

關於商標授權之聯合備忘錄

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JOINT RECOMMENDATION CONCERNING TRADEMARK LICENSES

關於商標授權之聯合備忘錄

adopted by
由

the Assembly of the Paris Union for the
Protection of Industrial Property

保護工業財產權巴黎聯盟大會

and
和

the General Assembly of the
World Intellectual Property Organization (WIPO)

世界智慧財產權組織(WIPO)大會

at the
在

Thirty-Fifth Series of Meetings of the
Assemblies of the Member States of WIPO
September 25 to October 3, 2000

2000年9月25日至10月3日召開的
世界智慧財產權組織成員國大會
第三十五屆系列會議上
通過

PREFACE

前 言

The Joint Recommendation Concerning Trademark Licenses, which includes the text of the provisions as adopted by the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), at its fourth session (March 27 to 31, 2000), was adopted at a joint session of the Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the World Intellectual Property Organization (WIPO) at the Thirty-Fifth Series of Meetings of the Assemblies of the Member States of WIPO (September 25 to October 3, 2000).

《關於商標授權之聯合備忘錄》中載有商標、工業設計及地理名稱法規常設委員會(SCT)第四屆會議(2000年3月27日至31日)所通過各項規定條文;該建議書經保護工業財產權巴黎聯盟大會和世界智慧財產權組織(WIPO)大會,在世界智慧財產權組織成員國大會第三十五屆系列會議(2000年9月25日至10月3日)召開的聯合會議通過。

The draft provisions concerning trademark licenses have been considered by the WIPO Committee of Experts on Trademark Licenses at its first session (February 17 to 20, 1997). The Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) continued the work at its first session (July 13 to 17, 1998), third session (November 8 to 12, 1999) and fourth session (March 27 to 31, 2000).

關於商標授權規定草案曾由世界智慧財產權組織商標授權專家委員會於其第一屆會議(1997年2月17日至20日)進行審議。商標、工業設計和地理名稱法規常設委員會(SCT)於第一屆會議(1998年7月13日至17日)、第三屆會議(1999年11月8日至12日)和第四屆會議(2000年3月27日至31日)繼續進行該項工作。

The Joint Recommendation aims at harmonizing and simplifying the formal requirements for the recordal of trademark licenses and therefore supplements the Trademark Law Treaty (TLT) of October 27, 1994, which is designed to streamline and harmonize formal requirements set by national or regional Offices for the filing of national or regional trademark applications, the recordal of changes, and the renewal of trademark registrations.

本聯合備忘錄旨在協調和簡化商標授權登記方面的形式要求,從而補充於1994年10月27日簽訂的《商標法條約》(TLT)。該條約之目的係統一和協調各國家或地區主管局在國家或地區提出商標申請、變更登記、商標註冊延展方面所規定的形式要求。

Further to the adoption by the WIPO Assemblies in September 1999 of the Joint Recommendation Concerning Provisions on the Protection of Well-known Marks, this Joint Recommendation is the second achievement of WIPO's policy to adapt to the fast pace of change in the field of industrial property by considering new options for accelerating the development of international harmonized common principles. The question of new approaches to the progressive development of international intellectual property law was implemented by WIPO pursuant to the WIPO Program and Budget for the biennium 1998-99.

繼世界智慧財產權組織1999年9月大會通過《關於保護著名商標規定之聯合備忘錄》之後，本聯合備忘錄是世界智慧財產權組織通過，加速發展國際上共同一致原則的新辦法，以適應工業財產權領域快速發展政策之第二項成果。關於漸進發展國際智慧財產權法的新途徑問題，世界智慧財產權組織係以其1998 - 99兩年期計劃和預算來落實。

This volume contains the text of the Joint Recommendation, the accompanying provisions, including Model International Forms, and explanatory notes prepared by the International Bureau.

本冊中載有《聯合備忘錄》條文、所附各項規定（包括國際授權書格式範本）、以及世界智慧財產權組織國際局編擬的解釋性說明。

Joint Recommendation

聯合建議

The Assembly of the Paris Union for the Protection of Industrial Property and the General Assembly of the World Intellectual Property Organization (WIPO);

保護工業財產權巴黎聯盟大會和世界智慧財產權組織(WIPO)大會，

Taking into account the provisions of the Paris Convention for the Protection of Industrial Property and of the Trademark Law Treaty (TLT);

考慮到《保護工業財產權巴黎公約》和《商標法條約》(TLT)的規定；

Recommend that each Member State may consider the use of any of the provisions adopted by the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT) at its fourth session, as guidelines concerning trademark licenses;

建議 每一個成員國均考慮將商標、工業設計和地理名稱法規常設委員會(SCT)在其第四屆會議上所通過的任何規定，作為關於商標授權方面的指導方針；

It is further recommended to each Member State of the Paris Union or of WIPO which is also a member of a regional intergovernmental organization that has competence in the area of registration of trademarks, to bring these provisions to the attention of that organization.

進一步建議 每一個有權處理商標註冊事務的地區政府間組織成員的巴黎聯盟成員國或世界智慧財產權組織成員國，提請該政府間組織注意這些規定。

Provisions follow.

各條規定如下。

Article 1

Abbreviated Expressions

第 1 條 縮略語

For the purposes of these draft Provisions, unless expressly stated otherwise:
在本規定草案中，除另有明確說明外：

- (i) “Office” means the agency entrusted by a Member State with the registration of marks;
“ 主管機關 ” 指由成員國授權辦理商標註冊的機構；
- (ii) “registration” means the registration of a mark by an Office;
“ 註冊 ” 指由主管機關進行的商標註冊；
- (iii) “application” means an application for registration;
“ 申請 ” 指要求註冊的申請；
- (iv) “mark” means a mark relating to goods (trademark) or to services (service mark) or to both goods and services;
“ 商標 ” 指與商品有關的商標（商品商標）或與服務有關的商標（服務商標）或與商品和服務兩者有關的商標；
- (v) “holder” means the person whom the register of marks shows as the holder of the registration;
“ 註冊持有人 ” 指商標註冊簿上列為註冊持有者的人；
- (vi) “Nice Classification” means the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended;
“ 尼斯分類 ” 指由1957年6月15日在尼斯簽訂並經修訂和修正的《商標註冊用商品和服務國際分類尼斯協定》所制定的分類；
- (vii) “license” means a license for the use of a mark under the applicable law of a Member State;
“ 授權 ” 指依成員國可適用的法律使用某商標的許可；
- (viii) “licensee” means the person to whom the holder grants a license;

“被授權人”指由註冊持有人授權使用商標的人；

(ix) “exclusive license” means a license which is only granted to one licensee, and excludes the holder from using the mark and from granting licenses to any other person;

“專屬授權”指僅授權一個被授權人使用，並禁止註冊持有人使用和授權任何其他人使用商標的授權；

(x) “sole license” means a license which is only granted to one licensee and excludes the holder from granting licenses to any other person, but does not exclude the holder from using the mark;

“獨家授權”指僅授權一個被授權人使用，並禁止註冊持有人授權任何其他人使用，但不禁止註冊持有人使用商標的授權；

(xi) “non-exclusive license” means a license which does not exclude the holder from using the mark or from granting licenses to any other person.

“非專屬授權”指不禁止註冊持有人使用或授權任何其他人使用商標的授權。

Article 2

Request for Recordal of a License

第 2 條 登記授權的請求

(1) [*Contents of the Request for Recordal*] Where the law of a Member State provides for the recordal of a license with its Office, that Member State may require that the request for recordal contain some or all of the following indications or elements:

[*登記請求書中的內容*] 如果成員國的法律規定，授權須向其主管局登記，該成員國可要求登記請求書中包括下列部分或全部的說明或組成部分：

(i) the name and address of the holder;

註冊持有人的名稱和地址；

(ii) where the holder has a representative, the name and address of that representative;

註冊持有人有代理人者，該代理人的名稱和地址；

- (iii) where the holder has an address for service, such address;
註冊持有人有送達地址者，該地址；
- (iv) the name and address of the licensee;
被授權人的名稱和地址；
- (v) where the licensee has a representative, the name and address of that representative;
被授權人有代理人者，該代理人的名稱和地址；
- (vi) where the licensee has an address for service, such address;
被授權人有送達地址者，該送達地址；
- (vii) the name of a State of which the licensee is a national if he is a national of any State, the name of a State in which the licensee has his domicile, if any, and the name of a State in which the licensee has a real and effective industrial or commercial establishment, if any;
如被授權人為任何國家的國民，該國國名；被授權人如在一國有住所，該國國名；被授權人如在一國有真實有效的工商營業所，該國國名；
- (viii) where the holder or the licensee is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;
註冊持有人或被授權人為法人，該法人的法律性質，以及該法人係依那一國以及在可適用的情況下該國的那一領土區域的法律所組成；
- (ix) the registration number of the mark which is the subject of the license;
授權使用商標的註冊號數；
- (x) the names of the goods and/or services for which the license is granted, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;
授權使用的商品和/或服務的名稱，須按尼斯分類的類別分類，每類商品之前應標明該類商品或服務所屬的尼斯分類類別編號，並按類別順序排列；
- (xi) where applicable, that the license is an exclusive license, a non-exclusive license, or a sole license;
在可適用的情況下，授權是專屬授權、非專屬授權或是獨家授權的說明；

(xii) where applicable, that the license concerns only a part of the territory covered by the registration, together with an explicit indication of that part of the territory;

在可適用的情況下，授權僅涉及註冊所適用的一部分領土的說明，以及對該部分領土的具體說明；

(xiii) the time period of the license;

授權的期限；

(xiv) a signature as specified in paragraph (2).

