

## **Non-Registrable and Refused Mark**

### **Article 20**

Mark cannot be registered if it:

- a. contradicts to the State ideology, laws and regulations, morality, religion, decency, or public order;
- b. is similar to, related to, or merely mentioning the goods and/or services being applied for registration;
- c. contains any element which may mislead the public in respect to its origin, quality, type, size, variety, intended use of goods and/or services being applied for registration or constitute a name of protected plant variety for similar goods and/or services;
- d. contains description that does not correspond to quality, or efficacy of produced goods and/or services;
- e. is devoid of any distinctive character; and/or
- f. constitutes a generic name and/or public sign.

### **Article 21**

(1) An Application is refused if the Mark is substantively similar to or identical with:

- a. a prior registered Mark of other parties or prior Mark application in respect of similar goods and/or services;
- b. a well-known Mark of other parties for similar goods and/or services;
- c. a well-known Mark of other parties for different goods and/or services complying with certain requirements; or
- d. a registered Geographical Indication.

(2) An application is refused if the Mark:

- a. constitutes or is similar to name or initial of a well-known individual, photograph, or name of legal entity owned by other person, unless under a written consent from its proprietary;
- b. constitutes as duplication or is similar to name or initial, flag, symbol or State emblem, or both national and international agency, unless under a written consent from the authorities; or
- c. constitutes as duplication or is similar to official signs or seal or stamp used by a country or Government agency, unless under a written consent from the authorities.

(3) An Application is refused if it is submitted by an Applicant in bad faith.

(4) Further provisions regarding the refused Mark Application as referred to in section (1) point a to point c are regulated by a Ministerial Regulation.

## **Article 22**

In respect of any registered Mark which becomes a generic name, any Person may file for Mark Application by using that generic name with additional wording to the extent that it contains distinctive elements.

## **OPPOSITION AND RESPONSE (REBUTTAL)**

### **Article 16**

- (1) Within a period of publication, any party may file an **opposition** in writing to the Minister in respect of the Application being filed and is subject to fee.
- (2) The opposition may be filed provided that there are adequate reasons supported by evidence that the Mark being applied cannot be registered or is refused under this Law.
- (3) In the event that there is an opposition, not later than 14 (fourteen) Days as from the date of receipt of opposition, a copy of the letter stating the opposition is delivered to the Applicant or his/her Proxy.

### **Article 17**

- (1) Applicant or his/her Proxy is entitled to submit a **rebuttal** to the opposition to the Minister.
- (2) The rebuttal is submitted in writing not later than 2 (two) months as from the Mailing Date of opposition to the Minister.

## **Substantive Examination of Mark**

### **Article 23**

- (1) Substantive examination is an examination carried out by the Examiner to Application for registration of Mark.
- (2) Any **opposition** and/or **rebuttal** as referred to in Article 16 and Article 17 are considered during the substantive examination as referred to in section (1).
- (3) In the event that there is no opposition within a period of not later than 30 (thirty) Days as from the expiration date of publication, substantive examination is carried out to the Application.
- (4) In the event that there is opposition within a period of not later than 30 (thirty) Days as from the expiration date of time limit of submitting a defense as referred to in Article 17, substantive examination is carried out to the Application.
- (5) The substantive examination as referred to in section (3) and section (4) is completed within a period of not later than 150 (a hundred and fifty) Days.
- (6) In the event that it is deemed necessary to carry out substantive examination, experts in Mark examination who are not Examiners may be appointed.
- (7) Results of the substantive examination carried out by the experts in Mark examination who are not Examiners as referred to in section (6),

may be regarded the same as the result of the substantive examination carried out by Examiner, with the approval from the Minister.

### **PROVISIONAL REFUSAL (OBJECTION/OFFICE ACTION) AND RESPONSE:**

#### **Article 24**

(1) In the event that Examiner decides that the Application may be registered, the Minister will:

- a. register the Mark;
- b. notify the Applicant or his/her Proxy regarding the registration of his/her Mark;
- c. issue the Mark certificate; and
- d. publish the Mark registration in Mark Gazette, electronically or non-electronically.

**(2) In the event that Examiner decides that the Application cannot be registered or is refused, the Minister notifies the Application or his/her Proxy in writing with reasons.**

**(3) Within a period of not later than 30 (thirty) Days as from the Mailing Date of the notification as referred to in section (2), the Applicant or his/her Proxy may submit a response in writing with reasons.**

### **FINAL REFUSAL AND APPEAL**

#### **Article 24**

**(4) In the event that the Applicant or his/her Proxy does not submit any response as referred to in section (3), the Minister will refuse the Application.**

**(5) In the event that the Applicant or his/her Proxy submits the response as referred to in section (3) and the Examiner decides that the response is acceptable, the Minister will exercise provisions as referred to in section (1).**

**(6) In the event that the Applicant or his/her Proxy submits responses as referred to in section (3) and the Examiner decides to reject the response, the Minister will refuse the Application.**

(7) The refusal as referred to in section (4) and section (6) is notified in writing to the Applicant or his/her Proxy with reasons.

(8) In the event that there is opposition as referred to in Article 16, the Minister will send a copy of notification for registration or refusal to the party filing for opposition.

### **APPEAL AGAINST FINAL REFUSAL**

#### **Article 28**

(1) **Appeal** may be filed against a refused Application based on the grounds as referred to in Article 20 and/or Article 21.

(2) Appeal is filed in writing by the Applicant or his/her Proxy **to the Mark Appeal Commission** with a copy to the Minister and is subject to fee.

(3) The Appeal must be submitted by detailing any objection to and reason for application refusal.

(4) The reason as referred to in section (3) is not considered as correction or revision of the refused Application.

### **Article 29**

(1) Appeal against a refused Application is filed within a period of not later than 90 (ninety) Days as from the Mailing Date of the notification for refusal.

(2) In the event that the appeal as referred to in section (1) is not filed, the refusal will be deemed to be accepted by the Applicant.