**PROCEDURES, SEQUENCE FOR CANCELLATION OF VALIDITY**

**CERTIFICATE OF TRADEMARK REGISTRATION**

***Legal basis:***

*Intellectual Property Law 2005 to amend and supplement 2019;*

*Circular 01/2007/TT-BKHN is amended and supplemented by Circular 16/2016/TT-BKHCN;*

1. **In what cases is a trademark protection certificate invalidated?**

Trademark protection certificates may be canceled in whole or in part.

1. According to the provisions of Article 96 Intellectual Property Law 2005 to amend and supplement 2019 **(“Intellectual Property Law”)** the cases in which a trademark protection certificate is completely invalidated include:

* The applicant does not meet the right to register and may not assign registration rights to the trademark;
* The trademark does not meet the protection conditions at the time of granting the protection certificate.

1. The protection certificate is partially invalidated when that part does not meet the protection conditions.
2. **Procedures, sequence for cancellation of validity certificate of trademark registration**
3. **A dossier of invalidation of a trademark protection certificate includes:**

In a single application, it is possible to request the invalidation of one or more trademark protection certificates if have the same argument (provided that the enterprise must pay the prescribed fee for each trademark protection certificate);

According to the provisions of Circular 01/2007/TT-BKHN is amended and supplemented by Circular 16/2016/TT-BKHCN the written request for invalidation of a protection certificate includes 01 set of the following documents:

* A declaration requesting invalidation of trademark protection certificate (made according to Form 04-CDHB specified in Appendix C of Circular 01/2007/TT-BKHCN);
* Other evidence (if any);
* Power of attorney (if any);
* An explanation of the reason for requesting invalidation of the trademark protection certificate;
* Other relevant documents (if necessary);
* A copy of the receipt of payment of fees and charges (in case of payment of fees and charges via postal service or directly to the account of the National Office of Intellectual Property).

1. **Procedures for invalidation of a trademark protection certificate include:**

* **Step 1:** Submit the application for termination of validity of trademark protection certificate by submitting directly or sent by post to the headquarters of the National Office of Intellectual Property;
* **Step 2:** Receive and process dossier
* In case the requester for an invalidation of the protection certificate carries out the procedures by himself/herself, the time limit for settlement is 10 days from the date of receiving the dossier:
* In case of authorizing a third party to make a cancellation request, the time limit for settlement is 01 month from the date the NOIP receives the application. At the same time, the NOIP shall issue a written notice of the third party's opinion to the protection certificate holder and set a time limit of 2 months from the date of notification for the protection certificate holder to give opinions.
* **Step 3:** Get the result
* If the certificate holder has no other opinion, the NOIP will issue a decision or notice of refusal to cancel the validity of the protection certificate within 3 months from the date of expiry of the above 2month time limit. This time limit may be extended by up to 3 months if the certificate holder has a different opinion;
* The decision to invalidate a trademark protection certificate record in the National Register on industrial property and publish in the Industrial Property Official Gazette within 2 months from the date of issuance of the decision.

1. **How long is the statute of limitations for invalidation of a trademark protection certificate?**

According to Clause 3, Article 96 of the Intellectual Property Law stipulate that the statute of limitations for exercising the right to request invalidation of a protection certificate is throughout the protection term, specifically, 5 years from the date of granting the trademark protection certificate, except when the protection certificate is granted due to the dishonesty of the applicant.

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