本條第(2)項所指的簽名。

(2) [*Signature*] (a) A Member State shall accept the signature of the holder or his representative, whether or not it is accompanied by the signature of the licensee or his representative.

[簽名] (a) 註冊持有人或其代理人的簽名，無論是否附有被授權人或其代理人的簽名，均應為成員國所接受。

(b) A Member State shall also accept the signature of the licensee or his representative, even if it is not accompanied by the signature of the holder or his representative, provided that it is accompanied by one of the following:

被授權人或其代理人的簽名，即使未附註冊持有人或其代理人的簽名，只要附有下列之一的文件，亦應為成員國所接受：

(i) an extract of the license contract indicating the parties and the rights being licensed, certified by a notary public or any other competent public authority as being a true extract of the contract;

經政府公證機構或任何其他政府主管機關證明為真實之授權合約摘要，其上須寫明二造當事人及被授權的權利。

(ii) an uncertified statement of license, drawn up in the form and with the content as prescribed in the statement of license Form provided for in the Annex to these provisions, and signed by both the holder or his representative and the licensee or his representative.

未經證明的授權聲明，該聲明須按附於本規定附件中的授權聲明書格式所規定的形式和內容寫成，並由註冊持有人(或其代理人)和被授權人(或其代理人)二者簽名。

(3) [*Presentation of the Request*] As regards the requirements concerning the presentation of the request, no Member State shall refuse the request where the presentation and arrangement of

indications and elements in the request correspond to the presentation and arrangement of indications and elements in the request Form provided for in the Annex to these provisions.

[*請求書的提出*] 就請求書提出方面的要求而言，如果請求書中的說明和組成部分的提出和安排與本規定附件所附的請求書格式中的說明和組成部分的提出和安排相符，任何締約方不得駁回請求。

(4) [*Language; Translation*] (a) A Member State may require that the request be in the language, or in one of the languages, admitted by the Office.

[*語文；譯文*] (a) 成員國得要求，請求書須使用主管機關接受的語文，或使用主管機關接受的數種語文之一。

(b) A Member State may require that, if the document referred to in paragraph (2)(b)(i) or (ii) is not in the language, or in one of the languages, admitted by the Office, the request be accompanied by a certified translation of the required document in the language, or in one of the languages, admitted by the Office.

成員國可要求，本條第(2)項(b)款第(i)目或第(ii)目所述的文件未使用主管機關接受的語文，或主管機關接受的數種語文之一的，請求書須附有將該所需文件譯成主管機關接受的語文或主管機關接受的數種語文之一的譯文，並須經證明。

(5) [*Fees*] Any Member State may require that, in respect of the recordal of a license, a fee be paid to the Office.

[*費用*] 任何成員國均得要求，關於授權之登記，須向主管機關繳納費用。

(6) [*Single Request Relating to Several Registrations*] A single request shall be sufficient even where the license relates to more than one registration, provided that the registration numbers of all registrations concerned are indicated in the request, the holder and the licensee are the same for all registrations, and the request indicates the scope of the license in accordance with paragraph (1) with respect to all registrations.

[*涉及幾項註冊的單一請求書*] 只要請求書中說明所有有關註冊的註冊號數，並且所有註冊的註冊持有人和被授權人均相同，以及請求書中根據本條第(1)項就所有註冊說明授權的範圍，即使授權涉及一件以上之註冊，一份單一請求書即為已足。

(7) [*Prohibition of Other Requirements*] No Member State may demand that requirements other than those referred to in paragraphs (1) to (6) be complied with in respect of the recordal of a license with its Office. In particular, the following may not be required:

[*其他要求的禁止*] 任何成員國不得要求在向其主管機關授權登記方面須遵守本條第(1)至(6)項所述以外的要求。尤其不得提出以下的要求：

(i) the furnishing of the registration certificate of the mark which is the subject of the license;

提供被授權使用的商標註冊證；

(ii) the furnishing of the license contract or a translation of it;

提供授權合約或授權合約的譯文；

(iii) an indication of the financial terms of the license contract.

說明授權合約的財務條款。

(8) [*Request Relating to Applications*] Paragraphs (1) to (7) shall apply, *mutatis mutandis*, to requests for recordal of a license for an application, where the applicable law of a Member State provides for such recordal.

[有關申請方面的請求] 如果成員國可適用的法律規定授權登記，本條第(1)至(7)項之規定於授權登記之申請請求準用之。

Article 3

Request for Amendment or Cancellation of a Recordal

第 3 條 修正或撤銷登記的請求

Article 2 shall apply, *mutatis mutandis*, where the request concerns the amendment or cancellation of the recordal of a license.

第2條之規定於修正或撤銷授權登記之請求準用之。

Article 4

Effects of the Non-Recordal of a License

第 4 條 未授權登記的效力

(1) [*Validity of the Registration and Protection of the Mark*] The non-recordal of a license with the Office or with any other authority of the Member State shall not affect the validity of the registration of the mark which is the subject of the license, or the protection of that mark.

[*註冊的有效性和對商標的保護*] 未向主管機關或成員國的任何其他機關授權登記，不得影響授權使用商標註冊的有效性或對該商標的保護。

(2) [*Certain Rights of the Licensee*] (a) A Member State may not require the recordal of a license as a condition for any right that the licensee may have under the law of that Member State to join infringement proceedings initiated by the holder or to obtain, by way of such proceedings, damages resulting from an infringement of the mark which is the subject of the license.

[*被授權人的若干權利*] (a) 成員國不得要求，被授權人依該成員國的法律享有參加由註冊持有人提起的侵權訴訟，或透過此種訴訟獲得因授權使用的商標被侵權所致損害賠償的任何權利，須以授權登記為條件。

(b) If subparagraph (a) is not compatible with the national law of a Member State, that subparagraph shall not apply in respect of that Member State.

如果本項(a)款不符合成員國的國內法，則該項規定不適用於該成員國。

Article 5

Use of a Mark on Behalf of the Holder

第 5 條 代表註冊持有人使用商標

Use of a mark by natural persons or legal entities other than the holder shall be deemed to constitute use by the holder himself if such use is made with the holder's consent.

註冊持有人以外的自然人或法人使用商標，如得到註冊持有人的同意，即應視為構成註冊持有人本人的使用。

Article 6

Indication of the License

第 6 條 對授權的說明

Where the law of a Member State requires an indication that the mark is used under a license, full or partial non-compliance with that requirement shall not affect the validity of the registration of the mark which is the subject of the license or the protection of that mark, and shall not affect the application of Article 5.

如果成員國的法律要求對商標授權使用情況予以說明，全部或部分不遵守該要求，不得影響被授權使用之商標註冊的有效性或對該商標的保護，亦不得影響第5條的適用。

MODEL INTERNATIONAL FORM No. 1

**REQUEST FOR
RECORDAL OF LICENSE
REQUEST FOR AMENDMENT/CANCELLATION
OF RECORDAL OF LICENSE**

in respect of application(s) and/or registered mark(s),
submitted to the Office of

FOR OFFICE USE ONLY

Reference indication of holder/applicant and/or licensee: ¹
Reference indication of representative of holder/applicant:
licensee:

1. Request²

- The recordal of the fact that the registration(s) and/or application(s) mentioned in the present request is (are) the subject of a license is hereby requested.
- The amendment of the recordal of the license(s) concerning the registration(s) and/or application(s) mentioned in the present request is hereby requested.
- The cancellation of the recordal of the license(s) concerning the registration(s) and/or application(s) mentioned in the present request is hereby requested.

¹ Any reference indication allotted by the holder/applicant and/or licensee and/or any reference indication allotted by any of the representatives to the present request may be given in this space.

² Check the appropriate box.

附 件
國際授權書格式範本1

授權登記請求書
授權登記修正/撤銷請求書

就申請和/或註冊商標，提交.....主管機關

僅供主管機關填寫

註冊持有人/申請人和/或被授權人的
參考說明：¹

註冊持有人/申請人之
代理人的參考說明：

被授權人代理人的參考說明：¹

• 請求書²

- 本請求書中提及的註冊和/或申請商標授權使用，特此請求登記。
- 特此請求修正涉及本請求書中提及的註冊和/或申請註冊商標的授權登記。
- 特此請求撤銷涉及本請求書中提及的註冊和/或申請註冊商標的授權登記。
-

¹ 可在此欄中填寫註冊持有人/申請人和/或被授權人為本請求書指定的任何參考說明，和/或任何代理人為本請求書指 定的任何參考說明。

² 請在適當的方格內作標記。

2. Registration(s) and/or Application(s) Concerned

The present request concerns the following registration(s) and/or application(s):

2.1 Registration and/or application number(s):

2.2 If the space under item 2.1 is not sufficient, check this box and provide the information on an additional sheet.

3. Holder(s)/Applicant(s)

3.1 If the holder/applicant is a natural person, the person's

(a) family or principal name:³

(b) given or secondary name(s):³

3.2 If the holder/applicant is a legal entity,

(a) the entity's full official designation:

(b) the legal nature of the legal entity:

(c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

3.3 Address (including postal code and country):

Telephone number(s):⁴

Telefacsimile numbers(s):⁴

3.4 Check this box if there is more than one holder/applicant; in that case, list the additional holders/applicants on a separate sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.

³ The names to be indicated under (a) and (b) are those which appear in the records of the Office in respect of the holder/applicant of the registration(s)/application(s) to which the present request relates.

