

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: 1066624
Mark: NL International (with figurative elements)
Date of subsequent designation: 2011/07/21
Holder of the international registration:
Obchtchestvo s ogranitchennoi otvetstvennostiou "NL Kontinent"

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 February/14/2012 by

TOMISAWA Takeshi (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.

* 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.

The date of pronouncement: 2012/03/01

Continuation sheet

V. The grounds for refusal

Ground 1

This application does not conform to the requirements provided for under Section 6(1) of the Trademark Law because some of the designated goods and services are inappropriately described in this application in a vague/broad manner(see below).

[vague/broad description]

Class 09 Flashlights; ducts; steering apparatus, automatic, for vehicles; filters; teeth protectors.

<Ref. Examples for amendment/limitation>

flashlights; ducts; steering apparatus, automatic, for vehicles; filters;
==>>see item VI.

teeth protectors

==>>teeth protectors, other than for medical or sporting use;

**Please note that above suggestion is applied to Ground 1 only.

Class 14 Ivory.

<Ref. Examples for amendment/limitation>

==>>see item VI.

Class 30 Chips; muesli.

<Ref. Examples for amendment/limitation>

==>>see item VI.

Ground 2

(1)With regard to "auditing" designated in class 35, the trademark of this application does not conform to the requirements (a trademark shall be used with respect to goods and services in connection with his/her business) as provided in the main paragraph of Section 3(1) of the Trademark Law because it is uncertain as to whether the applicant is qualified for undertaking such services, which is to be undertaken by qualified individuals and firms in Japan, such as a certified public accountant and qualified corporation (auditing corporation). To this end, it is requested that the said services shall be deleted from the list of the designated services.

(2)The trademark of this application does not conform to the requirements as provided in the main paragraph of Section 3(1) of the Trademark Law because of the following reason:

The main paragraph of Section 3(1) requires that registerable trademarks either be currently in use or will be put into use in the near future; however, there is reasonable doubt as to whether the applicant currently uses or will use in the near future this trademark on the designated goods or services, as indicated below, because the designated goods or services come under too wide a scope within one class:

[All the designated goods or services in Class(es) 9, 16, 21, 35 and 41]

However, the above reason for refusal will be resolved if the above-mentioned doubt, as to the use of or the intent to use this trademark, is eliminated by the applicant's taking any of the following procedures (a), (b) or (c):

(a) Proving that the applicant is conducting business connected with the above-mentioned designated goods or services in Japan by submitting some documents such as newspaper articles, catalogs, business documents etc.;

(b) Proving that the applicant is planning to conduct business connected with the

Continuation sheet

above-mentioned designated goods or services in Japan within three to four years from the date of the international registration or the subsequent designation by submitting both of the following documents:

- (i) A written Declaration of Intention to Use stating when this trademark will begin to be used and what goods or services this trademark will be used for in Japan; and
- (ii) Documents of Business Plan stating the current status of the applicant's business preparations; or
- (c) Limiting the above-mentioned designated goods or services to an appropriate range.

For your reference, examples of amendments/limitations, which have been arbitrarily selected from the list of the designated goods or services in this application, can be found in Item VI.

<Important notes for proving (a) or (b) above>

(1) The Examination Guidelines are available on the JP0 website at

http://www.jpo.go.jp/tetuzuki_e/t_tokkyo_e/pdf/tt1303-061_3_6.pdf

(2) The above-mentioned documents for proving (a) or (b) must be accompanied with a Japanese translation and submitted to the JP0 through the intermediary of a representative domiciled in Japan.

- 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.)

Classes 3, 5, 25, 28 and 32 remain unchanged.

