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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 REGULATIONS

1. Office of the Designated Contracting Party:

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

2. International Registration/Subsequent Designation No. (International Registration/Subsequent Designation Date):

788585 (20/12/2022)

3. Trademark:



4. Name and Address of the Holder:

Comité International Olympique
Château de Vidy CH-1007 Lausanne Switzerland

5. Goods and/or Services Affected by this Provisional Refusal:

All the designated goods and/or services

※ This is a total provisional refusal. The effect of this provisional refusal covers all the designated goods and/or services. Please be noted that a grant of protection for the partial designated goods and/or services is not allowed.[Act 54, Korean Trademark Act]

6. Date on which the Provisional Refusal was issued (Time Limit):

01/02/2024(01/04/2024)

7. Grounds for the Decision:

- ☐ Lack of distinctiveness
- ☐ Likelihood of confusion with others' earlier marks
- ☒ Vagueness and/or broadness of the designated goods and/or services
- ☒ Unconformity to "a single application for a single trademark rule"
- ☐ Other grounds

※ Please refer to item 9 for the details

8. Provisions of Refusal:

Article 38(1)

9. Details of the Provisional Refusal:

This International Registration is not eligible for registration for following grounds:

(Ground 1)

The assigned examiner has reviewed the International Registration and determined that it is not eligible for registration, regarding some designated goods/services under Korean Trademark Act, Article 38(1), because the identification of some designated goods/services

is not specific or is too broad a description to accept.

However, this reason of refusal could be reviewed if the applicant amends (or deletes) the identification to specify the common commercial name of the goods/services, or describe them and their intended use more definitely, as is shown in <Examples> below:

<Broad/Vague identification(underlined goods/services)>

[Class 08]

Hand tools and implements (hand-operated); cutlery (knives, forks and spoons); side arms; razors.

[Class 09]

Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, monitoring, emergency (life-saving) and teaching apparatus and instruments; apparatus and instruments for conveying, distributing, transforming, storing, regulating or controlling electric current; apparatus for recording, transmitting and reproducing sound or images; magnetic data carriers, sound recording disks; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishers.

[Class 21]

Household or kitchen utensils and containers (neither of precious metal nor coated therewith); combs and sponges; brushes (except paintbrushes); brushmaking materials; material for cleaning; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.

[Class 22]

Ropes, strings, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except rubber or plastics); raw fibrous textile materials.

[Class 24]

Fabrics and textile products not included in other classes; bed and table covers.

[Class 31]

Agricultural, horticultural and forestry products and grains, not included in other classes; live animals; fresh fruit and vegetables; natural seeds, plants and flowers; animal feed, malt.

[Class 35]

Advertising; business management; commercial administration; office tasks; promotion of goods and services of third parties, by means of partnership agreements (sponsorship) and licences in connection with international sports events; retail services.

[Class 41]

Education; training; entertainment; sports and cultural activities.

<Examples>

- * [Class 08] Hand tools and implements (hand-operated) → Milling cutters [hand tools]; cutting tools [hand tools]
- * [Class 08] cutlery (knives, forks and spoons) → table cutlery [knives, forks and spoons]
- * [Class 08] side arms → side arms, other than firearms
- * [Class 22] Ropes, strings, nets, tents, awnings, tarpaulins, sails, sacks and bags (not

included in other classes) → Ropes, strings, nets, tents, awnings (not of metal), tarpaulins, sails, sacks for the transport and storage of materials in bulk and bags [envelopes, pouches] of textile, for packaging (not included in other classes)

- * [Class 22] padding and stuffing materials (except rubber or plastics) → packing [cushioning, stuffing] materials, not of rubber, plastics, paper or cardboard
- * [Class 24] Fabrics and textile products not included in other classes → woven fabrics and bathroom towels of textile not included in other classes
- * [Class 31] Agricultural, horticultural and forestry products and grains, not included in other classes → Agricultural, horticultural and forestry products and grains, not included in other classes, namely, seeds for agricultural purposes and bulbs for horticultural purposes
- * [Class 31] malt → malt for brewing

☞ 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/services that are not within the scope of the goods/services recited in the present identification.