⁴ Even where the Office elects to request this information, the holder/applicant or his representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

2. 所涉的註冊和/或申請

本請求書涉及以下註冊和/或申請註冊商標：

2.1 註冊號和/或申請號：

2.2 如第 2.1 款的空白不夠填寫，請在此格內作標記，並用附頁提供有關的內容。

3. 註冊持有人/申請人

3.1 註冊持有人/申請人若為自然人，請填該自然人的

(a) 姓氏：³

(b) 名字：³

3.2 註冊持有人/申請人若為法人，請填

(a) 該法人的正式全名：

(b) 該法人的法律性質：

(c) 該法人係依那一國以及在可適用的情況下該國的那一領土區域的法律所組成的：

3.3 地址(包括郵遞區號和國家)：

電話號碼：⁴

傳真號碼：⁴

3.4 註冊持有人/申請人不只一人時，請在此格內作標記；在此情況下，請用附頁將其他持有人/申請人一一列出，並註明每一註冊持有人/申請人的第 3.1 或 3.2 款和第 3.3 款所指的資料。

³ (a) 款和 (b) 款中所填寫的姓名，應是載於主管機關的記錄中的本請求書所涉註冊/申請的持有人/申請人的姓名。

⁴ 即使主管機關要求提供此一資料，註冊持有人/申請人或其代理人亦可選擇不填。如填寫的話，應同時填寫國碼（適當時）以及區域碼。

4. Representative of Holder(s)/Applicant(s)

4.1 Name:

4.2 Address (including postal code and country):

Telephone number(s):⁵

Telefacsimile number(s):⁵

4.3 Registration number, if registered with the Office:

4.4 Number allotted to the power of attorney:⁶

5. Address for Service of Holder(s)/Applicant(s)⁷

6. Licensee

6.1 If the licensee is a natural person, the person's

(a) family or principal name:

(b) given or secondary name(s):

6.2 If the licensee is a legal entity,

(a) the entity's full official designation:

(b) the legal nature of the legal entity:

(c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

⁵ Even where the Office elects to request this information, the holder/applicant or his representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

⁶ Leave blank if the power of attorney has not, or has not yet, been allotted a number or if the number is not known to the holder/applicant or the representative.

⁷ According to Article 4(2)(b) of the TLT, an address for service must be indicated in the space available under the title of item 5 where the holder/applicant does not have, or has not indicated, a domicile or a real and effective industrial or commercial establishment on the territory of the Contracting Party whose Office is the Office named on the first page of the present request, except where a representative is indicated in item 4.

4. 註冊持有人/申請人的代理人

4.1 姓名：

4.2 地址 (包括郵遞區號和國家)：

電話號碼：⁵ 傳真號碼：⁵

4.3 若已向主管機關注冊，註冊號：

4.4 委任書被指定的序號：⁶

5. 註冊持有人/申請人的送達地址⁷

6. 被授權人

6.1 被授權人是自然人的，請填該人的

(a) 姓氏：

(b) 名字：

6.2 被授權人是法人的，請填

(a) 該法人的正式全稱：

(b) 該法人的法律性質：

(c) 該法人係依那一國以及在可適用的情況下該國的那一領土區域的法律所組成的：

⁵ 即使主管機關要求提供此一資料，註冊持有人/申請人或其代理人亦可選擇不填。如填寫的話，應同時填寫國碼（適當時）以及區域碼。

⁶ 委任書沒有序號或尚未指定序號的，或註冊持有人/申請人或其代理人不知悉委任書序號的，可不填此欄。

⁷ 根據《商標法條約》第 4 條第(2)項(b)款，如果註冊持有人/申請人在本請求書第 1 頁指明的主管機關所屬的締約方領土內沒有、或沒有說明有住所或真實有效的工商營業所，必須在第 5 項中填寫送達地址，但已在第 4 項中填寫代理人者除外。

6.3 Address (including postal code and country):

Telephone number(s):⁸

Telefacsimile numbers(s):⁸

6.4 State of nationality of the licensee:

6.5 State of domicile of the licensee:

6.6 State of real and effective industrial or commercial establishment of the licensee:

6.7 Check this box if there is more than one licensee; in that case, list each additional licensee on a separate sheet and indicate, in respect of each of them, the data referred to in items 6.1 to 6.6.

7. Representative of Licensee

7.1 Name:

7.2 Address (including postal code and country):

Telephone number(s):⁹

Telefacsimile number(s):⁹

7.3 Registration number, if registered with the Office:

7.4 Number allotted to the power of attorney:¹⁰

⁸ Even where the Office elects to request this information, the licensee or his representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

⁹ Even where the Office elects to request this information, the licensee or his representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

¹⁰ Leave blank if the power of attorney has not, or has not yet, been allotted a number or if the number is not known to the licensee or representative.

6.3 地址 (包括郵遞區號和國家) :

電話號碼 :⁸

傳真號碼 :⁸

6.4 被授權人的國籍 :

6.5 被授權人的住所所在國 :

6.6 被授權人真實有效的工商營業所所在國 :

6.7 被授權人不只一個時,請在此格內作標記;在此情況下,請用附頁將其他被授權人一一列出,並註明每一被授權人的第 6.1 至 6.6 款所指的資料。

7. 被授權人的代理人

7.1 姓名 :

7.2 地址 (包括郵遞區號和國家):

電話號碼 :⁹

傳真號碼 :⁹

7.3 已向主管機關注冊,其註冊號 :

7.4 委任書被指定的序號 :¹⁰

⁸ 即使主管機關要求提供此一資料,被授權人或其代理人亦可選擇不填。如填寫的話,應同時填寫國碼(適當時)以及區域碼。

⁹ 即使主管機關要求提供此一資料,被授權人或其代理人亦可選擇不填。如填寫的話,應同時填寫國碼(適當時)以及區域碼。

¹⁰ 委任書沒有序號或尚未指定序號的,或被授權人或其代理人不知悉委任書序號的,可不填此欄。

8. Address for Service of Licensee¹¹

9. Goods and/or Services for Which the License Is Granted¹²

- 9.1 The license is granted for all the goods and/or services listed in the registration(s) and/or application(s) referred to in item 2.
- 9.2 Only one registration and/or application is mentioned in item 2 and the license is only granted for some of the goods and/or services listed in that registration or application. The following goods and/or services are covered by the license:
- 9.3 More than one registration and/or application is mentioned in item 2, and in respect of at least one of them, the license covers less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each registration and/or applications, whether the license covers all the goods and/or services or only some of them.

10. Kind of License¹²

- 10.1 The license is an exclusive license.
- 10.2 The license is a sole license.
- 10.3 The license is a non-exclusive license.
- 10.4 The license concerns only the following part of the territory covered by the registration:
-
-

¹¹ According to Article 4(2)(b) of the TLT, an address for service must be indicated in the space available under the title of item 8 where the licensee does not have, or has not indicated, a domicile or a real and effective industrial or commercial establishment on the territory of the Contracting Party whose Office is the Office named on the first page of the present request, except where a representative is indicated in item 7.

¹² Check the appropriate box.

8. 被授權人的送達地址¹¹

9. 授權的商品和/或服務¹²

- 9.1 第 2 款所述的註冊和/或申請中列出的全部商品和/或服務上使用。
- 9.2 第 2 款僅提及一項註冊或申請，僅授權在該註冊或申請中列出的部分商品和/或服務上使用。授權涉及的商品和/或服務如下：
- 9.3 第 2 款提及的註冊和/或申請不只一個，就其中至少一項註冊和/或申請而言，授權並未涉及所列的全部商品和/或服務。在此情況下，請用附頁分別就每一項註冊和/或申請註明：授權是涉及全部商品和/或服務還是僅涉及部分商品和/或服務。
-

10. 授權的種類¹²

- 10.1 授權是專屬授權。
- 10.2 授權是獨家授權。
- 10.3 授權是非專屬授權。
- 10.4 授權僅涉及註冊所適用的如下領土部分：
-

¹¹ 根據《商標法條約》第 4 條第(2)項(b)款，如果被授權人在本請求書第 1 頁指明的主管機關所屬的締約方領土內沒有、或沒有說明有住所或真實有效的工商營業所，必須在第 5 款中填寫送達地址，但已在第 7 款中填寫代理人者除外。

¹² 請在適當的方格內作標記。

11. Time Period of License¹²

11.1 The license is limited in time and granted

fromto

11.1.1 The license is subject to automatic extension.

11.2 The license is granted for an unlimited period of time.

12. Signatures or Seals¹³

12.1 Signature(s) or seal(s) of the holder(s)/applicant(s):

12.1.1 Name of the holder/applicant or, if the holder/applicant is a legal entity, name of the person who acts on behalf of the holder/applicant:

12.1.2 Date of signature or of sealing:

12.1.3 Signature or seal:

12.2 Signature(s) or seal(s) of the licensee(s):¹⁴

12.2.1 Name of the licensee(s) or, if the licensee(s) is a legal entity, name of the person who acts on behalf of the licensee(s):

12.2.2 Date of signature or of sealing:

12.2.3 Signature or seal:

¹² Check the appropriate box.

¹³ If there is more than one person signing or whose seal is used, all of the indications under subitems 12.1 to 12.4 should be given on an additional sheet.

¹⁴ The signature of the licensee is only necessary if the request is not signed by the holder/applicant. In this case, the request must be accompanied, at the option of the requesting party, by one of the following: (i) an extract of the license contract, indicating the parties and the rights being licensed, which extract may be required to be certified, by a notary public or any other competent public authority, as being a true extract of the contract; (ii) an uncertified statement of license drawn up in the form and with the content as prescribed in the statement of license Form provided for in this Annex and signed by both the holder/applicant or his representative, and the licensee or his representative.

