

# [ IPO OFFICE ORDER NO. 13-061, April 05, 2013 ]

## TRADEMARK APPLICATIONS WITH PRIORITY RIGHT CLAIM

*Whereas*, Section 3 of Republic Act No. 8293, otherwise known as the *Intellectual Property Code of the Philippines (IP Code)*, grants “[a]ny person who is a national or who is domiciled or has a real and effective industrial establishment in a country which is a party to any convention, treaty or agreement relating to intellectual property rights or the repression of unfair competition, to which the Philippines is also a party, or extends reciprocal rights to nationals of the Philippines by law, shall be entitled to benefits to the extent necessary to give effect to any provision of such convention, treaty or reciprocal law, in addition to the rights to which any owner of an intellectual property right. ...”;

*Whereas*, Section 131 of the IP Code provides that any trademark application filed by any person referred to in Section 3 quoted above “shall be considered as filed as of the day the application was first filed in the foreign country”, but the mark shall not be registered “until such mark has been registered in the country of origin of the applicant”;

*Whereas*, Section 131 does not require that the mark be registered prior to allowance of the application;

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

1. Section (b), Rule 202 is amended as follows:

(b) No registration of a mark in the Philippines by a person described in this rule shall be granted until such mark has been registered in the country of origin of the applicant. However, the mark may be allowed for publication for the purpose of opposition, **but such publication shall be withheld until it has been ascertained that the mark has been registered in the country of origin of the applicant.**

2. Rule 203 is hereby amended to read as follows:

*Requirements for Applications Claiming Priority Right.* – An application with a claim of priority right must be filed within six (6) months from the date the earliest foreign application was filed. **The applicant is not required to submit a certified copy of the foreign application or registration that serves as basis for the claim of priority right. However, the Examiner should be able to verify the fact of filing and/or registration of the foreign application from the official website of the foreign IP Office where the earliest application was filed. In the event that the foreign IP Office where the earliest application was filed does not have an online trademarks database, the applicant, without need of notice, shall submit a**