

商標法施行細則

Enforcement Rules of the Trademark Act

修正條文	英譯
<p>第二條 依本法及本細則所為之申請，除依本法第十三條規定以電子方式為之者外，應以書面提出，並由申請人簽名或蓋章；委任代理人者，得僅由代理人簽名或蓋章。</p> <p><u>前項申請人應於申請書表載明身分證明文件字號，但外國人或無身分證明文件字號者，免予記載。申請人為依法設立之非法人團體或依商業登記法登記之商業者，應另檢附設立登記或其他設立相關證明文件。商標專責機關為查核申請人之身分或資格，得通知申請人檢附身分證明、法人證明或其他資格證明文件。</u></p> <p><u>第一項書面申請之書表格式及份數，由商標專責機關定之。</u></p>	<p>Article 2</p> <p>Any application or request filed under the provisions of the Act or these Rules shall, except those transmitted by electronic means pursuant to Article 13 of the Act, be in written form and affixed with the signature or seal of the applicant or the signature or seal of the <u>agent</u> only, if such agent is appointed.</p> <p><u>The applicant as prescribed in the preceding paragraph shall specify the ID number in the application, except a foreign applicant or an applicant who does not have the ID number. If the applicant is a legally established group without juridical personality or business registered in accordance with the Business Registration Act, documents related to the establishment or registration shall be furnished in addition.</u> In order to check the identity or the qualification of the applicant, the Registrar Office may give the applicant a notice to furnish his/her identification documents, the certificate of juridical person or other documents of proof of the applicant's qualification.</p> <p>The format and number of the written form referred to in <u>Paragraph 1</u> shall be prescribed by the Registrar Office.</p>
<p>第五條 委任代理人者，應檢附委任書，載明代理之權限。</p> <p>前項委任，得就現在或未來一件或</p>	<p>Article 5</p> <p>Where an applicant appoints <u>an agent</u>, a power of attorney shall be submitted, specifying powers delegated to the agent.</p> <p>The appointment referred to in the</p>

<p>多件商標之申請註冊、異動、異議、評定、廢止及其他相關程序為之。</p> <p>代理人權限之變更，非以書面通知商標專責機關，對商標專責機關不生效力。</p> <p>代理人送達處所變更，應以書面通知商標專責機關。</p>	<p>preceding paragraph may relate to one or more existing and future trademark applications, changes, oppositions, invalidations, revocations and other relevant procedures.</p> <p>Any change to the power delegated to the agent shall have no effect if a written notice thereof is not submitted to the Registrar Office.</p> <p>Any change in the agent's address for service shall be reported to the Registrar Office by giving a written notice thereof.</p>
<p>第十條 商標註冊簿應登載下列事項：</p> <p>一、商標註冊號及註冊公告日期。</p> <p>二、商標申請案號及申請日。</p> <p>三、商標權人姓名或名稱、住居所或營業所；商標權人在國內無住居所或營業所者，其國籍或地區。</p> <p>四、代理人。</p> <p>五、商標種類、型態及圖樣為彩色或墨色。</p> <p>六、商標名稱、商標圖樣及商標描述。</p> <p>七、指定使用商品或服務之類別及名稱。</p> <p>八、優先權日及受理申請之國家或世界貿易組織會員；展覽會優先權日及展覽會名稱。</p>	<p>Article 10</p> <p>The Trademark Register shall contain the following entries:</p> <p>(1) the registration number and the date of publication of registration;</p> <p>(2) the application number and the filing date of the application;</p> <p>(3) the name and address of domicile or business establishment of the proprietor of a registered trademark;</p> <p>(4) <u>the agent</u>;</p> <p>(5) an indication that the mark is a trademark, a certification mark, a collective membership mark or a collective trademark; an indication of the type of the trademark, and an indication that the reproduction is "in color" or "in black and white";</p> <p>(6) the name, the reproduction and the description of the trademark;</p> <p>(7) the list of designated goods or services and the classes thereof;</p> <p>(8) the date of priority and the country or the member of the World Trade Organization (WTO) in which the first application was made; the date of</p>

