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GENEVA

STANDING COMMITTEE ON THE LAW OF TRADEMARKS, INDUSTRIAL DESIGNS AND GEOGRAPHICAL INDICATIONS

Eleventh session
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QUESTIONNAIRE ON TRADEMARK LAW AND PRACTICE

prepared by the Secretariat

Background

1. At the eighth session of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) held in Geneva from May 27 to 31, 2002, members initiated discussions on the further harmonization of substantive trademark law. The in-depth exchange of views which took place at that session was based on document SCT/8/3, prepared by the Secretariat, providing preliminary indications of topics to be discussed regarding the substantive harmonization of trademark laws. Discussions illustrated the broad diversity of national systems, procedures and approaches in the field of marks. Various definitions of the term “mark,” including non-traditional marks (olfactory or smell marks, sound marks, holograms and three-dimensional marks) were broadly discussed. Many SCT members noted the difficulties in the examination of such marks, particularly in small Intellectual Property offices. The graphic representation of sound marks or smell marks as well as the determination of the distinctive character of three-dimensional marks was pointed out particularly as being problematic.
2. The SCT also discussed the possibility of establishing an exhaustive list of absolute grounds for refusal, based on the list of Article 6*quinquies*(B) of the Paris Convention. Relative grounds for refusal (conflicts with prior rights) were also thoroughly debated. It was mentioned that national trademark laws vary considerably as to the nature of prior rights based on which the registration of a similar mark may be refused. The SCT also discussed the appropriate use of the commonly known symbols TM and ®. The use of these symbols is not currently regulated at the international level and it was felt that some clarification as to the use of these symbols would be useful, particularly because of the development of the Internet.
3. Issues such as the processing of applications for the registration of a mark (for example, the maximum time limit for a first office action or the possibility of fixing an opposition), examination procedures (convergence of practices as to the examination of absolute grounds and/or relative grounds for refusal), what constitutes use of a mark for the purpose of determining acquisition or maintenance of a right in a mark and the relevant requirements for the use of a mark, were also considered as important issues pertaining to trademark law and practice which may require harmonization or convergence of practices.
4. Pursuant to the request of the Standing Committee, at the conclusion of the eighth session, the Secretariat has prepared a questionnaire (document SCT/9/3), for discussion at the ninth session (November 11 to 15, 2002). At this session, the SCT discussed the nature of the questionnaire and decided that the International Bureau should circulate it on the SCT Electronic Forum, inviting SCT members to provide comments by the end of January 2003. At the tenth session of the SCT (April 28 to May 2, 2003) decision was made that the International Bureau revise and finalize the questionnaire, as contained in document SCT/10/3 Prov., on the basis of the comments thus far received and that it circulate it for reply by WIPO Member States, intergovernmental and non-governmental organizations.

Purpose and Structure of the Questionnaire

5. The purpose of the questionnaire is to collect information regarding the national practices of Member States of WIPO and to identify issues which require to be addressed at the international level concerning the further development of international trademark law and the convergence of national trademark practices. A similar approach was taken in 1985 in the context of preparatory work on a new treaty for the international registration of trademarks. This followed work conducted by WIPO in 1977 regarding Major Provisions of Trademark Legislation in Selected Countries, presented in the form of Summary Tables (WIPO publication No. 113). Considering the norms and standards recently adopted at the international level in the field of trademark law, the SCT considered that it would be useful to get at present a clear picture of the current national practices in the field of trademark law. However, this exercise shall not, under any circumstances, be considered as interpreting the provisions of national legislation.

6. The questionnaire should assist the SCT in pursuing its future work aimed at further simplifying the work of national intellectual property offices and at providing a clear legal framework for trademark applicants and holders and their representatives, and for third parties and the general public (consumers) through a convergence of national laws or practices. The uncertainty and difficulties for Intellectual Property Rights holders in obtaining adequate protection derive from the differences in laws and administrative practices in various countries. By creating legal certainty through the adoption of common approaches, significant time and cost savings could be achieved for the users of the many different trademark systems that exist worldwide as well as for industrial property offices.

