Unofficial Translation

TRADEMARK ACT
B.E. 2534 (1991)

BHUMIBOL ADULYADEJ, REX;
Given on the 28<sup>th</sup> Day of October B.E. 2534;
Being the 46<sup>th</sup> Year of the Present Reign.

His Majesty King Bhumibol Adulyadej is graciously pleased to proclaim that:

Whereas it is expedient to revise the law on trademark;

Be it, therefore, enacted by the King, by and with the advice and consent of the National Assembly, as follows:

Section 1. This Act is called the “Trademark Act B.E. 2534”.

Section 2. This Act shall come into force after ninety days from the date of its publication in the Government Gazette.

Section 3. The followings shall be repealed:
(1) The Trademark Act B.E. 2474;
(2) The Trademark Act (No. 3) B.E. 2504

All other laws, rules and regulations insofar as they are provided for herein or are contrary to or inconsistent with the provisions hereof shall be superseded by this Act.
Section 4. In this Act:

“Mark” \(^3\) means a photograph, drawing, graphic, logo, name, word, statement, alphabet, number, signature, group of colors, shape or configuration of an object or any one or combination thereof;

“Trademark” means a mark used or is to be used on or is in connection with goods to distinguish the goods with which the trademark of the owner of such trademark is used from goods under another person’s trademark;

“Service mark” means a mark used or is to be used on or is in connection with services to distinguish the service with which the service mark of the owner of such service is used from services under another person’s service mark;

“Certification mark” means a mark used or is to be used by the owner thereof on or in connection with goods or services of another person to certify the origin, composition, method of production, quality or other characteristics of such goods or to certify as to the nature, quality, type or other characteristics of such services;

“Collective mark” means a trademark or service mark used or is to be used by companies or enterprises of the same group or by members of an association, cooperative, union, confederation, group of persons or any other state or private organizations;

“Licensee” means a person licensed under this Act by the owner of a registered trademark or service mark to use such trademark or service mark;

“Competent official” \(^4\) means the person appointed by the Minister to perform under this Act;

“Registrar” means the person appointed by the Minister to be a registrar for the execution of this Act;

“Director-General” \(^5\) means the Director-General of the Department of Intellectual Property;

“Board” means the Trademark Board;

“Minister” means the Minister having charge and control of the execution of this Act.

\(^3\) Section 4 the definition of “mark” was amended by the Trademark Act (No.2) B.E. 2543.

\(^4\) Section 4 the definition of “Competent official” was added by the Trademark Act (No.2) B.E. 2543.

\(^5\) Section 4 the definition of “Director-General” was amended by the Trademark Act (No.2) B.E. 2543.

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Section 5. The Minister of Commerce shall have charge and control of the execution of this Act and shall have the power to appoint the Registrar and competent officials, issue ministerial regulations prescribing fees no higher than those given in the schedule annexed hereto and prescribing other matters and issue notifications in order to carry out the provisions of this Act.

Ministerial Regulations and Notifications shall come into force after the publications in the Government Gazette.

CHAPTER I
Trademark

Part I
Registration of Trademark

Section 6. Registrable trademarks shall have the following characteristics:
(1) be a distinctive trademark;
(2) not be a trademark prohibited under this Act;
(3) not be identical with or similar to a trademark already registered by another person.

Section 7. A distinctive trademark is a trademark which enables the public or users to distinguish the goods with which the trademark is used from other goods.

A trademark having or consisting of any one of the following essential characteristics shall be deemed distinctive:
(1) a personal name, surname of a natural person which is not a surname understandable by an ordinary meaning, a full name of a juristic person in accordance with the law on such matter or a trade name which is represented in a special manner and has no direct reference to the characteristics or natures of the goods;

6 Section 5 paragraph one was amended by the Trademark Act (No.2) B.E. 2543.

7 Section 7 paragraph two was amended by the Trademark Act (No.2) B.E. 2543.

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(2) a word or statement which has no direct reference to the characteristics or
natures of the goods and is not a geographical name prescribed by the Minister;
(3) a group of colours represented in a special manner, stylized alphabet,
number or invented word;
(4) a signature of the applicant for registration or a predecessor in his business or
a signature of another person with his or her authorisation;
(5) a picture of the application or a predecessor in his business or in the case
where that person is dead, a picture with consent of the parents, descendants and spouse of
that person, if any;
(6) an invented picture.
For the names, words, or statements which have no characteristics mentioned
under (1) or (2), if used as trademarks with goods which have been widely sold or advertised in
accordance with the rules prescribed by the Minister and if it is proved that the rules have been
duly met shall be deemed distinctive.

Section 8.™ Trademarks having or consisting of any of the following
characteristics shall not be registrable;
(1) state arms or crests, royal seals, official seals, Chakkri emblems, emblems and
insignia of the royal orders and decorations, seals of office, seals of ministries, bureaus,
departments or provinces;
(2) national flags of Thailand, royal standard flags or official flags;
(3) royal names, royal monograms, abbreviations of royal names or royal
monograms or royal sumanres;
(4) pictures or drawings of the King, Queen or Heir to the Throne;
(5) names, words, terms or emblems signifying the King, Queen or Heir to the
Throne or members of the royal family;
(6) national flags or emblems of foreign states, flags or emblems of international
organizations, emblems of head of foreign states, official emblems and emblems of quality
control and certification of foreign states or international organizations, or names and
monograms of foreign states or international organizations, unless so permitted by the
competent official of the foreign state or international organization;

™ Section 8 was amended by the Trademark Act (No.2) B.E. 2543.
(7) official emblems, emblems of the Red Cross, appellations “Red Cross” or “Geneva Cross”;

(8) a mark identical with or similar to a medal, diploma or certificate or any other mark awarded at a trade exhibition or competition held by the Thai government or a Thai governmental agency, public enterprise or any other governmental organs of Thailand, a foreign government or international organization unless such medal, diploma, certificate or mark has been awarded to the applicant for goods and is used in combination with the trademark and specify the calendar year of the award;

(9) any mark which is contrary to public order, morality or public policy;

(10) a mark which is identical with a well-known mark as prescribed by the Ministerial Notifications, or so similar thereto that the public may be confused as to the owner or origin of the goods, whether or not such mark is registered;

(11) a similar mark to (1), (2), (3), (4), (5), (6), or (7);

(12) geographical indications protected under the law on geographical indications;

(13) other marks prescribed in the Ministerial Notifications.

Section 9. An application for registration of a trademark may be made for specific goods in one class or in different classes but the particular kinds of goods for which protection is sought shall be clearly specified.

An application may not cover goods of different classes.

The classification of goods shall be as prescribed by the Ministerial Notifications.

Section 10. For a trademark to be registrable, the applicant or agent shall have an office or address for communication by the Registrar in Thailand.

Section 11. Applications for trademark registration shall comply with the rules and procedures prescribed in the Ministerial Regulations.

In the case where Thailand becomes a Party to an international convention or agreement concerning trademark protection, the trademark application which is in compliance with the requirement of such international convention or agreement shall be deemed to be a trademark application under this Act.  

