

(Translation)

**Operational Points on Submitting a Proposal for Invalidation of a Trademark
Registration by Trademark Examiners**

Enacted and promulgated on April 28, 2004 by
the order of the MOEA, enforced on May 1, 2004
Amended and promulgated on April 20, 2012 by
the order of the MOEA, enforced on July 1, 2012

1. These operational points are prescribed as the basis for a trademark examiner to submit a proposal, ex officio, to cancel a trademark registration pursuant to Paragraph 1 of Article 57 of the Trademark Act.
2. While a trademark examiner submitting a proposal for invalidation, in order to cancel a trademark registration, in addition to being in accordance with Trademark Examination Guidelines, the examiner shall also consider affecting factors such as the severity of the violation, infringement of legal right, protection of the trademark registrant's interests, and any existing business order so as to make a reasonable and fair decision.
3. A trademark examiner shall submit a proposal for invalidation of a trademark registration when such trademark registration is found to be in violation of the Act. After the supervisors have approved such proposal, a notice of such invalidation, stating facts and reasons thereof and setting up a time limit for making observations, shall be forwarded to the proprietor of the trademark or his/her trademark agent.
4. Shall any petitioner requests a trademark examiner to submit a proposal for invalidation of a trademark registration after the examiner has considered the trademark registration not in violation of the Act, or there is no necessity to submit such a proposal for invalidation, or it is not within the examiner's capacity to submit such a proposal for invalidation, the examiner shall give a notice to the petitioner on the reasons thereof. If the examiner considers it necessary to submit a proposal for invalidation, he/she shall give a notice to the proprietor of the trademark or his/her trademark agent to make observations pursuant to the invalidation procedure.
5. If any appeal decision or any judgment from the IP Court states that trademark registration violating the Act shall be inquired, ex officio, by a trademark examiner, the trademark examiner shall re-consider if there is a necessity to submit a proposal

for invalidation of the registration. If such submission is necessary after careful consideration, the trademark examiner shall give a notice to the proprietor of the trademark or his/her trademark agent to make observations pursuant to the invalidation procedure; if no action is required after careful consideration, the case will be closed and be on file after an approval is executed by the superior.

6. The examiner shall request the chief of the competent section of the Trademark Division to designate three or more examiners to be the advisory committee upon receiving observations from the proprietor of the trademark, or in the case where no such observations are filed, within the prescribed time limit. After the advisory committee is designated, the entire case shall be referred to them.

7. If there are invalidations both filed by an interested party and submitted by a trademark examiner in respect of the same trademark for the same ground, the invalidation filed by an interested party shall be given first priority.