



ARMA Update: 23 June 2022

(English Version)

Trademark Registration

General Overview

Trademark is an important asset in business, since a Trademark determines the identity of a brand that needs to be protected and registered. By being registered at the Directorate General of Intellectual Property Rights, the Trademark owner will be considered as valid owner of such Trademark and easier to claim ownership of the Trademark should there are claim from other company upon similar Trademark.

This ARMA Update will specifically discuss the requirements and the registration process of Trademark Registration.

Definition of Trademark

According to Law No. 20 of 2016 regarding Mark and Geographical Indication Law (“**Trademark Law**”), Trademark is a sign that can be displayed in the form of an image, logo, name, word, letter, number, color arrangement, in the form of 2 (two) dimensions and/or 3 (three) dimensions, sound, hologram, or a combination of 2 (two) dimensions or more of these elements to distinguish goods and/or services produced by persons or legal entities in the activities of trading goods and/or services.¹ Moreover, Rights of Trademark can be obtained after being registered.²

Registration Process of a Trademark

Based on Minister of Law and Human Rights (“**MoLHR**”) Regulation No. 67 of 2016 as amended by MoLHR Regulation No. 12 of 2021 regarding Trademark Registration (“**MoLHR Reg 67/2016**”), an application for registration of a Trademark shall be submitted by the applicant or the applicant’s attorney³ to the MoLHR electronically or non-electronically in Indonesian language.⁴ For applicants who are domiciled outside Indonesia, the application is submitted by the applicant’s attorney who is an attorney who has knowledge in the field of intellectual property rights law, especially Trademark (“**Trademark Attorney**”).

The procedures of the application are as follows:

The application is submitted by filling in 2 (two) copies of the form which at least contains:

¹ Article 1 of the Trademark Law

² Article 3 of the Trademark Law

³ The attorney in question is an attorney who has knowledge in the field of intellectual property rights law, especially Trademark (“**Trademark Attorney**”)

⁴ Article 3 of the MoLHR Reg 67/2016



- a. date, month, and year of the Application;
- b. the full name, nationality, and address of the Applicant;
- c. the full name and address of the Attorney if the Application is submitted through a Trademark Attorney;
- d. the name of the country and the date of the first application for a Trademark in the event that the Application is filed with Priority Right;
- e. Trademark labels;
- f. color if the Trademark for which registration is being applied uses color elements; and
- g. class of goods and/or class of services as well as a description of the types of goods and/or types of services.

The application must also be attached with the following documents:

- a. proof of payment of the Application fee;
- b. Trademark labels as many as 3 (three) pieces, with a minimum size of 2 x 2 cm (two times two centimeters) and a maximum of 9 x 9 cm (nine times nine centimeters);
 - i. If the trademark is in the form of 3 (three) dimensions, the Mark label attached is in the form of the characteristics of the Trademark in the form of a visual and a description of the protection claim.
 - ii. If it is in the form of sound, the Trademark label attached is in the form of a notation and a sound recording.
 - iii. If it is in the form of sound that cannot be displayed in the form of notation, the Trademark label attached is in the form of a sonogram.
 - iv. If it is a hologram, the attached Trademark label is a visual display from various sides.
- c. Trademark ownership statement letter;
- d. power of attorney, if the application is submitted through Trademark Attorney;
- e. proof of priority, if using the Priority Right and its translation in Indonesian.

Applications that have met the document requirements as above will be given a Filing Date/*Tanggal Penerimaan*. Each application will be checked and assessed for the completeness of the required documents within a maximum period of 15 (fifteen) Days from the Filing Date.⁵ If accepted, the MoLHR announces the registered Trademark in the Official Gazette of Trademarks/*Berita Resmi Merek*.⁶

After the Trademark is registered, the validity of the Trademark will last for 10 (ten) years from the Filing Date.⁷

⁵ Article 9 of the MoLHR Reg 67/2016

⁶ Article 4 of the MoLHR Reg 67/2016

⁷ Article 35 of the Trademark Law



Trademark Validity Renewal

The validity of Trademark can be renewed for 10 (ten) years. The renewal application can be submitted electronically or non-electronically in Indonesian language by the Trademark owner or attorney within 6 (six) months prior to the expiration date of the Trademark registration.⁸

Objections

Within the announcement period, each party may file an objection to the MoLHR on the relevant application. In connection to the objection, the Applicant has the right to submit a written objection to the MoLHR which is submitted no later than 2 (two) months as of the Delivery Date/*Tanggal Pengiriman*.⁹

Trademark that Cannot Be Registered and Rejected Trademark

An application for trademark registration cannot be registered if:¹⁰

- a. contrary to state ideology, statutory regulations, morality, religion, decency, or public order;
- b. the same as, relating to, or only mentioning the goods and/or services for which registration is requested;
- c. contains elements that can mislead the public about the origin, quality, type, size, type, purpose of use of goods and/or services for which registration is requested or is the name of a protected plant variety for similar goods and/or services;
- d. contains information that is not in accordance with the quality, benefits, or efficacy of the goods and/or services produced;
- e. lacks discrimination;
- f. is a common name and/or symbol of public property; and/or
- g. contains a functional form.

The application is rejected by the MoLHR in the event that the Trademark applied for has similarities in principle or in its entirety to:¹¹

- a. A registered trademark belonging to another party or previously requested by another party for similar goods and/or services;
- b. Well-known trademarks belonging to other parties for similar goods and/or services;
- c. Well-known trademarks belonging to other parties for goods and/or services of a different kind that meet certain requirements; or
- d. registered geographical indication.

⁸ Article 27 of the MoLHR Reg 67/2016

⁹ Article 5 of the MoLHR Reg 67/2016

¹⁰ Article 16 (1) of the MoLHR Reg 67/2016

¹¹ Article 16 (2) of the MoLHR Reg 67/2016



The application for registration of a Trademark is rejected by the MoLHR if the Trademark:

- a. constitutes or resembles the name or abbreviation of the name of a famous person, photo, or name of a legal entity owned by another person, except with the written consent of the entitled party;
- b. is an imitation or resembling the name or abbreviation of the name, flag, symbol or symbol or emblem of a country, or national or international institution, except with written approval from the competent authority;
- c. is an imitation or resembles an official sign or stamp or seal used by a state or government agency, except with the written approval of the competent authority; or
- d. is submitted by an applicant with bad intentions.¹²

As for Trademarks that have been registered and obtained legal protection, deletion may be carried out, either submitted by the owner or by their proxies.

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¹² Article 16 (4) of the MoLHR Reg 67/2016