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

(Ground 2)

The assigned examiner has reviewed the International Registration and determined that it is not eligible for registration, regarding some designated goods/services under Korean Trademark Act, Article 38(1), because the referenced International Registration is a double (overlapping) application, of which the applicant is the same as the registrant of the earlier registration for the same mark in relation to the same goods/services.

Where a person files an overlapping application to register the same trademark for the same goods/services, the later application shall be rejected under the above-mentioned provision after the registration for the earlier application is determined. Trademark Examination Standards, Article 30.

However, this reason of refusal could be reviewed if the applicant deletes the refused goods/services listed below (underlined goods/services).

- ☐ Information concerning the earlier mark
 - International registration number : 788585
 - International registration date : 26/06/2019
 - Korean registration date : 02/08/2021
 - Name and address of the owner : Comite International Olympique
Chateau de Vidy CH-1007 Lausanne Switzerland

– Goods/services :

- [Class 01] Chemicals used in industry, science, photography as well as in agriculture, horticulture and silviculture, unprocessed artificial resins, unprocessed plastics, soil fertilisers, fire extinguishing compositions, tempering and soldering preparations, chemical substances for preserving foodstuffs, tanning substances, adhesives used in industry, sensitized films, unexposed, unexposed sensitized photographic films, X-ray films, sensitized but not exposed, cinematographic film, sensitized but not exposed.
- [Class 02] Paints, varnishes, lacquers, preservatives against rust and wood deterioration, colorants, mordants, unprocessed natural resins, metals in foil and powder form for painters, decorators, printers and artists.
- [Class 03] Bleaching preparations and other substances for laundry use, cleaning, polishing, and abrasive preparations, degreasing preparations for household purposes, soaps for personal use, cosmetic soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices.
- [Class 04] Industrial oils and greases, lubricants, dust absorbing, wetting and binding compositions, fuels (including petrol) and wax for lighting, candles for night lights, candles and wicks for lighting.
- [Class 05] Pharmaceutical and veterinary preparations, hygienic preparations for medical use, hygienic lubricants for medical use, hygienic preparations for veterinary purposes, dietetic substances for medical use, food for babies, plasters for medical purposes, materials for dressings, material for stopping teeth and dental wax, disinfectants, preparations for destroying vermin, fungicides, herbicides.
- [Class 07] Machine tools, metalworking machines, machines for processing plastics, laser processing machines, mechanical presses, hydraulic presses, threading machines, industrial shakers for chemical processing, mixers for chemical processing, dyeing machines, embroidery machines, knitting machines, printing machines, aerated beverage making machines, bottle filling machines, bottle washing machines, bottling machines, bread making machines for industrial purposes, canning machines, cheese making machines, edible paste making machines, flour grinders, frozen confectionery making machines, mineral water making machines, noodle making machines, powdered milk making machines, sausage making machines, soda-pop making machines, soybean paste brewing machines and implements, soybean sauce brewing machines and implements, paper machines, paper processing machines and implements, household and industrial sewing machines, automatic dishwashers, electric vacuum cleaners, electric washing machines, automatic vending machines, engines, other than engines for land vehicles, couplings other than for land vehicles (parts of machines), machine coupling and transmission components except for land vehicles, transmissions, other than for land vehicles, agricultural implements other than hand-operated, egg incubators.
- [Class 09] Physical and chemical laboratory apparatus and instruments, instruments for diagnosis (for scientific use), nautical apparatus and instruments, surveying apparatus and instruments, photographic apparatus and instruments,

cinematographic apparatus and instruments, optical apparatus and instruments except for glasses and photographic apparatus, weighing apparatus and instruments, measuring apparatus, electrical signalling apparatus, testing apparatus for checking electronic devices, life saving apparatus and equipment, apparatus and instruments for conveying, distributing, transforming, storing, regulating or controlling electric current, apparatus for recording, transmitting and reproducing sound or images, magnetic data carriers, sound recording disks, mechanisms for coin-operated apparatus, cash registers, calculating machines, data processing equipment and computers, fire extinguishers.