7. The basis for this work may be found in the revised Program and Budget for 2002-2003 which includes under Sub-Program 05.2, "Law of Trademarks, Industrial Designs and Geographical Indications," the following activities (see document WO/PBC/4/2, page 53):

“Convening of four meetings of the SCT (and any Working Group set up by this Committee) to consider current issues, including: [..]

- the desirability and feasibility of harmonizing substantive trademark law, including the protection for new trademarks (sound, smell, three-dimensional marks, etc.), the requirements for use of a mark prior to registration, substantive grounds for refusal, etc.; facilitation of discussion in the SCT to incorporate in this framework the Joint Recommendation concerning provisions on the protection of well-known marks, and the Joint Recommendation on the protection of marks and other industrial property rights in signs, on the Internet.”

8. The questionnaire is divided into thirteen sections covering the range of issues discussed in document SCT/8/3, as well as other topics suggested by SCT members with the purpose of providing—as thoroughly as possible—a survey of the applicable laws and practices of Member States. A table of contents has been introduced at the beginning of the questionnaire for ease of reference.

How to Respond?

9. As indicated above, the questionnaire seeks to gather information on the approach taken by national systems with regard to the topics proposed for analysis. It does not intend however to constitute a database of legal texts and precedents. Accordingly, it is not necessary to provide the actual text, or the detailed provisions of any such texts (or to send them in annex) but rather to give a general description. This questionnaire will be posted for reply on the SCT Electronic Forum at <http://www.wipo.int/sct>. Completed questionnaires may also be sent by post to the International Law Development section, Trademarks, Industrial Designs and Geographical Indications Department, WIPO, 34, chemin des Colombettes, 1211 Geneva 20, Switzerland, or by fax: +41 22 338 8745.

When Should Responses Be Sent?

10. Following a decision of the SCT at its tenth session, completed questionnaires may be sent to the International Bureau until December 30, 2003. Such replies will be discussed at a meeting of the SCT in 2004.

[Annex follows]

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QUESTIONNAIRE ON TRADEMARKS

I. DEFINITION

1. According to the applicable legislation or IP office practices, a mark is defined as:

A. Any sign or combination of signs, capable of distinguishing the goods or services of an undertaking from the goods or services of another undertaking YES NO N/A

B. Signs visually perceptible YES NO N/A

C. Signs capable of being represented graphically YES NO N/A

D. Other YES NO N/A

If YES, please explain:

2. Does the applicable legislation provide for any specific signs to be excluded from registration as a mark? YES NO N/A

Please explain:

3. Are any specific signs excluded from the registration on the basis of the case law in your jurisdiction?

II. REGISTRABLE SIGNS

Can the following signs be registered as marks under the applicable legislation or under IP office practices:

1. Denominations, letters, numbers, etc.

- A. Words in foreign languages YES NO N/A

If YES, please explain if there are any special requirements (such as translation):

- B. Words in foreign script YES NO N/A

If YES, please explain if there are any special requirements (such as transliteration request):

- C. Personal names YES NO N/A

- D. Names of famous people YES NO N/A

If YES, please explain if there are any special registration requirements:

- E. Letters YES NO N/A

If YES, please explain if there are any special registration requirements:

F. Numbers YES NO N/A

If YES, please explain if there are any special registration requirements:

G. Punctuation marks YES NO N/A

If YES, please explain if there are any special registration requirements:

2. Three-dimensional marks

A. Product packaging YES NO N/A

B. Tradedress YES NO N/A

If YES, please explain what are the applicable legal and administrative requirements:

C. Product shape YES NO N/A

D. Others YES NO N/A

If YES, please list them and explain how they are represented graphically in the application and explain if there are any technical requirements:

E. According to the legislation of your country, what are the absolute grounds for refusal of a three-dimensional mark?

(i) the shape which results from the nature of the goods themselves
 YES NO N/A

(ii) the shape which is necessary to obtain a technical result
 YES NO N/A

- (iii) the shape determined by its function (as opposed to (ii))
 YES NO N/A
- (iv) other grounds YES NO N/A

If YES, please explain:

- F. If a three-dimensional mark is refused, can the holder convincingly prove that his/her sign has acquired a distinctive character through use?
 YES NO N/A

If YES, please explain by which means the distinctive character could be proved (filing evidence of use, opinion surveys etc.):

If YES, what are the criteria to determine the distinctive character of the shape of a product?