9 Couplings, electric; accumulators, electric; actinometers; aerometers; electronic agendas; stills for laboratory experiments; alcoholmeters; altimeters; flashlights [photography]; amplifiers; anodes; aerials; anticathodes; high-frequency apparatus; welding apparatus, electric; apparatus to check franking; heat regulating apparatus; electric arc cutting apparatus; diffraction apparatus (microscopy); apparatus for fermentation (laboratory apparatus); precision measuring apparatus; satellite navigational apparatus; navigation apparatus for vehicles (on-board computers); projection apparatus; slide projectors; radios; radiological apparatus for industrial purposes; electric arc welding apparatus; electric welding apparatus; television apparatus; remote control apparatus; heliographic apparatus; electro-dynamic apparatus for the remote control of signals; regulating apparatus, electric; measuring devices, electric; monitoring apparatus, electric; electrical apparatus for sealing plastics; electric apparatus for commutation; chemistry apparatus and instruments; optical apparatus and instruments; weighing apparatus and instruments; apparatus and instruments for physics; sounding apparatus and machines; cameras; air analysis apparatus; gas testing instruments; food analysis apparatus; testing apparatus not for medical purposes; sound reproduction apparatus; chargers for electric batteries; sound transmitting apparatus; data processing apparatus; make-up removing appliances, electric; diagnostic apparatus, not for medical purposes; distillation apparatus for scientific purposes; amusement apparatus adapted for use with an external display screen or monitor; sound recording apparatus; time recording apparatus; apparatus for games adapted for use with an external display screen or monitor; teaching apparatus; stereoscopic apparatus; telephone apparatus; audiovisual teaching apparatus; apertometers (optics); hemline markers; optical goods; thermionic valves (radio); coin-operated musical automata; personal stereos; scales; barometers; fiber optic cables; cables, electric; cash registers; pocket calculators; cinematographic cameras; camcorders; cable ducts, encoded cards, magnetic; identity cards, magnetic; integrated circuit cards; video game cartridges; headphones; protective helmets; cathodes; photovoltaic cells; juke boxes for computers; chronographs (time recording apparatus); printed circuits; integrated circuits; computer keyboards; collectors, electric; commutators; comparators; converters, electric; counters; speed checking apparatus for vehicles; retorts; acoustic couplers; couplers (data processing equipment); incubators for bacteria culture; electronic pens; measuring spoons; cyclotrons; densimeters; densitometers; animated cartoons; detectors; metal detectors for industrial or military purposes;

Continuation sheet

- distance measuring apparatus; circuit breakers; sound recording discs; compact discs (audio-video); compact discs; floppy disks; optical discs; anti-interference devices (electricity); cathodic anti-corrosion apparatus; electric devices for attracting and killing insects; balancing apparatus; protection devices for personal use against accidents; computer software for automatic steering apparatus of vehicles; editing appliances for cinematographic films; dynamometers; telephone receivers; projection screens; fluorescent screens; screens (photography); video screens; welding electrodes; galvanic cells; transmitters of electronic signals; transmitting sets (telecommunication); magnetic encoders; pressure indicators; tape recorders; test tubes; ergometers; electronic tags for goods; containers for contact lenses; spectacle cases; cases especially made for photographic apparatus and instruments; exposure meters (light meters); door closers, electric; flat irons, electric; soldering irons, electric; optical