

CHAPTER I

GENERAL PROVISIONS

Article 1 Purpose

The purpose of this Act is to ensure the maintenance of the business reputation of persons using trademarks by protecting trademarks so as to contribute to the development of industry and to protect the interests of consumers.

Article 2 Definitions

(1) The definitions of terms used in this Act are as follows:

- (i) "trademark" is defined as either of the following (referred to as "a mark") that is used on goods related to the business of a person who conducts business activities, such as producing, processing, certifying or selling such goods, to distinguish them from the goods of others;
 - (a) a sign, a character, a figure, a three-dimensional shape or any combination of these; or
 - (b) any combination of color with any of the items of subparagraph (a) of this paragraph;
- (ii) "service mark" means a mark used by a person who conducts a service business to distinguish the service business from the service businesses of others;
- (iii) "collective mark" means a mark intended to be used for the goods or services of members of a legal entity founded by and composed of persons who are in the same line of business, closely associated with the same line of business and who are controlled by the legal entity;
- (iv) "business emblem" means a mark used by a person conducting a nonprofit business to indicate the person's business;

- (v) "registered trademark" means a trademark for which trademark registration has been granted; and
- (vi) "use of a trademark" means any of the following acts:
 - (a) using trademarks on goods or their packaging;
 - (b) selling or delivering goods or their packaging on which trademarks have been used, or displaying, exporting or importing such goods or their packaging for the purposes of selling or delivering; or
 - (c) using a trademark on advertisements, price lists, business papers, signboards or labels, or displaying or distributing them.

(2) Acts of using a trademark on goods or their packaging, advertisements, signboards or labels under paragraph(1)(vi)(a) to (c) of this Article include using goods or their packaging, advertisements, signboards or labels as shapes of marks.

(3) Except as otherwise stipulated in this Act, the provisions in this Act related to trademarks apply to service marks, collective marks and business emblems.

Article 3 Persons Entitled to Register a Trademark

A person who uses or intends to use a trademark in the Republic of Korea is entitled to trademark registration; however, employees of the Korean Intellectual Property Office or employees of the Intellectual Property Tribunal are not entitled to register trademarks during their employment at the office or tribunal except in the case of inheritance or a bequest.

Article 4 Persons Entitled to Register a Business Emblem

Any person who conducts a nonprofit business in the Republic of Korea is entitled to register a business emblem.

Article 5 *Mutatis Mutandis* Application of the Patent Act

Articles 3 to 26 and 28 to 28^{quinqies} of the Patent Act apply *mutatis mutandis* to trademarks. In such cases, "Article 132^{ter}" in Articles 6, 11(1)(iv), 15(1) and 17 of the Patent Act reads "Article 70^{bis} or 70^{ter}", "patent right and patent" in the proviso of Article 28(2) of the Patent Act reads "trademark right and trademark" and "international application under Article 2(vii) of the Patent Cooperation Treaty (referred to as an 'international application')" reads "international application under Article 2(2) of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (referred to as 'an international application'). (The Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks is referred to as 'the Protocol')".

CHAPTER II

REQUIREMENTS FOR TRADEMARK REGISTRATION AND TRADEMARK APPLICATIONS

Article 6 Requirements for Trademark Registration

- (1) Trademark registration may be obtained except in the following cases:
- (i) where the mark consists solely of a sign indicating, in a common way, the usual name of the goods;
 - (ii) where the mark is customarily used on the goods;
 - (iii) where the mark consists solely of a sign indicating, in a common way, the origin, quality, raw materials, efficacy, use, quantity, shape (including shape of packaging) or price of the goods, or the method or time of manufacturing, processing or using them;
 - (iv) where the mark consists solely of a sign indicating a conspicuous