11. 授權的期限¹²

11.1 授權有限期，有效期

自至

11.1.1 授權可自動延期。

11.2 授權無限期。

12. 簽名或蓋章¹³

12.1 註冊持有人/申請人的簽名或蓋章：

12.1.1 註冊持有人/申請人的姓名，或註冊持有人/申請人若為法人，註冊持有人/申請人代表人的姓名：

12.1.2 簽名或蓋章的日期：

12.1.3 簽名或蓋章：

12.2 被授權人的簽名或蓋章：¹⁴

12.2.1 被授權人的姓名，或如果被授權人是法人的，代表被授權人的人員的姓名：

12.2.2 簽名日期或蓋章日期：

12.2.3 簽名或蓋章：

¹² 請在適當的方格內作標記。

¹³ 簽名的人或其印章被用來蓋章的人不只一人時，請用附頁填寫第 12.1 至 12.4 目的所有內容。

¹⁴ 只有當註冊持有人/申請人未在請求書上簽名時，才需要被權人簽名。在此情況下，在請求人一方的選擇下，請求書須附有下列各項之一：(i) 得要求經政府公證機構或其他政府主管機關證明為真實之授權契約之摘要，該摘要中須寫明雙方當事人和被授權的權利；(ii) 未經證明的授權聲明，該聲明須按附於本附件中的授權聲明書格式所規定的形式和內容寫成，並由註冊持有人(或其代理人)和被授權人(或其代理人)二者簽名。

12.3 Signature or seal of the representative of the holder(s)/applicant(s):

12.3.1 Name of the natural person who signs or whose seal is used:

12.3.2 Date of signature or of sealing:

12.3.3 Signature or seal:

12.4 Signature or seal of the representative of the licensee(s):

12.4.1 Name of the natural person who signs or whose seal is used:

12.4.2 Date of signature or of sealing:

12.4.3 Signature or seal:

13. Fee

13.1 Currency and amount of the fee paid in connection with the present request:

13.2 Method of payment:

14. Additional Sheets

Check this box if additional sheets are enclosed and indicate the total number of such sheets:

12.3 註冊持有人/申請人的代理人簽名或蓋章：

12.3.1 簽名或其印章被用來蓋章的自然人姓名：

12.3.2 簽名日期或蓋章的日期：

12.3.3 簽名或蓋章：

12.4 被授權人的代理人簽名或蓋章：

12.4.1 簽名或其印章被用來蓋章的自然人姓名：

12.4.2 簽名或蓋章的日期：

12.4.3 簽名或蓋章：

13. 費用

13.1 本請求書應繳費用的貨幣與金額：

13.2 付款方式：

14. 附頁

如此件有附頁，請在此格內作標記，並註明附頁的總頁數：

MODEL INTERNATIONAL FORM No. 2

STATEMENT OF LICENSE

in respect of application(s) and/or registered mark(s),
submitted to the Office of

FOR OFFICE USE ONLY

Reference indication of holder/applicant
and/or licensee:¹

Reference indication of representative of
holder/applicant:

licensee:¹

1. Statement

The holder(s)/applicant(s) and licensee(s) hereby state that the registration(s) and/or application(s) identified below is (are) the subject of a license

¹ Any reference indication allotted by the holder/applicant and/or licensee and/or any reference indication allotted by any of the representatives to the present request may be given in this space.

國際授權書格式範本2

授權聲明

就申請和/或註冊商標，提交.....主管機關

僅供主管機關填寫

註冊持有人/申請人和/或被授權人的
參考說明：¹

.....

註冊持有人/申請人之
代理人的參考說明：

.....

被授權人代理人的參考說明：¹

.....

1. 聲明

註冊持有人/申請人和被授權人特此聲明，以下寫明的註冊和/或申請授權使用。

¹ 可在此欄中填寫註冊持有人/申請人和/或被授權人為本請求書指定的任何參考說明，和/或任何代理人為本請求書指定的任何參考說明。

2. Registration(s) and/or Application(s) Concerned

The present statement concerns the following registration(s) and/or application(s):

2.1 Registration and/or application number(s):

2.2 If the space under item 2.1 is not sufficient, check this box and provide the information on an additional sheet.

3. Holder(s)/Applicant(s)

3.1 If the holder/applicant is a natural person, the person's

(a) family or principal name:²

(b) given or secondary name(s):²

3.2 If the holder/applicant is a legal entity,

(a) the entity's full official designation:

(b) the legal nature of the legal entity:

(c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

3.3 Address (including postal code and country):

Telephone number(s):³

Telefacsimile numbers(s):³

3.4 Check this box if there is more than one holder/applicant; in that case, list the additional holders/applicants on a separate sheet and indicate, in respect of each of them, the data referred to in items 3.1 or 3.2 and 3.3.

² The names to be indicated under (a) and (b) are those which appear in the records of the Office in respect of the holder/applicant of the registration(s)/application(s) to which the present request relates.

³ Even where the Office elects to request this information, the holder/applicant or his representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

2. 所涉的註冊和/或申請

本聲明涉及以下註冊和/或申請：

2.1 註冊號和/或申請號：

2.2 如第 2.1 款的空白不夠填寫之用，請在此格內作標記，並用附頁提供有關內容。

3. 註冊持有人/申請人

3.1 註冊持有人/申請人若為自然人，請填該人的

(a) 姓氏：²

(b) 名字：²

3.2 註冊持有人/申請人若為法人，請填

(a) 該法人的正式全稱：

(b) 該法人的法律性質：

(c) 該法人係依那一國以及在可適用的情況下該國的那一領土區域的法律所組成的：

3.3 地址(包括郵遞區號和國家)：

電話號碼：³

傳真號碼：³

3.4 註冊持有人/申請人不只一人時，請在此格內作標記；在此情況下，請用附頁將其他註冊持有人/申請人一一列出，並註明每一註冊持有人/申請人的第 3.1 或 3.2 款和第 3.3 款所指的資料。

² (a)項和 (b)項中所填寫的姓名，應是載於主管機關的記錄中的本請求書所涉註冊/申請的持有人/申請人的名字。

³ 即使主管機關要求提供此一資料，註冊持有人/申請人或其代理人亦可選擇不填。如填寫的話，應同時填寫國碼（適當時）以及區域碼。

4. Representative of Holder(s)/Applicant(s)

4.1 Name:

4.2 Address (including postal code and country):

Telephone number(s):⁴

Telefacsimile number(s):⁴

4.3 Registration number, if registered with the Office:

4.4 Number allotted to the power of attorney:

5. Licensee

5.1 If the licensee is a natural person, the person's

(a) family or principal name:

(b) given or secondary name(s):

5.2 If the licensee is a legal entity,

(a) the entity's full official designation:

(b) the legal nature of the legal entity:

(c) the State, and, where applicable, the territorial unit within that State, under the law of which the legal entity is organized:

5.3 Address (including postal code and country):

Telephone number(s):⁵

Telefacsimile numbers(s):⁵

5.4 State of nationality of the licensee:

5.5 State of domicile of the licensee:

⁴ Even where the Office elects to request this information, the holder/applicant or his representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

⁵ Even where the Office elects to request this information, the licensee or his representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

4. 註冊持有人/申請人的代理人

4.1 姓名：

4.2 地址 (包括郵遞區號和國家):

電話號碼：⁴

傳真號碼：⁴

4.3 已向主管機關注冊，其註冊號：

4.4 委任書被指定的序號：

5. 被授權人

5.1 被授權人若為自然人，請填該人的

(a) 姓氏：

(b) 名字：

5.2 被授權人若為法人，請填

(a) 該法人的正式全稱：

(b) 該法人的法律性質：

(c) 該法人係依那一國以及在可適用的情況下該國的那一領土區域的法律所組成的：

5.3 地址 (包括郵遞區號和國家)：

電話號碼：⁵

傳真號碼：⁵

5.4 被授權人的國籍：

5.5 被授權人的住所所在國：

⁴ 即使主管機關要求提供此一資料，註冊持有人/申請人或其代理人亦可選擇不填。如填寫的話，應同時填寫國碼（適當時）以及區域碼。

⁵ 即使主管機關要求提供此一資料，註冊持有人/申請人或其代理人亦可選擇不填。如填寫的話，應同時填寫國碼（適當時）以及區域碼。

5.6 State of real and effective industrial or commercial establishment of the licensee:

- 5.7 Check this box if there is more than one licensee; in that case, list each additional licensee on a separate sheet and indicate, in respect of each of them, the data referred to in items 5.1 to 5.6.

6. Representative of Licensee

6.1 Name:

6.2 Address (including postal code and country):

Telephone number(s):⁶

Telefacsimile number(s):⁶

6.3 Registration number, if registered with the Office:

6.4 Number allotted to the power of attorney:⁷

7. Goods and/or Services for Which the License Is Granted⁸

7.1 The license is granted for all the goods and/or services listed in the registration(s) and/or application(s) referred to in item 2.

7.2 Only one registration or application is mentioned in item 2 and the license is only granted for some of the goods and/or services listed in that registration or application. The following goods and/or services are covered by the license:

7.3 More than one registration and/or application is mentioned in item 2, and in respect of at least one of them, the license covers less than all the goods and/or services listed. In this case, indicate on an additional sheet, separately in respect of each registration and/or applications, whether the license covers all the goods and/or services or only some of them.

⁶ Even where the Office elects to request this information, the licensee or his representative has the option to refrain from providing such indications. Where they are given, they should include the country code (where appropriate) and area code.

⁷ Leave blank if the power of attorney has not, or has not yet, been allotted a number or if the number is not known to the licensee or the representative.

⁸ Check the appropriate box.