fibers (light conducting filaments); wires, electric; filters [photography]; frequency meters; furnaces for laboratory experiments; gloves for protection against accidents; galvanometers; eyeshades; gasometers; loudspeakers; holograms; hydrometers; hygrometers; indicators (electricity); temperature indicators; speed indicators; armatures (electricity); inverters (electricity); interfaces for computers; material testing instruments and machines; electric installations for the remote control of industrial operations; measuring instruments; observation instruments; printers for use with computers; navigational instruments; switches, electric; binoculars; optical lamps; lasers, not for medical purposes; bar code readers; compact disc players; optical character readers; contact lenses; optical lenses; anti-glare glasses; spectacles (optics); sunglasses; goggles for sports; adding machines; calculating machines; money counting and sorting machines; dictating machines; weighing machines; word processors; video recorders; pressure gauges; disk drives for computers; coin-operated mechanisms for television sets; computer memories; measures; measuring apparatus; capacity measures; rules (measuring instruments); micrometers; microprocessors; microphones; microscopes; microtomes; furniture especially made for laboratories; modems; monitors (computer hardware); levels (instruments for determining the horizontal); objectives [lenses] (optics); octants; eyepieces; ohmmeters; wavemeters; computers; notebook computers; computer peripheral devices; acid hydrometers; lactometers; photocopiers; solar batteries; batteries, electric; pedometers; radiotelephony sets; computer programs, recorded; computer programs (downloadable software); electronic publications, downloadable; chips (integrated circuits); quantity indicators; radar apparatus; audio and video-receivers; current rectifiers; voltage regulators for vehicles; light dimmers (regulators), electric; refractometers; refractors; relays, electric; wrist rests for use with computers; rheostats; saccharometers; needles for record players; scanners (data processing equipment); locks, electric; sonars; sound locating instruments; mouse (data processing equipment); spectrograph apparatus; spectroscopes; spherometers; stereoscopes; sound recording carriers; optical data media; switchboards; electronic notice boards; control panels (electricity); distribution boards (electricity); tachometers; walkie-talkies; mouse pads; plotters; taximeters; facsimile machines; range finders; telerupters; portable telephones; theodolites; thermometers, not for medical purposes; thermostats; totalizers; record players; electronic pocket translators; transmitters (telecommunication); transformers; tripods for cameras; processors (central processing units); urinometers; vacuum gauges; verniers; measuring glassware; spectacle glasses; anti-glare visors; voltmeters.
- 14 Clock hands (clock and watch making); amulets (jewelry); anchors (clock and watch making); silver, unwrought or beaten; spun silver; rings (jewelry); barrels (clock and watch making); cloisonne jewellery; boxes of precious metal; bracelets (jewelry); watch straps; charms; brooches (jewelry); earrings; cuff links; busts of precious metal; dials (clock and watch making); chains (jewelry); watch chains; chronographs (watches); chronometers; stopwatches; chronoscopes; necklaces (jewelry); cases for watches; pins (jewelry); ornamental pins; tie pins; threads of precious metal (jewelry); silver thread; gold thread (jewelry); tie clips; atomic clocks; clocks and watches, electric; badges of precious metal; chronometrical instruments; iridium; jet, unwrought or semi-wrought; copper tokens; jewelry; ingots of precious metals; medals; medallions (jewelry); precious metals, unwrought or semi-wrought; coins; watches; wristwatches; movements for clocks and watches;