* Section 11 paragraph two was added by the Trademark Act (No.2) B.E. 2543.
Section 12. To consider the registration of trademarks, the Registrar shall have powers as follows:

1. to send an inquiry writing or request an application to give statement or send a statement in writing or to deliver documents or evidence concerning the registration in order to examine or to take into account during the consideration;
2. to order the applicant to translate the documents or evidence concerning the registration, from foreign languages to Thai and deliver it within the time period he sees fit;
3. to request any person to give facts, explanation, advice or opinion.

If the applicant fails, without any sufficient reason, to comply with the order of the Registrar under (1) or (2), the application shall be deemed abandoned.

Section 13. Subject to section 27, in the case where the Registrar sees that the trademark asked to be registered:

1. is a trademark which is identical with a trademark already registered by another person, or;
2. is a trademark which is similar to a trademark already registered by another person which may confuse the public or mislead them to believe in the ownership of the goods or the origin of goods.

If it is the registration application for the goods in the same class or in the different class which the Registrar sees that they share the same characteristics, the Registrar shall not allow for such registration.

Section 14. In the case where the trademark applied to be registered is for the same class of goods or different classes which the Registrar sees that they share the same characteristics with the goods with registered trademark or in the process of being registered by the same owner, if the Registrar sees that these trademarks are identical or so similar that they would confuse the public or mislead the public in terms of the ownership of the goods or origins of the goods, the Registrar shall order the trademarks to be registered as associated trademarks and shall, in writing, notify the applicant without delay.
**Section 15.** If the Registrar sees that:

1. any unessential part of a trademark applied for is not registrable under Section 6; or
2. any registration application fails to comply with section 9 or section 10 or fails to comply with rules and procedures under the Notification under section 11.

The Registrar shall order the applicant to amend the application within ninety days from the date of receiving the order and shall notify, in writing, without delay to the applicant.

**Section 16.** If the Registrar sees that any trademark applied to be registered or any essential part of the trademark contains characteristics which cannot be registered under section 6, the Registrar shall make an order to refuse the registration of such trademark and notify, in writing, without delay with the reasons to the applicant.

**Section 17.** If the Registrar considers the whole trademark and sees that the trademark applied to be registered contains the characteristics which are registrable under section 6 but the trademark contains one or more parts which are common to the trade for some types or classes of goods such that no applicant should have an exclusive right thereto or which are not distinctive, the Registrar shall order one of the followings:

1. to order the applicant not to disclaim exclusive rights for such part within ninety days from the date of receiving the order;
2. to order the applicant to refuse other matters as the Registrar sees that it is necessary to limit the rights of the owner of such trademark registration within ninety days from the date of receiving the order.

For the purpose of implementing the provisions in paragraph one, the Registrar shall have the power to declare what is common to the trade with respect to certain types or classes of goods.

The Registrar shall notify, in writing, the order under paragraph one with the reasons to the applicant without any delay.
Section 18. The applicant has the right to appeal against the order of the Registrar under section 14, section 15, section 16 and section 17 to the Board within ninety days from the date of receiving the writing notifying the order of the Registrar, the decision of the Board on such appeal shall be final.

If the Board decides on the appeal that the order of the Registrar under section 14 is correct, the Registrar shall continue to proceed with the application.

If the Board decides on the appeal that the order of the Registrar under section 15 or section 17 is correct, the applicant shall comply with the order of the Registrar within ninety days from the date of being notified of the Board’s decision.

If the Board decides on the appeal that the order of the Registrar under section 15, section 16 or section 17 is incorrect, the Registrar shall continue to proceed with the application.

Section 19. If the applicant fails to make an appeal under section 18 paragraph one and fails to comply with the order of the Registrar under section 15 or section 17, as the case may be, or the applicant makes an appeal under section 18 paragraph one but fails to comply with section 18 paragraph three, the application shall be deemed abandoned.

Section 20. Subject to section 21, section 22, section 23, section 24, section 25, section 26, section 35 and section 41, where several applicants file applications for registration of trademarks which in the opinion of the Registrar are identical or so similar that they may confuse or mislead the public as to the ownership or origin of the goods and the applications cover goods in the same class or goods in different classes having, in the opinion of the Registrar, the same character, the applicant who is the first to file the application shall be entitled to be registered as the owner.

Section 21. Amongst the identical or similar trademarks under section 20, if the Registrar sees that such trademarks are registrable under section 6 and the applications for the trademark registration are correct in accordance with the provisions of this Act, the Registrar shall order the applicants to comply with section 24 and notify the applicants of the order in writing without delay.
An applicant who does not agree that his trademark is identical with or similar to other trademarks under section 20, may appeal against the order of the Registrar under paragraph one to the Board within ninety days from the date of receiving the notification. In such case, section 18 and section 19 shall apply mutatis mutandis.

**Section 22.** Amongst the identical or similar trademarks under section 20, if the Registrar sees that some trademarks falls within section 15(1) or (2) or section 17 but the others contain the characteristics which are registrable under section 6 and the applications for registration are correct in accordance with the provisions in this Act, the Registrar shall order the applicants whose applications fall under section 15(1) or (2) or section 17 to act in accordance with section 15 or section 17, as the case may be, and shall delay the registration of the registrable trademarks and the processing of the duly filed applications. The Registrar shall, without delay, notify the applicants of the order in writing. In such case, the provisions of section 21 paragraph two shall apply mutatis mutandis.

If it appears that the trademark registration applicant which the Registrar sees that such trademark fall within section 15(1) or (2) or section 17 has complied with the order of the Registrar under section 15 or has made an appeal under section 18 paragraph one and the Board has decided on the appeal that the orders of the Registrar are not correct, the Registrar shall order such applicant and the applicant for the trademark which the registration is delayed under paragraph one to comply with section 24 and shall notify the applicants of the order in writing without delay.

If it appears that all of the applicants for the trademark registration which the Registrar sees that they fall within section 15(1) or (2) or section 17 have abandoned the applications under section 19:

1. In the case where there are a number of applicants whose trademark registration application is being delayed under paragraph one, the Registrar shall order such applicants to comply with section 24 and shall notify the applicants of the order in writing without delay;

2. In the case where there is only one applicant whose trademark registration application is being delayed under paragraph one, the Registrar shall order the publication of the application under section 29.
Section 23. Amongst the identical or similar trademarks under section 20, if the Registrar sees that such trademarks fall within section 15(1) or (2) or section 17, the Registrar shall order the applicants to comply with section 15 or section 17, as the case may be and delay such trademark registrations. The Registrar shall notify the applicants of the order in writing without delay and section 21 paragraph two shall apply mutatis mutandis.

If it appears that a number of trademark registration applicants have already complied with the order of the Registrar under section 15 or section 17 or have made an appeal under section 18 paragraph one and the Board has decided on the appeal that the orders of the Registrar are incorrect, the Registrar shall order such applicants to comply with section 24 and notify the applicants of the order in writing without delay. If it appears that only one trademark registration applicant has complied with the order of the Registrar under section 15 or section 17 or has made an appeal under section 18 paragraph one and the Board has decided on the appeal that the order of the Registrar is incorrect, the Registrar shall order the publication of the application under section 29.

Section 24. Within ninety days from the date of receiving the order of the Registrar under section 21 paragraph one, section 22 paragraphs two or three (1) or section 23 paragraph two, the applicant shall agree as to which one shall be the sole applicant of the trademark and any one of them shall notify the Registrar in writing within such period whether or not agreement has been reached.