5.6 被授權人真實有效的工商營業所所在國：

5.7 被授權人不只一人時，請在此格內作標記；在此情況下，請用附頁將其他被授權人一一列出，並註明每一被授權人的第 5.1 至 5.6 項所指的資料。

5. 被授權人的代理人

6.1 姓名：

6.2 地址 (包括郵遞區號和國家):

電話號碼：⁶ 傳真號碼：⁶

6.3 已向主管機關注冊，其註冊號：

6.4 委任書被指定的序號：⁷

7. 被授權的商品和/或服務⁸

7.1 授權在第 2 項所述的註冊和/或申請中列出的全部商品和/或服務上使用。

7.2 第 2 項僅提及一項註冊或申請，僅授權在該註冊或申請中列出的部分商品和/或服務上使用。授權涉及的商品和/或服務如下：

7.3 第 2 項提及的註冊和/或申請不只一個，就其中至少一項註冊和/或申請而言，授權並未涉及所列的全部商品和/或服務。在此情況下，請用附頁分別就每一項註冊和/或申請註明：授權是涉及全部商品和/或服務還是僅涉及部分商品和/或服務。

⁶ 即使主管機關要求提供此一資料，註冊持有人/申請人或其代理人亦可選擇不填。如填寫的話，應同時填寫國碼（適當時）以及區域碼。

⁷ 委任書沒有序號或尚未指定序號的，或註冊持有人/申請人或其代理人不知悉委任書序號的，可不填此欄。

⁸ 請在適當的方格內作標記。

8. Kind of License⁸

- 8.1 The license is an exclusive license.
- 8.2 The license is a sole license.
- 8.3 The license is a non-exclusive license.
- 8.4 The license concerns only the following part of the territory covered by the registration:

9. Time Period of License⁸

- 9.1 The license is limited in time and granted fromto
- 9.1.1 The license is subject to automatic extension.
- 9.2 The license is granted for an unlimited time.

10. Signatures or Seals⁹

- 10.1 Signature(s) or seal(s) of the holder(s)/applicant(s):
- 10.1.1 Name of the holder/applicant or, if the holder/applicant is a legal entity, name of the person who acts on behalf of the holder/applicant
- 10.1.2 Date of signature or of sealing:
- 10.1.3 Signature or seal:
- 10.2 Signature(s) or seal(s) of the licensee(s):
- 10.2.1 Name of the licensee or, if the licensee is a legal entity, name of the person who acts on behalf of the licensee:
- 10.2.2 Date of signature or of sealing:
- 10.2.3 Signature or seal:

⁸ Check the appropriate box.

⁹ If there is more than one person signing or whose seal is used, all of the indications under subitems 10.1 to 10.4 should be given on an additional sheet.

8. 授權的種類⁸

- 8.1 授權是專屬授權。
- 8.2 授權是獨家授權。
- 8.3 授權是非專屬授權。
- 8.4 授權僅涉及註冊所適用的如下領土部分：
-

9. 授權的期限⁸

- 9.1 授權有限期，有效期
自至
- 9.1.1 授權可自動延期。
- 9.2 授權無限期。
-

10. 簽名或蓋章⁹

10.1 註冊持有人/申請人的簽名或蓋章：

10.1.1 註冊持有人/申請人的姓名，或註冊持有人/申請人若為法人，註冊持有人/申請人代表人的姓名：

10.1.2 簽名或蓋章的日期：

10.1.3 簽名或蓋章：

10.2 被授權人的簽字或蓋章：

10.2.1 被授權人的姓名，或被授權人若為法人，被授權人代表人的姓名：

10.2.2 簽名或蓋章的日期：

10.2.3 簽名或蓋章：

⁸ 請在適當的方格內作標記。

⁹ 簽名的人或其印章被用來蓋章的人不只一人時，請用附頁填寫第 10.1 至 10.4 分項的所有內容。

10.3 Signature or seal of the representative of the holder(s)/applicant(s):

10.3.1 Name of the natural person who signs or whose seal is used:

10.3.2 Date of signature or of sealing:

10.3.3 Signature or seal:

10.4 Signature or seal of the representative of the licensee(s):

10.4.1 Name of the natural person who signs or whose seal is used:

10.4.2 Date of signature or of sealing:

10.4.3 Signature or seal:

11. Additional Sheets

Check this box if additional sheets are enclosed and indicate the total number of such sheets:

10.3 註冊持有人/申請人的代理人的簽名或蓋章：

10.3.1 簽名或其印章被用來蓋章的自然人的姓名：

10.3.2 簽名或蓋章的日期：

10.3.3 簽名或蓋章：

10.4 被授權人代理人的簽名或蓋章：

10.4.1 簽名或其印章被用來蓋章的自然人的姓名：

10.4.2 簽名或蓋章的日期：

10.4.3 簽名或蓋章：

11. 附頁

如此件有附頁，請在此格內作標記，並註明附頁的總頁數：

EXPLANATORY NOTES*
prepared by the International Bureau

解釋性說明*

由國際局編擬

*These notes were prepared by the International Bureau of the World Intellectual Property Organization (WIPO) for explanatory purposes only.

* 本解釋性說明係由世界智慧財產權組織(WIPO)國際局編擬。

Notes on Article 1

關於第 1 條的說明

1.01 *Items (i) to (xi)* seem to be self-explanatory. *Items (i) to (iii), (v) and (vi)* correspond to the abbreviated expressions used in the Trademark Law Treaty (TLT).

第 (i) 至 (xi) 款似乎意義自明，無須解釋。第 (i) 至 (iii)、(v) 和 (vi) 款與《商標法條約》(TLT) 中所用的縮略語相似。

1.02 The terms defined in items (ix) to (xi) are used in Article 2(1)(xi) and in Section 10 of the Model International Forms No. 1 and Section 8 of Model International Forms No. 2 contained in the Annex.

第 (ix) 至 (xi) 款中所下定義的術語，用於第 2 條第 (1) 項第 (xi) 款、及附件中所載的國際授權書格式範本 1 第 10 款和國際授權書格式範本 2 第 8 款中。

Notes on Article 2

關於第 2 條的說明

2.01 This Article provides a maximum list of indications and elements that may be required by a Member State with respect to a request for recordal of a license. It is understood that a Member State may, in addition to requiring that these indications and elements be supplied by the requesting party, subject the request to a formalities examination and, if the Office considers that any of the indications or elements fails the examination, contact the requesting party for clarification and/or amendment.

該條列出成員國最多可要求一份授權登記之請求書中有哪些說明和組成部分。不言而喻，除要求請求方提供這些說明和組成部分以外，成員國還可對請求書進行形式審查，並可在主管機關認為任何說明或組成部分不符合審查要求之情況下，與請求方聯繫，要求加以澄清和/或作出修正。

2.02 *Paragraph (1)*. This provision sets out the elements which an Office may require to be presented in a request for recordal of a license for the use of a mark. The list of those elements constitutes a maximum; an Office is free to require some only of those elements, but it may not require other or additional requirements (see paragraph (7)).

第 (1) 項。該款規定主管機關可要求在一份商標授權登記之請求書中提供的那些組成部分。在此列出的已是所有的組成部分；主管機關可自由要求僅提供其中的若干組成部分，但不得提出其他或額外的要求（參見第 (7) 項）。

2.03 *Items (i) to (vi)*. As far as the manner of indicating names and addresses is concerned, Rule 2 (*Manner of Indicating Names and Addresses*) of the TLT would apply.

第 (i) 至 (vi) 款。至於有關名稱和住址註明的方式，將適用《商標法條約》細則第2條（名稱和地址的註明方式）。

2.04 *Items (ii), (iii), (v) and (vi)*. Article 4(2) of the TLT would apply to these items, because recordal of a license is a “procedure before the Office.” Thus, under that Article, representation or an address for service may be required.

第 (ii)、(iii)、(v) 和 (vi) 款。《商標法條約》第4條第(2)項將適用於各該項，因授權登記屬於“在主管機關辦理的程序”之一。因此，依該條規定，可要求寫明代理人或聯繫地址。

2.05 *Items (v) and (vi)* take account of the fact that Article 2(2) allows the licensee to file a request for recordal of a license independently of the holder, and that, on the basis of Article 4(2) of the TLT, Member States may require that any person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory, be represented by a representative or indicate an address for service. Therefore, Member States may also require that the request contain information regarding the licensee’s representative or address for service.

第 (v) 和 (vi) 款。考慮到以下事實，即第2條第(2)項允許被授權人不受註冊所有人之約束而單獨提出授權登記請求，以及根據《商標法條約》第4條第(2)款，成員國可要求在其領土內既無住所又無真實有效之工商營業所之任何人，須有一位代理人作為其代表或註明聯繫地址。因此，成員國亦可要求，說明書中須載明被授權人之代理人或聯繫地址之資料。

2.06 *Item (vii)* allows a Member State to determine, where necessary, if reciprocity is offered *vis-à-vis* its nationals in the country of which the licensee is a national. Since Article 3 of the Paris Convention for the Protection of Industrial Property provides that nationals of countries not members of the Paris Union are entitled to national treatment if they have a real and effective industrial or commercial establishment or are domiciled in one of the Paris Union countries, this item allows those indications to be required.

第(vii)款 允許成員國在必要時可確定其本國國民是否在被授權人的國家中享有國民互惠待遇。由於《保護工業財產權巴黎公約》第3條規定，非巴黎聯盟成員的各國國民，在巴黎聯盟的一國內設有住所或有真實和有效之工商業營業所者，享有國民待遇，因此該項允許要求作出此說明。

2.07 *Item (viii)* allows a Member State to require that, where the holder, the licensee, or both parties are legal entities, the legal nature of the entity be specified. This provision mirrors Article 3(1)(a)(iv) of the TLT, which allows a similar requirement with regard to trademark applications.