<p>九、依本法第二十九條第二項及第三項、第三十條第一項第十款至第十五款各款但書及第四項規定註冊之記載。</p> <p>十、商標註冊變更及更正事項。</p> <p>十一、商標權之延展註冊，商標權期間迄日；延展註冊部分商品或服務者，其延展註冊之商品或服務及其類別。</p> <p>十二、商標權之分割，原商標之註冊簿應記載分割後各註冊商標之註冊號數；分割後商標之註冊簿應記載原商標之註冊號及其註冊簿記載事項。</p> <p>十三、減縮部分商品或服務之類別及名稱。</p> <p>十四、繼受商標權者之姓名或名稱、住所或營業所及其代理人。</p> <p>十五、被授權人姓名或名稱、專屬或非專屬授權、授權始日，有終止日者，其終止日、授權使用部分商品或服務及其類別及授權使用之地區；再授權，亦同。</p>	<p>exhibition priority and the name of the exhibition;</p> <p>(9) where the trademark is registered pursuant to Paragraph 2 or 3 of Article 29, the proviso of Subparagraphs 10 to 15 of Paragraph 1 of Article 30 or Paragraph 4 of the same article, that fact;</p> <p>(10) particulars as to changes and corrections of the trademark registration;</p> <p>(11) where the trademark right is renewed, the expiry date of the renewal period of the trademark right; where the trademark right is renewed in respect of only some goods or services, the list of such goods or services and the classes thereof;</p> <p>(12) where the trademark right is divided, the original registration in the Register shall contain the registration numbers of the divisional registrations, and the divisional registrations in the Register shall contain the registration number of the original registration as well as the entries of the original registration in the Register;</p> <p>(13) the list of goods or services restricted and the classes thereof;</p> <p>(14) the name and domicile or business establishment of the transferee of the trademark right, as well as its <u>agent</u>;</p> <p>(15) the name of the licensee; where the license is exclusive onion-exclusive, that fact; the date when the license took effect and, if any, will be terminated; where the license is for some of the designated goods or services for which such trademark is registered and for a particular locality, the list of such goods or services, the classes thereof and the name of that locality. These provisions shall also apply to sub-license;</p>
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<p>十六、質權人姓名或名稱及擔保債權額。</p> <p>十七、商標授權、再授權、質權變更事項。</p> <p>十八、授權、再授權廢止及質權消滅。</p> <p>十九、商標撤銷或廢止註冊及其法律依據；撤銷或廢止部分商品或服務之註冊，其類別及名稱。</p> <p>二十、商標權拋棄或消滅。</p> <p>二十一、法院或行政執行機關通知強制執行、行政執行或破產程序事項。</p> <p>二十二、其他有關商標之權利及法令所定之一切事項。</p>	<p>(16) the name of the pledgee and the amount of the claim secured by the pledge;</p> <p>(17) particulars of a change of a license, sub-license or pledge;</p> <p>(18) the extinguishment of a license, sub-license, and pledge;</p> <p>(19) the cancellation or revocation of the registration and the grounds thereof; where the cancellation or revocation is in respect of some goods or services, the list of such goods or services and the classes thereof;</p> <p>(20) the abandonment or extinguishment of trademark right;</p> <p>(21) particulars of compulsory execution, administrative execution or insolvency proceedings noticed by courts or administrative execution agencies;</p> <p>(22) any other particulars relevant to trademark rights and all other particulars prescribed by acts or regulations.</p>
<p>第十二條 申請商標註冊者，應備具申請書，聲明商標種類及型態，載明下列事項：</p> <p>一、申請人姓名或名稱、住居所或營業所、<u>國籍或地區</u>、<u>身分證明文件字號</u>；有代表人者，其姓名或名稱。</p> <p>二、委任代理人者，其姓名、<u>登錄字號</u>及住居所或營業所。</p> <p>三、商標名稱。</p> <p>四、商標圖樣。</p>	<p>Article 12</p> <p>An application for trademark registration shall be made by filing a written application containing a statement of the mark as a trademark, a certification mark, a collective membership mark or a collective trademark, as well as the type of the mark, and specifying the following:</p> <p>(1) the name, address of domicile or business establishment, the nationality or locality <u>and the ID number</u> of the applicant and, if any, the name of its representative;</p> <p>(2) if any, the name, <u>registration number</u> and address of domicile or business establishment of <u>agent</u>;</p> <p>(3) the name of the trademark;</p> <p>(4) the reproduction of the trademark;</p>