- G. If three-dimensional marks are protected in your country, has their introduction affected the volume of design registrations?
 YES NO N/A

3. Other non-traditional marks

- A. Color marks YES NO N/A
- (i) Single color YES NO N/A
- (ii) Combination of colors YES NO N/A
- (iii) Single color or combination of colors associated with other signs
 YES NO N/A

If YES, please explain how the color or combination of colors are represented in the application?

B. Sound marks

(i) Musical sounds YES NO N/A

(ii) Other sounds YES NO N/A

If YES, please list them and explain how they are represented in the application, whether graphically or by other means:

C. Olfactory marks YES NO N/A

If YES, please explain how they are represented in the application, whether graphically or by other means?

D. Holograms YES NO N/A

If YES, please explain how they are represented in the application, whether graphically or by other means?

E. Slogans YES NO N/A

F. Movie/book titles YES NO N/A

If YES, please explain if there are any special requirements:

G. Motion or multimedia signs YES NO N/A

If YES, please explain how they are represented graphically?

H. Others YES NO N/A

If YES, please list them and explain how they are represented graphically (such as position marks)?

I. Do the same examiners examine non-traditional and traditional marks? YES NO N/A

If NO, please explain:

J. Is there any special training given to those who examine non-traditional marks? YES NO N/A

If YES, please explain what kind of training:

4. Service marks YES NO N/A

A. Are marks for retail services protected? YES NO N/A

If YES, are they protected in a special class (class 35) or as such?

5. "Special" types of marks

A. Defensive marks? YES NO N/A

If YES, please explain how they are defined and specify any special requirements:

B. Associated marks? YES NO N/A

If YES, please explain how they are defined and specify any special requirements:

C. A series of marks? YES NO N/A

If YES, please explain how they are defined and specify any special requirements:

D. Collective marks? YES NO N/A

If YES, please explain how they are defined and the particular requirements (such as regulations for use or minimum content of regulations):

E. Certification marks? YES NO N/A

If YES, please explain how they are defined and the particular requirements (such as regulations for use or minimum content of regulations):

F. Guarantee marks YES NO N/A

If YES, please explain how they are defined and the particular requirements (such as regulations for use or minimum content of regulations):

G. Others YES NO N/A

If YES, please explain which types of marks:

III. APPLICATION PROCEDURE

1. Must an application be based on use? YES NO N/A

If YES, when does protection start?

2. Must evidence of use be provided at the time of filing?
 YES NO N/A

3. Must an application be based on intent to use? YES NO N/A

If YES, what are the requirements?

4. Must evidence of intent to use be provided at the time of filing?
 YES NO N/A

5. Is use required before registration? YES NO N/A

6. Does prior good faith use of a mark give an applicant a preferential right against another application?
 YES NO N/A

If YES, please explain:

7. Is there a maximum time limit for a first IP office action on a trademark application? YES NO N/A

If YES, please explain if the time limit is stipulated by a statute or if it depends on the nature of the action, and how long the time limit is:

8. Are procedures available to expedite the processing of an application? YES NO N/A

If YES, is there an additional fee? YES NO N/A

9. Are multiple-class applications permitted? YES NO N/A

10. Is electronic filing permitted? YES NO N/A

If YES, is there a reduction of the fee? YES NO N/A

If YES, what are the benefits for the administration and are there any problems arising from its implementation?

11. Can applications be assigned? YES NO N/A

If YES, please explain what the requirements are:

12. Can applications be modified? YES NO N/A

If YES, does the modification have an effect on the filing date or on the protection of the mark?

