

UNOFFICIAL TRANSLATION

LAW NO. 15/2001 CONCERNING ON M A R K

BY THE GRACE OF GOD ALMIGHTY
THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

Considering :

- a. that in the global trade era, in line with the ratification of international conventions by Indonesia, the role of marks becomes very important, particularly in maintaining the sound business competition;
- b. that in relation thereto, marks need adequate regulation to provide better service for the public;
- c. that based on the considerations in letters a and b as well as observing experience from the implementation of the existing mark law, it is deemed necessary to replace Law No. 19/1992 on mark as already amended by Law No. 14/1997 concerning the amendment to Law No.19/1992 on mark;

In view of :

1. Article 5 paragraph (1), Article 20 and Article 33 of the Constitution of 1945;
2. Law No.7/1994 on the ratification of the Agreement Establishing the World Trade Organization (Statute Book of 1994 No. 57, Supplement to Statute Book No. 3564) ;

With the approval of

THE HOUSE OF REPRESENTATIVES OF THE REPUBLIC OF INDONESIA

D E C I D E S :

To stipulate :

LAW ON MARK

CHAPTER I
GENERAL PROVISION
Article 1

Referred to in this law as :

1. Mark is a sign in the form of picture, name, word, letters, figures, configuration of colors or combination of the said elements which has distinguish ability and is used in trading activities of goods and services.
2. Trade mark is a mark used in goods traded by somebody or several persons collectively or statutory bodies for distinguishing the goods from other goods of the same kind.
3. Service mark is a mark used in services traded by somebody or several persons collectively or statutory bodies for distinguishing the services from other goods of the same kind.
4. Collective mark is as mark used in goods and/or services of the same characteristics which are traded by somebody or several persons collectively or statutory bodies for distinguishing the goods and/or services from other goods/services of the same kind.
5. Application is a request for the registration of mark submitted in writing to the Directorate General.
6. Applicant is a party submitting an application.
7. Auditor is a mark examiner, namely an official appointed by a ministerial decree, and tasked to examine applications for the registration of marks because of his/her expertise.
8. Proxy is a consultant of intellectual property rights.
9. Minister is the minister overseeing a department with a scope of tasks and responsibility covering intellectual property rights, including mark.
10. Directorate General is the Directorate General of Intellectual Property Rights subordinate to the department led by the minister.
11. Date of receipt is the date of receipt of an application already fulfilling administrative requirements.
12. Consultant of Intellectual Property Rights is somebody having expertise in the field of intellectual property rights and specially providing services in the field of submission and settlement of applications for patents, marks, industrial designs as well as other fields of intellectual property rights and being registered as a consultant of intellectual property rights at the Directorate General.
13. License is a permit granted by a holder of a registered mark to other parties through an agreement based on the granting of rights (not the transfer of rights) to use the mark wholly and partly for goods and/or services which are registered in a specified period and under certain conditions.
14. Priority right is a right of an applicant to submit an application originating in countries which join the Paris Convention for the Protection of Industrial Property or the Agreement Establishing the World Trade Organization to secure recognition that the date of receipt in countries of origin constitutes the priority date in the destination country which is also a member country of the two agreements, as long as the submission is done in the period already determined on the basis of the Paris Convention for the Protection of Industrial Property.
15. Day is working day.

CHAPTER II SCOPE OF MARK

Part One General Article 2

The mark as stipulated in this law covers trade and service marks.

Article 3

Right to Mark is an exclusive right granted by the country to the owner of a mark registered at the Mark General List for a specified period to use the mark directly or to permit other parties to use the mark.

Part Two Un-registeredable and rejected mark Article 4

A mark cannot be registered on the basis of an application submitted by an applicant with the bad intention.

Article 5

A mark cannot be registered if it contains any of the following elements :

- a. contravening laws in force, religious morality, decency or public order;
- b. not having distinguishability
- c. already becoming public property; or
- d. being information on or being connected with goods and/or services whose registration is applied for.