Continuation sheet

olivine (gems); gold, unwrought or beaten; ornaments of jet; osmium; palladium; ornaments (jewelry); jewelry of yellow amber; silver ornaments; ivory (jewellery); shoe ornaments of precious metal; clocks; pearls made of ambroid; pearls (jewelry); semi-precious stones; precious stones; platinum (metal); rhodium; alarm clocks; ruthenium; statues of precious metal; figurines (statuettes) of precious metal; paste jewelry; watch glasses.

- 16 Posters; albums; almanacs; document laminators for office use; office requisites, except furniture; stationery; atlases; stickers (stationery); boxes of cardboard or paper; pamphlets; calendars; cards; postcards; greeting cards; musical greeting cards; cardboard; cardboard articles; catalogues; rosaries; folders for papers; newsletters; printing blocks; glue for stationery or household purposes; conical paper bags; pencils; slate pencils; decalcomanias; paper shredders for office use; graphic prints; mats for beer glasses; inkstands; shields (paper seals); bottle wrappers of cardboard or paper; ink; signboards of paper or cardboard; envelopes (stationery); bottle envelopes of cardboard or paper; drawing squares; towels of paper; labels, not of textile; plastic bubble packs for wrapping or packaging; sheets of reclaimed cellulose for wrapping; viscose sheets for wrapping; index cards (stationery); forms, printed; writing materials; electrotypes; terrestrial globes; engravings; hectographs; printed matter; writing instruments; newspapers; correcting fluids (office requisites); lithographs; books; booklets; manuals; teaching materials (except apparatus); sealing compounds for stationery purposes; adhesives (glues) for stationery or household purposes; packaging material made of starches; handkerchiefs of paper; paper; silver paper; wrapping paper; filter paper; toilet paper; photographs; plastic film for wrapping; periodicals; paintbrushes; advertisement boards of paper or cardboard; credit card imprinters, non-electric; erasing products; prospectuses; thumbtacks; ledgers (books); indexes; graphic representations; adhesive tapes for stationery or household purposes; garbage bags of paper or of plastics; bags (envelopes, pouches) of paper or plastics, for packaging; bags for microwave cooking; seals (stamps); tissues of paper for removing make-up; face towels of paper; fountain pens; holders for stamps (seals); tickets; stamps (seals); transparencies (stationery).
- 21 Deodorizing apparatus for personal use; aerosol dispensers, not for medical purposes; polishing apparatus and machines, for household purposes, non-electric; pressure cookers (autoclaves), non-electric; appliances for removing make-up, non-electric; food cooling devices containing heat exchange fluids, for household purposes; sprinklers; table plates; litter trays for pets; chopsticks; bird baths; baby baths, portable; mops; carpet sweepers; buckets; basins (receptacles); cocktail stirrers; cooking pot sets; shaving brushes; lunch boxes; boxes of metal, for dispensing paper towels; bread bins; soap boxes; candy boxes; kettles, non-electric; tea infusers; bottles; insulating flasks; refrigerating bottles; cooking skewers, of metal; brush goods; brushes for footwear; toothbrushes; toothbrushes, electric; nail brushes; eyebrow brushes; toilet brushes; electric brushes, except parts of machines; dishwashing brushes; perfume burners; coffeepots, non-electric; cages for household pets; decanters; stew-pans; heaters for feeding bottles, non-electric; china ornaments; beer mugs; apparatus for wax-polishing, non-electric; wax-polishing appliances, non-electric, for shoes; hot pots, not electrically heated; baskets for domestic use; shoe horns; dish covers; crystal (glassware); jugs; toothpicks; plungers for clearing blocked drains; large-toothed combs for the hair; dusting apparatus, non-electric; trivets (table utensils); toilet paper dispensers; soap dispensers; water apparatus for cleaning teeth and gums; abrasive sponges for scrubbing the skin; sponges for household purposes; toilet sponges; currycombs; comb cases; earthenware; floss for dental purposes; coffee filters, non-electric; strainers for household purposes; flasks; gloves for household purposes; waffle irons, non-electric; goblets; cups of paper or plastic; drinking flasks for travellers; grills (cooking utensils); powder puffs; watering devices; cleaning instruments, hand-operated; bowls; toilet cases; fitted picnic baskets, including dishes; feeding troughs for animals; shakers; mills for domestic purposes, hand-operated; cookery molds; molds (kitchen utensils); bottle openers; glove stretchers; combs; coffee percolators, non-electric; insect traps; ironing boards; trays for domestic purposes; dishes; paper plates; frying pans; porcelain ware; soap holders; napkin holders; pottery; pots; flower pots; garlic presses (kitchen utensils); fruit