IV. EXAMINATION PROCEDURE

1. *Ex officio* examination

A. Does the IP office *ex officio* examine applications for marks with regards to:

(i) Formal requirements? YES NO N/A

(ii) Absolute grounds /inherent registrability?
 YES NO N/A

(iii) Relative grounds for refusal (prior rights)?
 YES NO N/A

(iv) Grounds for refusal as a whole (with no distinction as to B and C)?
 YES NO N/A

(v) Other:

B. Does the IP office publish the applications?

(If reply is NO, please skip to question C(iii))

YES NO N/A

If YES, what are the legal effects of the publication?

C. Does the *ex-officio* substantive examination occur:

(i) prior to the publication of the application
 YES NO N/A

(ii) after the publication of the application?
 YES NO N/A

(iii) Does *ex officio* substantive examination occur prior to the publication of the registration?
 YES NO N/A

2. Absolute grounds for refusal

If the application is examined to determine whether it meets statutory requirements, what are, according to your legislation, the absolute grounds for refusal?

A. Signs which are not capable of distinguishing
 YES NO N/A

B. Signs which do not satisfy other requirement of the definition of a mark (e.g., not capable of being graphically represented.)
 YES NO N/A

C. Signs devoid of any distinctive character
 YES NO N/A

D. Signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, place of origin, of the goods, or the time of production (descriptive signs)
 YES NO N/A

E. Signs which have become customary in the current language or in the bona fide and established trade practices of the country where protection is claimed (i.e. have become generic) YES NO N/A

F. Generic terms YES NO N/A

If YES, describe how the term “generic” is understood:

G. Signs contrary to morality or public order
 YES NO N/A

H. Signs of such a nature as to deceive the public
 YES NO N/A

I. Signs contrary to Article 6^{ter} of the Paris Convention
 YES NO N/A

J. Signs benefiting protection from other international conventions (Red Cross, Olympic symbols) YES NO N/A

- K. Signs protected by national laws
- (i) Royal emblems YES NO N/A
- (ii) Signs of indigenous peoples and local communities YES NO N/A
- (iii) Others YES NO N/A
- L. Well-known marks/famous marks/marks having a reputation YES NO N/A
- M. Appellations of origin/protected geographical indications YES NO N/A
- N. Business names/business identifiers (tradenames, abbreviations of tradenames) YES NO N/A
- O. Names of famous people YES NO N/A
- P. Foreign words or expressions YES NO N/A
- Q. Other:
- _____
- _____
- _____
- _____
- R. Must the examiner follow precedents?
- (i) Decisions of judicial or administrative tribunals YES NO N/A
- If YES, please explain the practical consequences:
- _____
- _____
- _____
- _____
- (ii) Decisions of other examiners YES NO N/A
- If YES, please explain the practical consequences:
- _____
- _____
- _____
- _____
- S. Does the IP office envisage filing of *ex parte* objections?
(If NO, please skip to part 3) YES NO N/A

T. Length of time given to applicant to respond to *ex parte* objections:

U. Are extensions of time granted to respond to *ex parte* objections?

YES NO N/A

3. Relative grounds for refusal (prior rights)

If the application is examined *ex officio* to determine whether the trademark application is in conflict with prior rights, what are, according to the applicable legislation, considered as prior rights?

A. An identical mark registered or applied for by another person in respect of identical goods or services YES NO N/A

B. An identical mark registered or applied for by another person in respect of similar goods or services YES NO N/A

C. A similar mark registered or applied for by another person in respect of identical goods or services YES NO N/A

D. A similar mark registered or applied for by another person in respect of similar goods or services YES NO N/A

Please explain, whether in all cases a likelihood of confusion is necessary or only in cases B to D:

E. A well-known mark YES NO N/A

F. Signs of indigenous peoples and local communities YES NO N/A

G. Business names/business identifiers (tradenames, abbreviations of tradenames) YES NO N/A

H. Appellation of origin/Protected geographical indications YES NO N/A

I. Industrial designs YES NO N/A

J. Copyrights YES NO N/A

K. Personal names YES NO N/A

- L. Collective, guarantee or certification marks YES NO N/A
- M. Unregistered trademarks YES NO N/A
- N. Others YES NO N/A

If YES, please list them:

O. Date of registration

- (i) Filing date of application? YES NO N/A
- (ii) Date of issuance of certificate of registration? YES NO N/A

(iii) Other:

P. Proof of acquired distinctiveness

- (i) Are certain marks registrable only with proof of acquired distinctiveness? YES NO N/A

If YES, please list them:

If YES, what are the criteria to prove the acquired distinctiveness?

- (ii) In the case of composite trademarks with non-distinctive words or elements, may the applicant be asked to disclaim such words or elements of his trademark? YES NO N/A

Q. Grounds for refusal based on irregularities in classification

- (i) Can the application be refused if a term in the list of goods and services is too vague? YES NO N/A
- (ii) Does the IP office reclassify the list of goods and services? YES NO N/A

V. OPPOSITION PROCEEDINGS

1. Oppositions systems

- A. Does the applicable registration system allow for *ex parte* opposition? (If NO, please skip to VI) YES NO N/A

If YES, are opposition proceedings available:

- (i) Before the registry/IP office? YES NO N/A
- (ii) Before a judicial body? YES NO N/A
- (iii) Other YES NO N/A

Please explain:

- (iv) Pre-registration (opposition to an application)
- (a) Before any examination YES NO N/A
- (b) During examination YES NO N/A
- (c) After the examination of formal requirements YES NO N/A
- (d) After examination of absolute grounds for refusal YES NO N/A

(e) After examination of relative grounds for refusal
 YES NO N/A

(v) Post-registration (opposition to a registration)
 YES NO N/A

2. Opposition period

A. What is the length of the opposition period?

(i) 2 months YES NO N/A

(ii) 3 months YES NO N/A

(iii) More than 3 months YES NO N/A
If YES, please specify:

(iv) Are extensions available? YES NO N/A
Please explain under what conditions:

3. Publication

A. Where is the application/registration published for opposition?

(i) In a gazette YES NO N/A

(ii) On the IP office web site YES NO N/A

(iii) Both (A and B) YES NO N/A

(iv) Other YES NO N/A

If YES, please explain:

B. Please describe what is the frequency of the publication:

C. Indicate which publication is “official” (i.e. has legal effect):

D. What is the starting date of the opposition period?

(i) The date of the publication of the application for registration
 YES NO N/A

(ii) The date of the publication of the registration
 YES NO N/A

(iii) Other:

4. Entitlement to file an opposition

A. Who may invoke an opposition?

(i) Any person YES NO N/A

(ii) Anyone showing a legitimate interest
 YES NO N/A

(iii) Any competent authorities (IP offices, others)
 YES NO N/A

If YES, please specify which authorities:

(iv) Other:

5. Possible grounds for opposition

A. Signs which are not capable of distinguishing
 YES NO N/A

B. Signs which do not satisfy other requirement of the definition of a mark
(e.g., not capable of being graphically represented)
 YES NO N/A

C. Signs devoid of any distinctive character
 YES NO N/A

D. Signs or indications which may serve, in trade, to designate the kind,
quality, quantity, intended purpose, value, place of origin, of the goods, or
the time of production (descriptive signs) YES NO N/A

E. Signs which have become customary in the current language or in the *bona
fide* and established trade practices of the country where protection is
claimed (i.e. have become generic) YES NO N/A

F. Generic terms YES NO N/A

If YES, describe how the term “generic” is understood:

