
TRADEMARK LAW OF THE DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA

Adopted by Decision No. 106 of the Standing Committee of the Supreme People's Assembly on January 14, 1998, amended by Decree No. 483 of the Presidium of the Supreme People's Assembly on February 26, 1999, amended by Decree No. 1235 of the Presidium of the Supreme People's Assembly on August 2, 2005, amended by Decree No. 2614 of the Presidium of the Supreme People's Assembly on March 11, 2008, amended by Decree No. 1703 of the Presidium of the Supreme People's Assembly on June 13, 2011 and amended by Decree No. 2052 of the Presidium of the Supreme People's Assembly on December 21, 2011

Chapter 1 Fundamentals

Article 1 (Objective)

This Law is enacted for the purpose of providing strict guidelines for the application for the registration of a trademark, examination thereof and the protection of trademark rights, thereby protecting the interests of institutions, enterprises, organizations and citizens.

Article 2 (Definition, classification)

A trademark is a mark that highlights the identity of a commodity or service by means of a letter, picture, number, symbol, colour or three-dimensional shape, or combination thereof for the purpose of distinguishing it from the equivalent commodity or service of another producer or service provider.

A trademark includes a goods trademark, a service trademark, a group trademark, a certification trademark, a guaranty trademark and the like.

Article 3 (Principle of application for registration)

Application for trademark registration is the first step in the trademark administration.

The State shall ensure that procedures for the registration of a trademark are properly established and strictly observed.

Article 4 (Principle of examination for registration)

It is the basic duty of the trademark registration organ to responsibly examine an application for the registration of a trademark.

The State shall enhance the responsibility and role of the trademark registration organ to ensure objectivity and impartiality in the examination of trademarks.

Article 5 (Protection of trademark right)

The DPRK consistently maintains the policy of protecting the trademark right.

The State shall ensure that the trademark rights possessed by institutions, enterprises, organizations and citizens are protected by law and famous trademarks are maintained.

Article 6 (Administration on modern and scientific basis)

The State shall ensure that formative artistic representation of trademark is applied and trademark-related work is administered on a modern and scientific basis as required by the developing national economy and the increasing goods production and service categories.

Article 7 (Exchange and cooperation)

The State shall promote exchange and cooperation with international organizations and foreign countries in the field of trademark administration.

Chapter 2 Application for Trademark Registration

Article 8 (Submission of application)

Proper application for trademark registration is an important condition for the improvement of the examination of trademarks.

Institutions, enterprises, organizations and citizens that wish to apply for the registration of a trademark shall prepare an application for submission to the trademark registration organ.

Article 9 (Contents of application, accompanying documents)

An application for the registration of a trademark shall specify the applicant's name, address, description of goods or service, and shall be accompanied by the sample trademark and a notarial document concerning the business license.

Article 10 (Manner of submission of application)

An application for a trademark registration shall be submitted directly or by post to the trademark registration organ by the institution, enterprise, organization or a citizen concerned.

In unavoidable circumstances, an application for trademark registration may be sent by telex, fax or other telecommunication means.

Article 11 (Application by foreigner)

Foreign institutions, enterprises, organizations and citizens that wish to have their trademark registered in the DPRK shall, through their agency, submit an application prepared in Korean language to the trademark registration organ. In this case, the agency shall present a letter of attorney.

Article 12 (Application to foreign country)

Institutions, enterprises, organizations and citizens may, through an international organization or an agency concerned, register in a foreign country the trademark that has been registered with the trademark registration organ. In this case approval shall be obtained from the trademark registration organ.

Article 13 (Notification of receipt of application)

The trademark registration organ shall inform the institutions, enterprises, organizations and citizens of receipt of their application.

Article 14 (Rectification of errors)

In case any error is found in an application, the trademark registration organ shall send the application back or have the errors rectified within 3 months of receipt thereof.

In case the error is not rectified within 3 months for unavoidable reasons, the term may be extended by 2 months.

Article 15 (Date of application)

The date of application for trademark registration shall be the date of receipt by the trademark registration organ of the written application for trademark registration.

Even in case where an error in an application for trademark registration has been rectified, the date of application shall be the date when the trademark registration organ first received the written application.

Article 16 (Priority to application)

Where a trademark is presented at an exhibition or a show, the institution, enterprise, organization or a citizen concerned shall have a priority to the application for the registration of the trademark concerned.

The document requiring priority shall be submitted to the trademark registration organ within 3 months of exhibiting the trademark concerned at an exhibition or a show.

Article 17 (Validity of priority to application by foreign corporate bodies and citizens)

The priority of application for trademark registration received by institutions, enterprises, organizations and citizens in their countries or others shall be effective only when the relevant document is submitted to the trademark registration organ of the DPRK within 6 months of receipt thereof.

Article 18 (Re-application for trademark registration)

An application may be filed again for the trademark the registration of which has been rejected or the term of protection has expired.