- [Class 10] Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth, orthopaedic articles, suture materials.
- [Class 11] Electric lighting apparatus, heating apparatus for industrial purposes, heating installations, apparatus for steam generating, cooking apparatus and installation, refrigerators, drying apparatus, apparatus for ventilating, apparatus for water supply, sanitary apparatus and installations.
- [Class 12] Vehicles for locomotion by land, air, water or rail, automobile, bicycle, apparatus for locomotion by land, air or water.
- [Class 14] Precious metals and their alloys, jewellery made of precious metals, badges of precious metal, bracelets of precious metal, pendants of precious metal, necklaces of precious metal, rings [jewellery] of precious metal, brooches of precious metal, earrings of precious metal, jewellery, precious stones, horological and chronometric instruments, commemorative medals of precious metal, commemorative coins, commemorative shields of precious metal.
- [Class 16] Paper, cardboard, garbage bags of paper, labels of paper or cardboard, signboards of paper or cardboard, flags of paper, covers of paper for flower pot, napkin of paper, towels of paper, boxes of paper or cardboard, paper sacks for wrapping, blinders of paper, tablemats of paper, table linen of paper, bibs of paper, art prints, cartoon prints, forms, printed, printed calendars, printed educational materials, printed matter, printed publications, bookbinding material, printed photographs, stationery, adhesives for stationery or household purposes, artists ' supplies, paintbrushes, typewriters and office articles (except furniture), instructional or teaching material (except apparatus), plastic materials for packaging (not included in other classes), printers ' type, printing blocks, postage stamps.
- [Class 17] Unprocessed rubber, semi-worked rubber, gutta-percha, gum (raw or semi-worked), elastic gum, asbestos, mica (raw or semi-worked), rubber sacks for packaging, washers of rubber or vulcanized fiber, shock-absorbing buffers of rubber, cords of rubber, asbestos fabrics, asbestos felts, asbestos paper, asbestos cords, asbestos nets, plastic material in extruded form for use in production, plastic substances (semi-processed), sealing and insulating materials, packing and insulating material, plastics materials for packing, non-metallic flexible pipes.
- [Class 18] Leather and imitation leather, leather bags, cases of imitation leather, leather vanity cases [not fitted], leather bags for mountain-climbing, leather rucksacks

[backpacks], leather wallets [purses], briefcases [leather goods], leather attache-cases, leather suitcases, leather school bags, leather handbags, key cases [leatherware], leather straps, animal skins, hides, trunks and suitcases, umbrellas, parasols and walking sticks, whips and saddlery.

- [Class 19] Building materials, not of metal, non-metallic rigid pipes for construction purposes, asphalt, pitch and bitumen, non-metallic transportable buildings, non-metallic monuments.
- [Class 21] Kitchen utensils, non-electric cooking utensils, containers for household or kitchen use, combs and sponges, brushes (except paintbrushes), brushmaking materials, non-electric articles for cleaning purposes, cleaning instruments (hand-operated), steel wool, unworked or semi-worked glass (except glass used in building), unworked or semi-worked glass (except building glass), painted glassware (other than for construction), glass jars for preserving food, glass ornaments, crystal (glassware), beverage glassware, porcelain ware, porcelain for tableware, porcelain ornaments and earthenware not included in other classes.
- [Class 25] Clothes, footwear, headwear.
- [Class 28] Games, toys, gymnastics and sports articles not included in other classes, ornaments for Christmas trees (except illumination articles and confectionery).
- [Class 29] Meat, fish, poultry and game, meat extracts, preserved, dried and cooked fruit and vegetables, jellies, jams, compotes, eggs, milk and dairy products, edible oils and fats.
- [Class 30] Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee, flour and cereal preparations, bread, pastry and confectionery, edible ice, honey, treacle, yeast, baking powder, salt, mustard, vinegar, sauces (condiments), spices, ice for refreshment.
- [Class 32] Beers, mineral and sparkling water and other non-alcoholic beverages, fruit beverages and fruit juices, syrups and other preparations for making beverages.
- [Class 35] Advertising, business management, commercial administration, computerised office management, office management, office functions, promotion of goods and services of third parties, by means of partnership agreements (sponsorship) and licences in connection with international sports events, window dressing services for retail shops, retail services provided by hypermarket services, presentation of goods on communication media, for retail purposes, online retail services for downloadable digital music, online retail services for downloadable ringtones, business management of retail outlets, retail services in relation to sporting articles, trophies of precious metals, non-metal trophies, trophies of common metal, commemorative stamps, commemorative books, bags for sports, sportswear, tyres for vehicle wheels, electric vehicles, land vehicles, electric bicycles, non-alcoholic beverages, alcoholic beverages except beers, beers, processed food made from fruits and vegetables, food products made from fish and shellfish, processed meat products, processed dairy products, cereal-based processed products, toiletry preparations, building materials of metal, construction