G. Signs contrary to morality or public order
 YES NO N/A

H. Signs of such a nature as to deceive the public
 YES NO N/A

I. Signs contrary to Article 6^{ter} of the Paris Convention
 YES NO N/A

J. Signs benefiting protection from other international conventions (Red Cross,
Olympic symbols) YES NO N/A

K. Signs protected by national laws

(i) Royal emblems YES NO N/A

(ii) Signs of indigenous peoples and local communities
 YES NO N/A

(iii) Other YES NO N/A

- L. Well-known marks/famous marks/marks having a reputation
 YES NO N/A
- M. Appellations of origin/protected geographical indications
 YES NO N/A
- N. Business names/business identifiers (tradenames, abbreviations of tradenames)
 YES NO N/A
- O. Names of famous people YES NO N/A
- P. Foreign words or expressions YES NO N/A
- Q. An identical mark registered or applied for by another person in respect of identical goods or services YES NO N/A
- R. An identical mark registered or applied for by another person in respect of similar goods or services YES NO N/A
- S. A similar mark registered or applied for by another person in respect of identical goods or services YES NO N/A
- T. A similar mark registered or applied for by another person in respect of similar goods or services YES NO N/A

Please explain, whether a likelihood of confusion is necessary in cases R to T.:

- U. Industrial designs YES NO N/A
- V. Copyrights YES NO N/A
- W. Personal names YES NO N/A
- X. Collective, guarantee or certification marks
 YES NO N/A
- Y. Unregistered trademarks YES NO N/A
- Z. Other YES NO N/A

If YES, please list them:

6. Miscellaneous

- A. In opposition proceedings, what factors are considered in determining likelihood of confusion?

Please explain:

- B. Is it possible to reach settlement agreements in opposition proceedings?

YES NO N/A

- C. Is each party held responsible for his/her costs?

YES NO N/A

If NO, please explain:

- D. Does the losing party bear the entire cost of the opposition proceeding?

YES NO N/A

If NOT, please explain how the costs are dealt with:

- E. What is the average time it takes to issue a decision after an opposition proceeding is finished (meaning no further submission will be accepted)?

VI. APPEALS

1. Appeal Procedure

- A. Is there a procedure for appeals? YES NO N/A
- (i) Before the registry/IP office? YES NO N/A
- (ii) Before an administrative body? YES NO N/A
- (iii) Before a Court? YES NO N/A

2. Appeal Period

- A. Within which period of time appeal is possible?
- (i) 2 months after the registration
 YES NO N/A
- (ii) 3 months after the registration
 YES NO N/A
- (iii) More than 3 months after the registration
 YES NO N/A

Please explain:

- (iv) 2 months after the receipt of the notification of the decision
 YES NO N/A
- (v) 3 months after the receipt of the notification of the decision
 YES NO N/A
- (vi) More than 3 months after the receipt of the notification of the decision
 YES NO N/A

Please explain:

- (vii) Other time limit YES NO N/A

Please explain:

- (viii) Can this period be extended? YES NO N/A

If YES, please explain:

3. Entitlement to file an appeal

- A. Who is entitled to file an appeal (an IP office, the holder, an opponent, a third party)?:

VII. UNREGISTERED MARKS (COMMON LAW MARKS)

1. Protection

- A. Do unregistered marks give rise to any right under national law?
(If reply is NO, please skip to VIII) YES NO N/A
- B. Are unregistered marks protected against infringement? YES NO N/A
- C. Are unregistered marks protected against dilution? YES NO N/A
- D. Does the owner of a prior unregistered mark have any recourse against a subsequent user? YES NO N/A
- E. Does the owner of a prior unregistered mark have any recourse against a subsequent applicant/registrant? YES NO N/A

2. Protected subject matter

- | | | | | |
|----|--|------------------------------|-----------------------------|------------------------------|
| A. | Unregistered word marks | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> N/A |
| B. | Unregistered logo and other non-word marks | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> N/A |
| C. | Packaging | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> N/A |
| D. | Tradedress | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> N/A |
| E. | Company names | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> N/A |
| F. | Other | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> N/A |

If YES, please explain:

3. Criteria for protection

- | | | | | |
|----|---|------------------------------|-----------------------------|------------------------------|
| A. | Is a level of awareness/prior recognition required? | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> N/A |
| B. | Is distinctiveness required? | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> N/A |
| C. | Other: | | | |

