Companies and Intellectual Property Commission

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PRACTICE NOTE 6 OF 2021

LODGING OF TRADE MARK PRIORITY (CONVENTION) DOCUMENTS, EITHER WITH OR WITHOUT POWER/S OF ATTORNEY

SECTION 63(3) AND REGULATION 12 OF THE TRADE MARKS ACT, ACT 194 OF 1993

TRADE MARKS DIVISION

COMPANIES AND INTELLECTUAL PROPERTY COMMISSION (CIPC)

Kindly take note that on **Monday 15 March 2021** the Trade Marks Division of CIPC will be introducing a new electronic filing functionality (e-filing) in respect of the **lodging of trade mark priority (convention) documents, either with or without a Power/s of Attorney**.

The e-filing functionality can be accessed at https://iponline.cipc.co.za.

The **operational requirements** in respect of this new e-filing functionality are detailed in the **annexure** to this notice.

IMPORTANT NOTE: As from 15 March 2021 the Trade Marks Division will **no longer accept nor process** any priority (convention) documents which are not submitted via this e-filing functionality.

The *Notice on the Electronic Lodgment of Priority Documents*, dated 28 August 2013, and which came into effect on 2 September 2013 (as published on the CIPC website), in so far as it relates to the provisions of the Trade Marks Act and the Regulations thereunder, is hereby withdrawn.

RORY VOLLER (MR)
COMMISSIONER: CIPC
..9.... March 2021

ANNEXURE

OPERATIONAL REQUIREMENTS
LODGING OF TRADE MARK PRIORITY (CONVENTION) DOCUMENTS, EITHER WITH OR WITHOUT POWER/S OF ATTORNEY

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A. INTRODUCTION

To utilise this e-filing functionality, you need to:-

1. Be **based in the Republic of South Africa;** OR
2. Be an **authorised representative** (based in South Africa) in order to use this functionality on behalf of trade mark applicants and/or proprietors; AND
3. Be registered as a CIPC customer; AND
4. Upon registration as a CIPC customer, select from the IP e-Services suite, the IP Online option in order to access the IP e-filing functionalities you would wish to make use of; AND
5. Use your CIPC username and password to log in.

It is further strongly recommended that before using this e-filing functionality, you:-

1. Familiarise yourself with the **CIPC e-Filing T&C's** of this e-filing functionality, as published in IP Online on the CIPC website; and
2. Familiarise yourself with the **important notice on authorised representatives** as reflected in IP Online; and
3. Review the e-filing user administration guide as made available in IP Online on the CIPC website; and
4. Review the **user guide for e-filing of trade mark priority (convention) document/s, either with or without Power/s of Attorney,** made available in IP Online on the CIPC website.

B. LODGING

This e-filing facility in IP Online caters only for **single submissions*** of priority document/s, either with or without Power/s of Attorney**.

* *for series applications – i.e. exact same trade mark in the name of the exact same proprietor lodged in different classes – priority document/s, either with/without Power/s of Attorney can be lodged and will be processed as a single submission.*

** *upon lodgement, the applicant will by way of a forced field, be required to select whether the priority document/s is lodged (i) with, or (ii) without a Power/s of Attorney.*

The steps that have to be followed to make use of this e-filing functionality are outlined here below:-

1. Access the CIPC Website at http://www.cipc.co.za;
2. Register as a CIPC Customer by clicking **ONLINE TRANSACTING** on the homepage, then click on **e-SERVICES**, and follow the instructions under **REGISTER AS A CUSTOMER**;
3. When a customer enters their CIPC customer code into the CIPC e-Filing system, any document lodged thereafter shall be deemed to have been duly signed by the person whose signature is required in terms of the Trade Marks Act (Act 194 of 1993), for the purposes of lodging such a document;
4. Log in to IP Online using your CIPC customer login credentials.
    i. On initial login to IP Online, you need to set your account preferences so as to have access to the new e-filing functionalities on the IP Online platform.
    ii. Select to view your account settings by clicking the "Settings" options next to your account name.
    iii. Select the "Account Preferences" on the left side menu options and then tick the option that you prefer to add.
    iv. Click the "Save" button.
    v. Note - you will be required to login again for the changes to be effected.
5. Follow the process outlined in the user guide for filing priority document/s, either with or without a Power/s of Attorney;

6. For assistance or if experiencing technical difficulties in using the functionality, kindly log a call on the CIPC Online Enquiries System (QRS), available on the CIPC website, by selecting the following categories:
   i. Department: Intellectual Property
   ii. Category: E-Filing IP
   iii. Sub category: IP Trade Marks

C. WHEN IS A SUBMITTED PRIORITY DOCUMENT/S, EITHER WITH OR WITHOUT POWER/S OF ATTORNEY, DEEMED TO HAVE BEEN RECEIVED BY THE TRADE MARKS DIVISION

A priority document/s, either with or without a Power/s of Attorney, lodged via the IP Online e-filing interface, is deemed to have been received by the Trade Marks Division when the applicant receives a system generated (automated) **confirmatory e-mail** from the IP e-filing system clearly stating that (i) the priority document/s, either (ii) with, or (iii) without a Power/s of Attorney, has been received, but (iv) has not yet been processed.

