

[IPO OFFICE ORDER NO. 39, MAY 28, 2002, May 28, 2002]

AMENDMENTS TO CERTAIN PROVISIONS OF THE TRADEMARK REGULATIONS: (1) CLAIMING PRIORITY RIGHT; (2) DISCLAIMER

Pursuant to the State policy to streamline procedures for registering trademarks and other provisions of Republic Act No. 8293, otherwise known as the Intellectual Property Code of the Philippines, the Trademark Regulations are hereby amended as follows:

SECTION 1. Rule 203 is hereby amended to read as follows:

RULE 203. Requirements for Applications Claiming Priority Right. — An application with claim of priority right must be filed within six (6) months from the date the earliest foreign application was filed. Without need of any notice from the Office, Bureau or examiner, the applicant shall file an English translation of a certified copy of any of the following within three (3) months from the date of filing in the Philippines:

- a). Foreign application showing the date of filing
- b) Foreign registration indicating the date of filing

SECTION 2. Rule 608 is hereby amended to read as follows:

RULE 608. Disclaimers.

The basic purpose of disclaimers is to make of record, that a significant element of a composite mark is not being exclusively appropriated apart from the composite. The following portions of a mark when forming part of the composite mark, must be disclaimed to permit registration, namely (a) a generic term; (b) a descriptive matter in the composite mark; (c) a matter which does not function as a trademark, or service mark or a trade name.

Such disclaimer shall not prejudice or affect the applicant's rights then existing under some other law or thereafter arising in the disclaimed matter, nor shall such disclaimer prejudice or affect the applicant's rights to registration on another application of later date, where the disclaimed matter has become distinctive of the applicant's goods, business or services.

Where the examiner determines that any portion of a mark contains unregistrable matter which must be disclaimed, he shall communicate his finding to the Applicant by means of an Action document. If the applicant fails to respond within the time allowed under these Rules,