4. Infringement standards

- | | | | | |
|----|--------------------------------------|------------------------------|-----------------------------|------------------------------|
| A. | Is actual confusion required? | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> N/A |
| B. | Is likelihood of confusion required? | <input type="checkbox"/> YES | <input type="checkbox"/> NO | <input type="checkbox"/> N/A |
| C. | Other: | | | |

5. Penalties

A. What are the penalties/damages provisions for infringement of unregistered marks?

(i) Same as registered marks YES NO N/A

(ii) Other:

VIII. USE OF A MARK

1. General use requirements

A. Does the applicable legislation provide for a use requirement? YES NO N/A

B. If use is required to maintain a registration what uninterrupted period of non-use is considered? ... years

C. If after the period of non-use under question 2., the holder starts using his/her mark, will the use reinstate his/her rights? YES NO N/A

If YES, are the rights valid against third parties? YES NO N/A

D. Must use be substantiated during the registration period (for example prior to renewal) YES NO N/A

If YES, explain how and when:

2. What is considered as use

- A. Does the legislation define what use is required (e.g., use in advertisements, on products, etc.) YES NO N/A

If YES, please give definition:

- B. According to your legislation or case law in your jurisdiction, do the following acts constitute use to maintain a registration:

- (i) Sole use in commercials or advertising YES NO N/A

If YES, please explain:

- (ii) Use of a registered mark in a different form, the elements of which do not alter the distinctive character of the mark as registered YES NO N/A

If YES, please explain:

- (iii) Affixation of a mark to goods or to the packaging thereof in your country solely for export purposes YES NO N/A

If YES, please explain:

- (iv) Use of a mark by a person other than the holder, if such use is made with the holder's content YES NO N/A
- (v) Use of a mark as a business name or a business symbol, and not in relation to the goods or services for which the mark is protected YES NO N/A
- (vi) Use for the purpose of a market test of good or service YES NO N/A
- (vii) Must the mark be subject of serious use to maintain the rights? YES NO N/A

C. What other types of use fulfil the use requirement?

Please explain:

3. Periods of use/non use after registration

- A. Is the uninterrupted period of non-use computed from the date of registration? YES NO N/A
- B. Is the uninterrupted period of non-use computed at any time during the registration? YES NO N/A
- C. Can the period of non-use be reset by subsequent use? YES NO N/A
- D. By other means? YES NO N/A

If YES, please explain:

- E. What kind of valid reasons shown by the holder of the mark will excuse non-use? YES NO N/A

Please explain:

- F. Does your legislation provide for a “grace” period between the end of the uninterrupted period of non-use and the introduction of an action for cancellation/revocation of the mark for non-use? YES NO N/A

- G. In such case, does your legislation provide for a specific period during which commencement or resumption of use is not taken into account when the holder of the mark was aware, or could not have been unaware, that an action for cancellation/revocation may be introduced? YES NO N/A

- H. Are there sanctions for unjustified non-use of a registered mark? YES NO N/A

If YES, please explain which are the sanctions:

4. Miscellaneous

- A. Does your law provide for specific requirements regarding the use of trademarks in particular sectors such as the health and the environment? YES NO N/A

If YES, please explain:

IX. USE OF TRADEMARK SYMBOLS (™, ®, marque déposée, marca registrada ...etc)

1. Is marking provided for in national legislation? YES NO N/A

2. Are markings allowed to indicate registration? YES NO N/A

3. Are markings allowed to indicate use (when the mark is unregistered)? YES NO N/A

4. Are there optional marking provisions? YES NO N/A

If YES, please explain:

5. Does the law provide for benefits from using optional markings? YES NO N/A

If YES, please explain:

6. Which law applies for cases of false or deceptive use of marking symbols

Please identify:

7. Are there penalties for non use of marking symbols when required by law? YES NO N/A

If YES, please explain:

8. Who is responsible for the control of marking requirements: the IP office, another government body or a private sector institution?