第 (viii) 款 允許成員國要求，在註冊持有人、被授權人或雙方當事人係法人的情況下，指明該法人的法律性質。該項規定依照《商標法條約》第3條第(1)項(a)款第(iv)目，該目允許對商標申請提出類似的要求。

2.08 *Paragraph (1), items (ix) and (x).* These items seem to be self-explanatory.

第(1)項第(ix)和(x)款。該兩款似乎意義自明，無須解釋。

2.09 *Item (xi).* Definitions of “exclusive license,” “non-exclusive license” and “sole license” are contained in Article 1(ix) to (xi). It is to be noted that, as indicated by the words “where applicable,” if the law of a Member State does not provide for one or more such indications, information corresponding to the item under consideration would not have to be furnished.

第(xi)款。“專屬授權”、“非專屬授權”和“獨家授權”之定義載於第1條第(ix)至(xi)款中。需指出的是，正如“在可適用的情況下”這幾個字所表明，如果某成員國之法律未規定須作出一項或多項此種說明，則不需提供我們正在討論該項中相應的資料。

2.10 *Item (xii)* allows a Member State to require an indication that the license concerns only part of the territory for which the registration has effect, together with an explicit indication of that territory.

第(xii)款允許成員國要求提出關於授權僅涉及註冊所適用的一部分領土之說明，以及對該部分領土之具體說明。

2.11 *Item (xiii).* Member States may require that the request indicate the time period for which the license is granted, or that it is granted for an unlimited period of time. If the license is granted for a limited period of time but renewed or extended automatically, the licence would be considered to have been granted for a limited period of time. It would be the responsibility of the parties to inform the Office of any subsequent renewal or extension of the license.

第(xiii)款。成員國可要求，請求書中須說明授權的期限，或說明授權係無期限。如果授權有一定期限，但可自動續展或延期，則將視為該授權有一定期限。向主管機關通報後對該授權進行之任何續展或延期，將是雙方當事人之責任。

2.12 *Item (xiv)* allows a Member State to require a signature, which can be either the signature of the holder or his representative or, under certain conditions set out in paragraph (2)(b), the signature of the licensee or his representative.

第(xiv)款允許成員國要求簽名，該簽名既可以是註冊持有人或其代理人之簽名，而且只要符合第(2)項(b)款所規定之若干條件，也可以是被授權人或其代理人之簽名。

2.13 *Paragraph (2).* The request for recordal of a licence is different in nature from the request for a recordal of the change in ownership of registration of a mark, as provided for in Article 11(1)(d) of the TLT. For example, some countries require all co-holders to sign the license agreement, while others permit only one of the several co-holders to license a registered mark. Therefore, unlike the TLT provision, the question as to whether all co-holders have to give their consent to the recordal of the license is left to the applicable law of the Member States. In particular, the question whether the signature of one or several co-holders satisfies the requirement that the request be signed by “the holder”, or if signatures of all co-holders are needed for that requirement to be satisfied, is left to the applicable law. In any event, if one co-holder refuses to

sign and, under the applicable law, the request cannot be accepted, the licensee would be able to request recordal under paragraph (2).

第(2)項。請求授權登記與《商標法條約》第11條第(1)項(d)款所規定請求商標註冊所有權變更登記，在性質上有所不同。例如，一些國家要求所有共同註冊持有人均在授權協議上簽名，而其他國家則允許數個共同註冊持有人中只要有一人同意即可授權使用註冊商標。因此，與《商標法條約》的規定不同的是，關於授權登記是否需要所有共同註冊持有人均表同意此一問題，留予成員國可適用的法律處理。尤其是，是否一個或數個共同註冊持有人之簽名即能滿足關於請求書須由“註冊持有人”簽名此一要求，或是否需要所有共同註冊持有人簽名，才能滿足這一要求的問題，留予可適用的法律處理。在任何情況下，如有一名共同註冊持有人拒絕簽名，並且依可適用的法律，請求書不予受理的話，那麼，被授權人將可依第(2)項提出登記請求。

2.14 *Paragraph (2)(a)*. In the interest of simplifying, to the extent possible, the formal requirements relating to the recordal of licenses, Member States may only require that the request be signed by the holder of the registration or his representative if the request is filed by the holder himself. His signature suffices to ensure that he has actually consented to the recordal. Attention is drawn to the obligation to apply Article 8(4) of the TLT, which prohibits the attestation, notarization, authentication, legalization or other certification of any signature or seal.

第(2)項(a)款。為盡可能簡化授權登記方面之形式要求，成員國可要求，在請求書由註冊持有人本人提出之情況下，僅由註冊持有人或其代理人簽名即可。其簽名足以確認其已實際同意登記。需提請注意的是，必須適用《商標法條約》第8條第(4)項，該款禁止要求對任何簽名或蓋章出具證明、公證、認證、法律認可或其他證書。

2.15 *Paragraph (2)(b)*. This provision allows the licensee to file the request for recordal independently of the holder, for example, if the holder wants to avoid paying the recordal fees, or, after having concluded the license contract, refuses to record it for whatever reason. The documents listed in this paragraph can replace the signature of the holder on the request. The requesting party may file any one of them. The list is inspired by the list contained in Article 11(1)(b) of the TLT regarding formal requirements for the recordal of changes in ownership resulting from a contract, while taking account of the qualitative difference between a full transfer of ownership and a mere licensing of rights. Since subparagraph (b) only describes the situations in which an Office is obliged to accept a request signed by the licensee or its representative, an Office is free to accept such a request even if the extract mentioned in item (i) is not certified, or if the request is not accompanied by any documents at all. However, with regard to item (ii), the statement of license has to be signed by both the holder and the licensee, or their representatives. A statement of license form is contained in the Annex.

第(2)項(b)款。該項規定允許被授權人不受註冊持有人之約束而單獨提出登記請求，例如在註冊持有人想避免繳納登記費，或在訂立授權合約之後，無論以何種理由拒絕登記時的情況。該款中所列之文件可取代註冊持有人於請求書上之簽名。請求方可提出其中之任何一份。該清單係受到《商標法條約》有關因合約所致之所有權變更登記的形式要求第11條第(1)項(b)款之啟發，但同時考慮到所有權的全部轉讓與僅授權使用權利之間的本質區別。由於(b)款僅對主管機關必須受理由被授權人或其代理人簽名之請求書此一情況加以

說明，因此即使在第(i)目提及之摘要未經證明或請求書根本未附任何文件之情況下，主管機關亦有受理此種請求書之自由。然而，就第(ii)目而言，授權聲明則須由註冊持有人（或其代理人）和被授權人（或其代理人）二者簽名。授權聲明書的格式載於附件中。

2.16 *Paragraph (3)*. This provision departs to a certain extent from the provisions in the TLT that deal with the presentation of a request (such as Article 11(1)(a) TLT), since this provision does not specify the means of transmission, such as paper or telefacsimile, but focuses on the contents of the request instead. The effect of Paragraph (3) is that the Office of a Member State must accept a request for recordal of a license where that request (i) contains all the indications or elements specified in the request Form provided for in the Annex, and (ii) presents and arranges these indications or elements in the same way as in that Form.

第(3)項。該項規定在一定程度上是與《商標法條約》中涉及請求書的提出規定（諸如《商標法條約》第11條第(1)項(a)款）有所偏離，因該款規定並未明確規定傳送的方式（例如是用紙件還是傳真），相反它著重於請求書之內容。第(3)項的效力是，成員國的主管機關在請求書：(i) 載有附件中規定的請求書格式所指明的全部說明或組成部分，以及(ii) 這些說明或組成部分是以與該格式中相同之方式提出和安排之情況下，必須接受授權登記的請求。

2.17 *Paragraph (4)*. Subparagraph (a) allows Member States to require that the request be filed in the language, or in one of the languages, admitted by the Office. With regard to the documents listed in paragraph (2)(b)(i) or (ii), however, Member States may merely require that they be accompanied by a translation. The documents themselves may not be required to be in one of the languages admitted by the Office. Member States may, but do not have to, require that the translation be certified.

第(4)項。(a)款允許成員國要求請求書使用主管機關接受的語言，或使用主管機關接受的數種語言之一。但就第(2)項(b)款第(i)目或第(ii)目所列文件而言，成員國可以僅要求提出這些文件時附有譯文。不得要求這些文件本身使用主管機關所接受的數種語言之一。成員國可以（但非必須）要求譯文須經證明。

2.18 *Paragraph (5)*. As regards the amount of fees that an Office may charge for the recordal of a license, it should be noted that nothing in the text would prevent an Office from charging varying fees depending on the number of registrations to which the request relates.

第(5)項。至於主管機關可以對授權登記收取多少費用的問題，應指出的是，條文中並無任何規定制止主管機關視請求書所涉的註冊數量之不同而收取不同的費用。

2.19 *Paragraph (6)* is in line with the approach adopted by the TLT in Articles 10(1)(e) and 11(1)(h), namely, to allow that requests for recordal can refer to more than one registration. This is an important simplification in cases where a license is granted for several marks (for example, a series of marks). However, this is subject to the following conditions: The holder and the licensee must be the same for all registrations covered by the license for which recordal is requested and, where applicable, the scope of the license as indicated in Article 2(1) be indicated with respect to all registrations covered by the license for which recordal is requested. If these

conditions are not met, for example, if the holder and the licensee are not identical in respect of all registrations contained in the request, the Office may require that separate requests be filed. Since paragraph (6) only describes the situations in which an Office is obliged to accept a single request for several registrations, an Office is free to accept a single request even if the conditions outlined in paragraph (6) are not met.