Section 25. In the case where the Registrar has been informed within the period specified in section 24 as to which applicant is allowed by agreement to register the trademark, the Registrar shall order the application of such applicant to be published under section 29.

In the case where the Registrar has been informed within the period specified in section 24 that the applicants fail to reach an agreement or has not been informed within the specified period, shall under section 29 order the publication of the application of the first applicant or the first among those who have not abandoned their applications, as the case may be.

Section 26. In the case where the Registrar has already notified the applicant of the order to comply with section 24, if there is another applicant filing an application for registering a trademark which the Registrar sees that it is identical with or similar to those of other applicants which may confuse the public or mislead them to believe in the ownership of

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the goods or the origin of goods for the same class of goods or different classes which the Registrar sees that they share the same characteristics, the Registrar shall make an order to refuse the registration of such trademarks and notify the applicants of the order in writing without delay and section 21 paragraph two shall apply mutatis mutandis.

Section 27. In the case where there is a registration application for a trademark which is identical with or similar to a registered trademark of another person under section 13, or in the case where there is a registration application for a trademark which is identical with or similar to another trademark under section 20, for the same class of goods or different classes which the Registrar sees that they share the same character, if the Registrar sees that there has been honest concurrent users to special circumstances which make it proper to do so, the Registrar may allow the registration by more than one owner of a trademark which is identical with or similar to a registered trademark subject to such conditions and limitations as to the mode or place of use or such other conditions and limitations as the Registrar may think fit to impose. The Registrar shall, without delay, notify the applicants and the registered trademark owner of the order in writing giving the grounds thereof.

The applicant or registered trademark owner may appeal against the order of the Registrar under paragraph one to the Board within ninety days from the date of receipt of such notification.

The decision of the Board under paragraph two shall be final.

Section 28. For any person who has filed the trademark registration application outside the Kingdom, if he files such application in the Kingdom within six months from the date of filing the trademark registration application outside the Kingdom for the first time, that person may request to claim the date of filing of the first trademark application outside the Kingdom as the date of filing the application in the Kingdom if he has one of the following qualifications:

1) being a Thai national or a juristic person having its headquarter located in Thailand;
2) being a national of a country party to a convention or international agreement on trademark protection to which Thailand is also a party;

Section 28 was amended by the Trademark Act (No.2) B.E. 2543.

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(3) being a national of a country which accords the same rights to Thai nationals or juristic persons having their headquarters located in Thailand;

(4) having a domicile or having a real and effective industrial or commercial establishment in Thailand or a country party to a convention or international agreement on trademark protection to which Thailand is also a party.

In the case where the first trademark registration application outside the Kingdom has been rejected, or the application has been withdrawn or abandoned by the applicant, the applicant shall not claim the right under paragraph one.

In the case of repeated rejection of trademark registration or the withdrawn or abandoned application under paragraph two outside the Kingdom within six months from the date of filing the first trademark registration application outside the Kingdom, the applicant may claim the right under paragraph one provided that:

(1) no claim for the right of priority under paragraph three has been made for the trademark application under paragraph one; and

(2) the application under paragraph three may not be processed under the trademark law of the country where the application was filed; and

(3) the first rejection, withdrawal, or abandonment has not been revealed to the public.

Section 28bis

In the case where goods bearing a trademark are exhibited at an international exhibition held in Thailand or in a country which is a party to the convention or international agreement on trademark protection to which Thailand is also a party and organised by a government sector, state enterprise or other governmental agencies of Thailand or the member country or the Royal Thai government certifies such international exhibition, the owner of such trademark may ask to exercise the right under section 28 paragraph one, provided that the owner of the trademark files a trademark registration application for goods exhibited in such international exhibition within six months from the date of exhibiting the goods bearing the trademark or the date of filing the first trademark registration application outside the Kingdom, whichever is earlier. Nevertheless, the filing of such application shall not be the extension of the period specified in section 28.

Section 28bis was added by the Trademark Act (No.2) B.E. 2543.
The organisation of the goods exhibition which would be deemed an international exhibition and the application for the rights under paragraph one shall comply with the rules, conditions and procedures as prescribed in the Ministerial Regulations.

PART II

Trademark Registration and effects of the registration

Section 29. When any trademark registration application is considered acceptable, the Registrar shall order such trademark registration application to be published.

(Repealed)\(^{12}\)

The publication of a trademark registration application shall be in accordance with the procedures as prescribed in the Ministerial Regulations.

Section 30. If, after the trademark registration application has been published under section 29 paragraph one, it appears to the Registrar later that the trademark is not registrable under section 6 or the application does not comply with the provisions of this Act making it necessary to revoke the order to publish such application and if the trademark has not yet been registered, the Registrar shall revoke such order and shall, without delay, notify the applicant of the order in writing stating the grounds of such revocation.

In the case where the Registrar has made an order to revoke the order under paragraph one after the publication of the trademark registration application under section 29, he shall make the publication of the revocation order in accordance with the procedures as prescribed in the Ministerial Regulations.

Section 31.\(^{13}\) The applicant shall be entitled to make an appeal against a revocation order under section 30 paragraph one to the Board within ninety days from the date of receipt of the notification.

\(^{12}\) Section 29 was repealed by the Trademark Act (No.2) B.E. 2543.

\(^{13}\) Section 31 was amended by the Trademark Act (No.2) B.E. 2543.

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In the case where the applicant does not make an appeal against the revocation order under paragraph one or where the applicant has already made an appeal against the order under paragraph one and the Board has decided on the appeal that the order of the Registrar is correct; the Registrar shall continue to proceed with the application.

If the Board decides on the appeal that the order of Registrar is incorrect, the Registrar shall:

1. proceed with the publication of such trademark registration application in the case where the Registrar has made the revocation order under section 30 paragraph one before the publication of the registration application under section 29;
2. republish the trademark registration application in the case where the publication of the revocation of order has been made under section 30 paragraph two.

The decision of the Board under paragraph two or paragraph three shall be final.

Section 32. In the case where the Registrar is made a revocation order under section 30 after an opposition is filed under section 35, the Registrar shall, without delay, notify the opposer of the revocation in writing.

Section 33. In cases under section 32, if the Registrar has not yet made a decision on the opposition, the decision shall be delayed until the expiration of the period for making an appeal under section 31 paragraph one, or until the decision of the Board is given under Section 31 paragraph two or three, as the case may be.

If the Board decides on the appeal that the revocation order of the Registrar under section 30 is correct, the Registrar shall make an order to reject the opposition and shall notify the opposer of the order in writing without delay. Such order shall be final.

If the Board decides on the appeal that the revocation order of the Registrar under section 30 is incorrect, the Registrar shall continue to consider the opposition.

Section 34. In cases under section 32, if the Registrar has made a decision on the opposition and there is an appeal against the decision of the Registrar under section 37, the Registrar shall inform the Board and section 33 shall apply mutatis mutandis.

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Section 33 paragraph one was amended by the Trademark Act (No.2) B.E. 2543.
Section 35. After the publication of any trademark registration application under section 29, any person who sees that they have better rights than the applicant or sees that the applicant's trademark is not registrable under section 6 or such trademark registration application does not comply with the provisions under this Act, such person may file an opposition with reasons to the Registrar within ninety days from the date of the publication under section 29.