D. WHEN IS A SUBMITTED PRIORITY DOCUMENT/S, EITHER WITH OR WITHOUT POWER/S OF ATTORNEY, DEEMED TO HAVE BEEN SUCCESFULLY PROCESSED BY THE TRADE MARKS DIVISION

Upon receipt of the priority document/s, either with or without a Power/s of Attorney, the lodgment is placed in a processing queue. From the processing queue each lodgment of a priority document/s, either with or without a Power/s of Attorney, will be validated by a designated staff member/s in the Trade Marks Division, to ensure that the document/s attached to the request indeed constitutes a priority document/s, and a Power/s of Attorney, if applicable.

Upon successful validation as per above, the applicant will receive a system generated (automated) **confirmatory e-mail** from the IP e- filing system clearly stating that (i) the priority document, either (ii) with, or (iii) without a Power of Attorney, (iv) has been processed and uploaded to the electronic Trade Marks Register.

Simultaneously, an entry will be made in the electronic Register under "Last proceedings", to indicate that (i) priority document/s were lodged, (ii) the date on which the priority document/s were lodged and (iii) whether the priority document/s were lodged either (iv) with or (v) without a Power/s of Attorney.

E. BUSINESS RULES APPLICABLE FOR SUCCESFUL PROCESSING OF LODGED PRIORITY DOCUMENT/S, EITHER WITH OR WITHOUT A POWER/S OF ATTORNEY

1. There must be a priority claim recorded in respect of the application/s under which the priority document/s, either with or without a Power/s of Attorney, are being lodged.
2. The priority document/s, either with or without a Power/s of Attorney, must be lodged within the 3-month period as provided for in Regulation 19.
3. The priority document/s, either with or without a Power/s of Attorney, must be attached in .pdf format.
4. The attached priority document/s, either with or without a Power/s of Attorney, should not exceed the size limit of 10MB.
5. The attached document/s must indeed constitute priority document/s, and a Power/s of Attorney, if applicable.
6. The documents as lodged may not only be a standard Power/s of Attorney but must be accompanied by priority document/s.
7. Upon successful validation as per above, the applicant will receive a system generated (automated) **confirmatory e-mail** from the IP e- filing system clearly stating that (i) the priority document, either (ii) with, or (iii) without a Power of Attorney, (iv) has been processed and uploaded to the electronic Trade Marks Register.
8. Simultaneously, an entry will be made in the electronic Register under "Last proceedings", to indicate that (i) priority document/s were lodged, (ii) the date on which the priority document/s were lodged and (iii) whether the priority document/s were lodged either (iv) with or (v) without a Power/s of Attorney.

When can a priority document/s, either with or without a Power/s of Attorney, NOT be lodged via this e-filing platform, or when will priority document/s, lodged either with or without a Power/s of Attorney, NOT be successfully processed via this e-filing platform.

1. A priority document/s cannot be lodged in respect of a trade mark application/s where there is no priority claim.
2. A priority document/s cannot be lodged after the expiry date of the statutory 3-month term as stipulated in Regulation 19.
3. Where a priority document/s is lodged after the expiry date of the statutory 3-month term as provided for in Regulation 19, such priority document/s must be lodged in hard copy format and **MUST** be accompanied by a formal application for condonation.

IMPORTANT TO NOTE:

This e-filing functionality is NOT under any circumstances to be used for the lodging of (i) standard Power/s of Attorney* nor (ii) General Power/s of Attorney ONLY.

* "*Standard Powers of Attorney" being understood to be a Power of Attorney granted in respect of a specific trade mark application/s.*

Standard Powers of Attorney are to be lodged only via the following channels:-

i. Via the e-filing functionality for new applications, as part of a new trade mark application/s; OR
ii. Via this e-filing functionality for priority documents, as part of the submission of priority documents; OR
iii. Via e-mail as part of a response to an official action issued by an examiner at the point of substantive examination of an application; OR
iv. Via the e-filing functionality for renewals and restorations, as part of a renewal or restoration application/s; OR
v. In hard copy format via post or courier or hand delivery.

General Powers of Attorney are to be lodged only via the newly launched e-filing platform for General Powers of Attorney (Practice Note 5 of 2021).