<p>五、指定使用商品或服務之類別及名稱。</p> <p>六、商標圖樣含有外文者，其語文別及<u>其意譯</u>。</p> <p>七、應提供商標描述者，其商標描述。</p> <p>八、依本法第二十條主張優先權者，第一次申請之申請日、受理該申請之國家或世界貿易組織會員及申請案號。</p> <p>九、依本法第二十一條主張展覽會優先權者，第一次展出之日期及展覽會名稱。</p> <p>十、有本法第二十九條第三項或第三十條第四項規定情形者，不專用<u>或不屬於商標一部分之聲明</u>。</p>	<p>(5) the list of designated goods or services and the classes thereof;</p> <p>(6) where the reproduction contains foreign languages, specification of the languages thereof <u>and the translation of the content</u>;</p> <p>(7) where a description is required, such description;</p> <p>(8) where the priority right is claimed pursuant to Article 20 of the Act, the date of filing the first application, the country or the member of the WTO in which the first application was made, and the application number of the first application;</p> <p>(9) where the exhibition priority is claimed pursuant to Article 21 of the Act, the date of the first display of the goods or services and the name of the exhibition;</p> <p>(10) where Paragraph 3 of Article 29 or Paragraph 4 of Article 30 of the Act is applicable, the disclaimer <u>or the statement regarding an element in the reproduction of a trademark is not a part of such trademark.</u></p>
<p>第十二條之一 本法第十九條第三項所稱欲從事其所指定商品或服務之業務者，指有將商標真實使用於所指定商品或服務之意圖。</p> <p>商標專責機關對於前項情形，於審查認有必要時，得通知申請人檢附相關證據說明之。</p>	<p>Article 12-1</p> <p><u>The term “intending to engage in business with regard to designated goods or services” as prescribed in Paragraph 3 of Article 19 of the Act refers to the intention to genuinely use the trademark on designated goods or services.</u></p> <p><u>When examining under the preceding paragraph, the Registrar Office may require the applicant to furnish related evidence with the explanation if it deems necessary.</u></p>
<p>第十三條 申請商標註冊<u>所載之商標名稱及商標圖樣</u>，應符合商標專責機關公告之格式。商標專責機關認有必要時，</p>	<p>Article 13</p> <p>The reproduction <u>and name</u> of the trademark <u>in the application</u> shall conform</p>

<p>得通知申請人<u>修正商標名稱或檢附商標描述及商標樣本</u>，以輔助商標圖樣之審查。</p> <p>商標圖樣得以虛線表現商標使用於指定商品或服務之方式、位置、<u>功能性部分</u>或內容態樣，並於商標描述中說明。該虛線部分，不屬於商標之一部分。</p> <p>第一項所稱商標描述，指對商標本身及其使用於商品或服務情形所為之相關說明。</p> <p>第一項所稱商標樣本，指商標本身之樣品或存載商標之電子載體。</p>	<p>to the format published by the Registrar Office. The Registrar Office may require the applicant to <u>amend the name of the trademark or</u> furnish a description and a specimen of the trademark, if it deems necessary to help the examination of the reproduction.</p> <p>Broken lines may be used in the reproduction to show the manner, placement, <u>functional elements</u> or context in which the trademark is used on the designated goods or services. The matter shown by the broken lines is not a part of the trademark.</p> <p>A description as prescribed in the first paragraph refers to the explanation of the trademark itself and the manner in which the trademark is used on the goods or services.</p> <p>A specimen as prescribed in the first paragraph refers to the sample of the trademark or the electronic data carrier that contains the stored representation of the trademark.</p>
<p>第十九條之一 申請商標註冊之加速審查者，應備具加速審查申請書，載明下列事項：</p> <p>一、商標申請案號。</p> <p>二、申請人姓名或名稱、住居所或營業所、國籍或地區、身分證明文件字號；有代表人者，其姓名或名稱。</p> <p>三、委任代理人者，其姓名、登錄字號及住居所或營業所。</p> <p>四、有即時取得權利之必要之事實及理</p>	<p>Article 19-1</p> <p><u>An application for registration seeking accelerated examination shall be made by filing an accelerated examination application specifying the following:</u></p> <p><u>(1) the application number;</u></p> <p><u>(2) the name, address of domicile or business establishment, the nationality or locality and the ID number of the applicant and, if any, the name of its representative;</u></p> <p><u>(3) if any, the name, registration number and address of domicile or business establishment of agent;</u></p> <p><u>(4) facts and reasons regarding the</u></p>