The opposition under paragraph one shall be in accordance with the rules and procedures as prescribed in the Ministerial Regulations.

Section 36. In the case where there is an opposition filed under section 35, the Registrar shall send a copy of the opposition to the applicant without delay.

The applicant shall submit a counterstatement in accordance with the form prescribed by Director-General with the ground of reasons on which he relies in order to register his trademark to the Registrar within ninety days from the date of receiving the photocopy of the opposition. The Registrar shall, without delay, send a copy of such counterstatement to the opposer.

In the case where the applicant fails to comply with the requirement in paragraph two, the applicant shall be deemed to have abandoned his application.

In considering and determining the opposition, the Registrar may order the applicant and the opposer to give statement, written explanations or to submit additional evidence. If the applicant or opposer fails to comply with the order of the Registrar within ninety days from the date of receipt of the order, the Registrar shall proceed to consider and determine the opposition on the basis of the existing evidence.

Section 37. When the Registrar has already made a decision, he shall notify the applicant and the opposer of the decision with reasons in writing without delay.

The applicant or opposer shall have the right to file an appeal against the decision of the Registrar to the Board within ninety days from the date of receipt of the notification notifying the decision of the Registrar. The Board shall consider the appeal and make a decision without delay.

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15 Section 36 was amended by the Trademark Act (No.2) B.E. 2543.

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Section 38. When the Board has already given its decision, the decision and the grounds thereof shall, without delay, be notified to the applicant and opposer in writing.

The applicant or the opposer shall have the right to file an appeal against the decision of the Board to the Court within ninety days from the date of receiving the notification notifying the decision of the Board.

The case can be filed under paragraph two if the procedures prescribed in section 37 paragraph two have been taken.

Section 39. In the case where the appeal against the decision of the Registrar is not made within the time specified in section 37 paragraph two or the appeal against the decision of the Board is not made within the time specified in section 38 paragraph two, the decision of the Registrar or the Board shall be deemed final, as the case may be.

Section 40. In the case where there is no opposition filed under section 35 or there is an opposition filed under section 35 but the final decision or judgment or order states that the applicant is entitled to registration, the Registrar shall order the registration of the trademark.

When there is an order to register the trademark under paragraph one, the Registrar shall notify the applicant of the order in writing and request him to pay for the registration fees within thirty days from the date of receiving the notification. If the applicant fails to pay such fees within the time specified, that the applicant shall be deemed to have abandoned his application.

The trademark registration shall be in accordance with the procedures as prescribed in the Ministerial Regulations.

Section 41. In the case where the opposer under section 35 is the person filing an application for registration of a trademark which is identical with or similar to the trademark he or she opposes and there is the final decision or judgment or order that the opposer has better rights than the person whose application has been opposed, if the trademark which has been opposed is registrable under section 6 and the trademark registration application is complied with the provisions under this Act, the Registrar shall register such trademark in accordance with the procedures as specified in the Ministerial Regulations without having to publish the trademark registration application of the opposer.
Section 42. When a trademark is registered, the date of filing a trademark registration application shall be deemed to be the date of registration of such trademark. For cases under section 28 or section 28bis, the date of filing the trademark registration application in the Kingdom shall be deemed to be the date of registration of such trademark.

Section 43. Upon registration of a trademark, the Registrar shall issue the applicant a certificate of registration in the form specified in the Ministerial Regulations.
   If the certificate of registration is destroyed in its essential content or lost, the owner of the trademark may make a request for replacement to the Registrar.
   An issuance of replacement to the certificate of registration shall be in accordance with the rules and in the forms specified in the Ministerial Regulations.

Section 44. Subject to section 27 and section 68, after the trademark registration, a person who is registered as the owner of a trademark shall have the exclusive right to use the trademark for the goods for which it is registered.

Section 45. A registered trademark which has not defined its colour shall be deemed to be registered for all colours.

Section 46. No person shall be entitled to bring legal proceedings to prevent the infringement of an unregistered trademark or to recover damages for such infringement.
   The provision of this section shall not affect the rights of the owner of an unregistered trademark to bring a legal proceeding against another person for passing off goods as those of the owner of the trademark.

Section 47. The registration under this Act shall not prevent any person from any bona fide use of their names, sumnames or office names or the name of the previous owner of the business or shall not interfere with the use by any person of any bona fide description of the character or quality of their goods.

16 Section 42 was amended by the Trademark Act (No.2) B.E. 2543.
PART III
Amendment in trademark registration

Section 48. The right to a pending trademark application may be assigned or transferred by succession.

In the case where there is an assignment of the right to an application under paragraph one, the assignor or assignee shall notify the Registrar of such assignment prior to registration.

In the event of the death of the applicant, one of the heirs or executor of the estate shall notify the Registrar prior to the registration in order give effect to the right to inherit the application.

An assignment or transfer by succession of the rights to an application under paragraph one shall be in accordance with the rules and procedures specified in the Ministerial Regulations.

Section 49. Rights of the registered trademark shall be assigned or transferred by succession with or without the business concerned in the goods for which the trademark is registered.

Section 50. Associated trademarks may be assigned or transferred by succession only when all of them are assigned or transferred by succession together.

Section 51. The assignment or transfer by succession of the rights of registered trademark shall be registered with the Registrar.

Application to register any assignment or transfer by succession under paragraph one shall be in accordance with the rules and procedures specified in the Ministerial Regulations.

Section 52. The owner of the registered trademark may request the Registrar to amend only any of the following items of registration:

(1) the specification of goods by means of cancelling some items;
(2) the name, nationality, address and occupation of the owner of the trademark and his agent, if any;
(3) the office or the place for communication with the Registrar;
(4) other items as may be specified in the Ministerial Regulations.
A request for the amendment under paragraph one shall be in accordance with the rules and procedures specified in the Ministerial Regulations.

PART IV
Renewal and revocation of trademark registration

Section 53. The registration of a trademark shall have a term of ten years from the date of registration under section 42 and may be renewed under section 54.
The terms of trademark registration under paragraph one shall not include the period during the court proceeding under section 38.

Section 54. Any trademark owner who wishes to renew their trademark registration shall submit a renewal application within ninety days prior to its expiration date. Upon the submission of the application within the specified period, such trademark shall remain registered until the Registrar orders otherwise.
A renewal of trademark registration shall be in accordance with the rules and procedures specified in the Ministerial Regulations.

Section 55. In the case where the owner of a trademark submits a renewal application within the time specified in section 54 paragraph one and the Registrar sees that the renewal is in accordance with the rules and procedures specified in the Ministerial Regulations under section 54 paragraph two, the Registrar shall renew the registration for a further period of ten years from the date of expiration of the registration or of the last renewal thereof, as the case may be.

In the case where the owner of a trademark submits a renewal application within the time specified in section 54 paragraph one but the Registrar sees that the renewal application is not in accordance with the rules and procedures specified in the Ministerial Regulations under section 54 paragraph two, the Registrar shall order the owner of a trademark

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to correct the application within thirty days from the date of receipt of such order and shall notify the owner of a trademark of the order in writing without delay. If the owner does not comply with the order within the prescribed period, the Registrar shall order a revocation of the trademark registration.