materials (not of metal), building insulation materials, electronic components for computers, semiconductor components, electric food processors for household purposes, electric dishwashers for household purposes, electric washing machine, electric lighting apparatus, electric baking machines for household purposes, textile fibers, textiles, clothes, headgear for clothing, and footwear, packing machines, bags of paper for packaging, bags of plastic for packaging, cinematographic films, holographic film, films (exposed), plastic film for packaging, heating equipment for industrial purposes, testing tools and equipment for industrial purposes, communications equipment for industrial purposes, electric control devices for energy management, energy storage apparatus comprised of batteries, electricity generators, apparatus and instruments for conducting electricity, apparatus and instruments for transforming electricity, electricity distribution/control apparatus and instruments, chemicals used in industry and science, gas oil, vehicles for locomotion by land, air, water or rail, cloud server, computer e-commerce software, communications processors, computer chips, electronic chips, camera drones, civilian drones, wireless communication devices, digital tablets, personal computer, tablet computers and computer hardware, clocks and watches, timing apparatus, apparatus for timing sports events, electronic scoreboards, score recorders [electronic], score recorders [electric], scoring boards, amusement game machines for home and on-board use, cameras, professional video and audio equipment, digital data storage apparatus, medicinal healthcare preparations, medical apparatus and instruments other than for dental purposes, beauty care cosmetics, dietary and nutritional supplements, food supplements, pharmaceutical preparations, electric vacuum cleaners for household purposes, cleaning tools and washing utensils (other than electric) for household purposes, magnetic payment cards, magnetic pre-paid cards, monuments of metal, non-metal monuments, commemorative medals of precious metal, commemorative coins, commemorative shields of precious metal.

[Class 36] Insurance, financial affairs, advisory services relating to monetary affairs, transfer of monetary claims, financing of real estate, brokerage, rental and leasing of real estate, commercial real estate agency services, financial consultancy relating to real estate investment, real estate insurance services.

[Class 37] Construction, vehicle breakdown repair services, repair work on buildings, repair and installation for compressors (machines), repair and installation for pumps (parts of machines), repair and installation for fuel pumps, repair and installation for fuel dispensing pumps for the service stations, repair and installation for gas turbines (other than for vehicles), repair and installation for gas turbines for land vehicles, repair and installation for steam turbines (other than for vehicles), repair and installation for steam turbines for land vehicles, repair and installation for steam condensers (parts of machines), repair and installation for heavy-wall reactors for chemical processing, repair and installation for tubular reactors for chemical processing.

[Class 38] Telecommunications, television programme broadcasting, televised broadcasts.

- [Class 39] Transport, packaging and storage of goods, organisation of travel.
- [Class 40] Material treatment of plastics, treatment of glass materials, treatment of waste water.
- [Class 41] Educational services, reading education, coaching [training], vocational training services, provision of on-line training, providing of training and further training, entertainment, sports activities, organization of sporting events and activities, organization of cultural events and activities.
- [Class 42] Scientific and technological services, scientific and industrial research, industrial analysis services, advisory services relating to scientific research, providing information on scientific research, advisory services relating to technological research, software design and development, legal services, licensing of intellectual property rights.
- [Class 43] Provision of food and drink in restaurants, temporary accommodation.
- [Class 44] Medical services, veterinary services, hygiene and beauty care for humans and animals, agricultural services.
- Reproduction of the mark:



* Goods/services of the applied-for mark in relation to this ground:

