AMENDMENTS TO THE RULES AND REGULATIONS ON TRADEMARKS, SERVICE MARKS, TRADENAMES AND MARK OR STAMPED CONTAINERS

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In order to further facilitate filing, obtain and maintain registration of marks, and streamline administrative procedures, the Rules and Regulations on Trademarks, Service Marks, Tradenames and Marked or Stamped Containers are hereby amended as follows:

Section 1. A new rule is hereby added to provide a title for easy reference, as follows:

> Rule 10. Title. — These Regulations shall be known as the "Trademark Regulations".

Section 2. Rule 205 is hereby amended to read as follows:

> Rule 205. Contents of the Declaration and Evidence of Actual Use. — The declaration shall be under oath, must refer to only one application or registration, must contain the name and address of the applicant or registrant declaring that the mark is in actual use in the Philippines, list of the goods where the mark is attached; list the name or names and the exact location or locations of the outlet or outlets where the products are being sold or where the services are being rendered, recite sufficient facts to show that the mark described in the application or registration is being actually used in the Philippines and, specifying the nature of such use. The declarant shall attach five labels as actually used on the goods or the picture of the stamped or marked container visibly and legibly showing the mark as well as proof of payment of the prescribed fee.

Section 3. Rule 302 is hereby amended to read as follows:

> Rule 302. Representation; Address for Service. — If the applicant is not domiciled or has no real and effective commercial establishment in the Philippines, he shall designate by a written document filed in the Office, the name and address of a Philippine resident who may be served notices or process in proceedings affecting the mark. The written document shall be submitted to the Office within sixty (60) days from filing date without need of any notice from the Office. Such notices or services may be served upon the person so designated by leaving a copy thereof at the address specified in the last designation filed. If the person so designated cannot be found at the address given in the last designation, such notice or process may be served upon the Director.

Section 4. Rule 304 is hereby amended to read as follows:

> "Rule 304. Power of attorney or Authorization. — At the time of filing of an application, no power of attorney or authorization is required. However, the Office may require any attorney or other recognized person to submit within sixty (60) days from notice a power of attorney or authorization before he will be allowed to take an initial or further action in any application or registration.

A substitute or associate attorney may be appointed by an attorney only upon the written authorization of his principal; but a third attorney appointed by the second will not be recognized."

Section 5. Rule 605 is hereby amended to read as follows:

> Rule 605. Order of examination; priority of action. — Applications shall be examined for registrability in the order in which the complete requirements for grant of filing date are received by the Office. Ordinarily, the

order of the application number assigned to them by the office will be followed and no application bearing a higher application number shall be examined in advance of the applications with lower application numbers unless the filing date of the application bearing the higher number is earlier than those bearing a lower number. Provided, however, that priority of action and/or examination may be granted upon petition under oath with payment of fees and upon order of the Director, to trademark applications falling under any of the following:

a. Re-filing by the same registrant or assignee of a mark previously registered but cancelled for failure to meet the maintenance requirement.

b. Re-filing by the same applicant of a mark previously filed but abandoned and can no longer be revived.

c. An application for registration of a mark, names or abbreviation of names, logos of any nation, intergovernmental or international organizations.

d. An application for registration of mark, names, abbreviation of names, logos of any sports competition conducted within a short period of time or when periodically conducted, the TM registration is necessary to promote goodwill or image before the commencement of the sports activity.

e. An application for registration of mark, names, abbreviation of names, logos of product and services of applicants introduced and / or participating in a trade mission and / or exposition local or abroad and will be conducted within a short period of time.

f. An application for registration of mark, names, abbreviations of names, logos of a religious, social or charitable, educational activity the early registration of which is necessary to achieve its purpose or objective.

Section 6. Rule 618 is hereby amended to read as follows:

Rule 618. Provisional Allowance. — If the only issue remaining in an application based on foreign application claiming priority right is the submission of a certified copy of the foreign or home registration, the Examiner may provisionally allow the application and suspend the submission of the certified copy of the foreign or home registration for a period not exceeding twelve (12) months counted from allowance. On request of the applicant and subject to the approval of the Director and payment of the required fee, said twelve month period may be extended for good cause by an additional period not exceeding twelve (12) months. Should the applicant fail to submit the certified copy of the foreign or home registration within the maximum period of twenty four (24) months counted from allowance, the applicant may waive his claim to priority right in writing and request that the application be considered based on intent to use. Said waiver and request shall be filed within two (2) months, without extension, counted from the expiration of the maximum twenty four (24) month period without need of any notice from the Office. Otherwise, the application shall be deemed forfeited. After submission of the request for conversion to intent to use and upon payment of the required fees, the application shall be published by the Office for opposition. Furthermore, the declaration of actual use shall be filed within three (3) years without extension and without need of notice counted from the date of the filing of request for conversion. Otherwise, the application shall be refused or the mark shall be removed from the register by the Director motu propio.

Section 7. Mr. Eduardo Joson, Records Officer II, is hereby directed to file three (3) certified copies of this Office Order with the University of the Philippines Law Center, and, one (1) certified copy each to the Office of the President, the Senate of the Philippines, the House of Representatives, the Supreme Court of the Philippines, and the National Library.

Section 8. This Office Order shall take effect on June 1, 2000

Adopted: 12 May 2000

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Approved:

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