

Oral Hearings Available for Trademark Registration Disputes

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On February 18, new guidelines came into effect in Taiwan that establish procedures for conducting oral hearings in trademark registration disputes, in particular regarding opposition, invalidation and revocation proceedings. Previously, oral hearings were unavailable and such cases were decided solely on the basis of written submissions.

Drafted by the Intellectual Property Office (“IPO”), the new guidelines authorize oral hearings in order to clarify issues such as distinctiveness of a mark, likelihood of confusion, dilution, whether a mark is well-known or an application was filed in bad faith and evidence concerning market surveys and use of a mark.

A hearing may held on the IPO’s own initiative or upon application of an interested party. All parties are entitled to 10 days prior notice of a hearing and in the event a party fails to attend the hearing, a decision may be made in that party’s absence. During the hearing, an examiner-in-charge will be responsible for requesting evidence, calling witnesses, permitting examination and cross-examination and otherwise overseeing the proceeding. At the discretion of the examiner, a hearing may be suspended in the event it is determined that further evidence is required.

Following the hearing, a written transcript of the testimony shall be prepared, along with copies of written statements and other evidence. The transcript shall be signed by the examiner and relevant parties. The examiner shall issue an administrative decision, which shall not be subject to appeal procedures within the IPO, but a party dissatisfied with the decision may file an administrative action regarding it before an Administrative Court, pursuant to the Administrative Procedure Law.

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