Continuation sheet

- presses, non-electric, for household purposes; ceramics for household purposes; garbage cans, powder compacts; crumb trays; drinking vessels; heat insulated containers for beverages; thermally insulated containers for food; containers for household or kitchen use; isothermic bags; salt cellars; clothes racks, for drying; spice sets; services (dishes); animal bristles (brushware); saucers; soup bowls; holders for flowers and plants (flower arranging); scouring pads; cups; boot jacks; corkscrews; cloths for cleaning; cosmetic utensils; kitchen utensils; cooking utensils, non-electric; utensils for household purposes; tableware, other than knives, forks and spoons; perfume vaporizers; vases; painted glassware; glasses (receptacles); birdcages.
- 30 Oat-based food; seasonings; rusks; biscuits; cocoa-based beverages; chocolate-based beverages; coffee-based beverages; tea-based beverages; sweetmeats; gruel, with a milk base, for food; cocoa; cocoa beverages with milk; coffee; coffee beverages with milk; breadcrumbs; chocolate; chocolate beverages with milk; condiments; confectionery; couscous (semolina); crackers; custard; ice cream; pancakes; turmeric for food; edible decorations for cakes; natural sweeteners; thickening agents for cooking foodstuffs; spices; flour for food; starch for food; ferments for pastes; chips [cereal products]; fondants (confectionery); cakes; gluten for food; groats for human food; halvah; infusions, not medicinal; popcorn; malt for human consumption; marzipan; mayonnaise; farinaceous foods; honey; cereals mainly consisting of processed grains, nuts and dried fruits; bread; pastilles (confectionery); almond paste; cake paste; pasta; pate (pastries); meat pies; fruit jellies (confectionery); bread rolls; pizzas; baking powder; pralines; aromatic preparations for food; cereal preparations; cocoa products; flour-milling products; preparations for stiffening whipped cream; ravioli; rice; sandwiches; cooking salt; sorbets (ices); sugar; sushi; tapioca; tarts; tea; pies; vinegar.
- 35 Bill-posting; import-export agencies; commercial information agencies; advertising agencies; business management assistance; commercial or industrial management assistance; cost price analysis; employment agencies; business management and organization consultancy; personnel management consultancy; professional business consultancy; publicity columns preparation; shop window dressing; demonstration of goods; distribution of samples; dissemination of advertising matter; business management of performing artists; business appraisals; tax preparation; marketing studies; efficiency experts; business management of hotels; computerized file management; business information; rental of advertising space; publicity material rental; rental of advertising time on communication media; updating of advertising material; organization of trade fairs for commercial or advertising purposes; organization of exhibitions for commercial or advertising purposes; payroll preparation; economic forecasting; publication of publicity texts; advertising; on-line advertising on a computer network; advertising by mail order; radio advertising; television advertising; marketing research; personnel recruitment; compilation of information into computer databases; public relations; business inquiries; document reproduction; photocopying; psychological testing for the selection of personnel; modelling for advertising or sales promotion; relocation services for businesses; news clipping services; secretarial services; opinion polling; systemization of information into computer databases; word processing; book-keeping.
- 41 Night clubs; sport camp services; timing of sports events; health club services; physical education; teaching; videotaping; educational examination; providing on-line electronic publications, not downloadable; providing amusement arcade services; practical training (demonstration); education information; entertainment information; recreation information; gaming; electronic desktop publishing; providing sports facilities; organization of exhibitions for cultural or educational purposes; arranging and conducting of colloquiums; arranging and conducting of congresses; arranging and conducting of conferences; arranging and conducting of workshops; arranging and conducting of seminars; arranging and conducting of symposiums; arranging of beauty contests; organization of competitions (education or entertainment); organization of sports competitions; vocational guidance (education or training advice); party planning (entertainment); videotape film production; cinema presentations; publication of books; publication of electronic books and journals on-line; production of shows; publication of texts, other than publicity

Continuation sheet

texts; scriptwriting services; photographic reporting; entertainer services; providing casino facilities (gambling); club services (entertainment or education); discotheque services; providing recreation facilities; recording studio services; translation; movie studios.

Extract from the Japanese Trademark Law

Art. 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, quantity, shape (including shape of packages), price, the method or time of production or use, or, in the case of services, the location of provision, quality, articles to be used in such provision, efficacy, intended purpose, quantity, modes, price or method or time of provision;
- (iv) consists solely of a mark indicating, in a common manner, a common surname or name of a legal entity;
- (v) consists solely of a very simple and common mark; or
- (vi) in addition to what is 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) through (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.