- [Class 09] Scientific, nautical, surveying, electric, photographic, cinematographic, optical, weighing, measuring, signalling, monitoring, emergency (life-saving) and teaching apparatus and instruments; apparatus and instruments for conveying, distributing, transforming, storing, regulating or controlling electric current; apparatus for recording, transmitting and reproducing sound or images; magnetic data carriers, sound recording disks; automatic vending machines and mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; fire extinguishers.
- [Class 21] Household or kitchen utensils and containers (neither of precious metal nor coated therewith); combs and sponges; brushes (except paintbrushes); brushmaking materials; material for cleaning; steel wool; unworked or semi-worked glass (except glass used in building); glassware, porcelain and earthenware not included in other classes.
- [Class 35] Advertising; business management; commercial administration; office tasks; promotion of goods and services of third parties, by means of partnership agreements (sponsorship) and licences in connection with international sports events; retail services.
- [Class 41] Education; training; entertainment; sports and cultural activities.

10. Guidance for the response:

It is suggested that you may choose one of responses as below


A. Response before KIPO

- (1) In order to respond to this provisional refusal before KIPO directly [Article 66(1), Korean Trademark Act], the holder of the International Registration is obliged to be represented by a licensed attorney who is entitled to represent third parties in the Republic of Korea. [Article 6, Korean Trademark Act]
- (2) Time limit is within two months from the date on which the notification of this provisional refusal is issued. The holder may request an extension of time to submit a written opinion/amendment to KIPO. The extension can be permitted twice for a period of one month respectively. The request for extension must be made within the given time limit. [Article 17(1)(i), Korean Trademark Act]

B. Response before WIPO

The holder may submit a limitation of the list of goods and/or services (MM6 form) before WIPO directly within the given time limit. [Rule 25 (1)(a)(ii), Regulations]

11. Official Seal or Signature by the Office:

KIPO Examiner NADAYUN 

<< Information >>

※ If the holder has any questions or needs assistance in responding to this notification, please contact the examiner. E-mail : kipomadrid@korea.kr, Representative Telephone Number : (+82) (42) 481 5532 (International Trademark Examination Division), Fax : (+82) (42) 472 3507

Extract from the Korean Trademark Act

Article 3 Persons Entitled to Registration of Trademark

(1) Any person who uses or intends to use a trademark in the Republic of Korea may obtain registration of his/her trademark: Provided, That no employee of the Korean Intellectual Property Office or the Intellectual Property Trial and Appeal Board shall obtain registration of a trademark while he/she is in office, except by inheritance or bequest.

Article 6 Trademark Manager of Non-Resident

(1) Except where a person who is not domiciled or does not have his/her place of business in the Republic of Korea (hereinafter referred to as "non-resident") resides in the Republic of Korea, the non-resident (in cases of a corporation, referring to the representative thereof) may follow trademark-related procedures or bring a lawsuit against measures taken by an administrative authority in accordance with this Act or an order issued under this Act only through a person who is domiciled or has his/her place of business in the Republic of Korea (hereinafter referred to as "trademark manager") as an agent managing the trademark of the non-resident.

(2) A trademark manager shall represent his/her principal in a lawsuit with respect to trademark-related procedures or a disposition made by an administrative authority in accordance with this Act or an order issued under this Act, within the scope of authority delegated to him/her.

Article 220 Service on Non-Resident

(1) Where a non-resident has a trademark manager, any document to be served on such non-resident shall be served on his/her trademark manager: Provided, That the foregoing shall not apply where an examiner notifies an applicant for international trademark registration of grounds for rejection via the International Secretariat pursuant to Article 190.

(2) Where a non-resident does not have a trademark manager, any document to be served on such non-resident may be sent by registered airmail.

(3) Where a document is sent by registered airmail pursuant to paragraph (2), such document shall be deemed served on the date the document is sent.

