

## [New Amendments to the Korean Trademark Act in 2013]

### 1. Improved Procedures for Non-Use Cancellation Trial (Articles 7 and 8))

Effective starting October 6, 2013, when the decision for a non-use cancellation trial is made, the similarity between the mark filed for trademark registration and the registered mark will be decided on the 'date of registrability decision', not the 'filing date'. Thus, in case that the registered mark is cancelled, applicants are no longer required to take unnecessary steps for re-filing their trademark applications, hence improving their accessibility to register trademarks.

Further, the "6 months priority period" given to the prevailing petitioner has been abrogated; instead, the new amendment obliges applicants to file their trademark applications before the date of a non-use cancellation trial in hopes of preventing abuse and ill-use of filing dates between multiple applicants.

In all, applicants will be able to save considerable amounts of time, approximately about 9 months usually spent on a non-use cancellation action to reach the stage conclusion of, and extra money spent on not having to re-file their trademark applications. Also contriving with a third party to avoid a non-use cancellation of a registered mark and in turn damaging a proper applicant requesting for the cancellation trial will no longer be an issue, and thus these improvements are expected to put out fair practice of trademark rights and use

in Korea.

## 2. New Method Introduced to Help Reclaim Rights after Missing the Designated Period to Submit a Response to Office Action (Articles, 23, 46, and 48) )

Going into effect on October 6, 2013, a trademark applicant who misses the deadline to submit a written argument will be granted extra 2 months to submit a written request to continue to the response procedure and the written argument, which furnishes more accessibility and convenience.

## 3. Better Support for Trade name Users' Rights to Use Registered Trademarks (Article 57))

Because both trademarks and trade names can be used as company names, it is difficult to distinguish their different, unclear nature and rights, occasionally even leading a trademark owner and a trade name user to dispute over their rights to use the same mark.

Starting October 16, 2013, a trade name user of a mark that is identical to a registered trademark will be protected so as to continue using the mark as their trade name, as long as the trade name user has been using the mark since the filing date of the registered trademark and it does not raise unfair competition.

Therefore, small business owners will be protected from those who exploit the trademark policies and raise disputes for wrongful gains, and thus these improvements are expected to put out fair practice of trademark rights and use in Korea.

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