Art. 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 which has been designated by the Minister of Economy, Trade and Industry;
 - (iv) is identical with, or similar to, the emblems or titles in Article 1 of the Law Concerning Restriction on the Use of Emblems and Titles of the Red Cross and Others (Law No.159 of 1947) or the distinctive emblem in Article 158(1) of the Law Concerning Measures to Protect Japanese Citizens During Armed Attacks and Others (Law No.112 of 2004);
 - (v) consists 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 contravene public order or morality;
 - (viii) contains the portrait of another person, or the name of another person or juridical person, or the famous pseudonym, professional name or pen name of another person, or the 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 "Government, etc.") or by those who are not the Government, etc., but designated 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 well known among consumers as that indicating goods or services in connection with another person's business or a trademark similar thereto, 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 in connection with which the said registered trademark is registered (refers to goods or services designated in accordance with Article 6(1) (including cases where it is applied mutatis mutandis pursuant to Article 68(1)), hereinafter the same) or goods or services similar thereto;
 - (xii) is identical with a registered defensive mark of another person (refers 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 in connection with which the defensive mark is registered;
 - (xiii) is a trademark of another person (excluding those which had not been used by the said person for a period of one year or longer from the date the trademark right became extinguished) the right to which has been extinguished for a period of shorter than one year from the date of the extinguishment of the said trademark right (or the date on which a ruling to the effect that the trademark registration is to be rescinded or a trial decision to the effect that the trademark registration is to be invalidated is rendered, the same shall apply hereinafter) or a trademark similar thereto, if such a trademark is used in connection with the designated goods or designated services in connection with the trademark right of such other person or goods or services similar thereto;
 - (xiv) is identical with, or similar to, the name of a variety registered in accordance with Article 18(1) of the Agricultural Seed and Seedlings Law (Law No. 83 of 1998), if such a trademark is used in connection with 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 cause confusion 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 a three-dimensional shape of goods or their packaging which is indispensable for such goods or their packaging to properly function; 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 the said item, Item (vi) of the preceding paragraph shall not apply.
- (3) Items (vii), (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.
- (4) Where a trial decision to the effect that a registration of a trademark is to be rescinded pursuant to Article 53-2 becomes final and conclusive, and the defendant of the said trial files a trademark application for the trademark pertaining to the rescinded registration following the said decision, or a trademark similar thereto, Item (xii) of Paragraph (1) shall not apply.

Art. 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 classifications of goods and services specified by Cabinet Order.
- (3) The classifications of goods and services provided for in the preceding paragraph shall not be perceived as prescribing the scope of similarities of goods or services.

Art. 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 Law 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 Article 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 legal entity that falls under Paragraph (1).

Art. 7-2. Regionally based collective trademark

(1) Any association established by special law, including a business cooperative (except those which are not legal entities and limited to those which are established by a special law prescribing that the association shall not refuse the enrollment of any person who is eligible to become a member without a justifiable reason 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) or a foreign legal entity equivalent thereto (hereinafter referred to as an "Association, etc.") shall be entitled to obtain a regionally based collective trademark with respect of any of the following, provided that the trademark is used by its members and, as a result of the use of the said trademark, the said trademark is well known among consumers as indicating the goods or services pertaining to the business of the applicant or its members, notwithstanding the provision of Article 3 (except a case falling under item (i) or (ii) of Article 3(1)):

- (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 shall mean the place of origin of the goods or the location of provision of services for which the trademark pertaining to the said application has been used by the applicant or its members even prior to the filing of such application, or the name or abbreviated name of the region which is considered to have a close relationship with the said goods or services to the equivalent extent.
- (3) For the purpose of the application of Article 3(1) (limited to those relating to item (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 regionally based 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 set forth in Paragraph (2).

Art. 8. Prior application

- (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 shall be entitled to register the trademark in question, to be determined by consultations between the applicants who filed such applications.
- (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 conclusive, 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 between 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.

Art. 15. Examiner's decision of refusal

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 62-2(2)), 63(2) of this Law or Article 25 of the Patent Law as applied mutatis mutandis under 77(3) of this Law;
- (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 6(1) or 6(2).

Art. 15-3.

- (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 intended to be 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(1) when the said other person's trademark is registered, and provide the applicant with an opportunity to submit a written opinion, designating a reasonable time limit for such purpose.
- (2) Where the notification set forth in the preceding paragraph has already been served and the said other person's trademark is registered, the examiner shall not be required to serve the notification set forth in the preceding article.

I. The Japanese Patent Law

(Effect of treaties)
26-- Where there are specific provisions relating to patents in a treaty, such provisions shall prevail.

The Japanese Trademark Law

(Application mutatis mutandis of Patent Law)
77--(4) Section 26 (effect of treaties) of the Patent Law shall apply mutatis mutandis to trademark and defensive mark registrations.

Subsection (1) to (3), and (5) to (7) are omitted.

Notice

With the revision of the Trademark Law, Article 7-2 (regionally based collective trademark) was introduced, and a reference to 7-2 (1) was added in Article 15.
This revision shall be applied to an international application for which the date of international registration or date of subsequent designation is on or after April 1, 2006.

These are unofficial translations. Only the original Japanese texts of the Laws have legal effect.