at an exhibition held by the national or a local government (hereinafter referred to as the "Government, etc.") or by those who are not the Government, etc. that conforms to the standards specified by the Commissioner of the Patent Office, or at an international exhibition held in a foreign country by the Government, etc. of the foreign country or those authorized thereby (except those used by the recipient of such a prize as part of his/her own trademark);
 - (x) is identical with, or similar to, another person's trademark which is well known among consumers as that indicating goods or services in connection with the person's business, if such a trademark is used in connection with such goods or services or goods or services similar thereto;
 - (xi) is identical with, or similar to, another person's registered trademark which has

- been filed prior to the filing date of an application for registration of the said trademark, if such a trademark is used in connection with the designated goods or designated services relating to the said registered trademark (referring to goods or services designated in accordance with Article 6(1) (including cases where it is applied mutatis mutandis pursuant to Article 68(1)); the same shall apply hereinafter), or goods or services similar thereto;
- (xii) is identical with a registered defensive mark of another person (referring to a mark registered as a defensive mark; the same shall apply hereinafter), if such a trademark is used in connection with designated goods or designated services relating to the defensive mark;
 - (xiii) deleted
 - (xiv) is identical with, or similar to, the name of a variety registered in accordance with Article 18(1) of the Plant Variety Protection and Seed Act (Act No. 83 of 1998), if such a trademark is used in connection with seeds and seedlings of the variety or goods or services similar thereto;
 - (xv) is likely to cause confusion in connection with the goods or services pertaining to a business of another person (except those listed in items (x) to (xiv) inclusive);
 - (xvi) is likely to mislead as to the quality of the goods or services;
 - (xvii) is comprised of a mark indicating a place of origin of wines or spirits of Japan which has been designated by the Commissioner of the Patent Office, or a mark indicating a place of origin of wines or spirits of a member of the World Trade Organization which is prohibited by the said member from being used on wines or spirits not originating from the region of the said member, if such a trademark is used in connection with wines or spirits not originating from the region in Japan or of the said member;
 - (xviii) consists solely of features provided by Cabinet Order among features that are naturally provided to goods, etc. (goods, or packages of goods, or services; the same shall apply in Article 26(1)(v)); or
 - (xix) is identical with, or similar to, a trademark which is well known among consumers in Japan or abroad as that indicating goods or services pertaining to a business of another person, if such trademark is used for unfair purposes (referring to the purpose of gaining unfair profits, the purpose of causing damage to the other person, or any other unfair purposes, the same shall apply hereinafter) (except those provided for in each of the preceding items);
- (2) Where the State or a local government, an agency thereof, a non-profit organization undertaking a business for public interest, or a person undertaking a non-profit activity for public interest files an application for trademark registration falling under item (vi) of the preceding paragraph, the provision of the said item shall not apply.
- (3) Items (viii), (x), (xv), (xvii) and (xix) of paragraph (1) shall not apply to a trademark falling under any of the said items which does not fall under the said item at the time of filing of an application for trademark registration.

Article 5 Application for trademark registration

- (4) Where a person desires to register any trademark provided by Cabinet Order of the Ministry of Economy, Trade and Industry, the application shall state the detailed description of the trademark in the application pursuant to Ordinance of the Ministry of Economy, Trade and Industry, or affix materials provided by Ordinance of the Ministry of Economy, Trade and Industry to the application.
- (5) The statement and materials in the preceding paragraph shall specify the trademark for which a registration is sought.

Article 6 Single trademark on each application

- (1) An application for trademark registration shall be filed for each trademark and designate one or more goods or services in connection with which the trademark is to be used.
- (2) The designation provided for in the preceding paragraph shall be made in accordance with the class of goods and services provided by Cabinet Order.
- (3) The class of goods and services provided for in the preceding paragraph shall not be perceived as prescribing the scope of similarities of goods or services.

Article 7 Collective trademarks

- (1) A general incorporated association or other association (except those which do not have juridical personality, and companies), or any other association established pursuant to a special Act including business cooperative (except those which do not have juridical personality), or a foreign juridical person equivalent thereto shall be entitled to obtain a collective trademark registration with respect to a trademark to be used by their members.
- (2) For the purpose of the application of Article 3(1), in the case of the preceding paragraph, "applicant" in the said paragraph shall read "applicant or its members."
- (3) Any person who desires to register a collective trademark pursuant to paragraph (1) shall, at the time of filing of an application for trademark registration pursuant to Article 5(1), submit to the Commissioner of the Patent Office a document certifying that the applicant for trademark registration is a juridical person that falls under paragraph (1).