In case of necessity making the trademark owner unable to comply with the order of the Registrar within the period specified in paragraph two, the Registrar has the powers to extend such period as may be necessary under the circumstances.

Section 56. In the case where the owner of a trademark does not apply for renewal of the trademark registration within the period prescribed under section 54 paragraph one, the registration of the trademark shall be deemed to be revoked.

Section 57. The owner of a registered trademark may request the Registrar to revoke his trademark registration, but in the case where the trademark is the subject of a registered licence to use the trademark, the consent of the licensee shall be required for a revocation unless the licence provides otherwise.

The revocation of trademark registration under paragraph one shall be in accordance with the rules and procedures specified in the Ministerial Regulations.

Section 58. In the case where it appears to the Registrar that the owner of a registered trademark violates or fails to comply with the conditions or restrictions specified by the Registrar upon the registration, the Registrar shall have the power to revoke the trademark registration.

Section 59. If the owner of a registered trademark or his agent ceases to have the office or registered address in Thailand, the Registrar shall order the revocation of the trademark registration.

In the case where there is a reasonable ground for the Registrar to believe that the owner of a registered trademark or his agent ceases to have the office or registered address in Thailand, the Registrar shall send a notification in writing to the owner of such trademark or his agent to the office or registered address and request such person to submit a written explanation to the Registrar within fifteen days from the date of receiving the notification.

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If the Registrar does not receive the answer within the period specified in paragraph two, the Registrar shall publish that the registration of the trademark is to be revoked in accordance with the procedures prescribed in the Ministerial Regulations.

If the Registrar does not receive the answer within fifteen days from the dates of the publication under paragraph three, the Registrar shall make an order to revoke the trademark registration.

Section 60. Upon the revocation of the trademark registration under section 55 paragraph two, section 58, or section 59 paragraph one, the Registrar shall notify the trademark owner of the order with reasons in writing without delay.

The owner of the trademark has the right to make an appeal against the order of the Registrar under paragraph one to the Board within ninety days from the date of receiving the notification of the order of the Registrar. If the owner does not make an appeal within the prescribed period, the order of the Registrar shall be deemed final.

The decision to the appeal of the Board under paragraph two shall be final.

Section 61. A stakeholder or the Registrar may request the Board to order the revocation of any trademark registration if it can be shown that at the time of registration, the trademark:

1. was not distinctive under section 7;
2. contained the prohibited characteristics under section 8;
3. was identical with a trademark registered by another person for goods of the same class or of the different class with the same character;
4. was so similar to a trademark already registered by another person that it may confuse or mislead the public as to the owner or origin of the goods for goods of the same class or of the different class with the same character.

Section 62. Any person who is of the opinion that any trademark is contrary to public order or good morality or to public policy may request the Board to make an order to revoke the trademark registration.

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Section 61 was amended by the Trademark Act (No.2) B.E. 2543.

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Section 63. A stakeholder or the Registrar may file a request to the Board to revoke any trademark registration if it can be proved that, at the time of applying for registration, the owner of a trademark does not intend to have a bona fide use of the registered trademark for the goods for which it has been registered and in fact there has been no bona fide use of that trademark for such goods or there has been no bona fide use of the registered trademark during the past three years prior to the request for revocation of the registration unless the owner of the trademark can prove that the non-usage of trademark was caused by specially commercial circumstances and it was not caused by an intention not to use or abandon the registered trademark for the goods for which it was registered.

Section 64. Upon the receipt of the request under section 61, section 62, or section 63, the Board shall notify the owner of the trademark and the licensee in writing, if any, to submit a written explanation to the Board within sixty days from the date of receiving the notification from the Board.

Section 65. An order of the Board to revoke or not to revoke the trademark registration under section 61, section 62, or section 63 shall be notified in writing with reasons to the person requesting to have the registration revoked, the owner of the trademark, and the licensee, if any, without delay.

The person requesting for revocation, the owner of the trademark, and the licensee shall have the right to make an appeal against the order of the Board under paragraph one to the Court within ninety days from the date of receiving the notification of the order of the Board. If he fails to appeal within the specified period, the order of the Board shall be deemed final.

Section 66. A stakeholder or the Registrar may file a request to the court to revoke any trademark registration if it can be shown that at the time of filing a request the trademark had become common to the trade for certain kinds or classes of goods to the extent that to the trade or in the public eye the trademark had already lost its meaning as a trademark.
Section 67. Within five years from the date of the Registrar’s order to register any trademark under section 40, a stakeholder may file a request to the court for a trademark registration revocation if he can show that he has better rights in the trademark than the person registered as its owner.

If the person filing a request can only prove that he has better rights in some particular goods amongst all the registered goods, the Court shall make an order to restrict the registration only for the goods which the person filing a request cannot prove that he has better rights than the trademark owner.

Part V
Trademark licensing

Section 68. The owner of a registered trademark may license another person to use his trademark for all or some of the goods for which the trademark is registered.

A licence to use a trademark under paragraph one shall be in writing and registered with the Registrar.

The application to register the licence under paragraph two shall be in accordance with the rules and procedures specified in the Ministerial Regulations but the application shall at least illustrate the followings:

(1) conditions or terms between the owner of the trademark and the person applying to be registered as a licensee which can ensure the owner of the trademark to have a control over the quality of the goods of the person applying to be registered as a licensee;

(2) the goods for which the trademark is to be used.

Section 69. In the case where the Registrar sees that a licence to use the trademark under section 68 will not confuse or mislead the public and is not contrary to public order or good morality or to public policy, the Registrar shall make an order to register such licence and for such purposes the Registrar may impose conditions or restrictions. But if the Registrar finds that the licence will confuse or mislead the public or is contrary to public order or good morality or to public policy, the Registrar shall make an order to refuse to register the licence.
When the Registrar makes one of the orders under paragraph one, he shall notify the owner of the trademark and the person applying to be registered as a licensee, of the order in writing without delay. In the case where the Registrar makes an order to register the licence with terms or conditions or makes an order not to register such licence, the Registrar shall inform such people of the reasons to refuse the registration of the licence.

The owner of the trademark or the person applying to be registered as a licensee shall have the right to make an appeal against the order of the Registrar under paragraph one to the Board within ninety days from the date of receiving the notification of the order of the Registrar. If he does not appeal within the specified period, the order of the Registrar shall be deemed final.

The decision of the Board under paragraph three shall be final.

Section 70. The use of trademark on goods by the licensee in his business shall be deemed as the use by the trademark owner.

Section 71. The owner of the trademark and the licensee may corporately make a request to the Registrar to amend the registration of the licence in respect of the goods covered by the licence or other conditions and restrictions prescribed in the licence by the owner and section 69 shall apply mutatis mutandis.

The application to amend the registration of the licence under paragraph one shall be in accordance with the rules and procedures specified in the Ministerial Regulations.

Section 72. The owner of the trademark and the licensee may corporately file a request to the Registrar for revocation of the registration of the licence.

The owner of the trademark or the licensee may file a request to the Register for revocation of the registration of the licence if it can be shown that the licence has expired.