<p>由，並檢附相關證據。</p> <p>前項申請未繳納加速審查費者，視為未提出該申請。</p>	<p><u>necessity to seek rights approval promptly, along with related evidences.</u></p> <p><u>The application referred to in the preceding paragraph without the accelerated examination fee being paid shall be deemed not having been filed.</u></p>
<p>第十九條之二 本法第十九條第八項所稱有即時取得權利之必要，指有下列情形之一者：</p> <p>一、申請商標註冊所指定之全部商品或服務，已實際使用或就使用進行相當準備。</p> <p>二、申請商標註冊所指定之部分商品或服務，已實際使用或就使用進行相當準備，並在商業上有取得權利之必要性及急迫性。</p> <p>前項第二款所稱在商業上有取得權利之必要性及急迫性，指有下列情形之一：</p> <p>一、該申請商標遭第三人未經同意使用或就使用進行相當準備。</p> <p>二、因該申請商標之使用，收到第三人之侵權警告。</p> <p>三、第三人對該申請商標請求授權。</p> <p>四、該申請商標已規劃上市，並與合作廠商訂有銷售或經銷等相關合約。</p>	<p>Article 19-2</p> <p><u>The term “necessary to seek rights approval promptly” as prescribed in Paragraph 8 of Article 19 of the Act refers to any of the following:</u></p> <p><u>(1) the applicant has used the applied trademark, or prepared to a certain degree to use such mark, on all of the designated goods or services;</u></p> <p><u>(2) the applicant has used the applied trademark, or prepared to a certain degree to use such mark, on some of the designated goods or services, and it is necessary and urgent to seek rights approval for business.</u></p> <p><u>The term “necessary and urgent to seek rights approval for business” as prescribed in Subparagraph 2 of the preceding paragraph refers to any of the following:</u></p> <p><u>(1) a third party has, without the applicant’s consent, used the applied trademark, or prepared to a certain degree to use such mark;</u></p> <p><u>(2) the applicant has received a cease and desist letter from a third party claiming right infringement due to the applicant’s use of the applied trademark;</u></p> <p><u>(3) a third party requests the applicant to license the applied trademark;</u></p> <p><u>(4) the applicant has planned to launch the goods or services under the trademark applied for and signed the contracts related</u></p>

<p>五、該申請商標已規劃參展，並與參展單位訂有相關合約。</p> <p>六、其他足認商業上有取得權利之必要性及急迫性之情形。</p> <p>加速審查申請案得依第一項第二款及前項規定認定有即時取得權利之必要者，應以實際使用或就使用進行相當準備之指定商品或服務所屬類別為限；其他不具實際使用或就使用進行相當準備之類別，申請人就該類別之指定商品或服務應申請分割或減縮。</p>	<p>to marketing or distribution with business partners.</p> <p>(5) the applicant has planned to displayed goods or services under the trademark applied for at an exhibition and signed the contracts with the organizer of the exhibition.</p> <p>(6) any other circumstances indicating that it is necessary and urgent to seek rights approval for business.</p> <p>An accelerated examination application which is necessary to seek rights approval promptly under Subparagraph 2 of Paragraph 1 and the preceding paragraph shall only apply to the classes of the designated goods or services on which the applicant has used the applied trademark, or prepared to a certain degree to use such mark; regarding the classes of the designated goods or services on which the applicant has not used the applied trademark, or prepared to a certain degree to use such mark, the applicant shall request division or restriction (withdrawal) of such classes of the designated goods or services.</p>
<p>第二十八條 依本法第二十七條規定移轉商標註冊申請所生之權利，申請變更申請人名義者，應由繼受權利之人備具申請書，並檢附移轉契約或其他移轉證明文件。</p> <p>前項申請應按每一商標各別申請。但繼受權利之人自相同之申請人取得二以上商標申請權者，得於一變更申</p>	<p>Article 28</p> <p>A change to the name of applicant due to transfer of rights derived from an application for trademark registration pursuant to Article 27 of the Act shall be made by <u>the transferee through</u> filing a written request, as well as furnishing the contract or any other documents of proof of such transfer.</p> <p>A request referred to in the preceding paragraph shall be filed for a single application for registration. A single request</p>