Article 7-2 Regional collective trademarks

- (1) Any association established by a special Act, including a business cooperative (those which do not have juridical personality are excluded, and limited to those which are established by a special Act providing, without a just cause, that the association shall not refuse the enrollment of any person who is eligible to become a member or that the association shall not impose on any of its prospective members any condition that is heavier than those imposed on its existing members), a commerce and industry association, chambers of commerce and industry or specified non-profit corporation specified in Article 2(2) of Act on

- (i) a trademark consisting solely of characters indicating, in a common manner, the name of the region and the common name of the goods or services pertaining to the business of the applicant or its members;
- (ii) a trademark consisting solely of characters indicating, in a common manner, the name of the region and the name customarily used as a name indicating the goods or services pertaining to the business of the applicant or its members; or
- (iii) a trademark consisting solely of characters indicating, in a common manner, the name of the region and the common name of the goods or services pertaining to the business of the applicant or its members or the name customarily used as a name indicating thereof, and characters customarily added in indicating, in a common manner, the place of origin of the goods or the location of provision of the services.

(2) The term "name of the region" as used in the preceding paragraph means, even prior to the filing of the said application, the name of the place of origin of the goods, the location of provision of services, or the name of the region which is considered to have a close relationship with the said goods or services to the equivalent extent, for which the trademark pertaining to the said application has been used by the applicant or its members, or abbreviation thereof.

(3) For the purpose of the application of Article 3(1) {limited to the part pertaining to items (i) and (ii)} in the case of paragraph (1), "applicant" in the said paragraph shall read "applicant or its members."

(4) Any person who desires to register a regional collective trademark pursuant to paragraph (1) shall, at the time of filing of an application for trademark registration pursuant to Article 5(1), submit to the Commissioner of the Patent Office a document certifying that the applicant for trademark registration is an Association, etc. and documents necessary to prove that the trademark for which the registration is sought contains the name of a region as provided in paragraph (2).

- (1) Where two or more applications for trademark registration relating to identical or similar trademarks which are to be used in connection with identical or similar goods or services have been filed on different dates, only the applicant who filed the application for trademark registration on the earlier date shall be entitled to register the trademark in question.
- (2) Where two or more applications for trademark registration relating to identical or similar trademarks which are to be used in connection with identical or similar goods or services have been filed on the same date, only one applicant who is to be determined by consultations among the applicants who filed such applications shall be entitled to register the trademark in question.
- (3) Where an application for trademark registration is abandoned, withdrawn or dismissed, or an examiner's decision or a trial decision on an application for trademark registration becomes final and binding, such application shall, for the purposes of the application of the preceding two paragraphs, be deemed never to have been filed.
- (4) In the case of paragraph (2), the Commissioner of the Patent Office shall require the applicants for trademark registration to arrange consultations among the applicants as set forth in the said paragraph and to report the result thereof, designating a reasonable time limit for such purpose.
- (5) Where no agreement is reached in the consultations held pursuant to paragraph (2) or no report is submitted within the designated time limit set forth in the preceding paragraph, only one applicant, selected by a lottery in a fair and just manner conducted by the Commissioner of the Patent Office, shall be entitled to register the trademark in question.

Where an application for trademark registration falls under any of the following items, the examiner shall render a decision to the effect that the application is to be refused:

- (i) the trademark pertaining to an application for trademark registration is not registrable pursuant to the provisions of Articles 3, 4(1), 7-2(1), 8(2), 8(5), 51(2) (including the case of its *mutatis mutandis* application under Article 52-2(2)), 53(2) of this Act or Article 25 of the Patent Act as applied *mutatis mutandis* under 77(3) of this Act;
- (ii) the trademark pertaining to an application for trademark registration is not registrable pursuant to the provisions of a relevant treaty; or
- (iii) the application for trademark registration does not comply with the requirements provided in Article 5(5), or Article 6(1) or 6(2).

(1) Where a trademark pertaining to an application for trademark registration is identical with, or similar to, another person's trademark pertaining to an application for trademark registration filed prior to the filing date of the said application, if the said trademark is used for goods or services identical with, or similar to, the designated goods or designated services pertaining to such other person's trademark, the examiner may notify the applicant for trademark registration of the fact that the said application for trademark registration will fall under Article 15(i) when the said other person's trademark is registered, and provide the applicant with an opportunity to submit a written opinion, designating a

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