Article 33 Requirements for Trademark Registration

(1) Trademark registration may be obtained, excluding the following trademarks:

1. A trademark consisting solely of a mark indicating, in a common manner, the common name of the goods;
 2. A trademark used customarily in connection with the goods;
 3. A trademark consisting solely of a mark indicating, in a common manner, the place of production, quality, raw materials, effect, usage, quantity, shape, price, method of production, method of processing, method of use or time of the goods;
 4. A trademark consisting solely of a conspicuous geographical name, the abbreviation thereof, or a map;
 5. A trademark consisting solely of a mark indicating a common surname or name according to the method in common use;
 6. A trademark consisting solely of a simple and readily available mark;
 7. In addition to trademarks under subparagraphs 1 through 6, a trademark which is unrecognizable for consumers to identify which goods related to whose business it indicates.
- (2) Even if a trademark falls under any of paragraph (1) 3 through 6, where such trademark is recognizable to consumers as a trademark indicating the source of goods of a specific person as a result of using the trademark before filing an application for trademark registration, trademark registration may be granted limited to the goods on which such trademark is used.
- (3) Even if a mark falls under paragraph (1) 3 (limited to place of production) or 4, where such mark is a geographical indication for specific goods, an applicant may obtain registration of a collective mark with geographical indication for goods using such geographical indication as designated goods (referring to the goods designated pursuant to Article 38 (1) and the goods additionally designated pursuant to Article 86 (1); hereinafter the same shall apply).

Article 34 Trademarks Ineligible for Trademark Registration

(1) Notwithstanding Article 33, none of the following trademarks shall be registered:

1. Any of the following trademarks, which is a national flag of a country, an insignia of an international organization, etc.:

(a) Any trademark identical or similar to the national flag, the national emblem, the colors, medals, decorations or insignias of the Republic of Korea, or seals or signs used for supervision or certification by the Republic of Korea or public institutions;

(b) Any trademark identical or similar to any national flag of a country of the Union to the Paris Convention for the Protection of Industrial Property (hereinafter referred to as the "Paris Convention"), of a member of the World Trade Organization, or of a Contracting Party to the Trademark Law Treaty (hereafter in this paragraph, referred to as "countries of the Union, etc.");

(c) Any trademark identical or similar to the title, abbreviated title, or mark of the Red Cross, the International Olympic Committee, or a renowned international organization: Provided, That where such organization has applied for trademark registration of its title, abbreviated title, or mark, trademark registration may be obtained;

(d) Any trademark identical or similar to coats of arms, flags, medals, decorations or badges of the countries of the Union, etc., designated by the Commissioner of the Korean Intellectual Property Office after notification by the World Intellectual Property Organization pursuant to Article 6-3 of the Paris Convention, or titles, abbreviated titles, coats of arms, flags, medals, decorations or badges of inter-governmental international organizations which countries of the Union, etc., have joined: Provided, That where an inter-governmental international organization which the countries of the Union, etc., have joined applies for trademark registration of its title, abbreviated title, or mark, trademark registration may be obtained;

(e) Any trademark identical or similar to seals or signs used for supervision or certification by countries of the Union, etc., designated by the Commissioner of the Korean Intellectual Property Office after notification by the World Intellectual Property Organization pursuant to Article 6-3 of the Paris Convention or their public organizations, which is used for the goods identical or similar to those for which such seals or signs are used;

2. Any trademark which falsely indicates a relationship with a state, race, ethnic group, public organization, religion, or famous deceased person, or which slanders, insults, or is likely to defame any of them;

3. Any trademark identical or similar to a famous mark, which is a mark indicating nonprofit business or public service of a state, public organization, or any of its agencies and a non-profit corporation: Provided, That where such state, etc., has applied for trademark registration of its mark, trademark registration may be obtained;

4. Any trademark whose meaning, content, etc., conveyed to consumers is likely to harm public order, such as being contrary to moral norms, the prevailing moral sense of ordinary people, where the trademark itself is used or the trademark is used for goods;

5. Any trademark consisting of a mark identical or similar to a medal, certificate of merit or decoration awarded at an exhibition held by or with the approval of the Government of the Republic of Korea or at an exhibition held by or with the approval of the government of a foreign country: Provided, That where a person who has been awarded at such exhibition uses such mark as part of the trademark for the awarded goods, trademark registration may be obtained;

6. Any trademark containing the name, title, or trade name, portrait, signature, seal, literary name, stage name, pen name of a prominent person, or his/her abbreviated title: Provided, That where the consent of such person has been obtained,

trademark registration may be obtained;

