

[IPO OFFICE ORDER NO. 13-056, April 05, 2013]

AMENDMENT OF THE PROVISIONS ON DECLARATION OF ACTUAL USE OF THE TRADEMARK REGULATIONS

WHEREAS, it is the policy of the Intellectual Property Office of the Philippines (IPOPHL) to streamline administrative procedures in registering trademarks;

WHEREAS, there is a need to amend the provisions of the Trademark Regulations on the Declaration of Actual Use to ensure the timely processing of these documents, as well as clarify what will be accepted as proof of use;

Now, therefore, pursuant to the foregoing, the Trademark Regulations are hereby amended as follows:

RULE 204. Declaration of Actual Use. - (a) The Office will not require any proof of use in commerce in the processing of trademark applications. However, without need of any notice from the Office, all applicants or registrants shall file a declaration of actual use ("declaration") of the mark with evidence to that effect within three years from the filing date of the application. Otherwise, the application shall be refused registration or the **registered** mark shall be removed from the register by the Director *motu proprio*.

(b) A six-month extension period may be granted upon request of the applicant or registrant, provided such request is made prior to the expiration of the three-year period and the required fee is paid. Actual use of the mark may commence within the extension period. The fee must be paid on the day of filing of the declaration of actual use or the request for extension of time to file the document. The date of payment shall be considered as the date of filing of the declaration. The date of first use of the mark shall not be required.

RULE 205. Contents of the Declaration and Evidence of Actual Use. - (a) The declaration shall be under oath **and filed by the applicant or registrant (or the authorized officer in case of a juridical entity) or the attorney or authorized representative of the applicant or registrant. The declaration** must refer to only one application or registration and shall contain the name and address of the applicant or registrant declaring that the mark is in actual use in the Philippines, the list of goods **or services for which the mark is used**, the name/s of the establishment and address where the products are being sold or where the services are being rendered. **If the goods or services are available only by online purchase, the website must be indicated on the form in lieu of name or address of the establishment or outlet. The applicant or registrant may include**