A stakeholder or the Registrar may file a request to the Board to revoke the registration of a licence if it can be shown that:

1) the use of the trademark by the licensee has confused or misled the public or is contrary to public order or good morality or to public policy or;

2) the owner of the trademark does not have real control, any longer, of the quality of the goods for which the trademark is used.

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The revocation of the registration of the licence under this section shall be in accordance with the rules and procedures specified in the Ministerial Regulations.

**Section 73.** Upon the receipt of the request under section 72 paragraph two or paragraph three, the Registrar or the Board, as the case may be, shall notify the owner of the trademark or the licensee in writing, as the case may be, to submit a written explanation within the prescribed period of not less than fifteen days and not exceeding sixty days from the date of receiving the notification from the Registrar or the Board, as the case may be.

In considering the request under section 71 and 72, the Registrar or the Board, as the case may be, may require any person concerned to submit evidence or to give additional information.

**Section 74.** When the Registrar makes an order under section 72 paragraph two, he shall notify the owner of the trademark or the licensee of the order with reasons in writing without delay. Such order shall come into effect from the date of receiving the notification from the Registrar.

The owner of the trademark or the licensee has the right to make an appeal against the order of the Registrar under paragraph one to the Board within ninety days from the date of receiving the notification from the Registrar. If the appeal is not made within the specified period, the order of the Registrar shall be deemed final.

The decision of the Board on the appeal under paragraph two shall be final.\(^{18}\)

**Section 75.** When the Board makes an order under section 72 paragraph three, the Board shall notify the owner of the registered trademark, a stakeholder filing a request and the Registrar of the order with reasons in writing without delay. Such order shall come into effect from the date of receiving the notification from the Board.

The stakeholder or the Registrar has the right to make an appeal against an order of the Registrar under paragraph one to the court within ninety days from the date of receiving the notification from the Board. If the appeal is not made within the specified period, the order of the Board shall be deemed final.

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\(^{18}\)Section 74 paragraph three was added by the Trademark Act (No.2) B.E. 2543.

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Section 76. In the case where there is a revocation of a trademark registration, the licensing of such a trademark shall also cease to have effect.

Section 77. If not otherwise provided in the licence, the trademark owner shall have the right to use the trademark himself or to grant a licence to another person other than the licensee to use the mark.

Section 78. If not otherwise provided in the licence, the licensee shall have the right to use the trademark throughout the country for all the goods for which the trademark is registered and for the entire term of the trademark registration and its renewals.

Section 79. If not otherwise provided in the licence, the licensee shall not transfer the licence to a third person nor sub-license to others to use the trademark.

CHAPTER II
Service and Certification marks

Section 80. The provisions on trademarks shall apply to service marks mutatis mutandis and the word “goods” in such provisions shall mean “services”.

Section 81. Unless otherwise provided in this Chapter, the provisions on trademarks shall apply to certification marks mutatis mutandis.

Section 82. For the registration of the certification marks, in addition to complying with the provisions on registration of trademarks, the applicant shall:
(1) submit the rules on the use of the certification mark together with the application for registration and;
(2) demonstrate that he has sufficient ability to certify the characteristics of the goods or services as indicated in the rules under (1).

Rules under (1) shall indicate the origin, composition, method of production, quality or any other characteristic which is to be certified including the rules, procedures and conditions for authorising the use of the certification mark.
Section 83. The Registrar may order the applicant for registration of a certification mark to amend the rules on the use of the certification mark as the Registrar sees fit within sixty days from the date of receiving such order and shall notify the applicant of the order with reasons in writing without delay. Section 18 and section 19 shall apply to the appeal against the order of the Registrar mutatis mutandis.

Section 84. If the Registrar sees that the applicant for the registration of a certification mark has no sufficient ability to certify the characteristics of the goods or services specified in the rules on the use of the certification mark or sees that the registration of the certification mark will not benefit the public, the Registrar shall make an order to refuse the registration of such certification mark and shall notify the applicant of the order in writing with reasons without delay. Section 18 and section 19 shall apply to the appeal against the order of the Registrar mutatis mutandis.

Section 85. In the publication of an application for the registration of a certification mark, the Registrar shall specify the essential content of the rules on the use of the certification mark.

Section 86. The owner of a registered certification mark may request for an amendment of the rules on the use of the certification mark provided that it shall not affect the interest of the public. The amendment of the rules under paragraph one shall be in accordance with the rules and procedures specified in the Ministerial Regulations.

Section 87. If the Registrar sees that the amendment of the rules shall be registered under section 86, he shall make an order for the registration and order for the publication of the essential content of the rules which have been amended. When there has been an order for the publication under paragraph one, the Registrar shall, without delay,

Section 88. If the Registrar sees that the amendment of the rules shall not be registered under section 86, he shall make an order to refuse the registration and shall, without delay, notify the owner of the certification mark of the order with reasons in writing.

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Section 89. The owner of a certification mark or any person who has been or will be prejudiced by an order of the Registrar under Section 87 or 88 shall be entitled to make an appeal against the order to the Board within ninety days from the date of the publication under section 87 or from the date of receipt of the notification of the Registrar’s order under section 88, as the case may be.

The decision of the Board under paragraph one shall be final.

Section 90. The owner of a registered certification mark shall not use the mark with his goods or services and shall not license another person to act as a certifier by using such certification mark.

Section 91. A licence granted to another person to use a certification mark for goods or services shall be in writing and signed by the owner of the certification mark.

Section 92. The rights to a registered certification mark may be transferred when:

1. the transfer has been approved by the Registrar by which the transferee is able to show that he has sufficient ability to certify the characteristics of the goods or services as indicated in the rules on the use of the certification mark;
2. the transfer is made in writing and;
3. the transfer is registered by the Registrar.

In the case where the Registrar orders not to grant permission or not to register the transfer of rights under paragraph one, section 84 shall apply mutatis mutandis.

Applications for the authorisation of the transfer of rights and for the registration of the transfer of rights under paragraph one shall be in accordance with the rules and procedures specified in the Ministerial Regulations.

Section 93. The rights in certification mark ceases when the owner of the certification mark dies or loses its status of juristic person.

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CHAPTER III
Collective marks

Section 94. The provisions on trademarks shall apply to the collective marks mutatis mutandis except for the provisions in Chapter I Part V.

CHAPTER IV
Trademark Board

Section 95.\textsuperscript{19} There shall be a Board called the “Trademark Board” which consists of the Director-General of the Department of Intellectual Property as Chairperson of the Board, the Secretary General of the Council of State or his representative, the Attorney-General or his representative and no fewer than eight nor more than twelve other qualified persons in the fields of law or commerce with the experience in intellectual property or trademarks appointed by the Council of Ministers as members.

The appointment of qualified persons to be members under paragraph one shall be made from the qualified persons in private sector of no less than one third of the members appointed by the Council of Ministers.

The Board may appoint any person to act as Secretary and Assistant secretary.

Section 96. The Board shall have powers and duties as follows:

(1) to consider the appeal against the order or decision of the Registrar under this Act;
(2) \textsuperscript{20} to consider and to make orders on the application for registration revocation of trademarks, service marks, certification marks, collective marks or licence to use a trademark or service mark under this Act;
(3) to provide advice or consultation to the Minister in the issuance of Ministerial Regulations or Notifications under this Act;
(4) to consider other matters as assigned by the Minister.