7. Any trademark used for goods identical or similar to the designated goods, which is identical or similar to the registered trademark of another person (excluding any registered collective mark with geographical indication) based on first to file;

8. Any trademark used on goods recognized as identical to the designated goods, which is identical or similar to a registered collective mark with geographical indication of another person based on first to file;

9. Any trademark identical or similar to a trademark (excluding a geographical indication) widely recognized by consumers as indicating the goods of another person, which is used on goods identical or similar to the goods of another person;

10. Any trademark identical or similar to a geographical indication of another person widely recognized by consumers as indicating the goods of a specific region, which is used on goods recognized as identical to the goods using such geographical indication;

11. Any trademark likely to cause confusion with goods or business of another person remarkably recognized by consumers or to dilute their distinctiveness or reputation;

12. Any trademark which is likely to mislead consumers about the quality of goods or deceive consumers;

13. Any trademark which is identical or similar to a trademark (excluding a geographical indication) recognized as indicating the goods of a specific person by consumers in the Republic of Korea or overseas, which is used for unlawful purposes, such as unjust enrichment or inflicting loss on the specific person;

14. Any trademark which is identical or similar to a geographical indication recognized as indicating the goods of a specific region by customers in the Republic of Korea or overseas, which is used for unlawful purposes, such as unjust enrichment or inflicting loss on any legitimate users of such geographical indication;

15. Any trademark consisting solely of the three-dimensional shape, color, combination of colors, sound, or smell, which is essential (in cases of services, referring to cases essential for the use and purpose thereof) to secure the function of goods intended to obtain trademark registration or of the package of such goods;

16. Any trademark intended to be used on wine or distilled beverages, which consists of a geographical indication of the place of production of wine or distilled beverages or contains such geographical indication in a member of the World Trade Organization: Provided, That where a legitimate user of the geographical indication applies for registration of a collective mark with geographical indication under Article 36 (5) by designating the relevant goods as the designated goods, he/she may obtain trademark registration;

17. Any trademark which is identical or similar to the name of a variety registered pursuant to Article 109 of the Act on the Protection of New Varieties of Plants, which is used for goods identical or similar to the name of such variety;

18. Any trademark which is identical or similar to a geographical indication of another person registered pursuant to Article 32 of the Agricultural and Fishery Products Quality Control Act, which is used on goods recognized as identical to the goods using such geographical indication;

19. Any trademark which is identical or similar to a geographical indication of another person protected in accordance with a bilateral or multilateral free trade agreement which has come into effect, concluded by the Republic of Korea with a foreign country or foreign countries, or which consists of or contains such geographical indication, used on goods deemed identical to the goods using such geographical indication;

20. Any trademark for the registration of which an applicant applies on goods, which is identical or similar to such trademark, while he/she is aware that another person uses or intends to use the trademark through a contractual relationship, such as partnership or employment, or business transactional relationship, or any other relationship;

21. Any trademark for the registration of which any person who has or had a contractual relationship, such as partnership or employment, business contractual relationship, or any other relationship with a person who holds the right to the trademark registered, which is identical or similar to the trademark registered in a State party to the treaty, applies on goods by designating goods identical or similar to the goods on which the trademark is designated as the designated goods without the consent of the person who holds the right to the trademark.

(2) Whether paragraph (1) and an applicant for trademark registration (hereinafter referred to as "applicant") correspond to another person under the relevant provision shall be determined based on the time a decision corresponding to any of the following is made (hereinafter referred to as "decision on whether to grant trademark registration"): Provided, That in cases falling under paragraph (1) 11, 13, 124, 20 and 21, whether an applicant corresponds to another person under the relevant provision shall be determined based on the time an application for trademark registration is filed:

1. Decision to reject trademark registration under Article 54;

2. Decision to grant trademark registration under Article 68.

(3) Where a trial to revoke trademark registration is requested because a trademark right holder or a person who uses a trademark of such trademark right holder falls under Article 119 (1) 1 through 3 and 5 through 9, and he/she falls under any of the following after the date such lawsuit is commenced, he/she may obtain trademark registration only where he/she applies for registration of a trademark identical or similar to such trademark (limited to where he/she intends to obtain trademark registration again by designating identical or similar goods (in cases of a collective mark with geographical indication, referring to goods deemed identical) as the designated goods) after three years from the date he/she falls under any of the following:

1. Where trademark rights are extinguished upon expiry;

2. Where a trademark right holder relinquishes trademark rights or abandons some of the designated goods;

3. Where a trial decision to revoke trademark registration is final and conclusive.

(4) None of the provisions of paragraph (1) 8 and 10 shall apply to homonymous collective marks with a geographical indication.