Article 6

1. The Directorate General must reject any application, if the mark:

- a. being the same principally or totally as a mark of other parties, which has been registered first, in

- b. the case of goods and/or services of the same kind;
 - c. being the same principally or totally as a mark already popularly belonging to other parties, in the case of goods and/or services of the same kind;
 - d. being the same principally or totally as a geographical indication already known.
2. The provision as meant in paragraph (10 letter b also can be applied to goods and/or services of other kinds as long as they fulfill certain requirements which will be further stipulated by a government regulation.
3. The directorate General also must reject any application if the mark:
 - a. being or having resemblance to names of popular figures, photos or names of statutory bodies owned by other parties, unless otherwise based on the written approval of the rightful party;
 - b. being imitation or having resemblance to names or acronyms of names, flags, signs or symbols or emblems of countries or national and international institutions, unless otherwise based on the written approval of the authorized party;
 - c. being imitation or having resemblance to signs or seals or official stamps used by countries or government institutions, unless otherwise based on the written approval of the authorized party;

CHAPTER III APPLICATION FOR REGISTRATION OF MARK

Part One Requirements and Procedures for Application Article 7

1. Every application is submitted in writing in the Indonesian language to the Directorate General by mentioning:
 - a. month, date, year;
 - b. full name, citizenship and address of the applicant;
 - c. full name, and address of proxy, in the case of the application being submitted through a proxy;
 - d. colors, if the mark whose registration in applied for uses color elements;
 - e. name of country and date of the first request for mark, in the case of the mark being submitted with a priority right.
2. Every application must be signed by the applicant or his/her proxy.
3. The applicant as meant in paragraph (2) can consist of one person or several persons collectively, or a statutory body.
4. The application is accompanied by payment receipt of costs.

5. If an application is submitted by more than one person collectively that have right to the said mark, all names of the applicants are mentioned by choosing one of the addresses as their address.
6. If the application as meant in paragraph (5), the said application is signed by one of the applicants entitled to the mark by attaching the written approval of the representing applicants.
7. In the case of the application as meant in paragraph (5) being submitted through their proxy, the power of attorney is signed by all parties entitled to the said mark.
8. The proxy as meant in paragraph (7) is a consultant of intellectual property rights.
9. Provisions on requirement regulation, while procedures for the appointment of the consultant are regulated by a presidential decree.

Article 8

1. Applications for 2 (two) classes of goods or more and/or services can be submitted in one application.
2. The application as meant in paragraph (1) must mention kinds of goods and/or services subsumed in classes whose registration is applied for.
3. Classes of the goods and/or services as meant in paragraph (1) are further regulated by a government regulation.

Article 9

Provisions on requirements and procedures for the application are further stipulated by a government regulation.

Article 10

1. Every application submitted by applicants living or domiciled permanently outside the territory of the Republic of Indonesia must be submitted through their proxies in Indonesia.
2. The applicants as meant in paragraph (1) must declare and chose domiciles of proxies as their legal domiciles in Indonesia

Part Two

Application for Registration of Mark with Priority Right

Article 11

Every application using a priority right must be submitted not later than 6(six) months, starting from the date of receipt of application for the registration of mark received for the first time in other country, which constitutes a member country of the Paris Convention for the Protection of Industrial Property or the Agreement Establishing the World Trade Organization.

Article 12

1. Besides fulfilling the obligations as meant in Part One of this Chapter, every application using a priority right must be accompanied by evidence of receipt of application for the first time, which results in the priority right.
2. The evidence of the priority right as meant in paragraph (1) is translated into the Indonesian language.
3. In the case of the provisions as meant in paragraphs (1) and (3) being not fulfilled in a period not later than 3 (three) months after the expiration of a right to submit application by using the priority right as meant in Article 11, the application continues to be processed, but it uses no priority right.

Part Three

Examination of Completeness of Application for Registratio