\textsuperscript{19} Section 95 was amended by the Trademark Act (No.2) B.E. 2543.

\textsuperscript{20} Section 96(2) was amended by the Trademark Act (No.2) B.E. 2543.

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Section 97. The Board appointed by the Council of Ministers shall hold office for a term of four years.

In the case where there is an appointment during the period the appointed members of the Board still hold office whether or not it is an additional appointment or replacement, that appointee shall hold office for the remaining term of the member of the Board appointed.

Members of the Board who vacate the office at the end of the term may be reappointed.

Section 98. Apart from vacating the office at the end of the term under section 97, members of the Board appointed by the Council of Ministers shall vacate the office upon:

1. death;
2. resignation;
3. being removed by the Council of Ministers;
4. being a bankrupt;
5. being incompetent or quasi incompetent;
6. having been sentenced to imprisonment by a final judgment unless it was a sentence for an offence committed by negligence or for a petty offence.

Section 99. At a meeting of the Board, the presence of not less than one-half of the total number of the members is required to constitute a quorum.

The Chairperson shall preside over the meeting. In the case where the Chairperson is not attending the meeting or is not present at the meeting, the meeting shall select one person to preside over the meeting.

Decisions of the meeting shall be based on a simple majority. In casting votes, each member shall have one vote. In the event of equal votes, the Chairperson shall have an additional casting vote.

Any member of the Board who is a stakeholder for the considered matter under section 96 (1) or (2) shall not attend the meeting on such matter.21

21 Section 99 paragraph four was added by the Trademark Act (No.2) B.E. 2543.
Section 99bis. For the execution of this Act under section 96 (1) and (2), the Board shall have powers to appoint one or more specialised committees to examine appeals against orders or decisions of the Registrar under this Act. When the examination has been completed, the committee shall submit a report to the Board for issuing an order or rendering a decision.

Section 99 shall apply to the meeting of the specialised committees mutatis mutandis.

Section 100. The Board may appoint sub-committees to consider or act on what may be assigned by the Board.

Section 99 shall apply to the meeting of the sub-committees mutatis mutandis.

Section 101. The appeal against an order or decision of the Registrar and application to revoke the registration of a trademark, service mark, certification mark, collective mark or licence to use a trademark or service mark under this Act shall be submitted to the Registrar in accordance with the form specified by the Director-General.

The procedures for considering the appeals and requests for the revocation of a registration under paragraph one shall be in accordance with the rules specified by the Board.

Section 102. For the execution of this Act, the Board shall have powers to inquire in writing or call for the Registrar, the appellant or any other concerned person to give facts, explanations or opinions or to submit documents or any other relevant evidence.

CHAPTER V
MISCELLANEOUS

Section 103. During the office hours, any person shall be entitled to inspect the register of trademarks, service marks, certification marks and collective marks and files thereof, to obtain copies or certified copies of documents or to apply for the certification by the Registrar of a particular registration and pay the fees prescribed in the Ministerial Regulations.

22 Section 99bis was added by the Trademark Act (No.2) B.E. 2543.
23 Section 101 was added by the Trademark Act (No.2) B.E. 2543.

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Section 104. A request letter, notification or any other letter to an applicant, opposer, owner of a registered trademark, service mark, certification mark or collective mark, licensee or any other person pursuant to this Act shall be sent by registered mail to the office or address given in the application for registration or as registered, as the case may be.

If the delivery becomes unsuccessful by the means prescribed in paragraph one, the competent official may deliver such letter by himself or by registered mail again. In the case where the competent official delivers the letter himself and finds no addressed recipient, he may deliver it to any person of legal age and is at presence or work in the office or at the place or may put up a letter in a visible place at the office or the place of recipient.

Seven days after delivery by the means set forth in paragraph two have elapsed, the letter shall be deemed to have been received by the addressed recipient.

Section 105. For the purposes of filing the case or legal proceeding on trademarks, service marks, certification marks and collective marks under this Act, if an applicant or the owner of a trademark, service mark, certification mark or collective mark does not have a domicile in Thailand, the office or the place of that person or agent as specified in the application or as registered shall be deemed a domicile of that person.

Section 106. In the case where the Registrar requests the Board to revoke a registration of a trademark, service mark, certification mark or collective mark or to revoke the registration of a licence to use a trademark or service mark, the Registrar shall be exempted from the payment of the fees under this Act.

Section 106bis. For the execution of this Act, the Registrar or the competent official shall have powers as follows:

(1) to enter a place of business, place of production, place of distribution, place of purchasing or place of storage of any business operator or person, or any place in which he has a reasonable ground to suspect that a violation of the provisions of this Act is likely to occur, or to enter a vehicle of any person, or order the owner or operator of a vehicle to stop or park in order to conduct an inspection in pursuant of this Act or to search or seize evidence or property which may be forfeitable under this Act, or to arrest the offender under this Act without a search warrant in the following circumstances:

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24 Section 106bis was added by the Trademark Act (No.2) B.E. 2543.

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(a) where a flagrant offence is being committed in a place or vehicle;
(b) where a person having committed a flagrant offence has, while being pursued, taken refuge or there is a serious ground for suspecting that such person is concealing in the place or vehicle;
(c) when there is a reasonable ground to suspect that the evidence or property which may be seized under this Act is in the place or vehicle and there is a reasonable ground to believe that by waiting for the search warrant the evidence or property would be moved, hidden, destroyed or reformed;
(d) when the suspect is the owner of the place or vehicle and the arrest shall be processed with or without the warrant of arrest.

In this regard, the competent official shall have powers to inquire or require the business operator, owner or operator of the vehicle or persons concerned to submit books of accounts, registration documents, other documents or evidence, including the power to order such person in such a place or vehicle to act only if it is necessary.

(2) In the case where there is a clear evidence to believe that there is a violation of the provisions of this Act, the competent official shall have the power to seize or confiscate goods, vehicles, documents or other documents relating to such violation but it has to be reported to the Director-General for approval within three days. This shall be in accordance with the rules and procedures specified by the Director-General and approved by the Minister.

Section 106ter For the execution of duties under section 106bis, the Registrar and the competent official shall present their identification card to the concerned person.

The identification card under paragraph one shall be in accordance with the form specified by the Minister and published in the Government Gazette.

Section 106tetra For the execution of this Act, the Registrar and the competent official shall be the official under the Criminal Code.

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25 Section 106ter was added by the Trademark Act (No.2) B.E. 2543.
26 Section 106tetra was added by the Trademark Act (No.2) B.E. 2543.
CHAPTER VI
Penalties

Section 107. Any person who files an application, opposition or any other document relating to the amendment of a registration, renewal of a registration, or revocation of a registration of a trademark, service mark, certification mark or collective mark or licence to use a trademark, service mark by making a false statement to the Registrar or the Board shall be liable to imprisonment for a term of not exceeding six months or to a fine of not exceeding ten thousand Baht, or to both.

Section 108. Any person who counterfeits a trademark, service mark, certification mark or collective mark of another person already registered in the Kingdom shall be liable to imprisonment for a term of not exceeding four years or to a fine of not exceeding four hundred thousand Baht, or to both.