Article 35 First to File

(1) Where at least two applications for trademark registration are filed on different days with respect to the same or similar trademark to be used on the same or similar goods, only the first person who files an application may obtain registration of such trademark.

Article 38 One Application for One Trademark

(1) Any person who intends to file an application for trademark registration shall file an application for each trademark by designating at least one category of goods in accordance with the classification of goods.

(2) Specific goods belonging to the category of goods under paragraph (1) shall be prescribed and announced by the Commissioner of the Korean Intellectual Property Office.

(3) No classification of any category of goods under paragraph (1) shall be construed as prescribing the range of similarity of goods.

Article 54 Decision to Reject Trademark Registration

Where an application for trademark registration falls under any of the following, an examiner shall decide to reject trademark registration:

1. Where a trademark fails to meet the definitions of a trademark, collective mark, geographical indication, collective mark with geographical indication, certification mark, certification mark with geographical indication, or business emblem under Article 2 (1);

2. Where a trademark is in violation of the treaty;

3. Where a trademark cannot be registered pursuant to Articles 3, 27, 33 through 35, 38 (1), the latter part of Article 48 (2), paragraph (4) or (6) through (8) of the aforesaid Article;

4. Where a person is not entitled to registration of a collective mark, certification mark and business emblem under Article 3;

5. In cases of an application for registration of a collective mark with geographical indication, the articles of incorporation of an organization

actually do not permit persons to join the organization as its members, such as the prohibition of persons from joining the organization in accordance with the articles of incorporation, or impracticable conditions for joining the organization are stipulated in the articles of incorporation;

6. Where all or some of the matters concerning the use of a collective mark prescribed by Presidential Decree are not stated in the articles of incorporation under Article 36 (3), or all or some of the matters concerning the use of a certification mark prescribed by Presidential Decree are not stated in the articles of incorporation or the rules under paragraph (4) of the aforesaid Article;

7. In cases of an application for registration of a certification mark, the articles of incorporation actually do not permit persons who may use such certification mark to use it, such as the prohibition of persons from using it in accordance with the articles of incorporation or the rules without justifiable grounds, or impracticable conditions of use thereof are stipulated in the articles of incorporation or the rules.

Article 55 Notification of Grounds for Rejection

(1) Where an examiner intends to decide to reject trademark registration pursuant to Article 54, he/she shall notify an applicant of grounds for rejection (referring to grounds provided in any of the subparagraphs of the aforesaid Article; hereinafter referred to as "grounds for rejection") in advance. In such cases, the applicant may submit a written opinion about grounds for rejection within a period prescribed by Ordinance of

the Ministry of Trade, Industry and Energy.

(2) Where an examiner notifies an applicant of grounds for rejection pursuant to paragraph (1), he/she shall specify the grounds and basis for rejection of each of the designated goods.

(3) An applicant who fails to submit a written opinion within a period under the latter part of paragraph (2) may apply for continuing trademark-related procedures and submit a written opinion addressing the grounds for rejection within two months from the expiration date of such period.

Article 115 Trial against Decision to Dismiss Amendment

Where a person who receives a decision to dismiss an amendment under Article 42 (1) appeals against such decision, he/she may request a trial within 30 days from the date he/she is served with a certified copy of such decision.

Article 116 Trial against Decision to Reject

Where a person who receives a decision to reject trademark registration, decision to reject registration of additional designated goods or decision to reject registration of the conversion of the classification of goods (hereinafter referred to as "decision to reject") under Article 54 appeals against such decision, he/she may request a trial within 30 days from the date he/she is served with a certified copy of such decision to reject.

Korean Trademark Act URL: <http://www.kipo.go.kr/eng/>