第(6)項是與《商標法條約》第10條第(1)項(e)款和第11條第(1)項(h)款中所採用之辦法相一致的，即：允許登記請求書涉及不只一項註冊。這對於就數個商標（例如一系列商標）授予一份授權之情況，是一項非常重要之簡化。但是，這必須以如下條件為限：對於請求登記的授權所涉的全部註冊而言，註冊持有人和被授權人均須相同，以及在可適用之情況下，對於請求登記的授權所涉之全部註冊，均須說明第2條第(1)項所指之授權範圍。如果不符合這些條件，例如，如果請求書中所載之全部註冊持有人和被授權人不一樣，則主管機關可要求其分別提出請求。由於第(6)項只是對主管機關必須受理就數項註冊提交單一請求書此一情況加以說明，因此即使在第(6)項所概述的條件未得到滿足之情況下，主管機關亦有受理單一請求書之自由。

2.20 *Paragraph (7)*. The effect of this paragraph is that, for the purposes of the recordal of a license with its Office, a Member State may not require that the applicant give information in addition to what may be required under paragraph (1), or that he furnish any additional document, such as evidence showing the existence of quality control clauses (as regards quality control, see notes 5.02 and 5.03).

第(7)項。該款的效力是，在向成員國的主管機關登記授權方面，成員國不得要求申請人提供超出依第(1)項可以要求提供之資料，亦不得要求其提供任何額外之文件，諸如證明訂有品質控制條款之證據（關於品質控制，參見第5.02和5.03段說明）。

2.21 By way of example, *items (i) and (ii)* mention certain items of information whose furnishing to an Office is usually regarded by the parties to a license contract as particularly burdensome or as revealing confidential business information (*item (iii)*). It should be noted, however, that paragraph (7) does not prevent other authorities of Member States (for example, tax authorities or authorities establishing statistics) from requiring the parties to a license contract to furnish information in accordance with the applicable law.

第(i)和(ii)款以舉例之方式提出若干向主管機關提供的資料通常被授權合約的當事人認為特別麻煩，或會洩漏商業機密資料（第(iii)款）。但應當指出的是，第(7)項並未制止成員國的其他機關（例如稅務機關或統計數據的機關）要求授權合約的當事人根據可適用的法律提供資料。

2.22 *Paragraph (8)*. Article 2 and the model request Form contained in the Annex are applicable to requests for the recordal of licenses of applications, if the national or regional law of a Member State provides for such recordal. It should be noted that in this context, Rule 7 of the Regulations under the TLT (*Manner of Identification of an Application Without Its Application Number*) would be applicable.

第(8)項。如果成員國的國家或地區法律規定須對申請的授權進行登記，第2條和附件中所載的請求書格式範本即可適用此種登記請求。應當指出的是，在此方面，將可適用《商標法條約實施細則》第7條（無申請號的申請識別方式）。

Notes on Article 3

關於第 3 條的說明

3.01 Where the recordal of a license has been effected, such recordal may at a certain point in time be the subject of a request for amendment or cancellation. For this reason, Article 3 provides that Article 2 and the model request Form contained in the Annex are applicable, *mutatis mutandis*, to requests concerning the amendment or the cancellation of the recordal of a license.

已對某授權進行登記，可在一定時候請求對該登記作出修正或予以撤銷。由於此一原因，第3條規定，第2條和附件中所載之請求書格式範本可比照適用於涉及修正或撤銷授權登記之請求。

Notes on Article 4

關於第 4 條的說明

4.01 *Paragraph (1)*. The purpose of this paragraph is to separate the question of the validity of the registration of a mark and the protection of that mark from the question whether a license concerning the said mark was recorded. If the law of a Member State provides for the mandatory recordal of licenses, non-compliance with that requirement may not result in the invalidation of the registration of the mark which is the subject of the license, and may not affect in any way the protection afforded to that mark. It is to be noted that this paragraph concerns the recordal of a license with the Office or other authority of a Member State such as, for example, the tax authority or the authority responsible for the establishment of statistics.

第(1)項。該項之宗旨係將某商標之註冊有效性和對該商標之保護，此一問題與涉及該商標之授權是否登記之問題區分開來。如果成員國之法律規定須對授權進行強制登記，那麼未遵守此一要求不得導致被授權使用之商標註冊被宣告無效，亦不得以任何方式影響對該商標給予之保護。需指出的是，該款涉及向主管機關或向成員國之其他機關（例如稅務機關或負責統計數據之機關）授權登記。

4.02 *Paragraph (2)(a)*. This provision does not intend to harmonize the question whether a licensee should be allowed to join proceedings initiated by the licensor, or whether it would be entitled to damages resulting from an infringement of the licensed mark. This question is left to the applicable law. However, where a licensee has the right under the law of a Member State to join infringement proceedings initiated by the holder and to obtain damages resulting from an infringement of the licensed mark, the licensee should be able to exercise those rights independently of whether the license is recorded.

第(2)項(a)款。該項規定之意圖不是想協調是否應允許被授權人參加由授權人提起之訴訟，或其是否應有權獲得因授權使用之商標被侵權所致之損害賠償問題。此問題留予可適用之法律處理。然而，如被授權人依成員國之法律有權參加由註冊持有人提起之侵權訴訟，並有權獲得因授權使用之商標被侵權所致之損害賠償，則無論授權是否登記，被授權人均應能行使這些權利。

4.03 The question of the entitlement of a licensee to join infringement proceedings initiated by the holder and to obtain damages is distinct from the question whether a licensee is allowed to bring infringement proceedings concerning the licensed mark in his own name. The latter case is not dealt with by the Articles. Therefore, Member States would be allowed to require the recordal of the license as a condition for the licensee to bring a legal action in his own name concerning the mark which is the subject of the license. Under Paragraph (2)(a), Member States are free to provide that the non-recorded licensee has the right to obtain damages only where he had joined infringement proceedings initiated by the holder. However, this is a maximum standard and Member States are of course equally free to adopt a more liberal approach, such as exists where the applicable national or regional law does not provide for the recordal of a license at all.

被授權人是否有權參加由註冊持有人提起之侵權訴訟和獲得損害賠償之問題，與是否允許被授權人以自己之名義就被授權使用之商標提起侵權訴訟之問題不同。後一情況非本規定所處理之問題。因此，成員國可要求須以授權登記作為被授權人以其自己之名義就授權使用之商標提起法律訴訟的條件。依第(2)項(a)款之規定，成員國還可自由規定，未登記之被授權人只在參加由註冊持有人提起之侵權訴訟情況下，才有權獲得損害賠償。但此屬於最高標準，成員國當然同樣可自由採取更加寬鬆之辦法，例如當可適用之國家或地區法律根本未對授權登記作出規定時，即是此種情況。

4.04 The question whether the non-recorded licensee should have the right to join infringement proceedings initiated by the holder and to recover damages was the subject of an intensive debate during the first session of the Committee of Experts on Trademark Licenses (see document TML/CE/I/3, paragraphs 70 to 74), and during the third session of the Standing Committee on the Law of trademarks Industrial Designs and Geographical Indications (SCT) (see document SCT/3/10, paragraphs 122 to 124). Delegations which opposed the provision argued that, under the law of their countries, a license had only effect *vis-à-vis* third parties if it was recorded. Delegations and representatives of observer organizations who expressed their support for the provision emphasized that, if the right of the licensee to recover damages in infringement proceedings initiated by the holder depended on the registration of the license, this would only benefit trademark infringers, since they might not be liable at all when the only person suffering

damages from the the unauthorized use of the mark is the licensee. From the point of view of trademark infringers it should not make any difference whether the protected mark was used under a recorded license. What mattered in such cases was that the mark is protected and this could be checked by reference to the trademark register.

關於未登記之被授權人是否應有權參加由註冊持有人提起之侵權訴訟和獲得損害賠償之問題，在商標授權專家委員會第一屆會議(參見文件TML/CE/I/3第70至74段)和商標、工業設計和地理名稱法規常設委員會(SCT)第三屆會議(參見文件SCT/3/10第122至124段)上進行廣泛之討論。反對此一規定之代表團爭辯說，根據其國家法律，授權只有進行登記，才對第三人具有效力。支持此一規定之代表團和觀察員組織代表則強調說，如果被授權人在由註冊持有人提起之侵權訴訟中是否享有獲得損害賠償之權利，要取決於該授權之登記情況，此只會有利於商標侵權者，因為他們可能一點責任皆無，而唯一遭受未經授權使用商標之害的人只有被授權人。從商標侵權者之角度來說，受保護之商標授權使用時是否進行登記應沒有任何區別。於此情況下重要的是，商標是受保護的，而此點可以通過查詢商標註冊簿來核實。

4.05 It is worthwhile to note that, if a Member State considers a licence legally effective *vis-à-vis* third parties only when it was recorded, such a provision would not necessarily have to be interpreted as meaning that a non-recorded licensee shall not have the right to recover damages for the infringement of the licensed mark. Such provisions would nevertheless have an effect in cases where a registration was transferred after the conclusion of the license, because a non-recorded licensee would not be able to invoke the license against a transferee. This is not prohibited by paragraph (2) which only deals with one specific situation, namely the right of the unrecorded licensee to join infringement proceedings initiated by the holder, and to recover damages by way of such proceedings.

值得指出的是，如果成員國認為授權只在進行登記時才對第三人具有法律效力，那麼，此一規定並非一定要被解釋為意指未登記之被授權人不得有權獲得因授权使用之商標被侵權所致之損害賠償。但是此種規定卻會在出現已訂立授權協議之後再將註冊轉讓之情況下產生效力，因為未登記之被授權人將無法拿授權來與被轉讓人對抗。第(2)項並未禁止此點，因為該款僅涉及一種具體情況，即未登記的被授權人參加由註冊持有人提起之侵權訴訟和透過此種訴訟而獲得損害賠償之權利。

4.06 *Paragraph (2)(b)*. Subparagraph (b) takes account of relevant laws which expressly prohibit a non-recorded licensee from joining infringement proceedings initiated by the holder, and from recovering damages. Therefore, although the provision in subparagraph (a) has been retained as a general principle, subparagraph (b) makes it clear that such laws are not affected. However, laws that can be interpreted as allowing a non-recorded licensee to join infringement proceedings and to recover damages would fall under subparagraph (a) and would, therefore, have to be interpreted in this way.