Chapter 3 Examination of Trademark for Registration

Article 19 (Term of examination)

Examination of a trademark to be registered is an important work of examining and dealing with the written applications for trademark registration.

The trademark registration organ shall examine an application for trademark registration within 6 months of receipt thereof.

Article 20 (Request for information)

The trademark registration organ may require the institutions, enterprises, organizations and citizens that have applied for trademark registration to present the information necessary for the examination of the trademark to be registered.

The institutions, enterprises, organizations and citizens that have applied for trademark registration shall provide the trademark registration organ with the required information in time.

Article 21 (Prohibition)

The following marks and signs shall not be registered as a trademark:

1. Marks identical with or similar to the trademark that has been registered;
2. Marks made of a country name or its abbreviation, or of the form identical with or similar to a national emblem, flag, order or medal;
3. Marks that are contrary to the laws, public morals, manners and customs of the DPRK;
4. Marks that misrepresent the goods or service;
5. Signs that are no more than the inscription of the name, composition, characteristics of goods;

6. Inspection marks or the simple numerical or geometric signs;
7. Marks identical with or similar to the trademark that was exhibited at exhibitions and shows;
8. Marks made of the mark of the international organization which the DPRK has acceded to or the marks running counter to international law and practices;
9. Marks identical with or similar to a widely known or famous trademark; and
10. Marks or inscriptions for whose application for registration was submitted by a country or region that are not friendly to the DPRK.

Article 22 (Examination of trademarks applied for registration)

The trademark registration organ shall examine the trademarks applied for registration and decide either on approval or rejection.

The results of examination shall be notified to the applicant institutions, enterprises, organizations and citizens.

Article 23 (Issuance or re-issuance of certificate, announcement of registered trademark)

The trademark whose registration has been decided shall be entered into the State trademark register and a trademark registration certificate issued to the applicant institution, enterprise, organization and citizen.

A new trademark registration certificate shall be issued in case a certificate is lost or soiled.

The registered trademarks shall be made public through the official bulletin of trademarks.

Article 24 (Lodging complaints)

Institutions, enterprises, organizations and citizens may, if any, lodge complaints with the trademark registration organ against a trademark to be registered or already registered within 1 year of filling an application for trademark registration.

The trademark registration organ shall consider the complaints and notify the results in writing to the institution, enterprise, organization or a citizen that lodged a complaint, submitted an application for registration or had a trademark registered.

Article 25 (Request for reexamination)

The institutions, enterprises, organizations and citizens whose application for trademark registration has been rejected may request for reexamination within 6 months of receipt of the notification thereof.

The trademark registration organ shall consider the request and notify the institution, enterprise, organization or citizen concerned of the result.

The decision concerning reexamination shall be valid if no other complaint is lodged within 2 months from the date of its announcement.

Article 26 (Complaint about results of reexamination)

The institutions, enterprises, organizations or citizens that are aggrieved at the decision concerning reexamination may lodge a complaint with the non-standing trademark examination committee within 2 months of notification thereof.

The non-standing trademark examination committee shall consider the complaint and notify the results to the trademark registration organ and the complainant institution, enterprise, organization or a citizen.

Chapter 4 Protection of Trademark Right

Article 27 (Basic requirements of protection of trademark right)

Protection of trademark right is an important part of the trademark administration.

The trademark registration organ and the competent institution shall provide full protection so that the interests of the institutions, enterprises, organizations and citizens that hold trademark rights are not infringed upon.

Article 28 (Holder of trademark right)

The trademark right shall be held by the institutions, enterprises, organizations or citizens that had a trademark registered with the trademark registration organ.

The trademark right that was registered under a joint name shall be held jointly.

Article 29 (Right of trademark holder)

A holder of trademark right shall have the right to:

1. Use the registered trademark;
2. Transfer or authorize the use of the whole or a part of the registered trademark;
3. Demand an end to any infringement upon the trademark right and to claim indemnity; and
4. Revoke the registration of a trademark.

Article 30 (Transfer)

Institutions, enterprises, organizations and citizens that wish to be transferred a trademark right shall draft a document to that effect for submission to the trademark registration organ. In this case agreement shall be obtained from the transferor institution, enterprise, organization or citizen and a certificate of trademark registration shall be attached thereto.

The trademark registration organ shall enter the particulars of transfer into the State trademark register and issue a certificate of trademark registration to the institution, enterprise, organization or citizen that has been transferred the trademark right.

The transfer of trademark right shall be effective from the date when the transfer is registered with the trademark registration organ.

Article 31 (Authorization to use trademark)

The institutions, enterprises, organizations and citizens that hold the trademark right may authorize other institutions, enterprises, organizations and citizens to use the registered trademark. In this case a contract to that effect shall be concluded and the relevant document submitted to the trademark registration organ.

The trademark registration organ shall register the particulars of authorization in the State trademark register and issue a certificate of authorization to the institution, enterprise, organization or citizen that had obtained the authorization.