X. CANCELLATION OR/AND INVALIDATION PROCEEDINGS

1. General

A. Please explain the nature of cancellation and/or invalidation procedures in your country:

B. Does failure of required use lead to *ex officio* cancellation of the registered mark? YES NO N/A

C. Are proceedings available to remove a mark from the register at an administrative level in the Trademark office? YES NO N/A

(i) If YES, what are the standing requirements?

(ii) IF YES, by any interested person? YES NO N/A

D. Are appeal procedures available? YES NO N/A

E. Cancellation/Invalidation proceedings can start when within the period prescribed by law, the mark has not been put to genuine use in connection with the goods or services in respect of which it is registered YES NO N/A

If YES, when does the period start and what is the duration of the period?

F. Are proceedings available to remove a mark from the register by a court? YES NO N/A

If YES, what are the standing requirements?

- G. Are appeal procedures on court decisions available?
 YES NO N/A

Please explain:

- H. Are there restrictions in respect of the time period during which such proceedings may be brought? YES NO N/A

If YES, give time period restriction:

- I. Can some registrations become “incontestable?” YES NO N/A

If YES, please explain how:

2. Possible grounds for removal

- A. Identity with prior mark, registered for identical goods or services
 YES NO N/A
- B. Likelihood of confusion with prior registered mark
 YES NO N/A
- C. Likelihood of confusion with prior unregistered mark
 YES NO N/A
- D. Likelihood of confusion with pending application
 YES NO N/A
- E. Appellations of origin/ Protected geographical indications
 YES NO N/A
- F. Surname YES NO N/A

G. Descriptiveness YES NO N/A

H. Genericness YES NO N/A

I. Other:

3. Miscellaneous

A. Is there a period of time during which a third party or the owner of the removed mark may not apply to register the mark again?

YES NO N/A

If YES, please explain:

XI. RENEWAL OF REGISTRATION

1. Duration of registration:

2. Period for filing renewal applications:

3. Payment of renewal fee only required? YES NO N/A

4. Are there other requirements for renewal (such as examination as to absolute or relative grounds)? YES NO N/A

If YES, please explain:

5. How long is the period after expiration of registration during which renewal can still be made?

Please explain:

6. Does the IP office contact the holder of the mark to inform him/her when his/her registration is due for renewal? YES NO N/A

If YES, what are the consequences if the IP office has failed to inform the holder?

7. Restoration

- A. Are there provisions to restore a lapsed registration? YES NO N/A

If YES, please explain:

- B. Can restoration affect the rights of intervening users? YES NO N/A

If YES, please explain:

- C. Can restoration affect the rights of intervening registrants of identical/similar marks? YES NO N/A

If YES, please explain:

8. Is there a period of time after non-renewal during which third parties are prevented from applying to register the same mark?
 YES NO N/A

If YES, please explain:

9. Are unlimited renewals available?
 YES NO N/A

10. Must marks be used before they can be renewed?
 YES NO N/A

11. Is evidence of use required upon renewal? YES NO N/A

If YES, please explain:

12. Duration of renewal:

13. Is a new number assigned each time a registration is renewed?
 YES NO N/A

14. What other formalities must be observed upon renewal?

XII. MAINTAINING THE REGISTER

1. Can changes be made to the registrations? YES NO N/A

If YES, please explain:

2. Are there any time limits for filing a request of a change?
 YES NO N/A

If YES, please explain:

3. What are the effects of a change in the register?

XIII. TIME LIMITS FIXED BY THE OFFICE

1. What kind of time limits are fixed by your IP office?

2. What is the duration of these time limits?

3. Can these time limits be extended? YES NO N/A

4. Is continued processing provided for if a time limit under question XIII.1 has expired?

YES NO N/A

5. Is reinstatement of rights provided for if a time limit under question XIII.1 has expired?

YES NO N/A

If YES, what are the requirements for reinstatement of rights?

[End of Annex and of document]