第(2)項(b)款。(b)款考慮到明文規定未登記之被授權人不得參加由註冊持有人提起之侵權訴訟和獲得損害賠償之相關法律。因此，儘管(a)款之規定係一普遍原則，但(b)款明確規定此種法律不受影響。然而，可被解釋為允許未登記的被授權人參加侵權訴訟和獲得損害賠償之法律，將屬於(a)款的範疇，並將因此而須以此一方式來解釋。

關於第 5 條的說明

5.01 The question whether use by a person other than the holder can be considered as use by the holder may be relevant in at least three different contexts: (i) for determining whether a mark has acquired distinctiveness, (ii) for determining whether a mark has become well-known, (iii) for determining whether a mark has been sufficiently used to maintain its registration. Article 5 only deals with situations in which the use by a person other than the holder might accrue to the benefit of the holder. It does not address the question under what circumstances the holder may be held liable for such use.

關於註冊持有人以外之人使用商標是否視為註冊持有人使用商標的問題，可能至少對三種不同情況具有相關性：(i) 確定某商標是否已取得識別性，(ii) 確定某商標是否已成為著名商標，(iii) 確定某商標是否已得到足夠的使用，從而可維持其註冊。第5條處理的只是註冊持有人以外之人使用商標可能對註冊持有人更為有利之情況，並未討論於何種情況下註冊持有人可能對此種使用負有責任之問題。

5.02 It should be noted that it is a generally accepted standard in trademark law that registered marks which are not used for a certain period of time are liable to be invalidated. For example, Article 19.1 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (hereinafter referred to as the “TRIPS Agreement”) allows WTO Members to invalidate registered marks which have not been used for more than three years. In general, a mark has to be used by its holder or by a person having the holder’s permission in order to maintain its registration. Certain national or regional laws, however, provide that use by persons other than the holder may be held to constitute use of the mark by the holder only if certain conditions are fulfilled, such as the conclusion of a formal license contract containing quality control clauses or such as the recordal of such a contract. In that respect, it is to be noted that Article 19.2 of the TRIPS Agreement expressly allows a requirement that there be control of a licensee’s use of a mark by the holder in order to consider such use valid for maintaining the registration of the mark.

應指出的是，商標法中有一條公認的標準，即註冊商標在一定期限內未予使用即可能被宣告無效。例如，《與貿易有關的智慧財產權協定》（以下稱為“TRIPS協定”）第19條第1項允許世貿組織成員對3年未使用之註冊商標宣告無效。一般而論，商標必須由其註冊持有人或由得到註冊持有人允許之人使用才能維持其註冊。但某些國家或地區法律規定，註冊持有人以外的人使用商標只在滿足若干條件時才能被視為構成註冊持有人使用商標，這些條件諸如訂立載有品質控制條款的正式授權合約，或對此種合約進行登記等。在此一方面，需指出的是，TRIPS協定第19條第2項明確允許要求註冊持有人須對被授權人使用商標有所監督，才可視為此種使用為維持商標註冊之使用。

5.03 The effect of Article 5 is that, whenever the question of use becomes relevant, any use of a mark by any person other than the holder must be deemed to be use of the mark by the holder, provided that such use is made with the consent of the holder. No other condition, such as

control by the holder of the use of the mark, may be required by a Member State. Consequently, if, in the absence of use of the mark by the holder, a third party uses that mark with the consent of the holder, the mark cannot be invalidated on the ground of non-use. To this extent, Article 5 goes beyond Article 19.2 of the TRIPS Agreement.

第5條的效力是，一旦關係到使用問題時，註冊持有人以外之任何人對商標的任何使用，只要得到註冊持有人的同意，即須視為註冊持有人使用商標。成員國不得要求任何其他條件，例如註冊持有人須對商標使用進行監督的條件。因此，如果註冊持有人未使用商標，而第三人在註冊持有人的同意下使用該商標，則不得以未使用為由而對該商標宣告無效。在這一方面，第5條超越了TRIPS協定第19條第2項。

5.04 However, Article 5 only deals with the specific question under what circumstances use by natural persons or legal entities other than the holder can be deemed as use by the holder. It does not address the validity of licensing agreements in general. Therefore, the ability of Contracting Parties to require quality control clauses in order for a licensing agreement to be valid remains unaffected.

但是，第5條處理的只是一個具體問題：於何種情況下，註冊持有人以外的自然人或法人使用商標可視為註冊持有人使用。該條未涉及一般授權協議之有效性問題。因此，允許締約方要求為使授權協議有效，必須訂立品質控制條款，這一點仍不受影響。

5.05 Article 5 would apply independently of whether or not a license exists or, if a license exists, whether or not the license is recorded. Hence, it is sufficient for the holder to consent to the use of his mark in order to benefit from such use whenever the question of use becomes relevant, i.e. in the context of a trademark acquiring distinctiveness or becoming well-known, or for the purpose of maintaining a trademark registration. In essence, any use of the mark by any third party to which the holder consents must be considered use by the holder.

第5條之適用將不依賴於是否存在授權，或者如果存在授權，該授權是否登記。所以，一旦關係到使用問題時，即在商標取得識別性或成為著名商標的情況下，或為維持商標註冊的目的，註冊持有人只要同意使用其商標，即可從此種使用中受益。基本上，任何第三人經註冊持有人之同意，對商標的任何使用均須視為註冊持有人之使用。

Notes on Article 6

關於第 6 條的說明

6.01 *Article 6* concerns specific indications relating to trademark licenses which may be required, under trademark law, under general labeling law or under advertising law, to appear on products or packaging or to be given in connection with the providing of services or in advertising for such goods or services. It is not the intention of this Article to regulate general questions of

product (or service) information required by labeling laws, law on advertising or consumer protection laws. Consequently, national laws and regulations requiring that certain indications relating, for example, to the safety of a product, its composition, its correct use, etc., must appear on its packaging are outside the scope of that Article.

第6條涉及的是可依商標法、普通標示法或廣告法，要求在產品或包裝上，或在提供服務或為此種商品或服務作廣告時，就商標授權作出具體說明。該條的意旨不在於調整標示法、廣告法或消費者保護法所要求提供之關於產品（或服務）資料的一般性問題。因此，國內法律和條例所要求的與例如產品的安全性、其構成、其正確使用等有關之若干說明必須在其包裝上標明之問題，不在該條討論之列。

6.02 *Article 6* leaves it to the law of a Member State to prescribe whether or not goods which are commercialized under a licensed mark, or their packaging, must bear an indication of the fact that the mark is used under a license contract, or whether or not such an indication has to be given in connection with the providing of services or in advertising for such goods or services. However, where such indication is required by the applicable law, non-compliance with that obligation should not entail the invalidation of the registration of the mark. The existence of the registration should not depend on compliance with requirements concerning labeling or advertising, irrespective of whether they are contained in trademark laws or in other laws such as laws on labeling or advertising. In particular (and this is the effect of the reference to Article 5 which appears at the end of Article 6), Member States are not allowed to cancel the registration of a mark because the only use of that mark was use by a licensee who did not indicate the license on the goods, or their packaging, or in connection with the providing of services or in advertising for the goods or services, for which the mark was used, even if a requirement to that effect existed in that Member State. The underlying thought is that the invalidation of the registration of a licensed mark is too severe a sanction for non-compliance with a labeling or advertising requirement and should therefore not be allowed. Furthermore, non-compliance with labeling or advertising provisions should not lessen the possibilities to enforce the rights attached to a licensed mark. This means that a missing or defective indication of the license cannot constitute an argument in favor of the defending party in infringement proceedings, even if such indication is mandatory under the applicable law. The result of Article 6 is that no sanction for non-compliance with a labeling or advertising requirement, even if that requirement concerns the indication of a license, may affect trademark rights.

第6條讓成員國法律自行規定在用被授權使用之商標來進行商業化的商品或其包裝上是否必須標明：該商標的使用係根據授權合約進行此一事實；或在提供服務或為此種商品或服務作廣告時，是否須作此種說明。但是如可適用的法律要求作出此種說明，那麼，未遵守此一義務不得致使商標的註冊被宣告無效。註冊與否不得依賴關於標示或廣告的要求是否得到遵守，無論這些要求是載於商標法中，還是載於諸如標示法或廣告法等其他法律中，均應如此。尤其是（這也是第6條末段提及第5條的效力），不允許成員國因為唯一使用商標的人是被授權人，且該被授權人在使用該商標的商品或其包裝上，或在提供服務或為該商品或服務作廣告時，又未對授權加以說明，而撤銷該商標的註冊，即使該成員國有此一規定時亦如此。根本的想法是，對被授權使用的商標註冊宣告無效此一制裁，對於未

遵守標示或廣告要求而言過於嚴厲，因此應不允許作出。此外，未遵守標示或廣告規定，不得使實施被授權使用的商標所給予之權利的可能性降低。此意味著，關於授權之說明如果遺漏或有缺陷，即使依可適用的法律，此種說明屬於強制性質，亦不得構成侵權訴訟中有利於辯方的論據。第6條的結果是，對未遵守標示或廣告方面的要求所進行的制裁，即使此一要求涉及關於授權的說明，亦不得對商標權產生影響。