Article 32 (Right to control quality of goods or service)

The institution, enterprise, organization and citizen using a trademark shall be responsible for the quality of the goods or service on which the trademark concerned is used.

The institutions, enterprises, organizations and citizens that hold a trademark right shall be entitled to control the quality of a goods or service that they have given authorization to use.

Article 33 (Prohibition of transfer or license)

The trademark right shall not be transferred to nor be authorized to use by the institutions, enterprises, organizations or citizens that are not duly qualified.

Article 34 (Term of protection)

The term of protection of trademark right shall be 10 years from the date of application for registration.

The term of protection may, upon application by the institutions, enterprises, organization and citizens that hold the trademark right, may be extended by 10 years each time.

Article 35 (Extension of term of protection)

Institutions, enterprises, organizations or citizens that wish to have the term of protection extended, shall file an application with the trademark registration organ.

Article 36 (Term of submission of application for extension)

An application for the extension of the term of trademark right protection shall be filed within 6 months before the expiry of the term.

In an unavoidable situation, the application for extending the term of trademark right protection may be filed within 6 months after the expiry.

Article 37 (Alteration of registration)

The institutions, enterprises, organizations and citizens that hold trademark rights shall file with the trademark registration organ an application for change of the name, address and the like during the term of protection. In this case a certificate of trademark registration shall also be submitted.

The trademark registration organ shall register the particulars of change in the State trademark register and issue a new certificate.

Article 38 (Revocation of trademark right)

The institutions, enterprises, organizations and citizens that wish to revoke their trademark rights shall file an application with the trademark registration organ. In this case, a trademark registration certificate shall be surrendered.

Article 39 (Invalidity)

Where trademark registration is revoked or a trademark is not used for 5 years from the date of registration, the trademark right shall be invalid.

Chapter 5 Guidance and Control of Trademark Administration

Article 40 (Basic requirements)

To strengthen guidance and control of trademark administration is an essential requirement of the improvement of the quality of the goods and the protection of the trademark rights.

The State shall strengthen guidance and control of trademark administration.

Article 41 (Guidance organ)

Trademark administration shall be placed under the guidance of the central trademark administration organ under the unified direction of the Cabinet.

The central trademark administration organ shall settle complaints and disputes related to the guidance of trademark administration, examination and registration of trademarks through the non-standing trademark examination committee.

Article 42 (Announcement of trademark-related records)

The trademark registration organ shall ensure that trademarks are designed good to see, handy to use and proper to the characteristics of the goods and the taste of the user. In this case the standards prescribed by the State and international practice shall be observed.

The trademark registration organ shall regularly make public the records of application for registration, status of registration and alteration, renewal, transfer, authorization to use and revocation thereof.

Article 43 (Material and technical foundations, training of personnel)

The central trademark administration organ, the relevant scientific research and educational institutions shall conduct in a far-sighted way the work of laying strong material and technical foundations and systematically train the personnel needed for trademark administration.

Article 44 (Prohibition of illegal acts)

Institutions, enterprises, organizations and citizens shall not make, publish, print, sell or buy illegal trademarks nor sell, export or import the goods with false or sham trademarks, or without trademarks.

Article 45 (Fees)

The institutions, enterprises, organizations and citizens concerned shall pay fees prescribed for trademark administration.

The fees shall be prescribed by the central price fixing institution.

Article 46 (Supervision and control)

Trademark administration work shall be supervised and controlled by the trademark registration organ and the competent supervisory and control organs.

The trademark registration organ and the competent supervisory and control organs shall exercise strict supervision and control so that the institutions, enterprises, organizations and citizens may strictly follow the procedures for applying for trademark registration and examination and not infringe upon trademark rights.

Article 47 (Compensation, forfeiture, suspension of business)

Where the interests under trademark rights of institutions, enterprises, organizations and citizens are infringed upon, false or sham trademarks are designed, printed, used or sold, the damage caused shall be compensated for and the trademarks and commodities used for illegal acts confiscated or the business suspended.

Article 48 (Suspension of production of goods or service provision, revocation of registration)

In case a trademark right is illegally transferred or authorized to use, or a registered trademark is used in a changed form, the production of the goods or provision of service concerned may be suspended or the registration of the trademark revoked.

Article 49 (Administrative or penal liability)

Officials of the institutions, enterprises and organizations, as well as individual citizens that are responsible for the grave consequences caused through their violation of this Law shall, depending on the gravity of offence, be liable to administrative or penal liability.

Article 50 (Settlement of disputes)

Any dispute concerning the trademarks shall be settled through consultation.

In case of failure in consultation the dispute shall be referred to the trademark registration organ or the non-standing trademark examination committee for settlement.

In case no settlement is effected by the trademark registration organ or the non-standing trademark examination committee, the dispute shall be submitted to a court or an arbitration organ for settlement.