<p>請案中同時申請之。</p> <p><u>第一項申請書應載明事項，準用第三十九條第一項規定。</u></p>	<p>shall be sufficient even where the change relates to more than one application, provided that the applicant and the transferee are the same for each application.</p> <p><u>Paragraph 1 of Article 39 shall apply <i>mutatis mutandis</i> to the specifications of a request referred to in Paragraph 1.</u></p>
<p>第三十四條之一 商標註冊申請案於處分或審定前，任何人對於該商標有不得註冊之情形，得提出第三人意見書，載明下列事項：</p> <p>一、申請案號。</p> <p>二、涉有商標法第二十九條第一項、第三項、第三十條第一項、第四項或第六十五條第三項之不得註冊情形及其相關事證。</p> <p>商標專責機關未將前項意見書引證資料通知申請人限期陳述意見者，不得作為據以核駁審定之事實及理由。</p> <p>第三人提出意見書後，商標專責機關不須就該意見書之處理情形及該商標申請註冊案之審查情形，通知該第三人。</p>	<p>Article 34-1</p> <p><u>Any third party may submit his/her opinion on the ground for refusal of a trademark application for registration before the disposition is rendered, and specifying the following:</u></p> <p><u>(1) the application number;</u></p> <p><u>(2) grounds for refusal under Paragraphs 1 or 3 of Article 29, Paragraphs 1 or 4 of Article 30, or Paragraph 3 of Article 65 with related facts and evidence.</u></p> <p><u>Information cited from the opinion referred to in the preceding paragraph shall not be used as facts and grounds for rendering a disposition of refusal unless the Registrar Office notifying the applicant, who may make observations within the prescribed period.</u></p> <p><u>When an opinion has been submitted by a third party, the Registrar Office is not obliged to notify that party regarding the process of such opinion or the examination of the said trademark application.</u></p>
<p>第三十八條 申請商標授權登記者，應由商標權人或被授權人備具申請書，載明下列事項：</p> <p>一、商標權人及被授權人之姓名或名</p>	<p>Article 38</p> <p>A request to record a trademark license in the Register shall be made by the proprietor of the registered trademark or the licensee by filing a written request specifying the following:</p> <p>(1) the name, address of domicile or</p>

