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## **2017 Taiwan Trademark Act and Related Examination Guidelines Developments**

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| <p><b>01</b> "Guidelines for Procedural Examination on Trademark Dispute Cases" came into force on October 30, 2017</p> <p><b>02</b> Amended Examination Guidelines for Non-Traditional Trademarks came into force on September 12, 2017</p> <p><b>03</b> Schedule of Article 19 of the Enforcement Rules of Trademark Act became effective from March 18, 2017</p> <p><b>04</b> Amended Article 98 of Trademark Act came into effect from December 15, 2016</p> |
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**01** "Guidelines for Procedural Examination on Trademark Dispute Cases" came into force on October 30, 2017

The "Guidelines for Procedural Examination on Trademark Dispute Cases" has been promulgated and come into effect since October 30, 2017.

To formulate and provide clear-cut guidelines for examining the procedural matters involved in trademark dispute cases, the Taiwan IPO enacted the "Guidelines for Procedural Examination on Trademark Dispute Cases" and made the Guidelines public on Taiwan IPO's official website on October 6, 2017, which will serve as a basis for examination on trademark dispute cases and also as reference of procedural requirements to the parties involved in trademark disputes.

The Guidelines sets forth the article contents mainly with respect to (1) indications of formality matters of a trademark dispute case, (2) indications of facts and reasons of a trademark dispute case, (3) request notice for amendment and deadline thereof, (4) request notice for defense statement and opinions, (5) reasons of request for examination suspension, (6) filing, ex officio, for invalidation or revocation, and (7) re-examination after revocation of original disposition.

**02** Amended Examination Guidelines for Non-Traditional Trademarks came into force on September 12, 2017

On July 7, 2017, the Taiwan IPO announced to seek opinions from all sectors with respect to

the proposed amendment to the Examination Guidelines on Non-Traditional Trademarks. Further on July 17, 2017, the Taiwan IPO held a public hearing to touch on the topics and have discussions with experts and scholars of a wide range of circles regarding the amendments. Minutes of the hearing has been made public on the Taiwan IPO's website since July 27, 2017. After compiling and deliberating the extensive opinions sought in the public hearing, Taiwan IPO decided to hold an open attitude toward the applications for scent trademarks and has completed the amendment to the Examination Guidelines.

The amended Examination Guidelines for Non-Traditional Trademarks has been promulgated and taken effect since September 12, 2017.

### **03 Schedule of Article 19 of the Enforcement Rules of Trademark Act became effective from March 18, 2017**

The Ministry of Economic Affairs amended and promulgated the Schedule of Article 19 of the Enforcement Rules of Trademark Act on March 16, 2017, and this Schedule has become effective since March 18, 2017.

Please link to <https://www.tipo.gov.tw/ct.asp?xItem=623517&ctNode=6687&mp=2> for detailed article content.

### **04 Amended Article 98 of Trademark Act came into effect from December 15, 2016**

Article 98 of the Taiwan Trademark Act were amended and promulgated by presidential order on November 30, 2016, and the Executive Yuan set the date on December 15, 2016 for the enforcement of this amendment.

The operation of new confiscation provision of the Criminal Code may involve more procedures for producing evidence and evidence admissibility in confiscation by *ex officio* and also is likely to cause return of infringing goods to market, which will hold back the efficacy of raids on counterfeit products. In view of the foregoing, Article 98 of the Trademark Act is amended as the special provision to the relevant provisions of the Criminal Code to avoid the aforesaid situations and to maintain the performance of absolute obligation of confiscation.



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