Section 109. Any person who imitates a trademark, service mark, certification mark or collective mark already registered in the Kingdom in order to mislead the public into believing that it is the trademark, service mark, certification mark or collective mark of another person shall be liable to imprisonment for a term of not exceeding two years or to a fine of not exceeding two hundred thousand Baht, or to both.

Section 110. Any person who:
(1) imports into the Kingdom, distributes, offers to distribute or has in possession for distribution the goods bearing a counterfeit trademark, service mark, certification mark or collective mark under section 108 or goods bearing an imitated trademark, service mark, certification mark or collective mark under Section 109 or;
(2) provides services or offers to provide services which use a counterfeit service mark, certification mark or collective mark under section 108 or an imitated trademark, service mark, certification mark or collective mark under section 109
shall be liable to the penalties provided in such sections.
Section 111. Any person who:

(1) shows a trademark, service mark, certification mark or collective mark which is not so registered in the Kingdom but falsely stated that such mark has been registered in the Kingdom;

(2) distributes or has in possession for distribution the goods bearing a trademark, certification mark or collective mark under (1) which he knows that such mark is falsely represented or;

(3) provides services or offers to provide services by presenting a trademark, certification mark or collective mark under (1) which he knows that such mark is falsely represented

shall be liable to imprisonment for a term of not exceeding one year or to a fine of not exceeding twenty thousand Baht, or to both.

Section 112. Any person who violates section 90 shall be liable to a fine of not exceeding twenty thousand baht.

Section 112bis Any person who obstructs the execution of duties of the Registrar or the competent official under section 106bis shall be liable to imprisonment for a term of not exceeding one year or a fine of not exceeding twenty thousand baht, or to both.

Section 112ter Any person who fails to facilitate the Registrar or the competent official in the execution of his duties under section 106bis shall be liable to imprisonment for a term of not exceeding one month or a fine of not exceeding two thousand baht, or both.

Section 113. Any person who has committed an offence and has been sanctioned under this Act, and subsequently commits an offence under this Act within five years after being discharged from the penalty, shall be liable to twice the penalty prescribed for the offence.

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27 Section 111bis was added by the Trademark Act (No.2) B.E. 2543.
28 Section 112ter was added by the Trademark Act (No.2) B.E. 2543.

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Section 114. In the case where an offender is a juristic person, if the offence committed came from the order, act, failure to give an order or failure to act as required by his duties as a managing director or any other person responsible for the operation of such juristic person, such person shall also be liable to the penalty prescribed for such offence.

Section 115. All goods which are imported into the Kingdom for distribution or having in possession for distribution in violation of this Act shall be confiscated whether or not anyone has been convicted of the offence.

Section 116. In the case where there is clear evidence that there is a person who has committed or is about to commit any act under section 108, section 109 or section 110, the owner of a trademark, service mark, certification mark or collective mark may request the court to order that person to stop or refrain from doing such act.

Transitory Provisions

Section 117. A trademark which was registered under the Trademark Act B.E. 2474 and has still been registered on the date of entry into force of this Act shall be deemed a trademark under this Act.

Section 118. The Trademark Board under the Trademark Act B.E. 2474 who has been in office until the date of entry into force of this Act shall continue to be in office, for not more than sixty days until there is the Board under this Act.

Section 119. All applications for a trademark registration, amendment of a registration application, amendment of a registered statement, registration of a transfer of rights in a trademark and renewal of a trademark term which have been filed under the Trademark Act B.E. 2474, if, prior to the date of entry into force of this Act:

(1) the Registrar has not yet made any order concerning the application, such application shall be deemed as an application filed under this Act and shall be proceeded under this Act;

Section 114 was amended by the Trademark Act (No.2) B.E. 2543.
(2) the Registrar has already made any order concerning the application, the procedure on the application shall be under the provisions of the Trademark Act B.E. 2474 until it is finalized.

Section 120. Applications for a renewal of a registered trademark under the Trademark Act B.E. 2474 which the owner asks to be registered for one particular goods, the owner of the trademark shall clearly specify the goods wished to be protected; in such case, section 9 shall apply mutatis mutandis.

Section 121. An appeal against the order or decision of the Registrar or opposition of the registration under the Trademark Act B.E. 2474 which has been under consideration prior to the date of entry into force of this Act shall be under the provisions of the Trademark Act B.E. 2474 until it is finalized.

Section 122. The period for filing appeals, oppositions to the registration, counterstatements from the applicant to the opposition and notifications to the Registrar that the applicant has made an agreement or brought the case before the court under the Trademark Act B.E. 2474, if it has not yet elapsed prior to the date of entry into force of this Act, such period shall begin from the date of entry into force of this Act.

Section 123. All Ministerial Regulations, Notifications, Rules or Orders issued under the Trademark Act B.E. 2474 shall be enforced only if they are not contrary to or incompatible with this Act until the Ministerial Regulations or Notification issued under this Act come into force.

Countersigned by
Mr. Anand Punyarachun
Prime Minister
Rates of fees

(1) An application for a registration of a trademark, service mark, certification mark or collective mark for each goods or service 500 Baht

(2) 30 (repealed)

(3) Printing block for a trademark, service mark, certification mark or collective mark exceeding 5 cm in length or width (Fraction of a centimetre shall be counted as a centimetre) for each centimetre of excess 100 Baht

(4) An opposition against an application under (1) each opposition 1,000 Baht

(5) An application to transfer rights in a registration application for a trademark, service mark, or collective mark per application 1,000 Baht

(6) A registration of a trademark, service mark, certification mark, or collective mark per registration 300 Baht

(7) A replacement of a certificate of registration per replacement 100 Baht

(8) An application to register an assignment or transfer by succession of a trademark, service mark, certification mark or collective mark per application 1,000 Baht

(9) An application for making an amendment in the registration under (6) per application 200 Baht

(10) An application for a renewal of a trademark registration under (6) for each goods or service 1,000 Baht

(11) A request to the Board to revoke a registration under (6) per request 500 Baht

(12) An application for a registration of a licence to use a trademark or service mark per application 500 Baht

(13) A registration of the licence to use a trademark or service mark per licence 1,000 Baht

(14) An application to amend a registration under (13) per application 200 Baht

(15) An application to revoke a registration under (13) per application 200 Baht

(16) An application to amend a registration under (1), (8) or (12) per application 200 Baht

(17) An application to amend the rules on a certification mark per application 100 Baht

(a) before the registration of the certification mark

(b) after the registration of the certification mark per application 200 Baht

30 The fee (2) was repealed by the Trademark Act (No.2) B.E. 2543.

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(18) An appeal
(a) an appeal against the order of the Registrar under section 16, section 17, section 27 or against the decision of the Registrar under section 37
(b) an appeal under other sections per appeal 2,000 Baht
(19) A request to examine the register of a trademark, service mark, certification mark, or collective mark or files of such mark (excess of an hour shall be calculated as one hour) per hour 100 Baht
(20) A request for a copy of the register of a trademark, service mark, certification mark or collective mark including the certified version per issue 200 Baht
(21) A request for a copy of other documents per page 10 Baht
(22) A request for a certification of documents
(a) less than 10 pages per page 10 Baht
(b) over 10 pages per page 100 Baht
(23) A request for a certification of registration per request 50 Baht
(24) Other applications per application 100 Baht