<p>稱、住居所或營業所、國籍或地區、<u>身分證明文件字號</u>；有代表人者，其姓名或名稱。</p>	<p>business establishment, nationality or locality <u>and the ID number</u> of the proprietor of such registered trademark and the licensee, and, if any, the name of representative;</p>
<p>二、委任代理人者，其姓名、<u>登錄字號</u>及住居所或營業所。</p>	<p>(2) if any, the name, <u>registration number</u> and address of domicile or business establishment of agent;</p>
<p>三、商標註冊號數。</p>	<p>(3) the registration number of such registered trademark;</p>
<p>四、專屬授權或非專屬授權。</p>	<p>(4) where the license is exclusive or non-exclusive, that fact;</p>
<p>五、授權始日。有終止日者，其終止日。</p>	<p>(5) the date when the license took effect and, if any, will be terminated;</p>
<p>六、授權使用部分商品或服務者，其類別及名稱。</p>	<p>(6) where the license is for some of the designated goods or services for which such trademark is registered, the list of such goods or services and the classes thereof;</p>
<p>七、授權使用有指定地區者，其地區名稱。</p>	<p>(7) where the license is for a particular locality, the name of that locality.</p>
<p>前項授權登記由被授權人申請者，應檢附授權契約或其他足資證明授權之文件；由商標權人申請者，商標專責機關為查核授權之內容，亦得通知檢附前述授權證明文件。</p>	<p>Where the recordal of license in the Register referred to in the preceding paragraph is requested by the licensee, the licensing contract or any other document to prove such license shall be submitted; where the recordal of license in the Register is requested by the proprietor of such trademark, the Registrar Office may, for checking the content of license, give such proprietor a notice to submit the aforementioned document to prove such license.</p>
<p>前項申請，應按每一商標各別申請。但商標權人有二以上商標，以註冊指定之全部商品或服務，授權相同之人於相同地區使用，且授權終止日相同或皆未約定授權終止日者，得於一授權申請案中同時申請之。</p>	<p>A request referred to in the preceding paragraph shall be filed for a single registration. A single request shall be sufficient even where the license relates to more than one registration, provided that the proprietor and the licensee are the</p>

<p>申請商標再授權登記者，準用前三項規定，除本法第四十條第一項本文規定之情形外，並應檢附有權為再授權之證明文件。</p> <p>再授權登記使用之商品或服務、期間及地區，不得逾原授權範圍。</p>	<p>same for all registrations, all of the designated goods or services are licensed to be used in the same locality for all registrations, and the expiry dates of the license with respect to all registrations are the same or no expiry date of the license has been arranged by both parties for all registrations.</p> <p>The three preceding paragraphs shall apply <i>mutatis mutandis</i> to a request to record a trademark sub-license in the Register. Unless otherwise prescribed in Paragraph 1 of Article 40 of the Act, such request shall be made with the submission of documents proving that the person who requested is entitled to sub-license.</p> <p>The designated goods or services and locality in respect of a recordal of a trademark sub-license in the Register shall not go beyond the scope of the original license.</p>
<p>第三十九條 申請商標權之移轉登記者，應由商標權之繼受人備具申請書，並檢附移轉契約或其他移轉證明文件，載明下列事項：</p> <p>一、權利繼受人之姓名或名稱、住居所或營業所、國籍或地區、身分證明文件字號；有代表人者，其姓名或名稱。</p> <p>二、委任代理人者，其姓名、登錄字號及住居所或營業所。</p> <p>三、商標註冊號數。</p>	<p>Article 39</p> <p>A request to record a transfer of trademark right in the Register shall be made by <u>the transferee through</u> filing a written request, and furnishing the contract or any other document of proof of such transfer, <u>as well as specifying the following:</u></p> <p><u>(1) the name, address of domicile or business establishment, nationality or locality and the ID number of the transferee, and, if any, the name of representative;</u></p> <p><u>(2) if any, the name, registration number and address of domicile or business establishment of agent;</u></p> <p><u>(3) the registration number of such registered trademark.</u></p>

<p>前項申請，應按每一商標各別申請。但繼受權利之人自相同之商標權人取得二以上商標權者，得於一移轉申請案中同時申請之。</p>	<p>A request referred to in the preceding paragraph shall be filed for a single registration. A single request shall be sufficient even where the transfer relates to more than one registration, provided that the proprietor and the transferee are the same for each registration.</p>
<p>第四十八條 證明標章、團體標章及團體商標，依其性質準用本細則關於商標之規定。<u>但第十九條之一及第十九條之二規定，不準用之。</u></p>	<p>Article 48</p> <p>The provisions relating to trademarks in these Rules, <u>except Articles 19-1 and 19-2,</u> shall apply <i>mutatis mutandis</i> to certification marks, collective membership marks and collective trademarks.</p>
<p>第五十條 本細則自發布日施行。</p> <p><u>本細則中華民國一百十三年五月一日修正發布條文，自一百十三年五月一日施行。</u></p>	<p>Article 50</p> <p>These Rules shall come into effect from the date of promulgation.</p> <p><u>The articles of these Rules amended and promulgated on May 1, 2024 are enforced on the same day.</u></p>