



**Islamic Republic Of Afghanistan**  
**Ministry of Justice**

**OFFICIAL GAZETTE**

**Extra Ordinary Issue**

**Law on Trade Marks Registration**

**Date: 1<sup>st</sup> September, 2009**

**ISSUE NO: (995)**

Decree of the President of Islamic Republic of Afghanistan

On Promulgation of the Law On Trade Marks Registration

No: (111)

Date: 27 August, 2009

**Article 1:**

Base on the(16<sup>th</sup>) sub- article order of the 64<sup>th</sup> Article of the Constitution ; I promulgate the Law On Trade Marks Registration based on the approvals of the Lower House numbered (138) of 11 May , 2009 and of the Upper House numbered (122) of 1 June , 2009 of the National Assembly which is of (5) Chapters and (36) Articles.

**Article 2:**

The decree is in effect from the date of promulgation and shall be published along together with the Approval of the National Assembly (Lower House & Upper House)

Hamid Karzai,

President of the Islamic Republic of Afghanistan

Approval of the Lower House

Law On Trade Marks Registration

S.N (138)

Date: 11 May, 2009

Under the shade light of the of 97<sup>th</sup> Article of Constitution, the Lower House of Afghanistan approved the Law On Trade Marks Registration on Tuesdays General Meeting of 11 May , 2009 which is in (5) Chapters and (36) Articles.

Mohammad Yunis Qanoni

President of the Lower House

Approval of the Upper House

Law On Trade Marks Registration

NO: (122)

Date: 31 May, 2009

Under the shade light of the of 97<sup>th</sup> Article of Constitution, the Upper House of Afghanistan approved the Law On Trade Marks Registration on General Meeting of 31 May , 2009 which is in (5) Chapters and (36) Articles.

Sayed Hamid Gelani,

First vice Chair

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- 4- Transfer of Trademark: Is an action in which ownership of a trademark is transferred from one person to another and include sale, donation, inheritance etc
- 5- Owner of Trademark: Is a person who legally posses a trademark (registered, sale, donated, inherited etc to him/her) and there is no legal obstacle in his possession
- 6- Use of Trademark: Is the exclusive use of a trademark by its owner

### **Types of Trade Marks**

#### **Article 4:**

Trademarks consist (one or more than one) name, word, signature, letter, figure, drawing, title, seal, picture, inscription, advertisement, symbol or other marks or a combination thereof.

### **Use of Trademarks**

#### **Article 5:**

Use of trademarks mentioned in Article 4 is optional except when the ministry of Commerce and Industry or the Central Registration Office (Trademarks Registration Section) has made their use mandatory.

### **Application for Registration of Trademarks**

#### **Article 6:**

A person desiring to have the exclusive use of a trademark for distinguishing goods of his own production, manufacture, selection, or in respect of which he issued a certificate, or goods in which he trades or intends to trade, may apply for the registration of such trademark in accordance with the provisions of this law.

### **Implementing Laws Provisions**

#### **Article 7:**

- 1- National flag, State emblems and other symbols pertaining to domestic or foreign organizations or institutions, international organizations or institutions, or any foreign county unless their use is authorized in writing.
- 2- Adytum and pulpit or any marks which are identical or similar to symbols of a purely religious nature.
- 3- The pictures of national leaders and high-ranking authorities of the State.
- 4- Words and phrases that could create confusion with the government departments of Afghanistan
- 5- Marks of official organizations such as: the Red Crescent, the Red Cross, or any other similar symbols as well as any mark which is an imitation thereof.
- 6- Any marks repugnant to chastity, morality and public order.
- 7- A mark which is not distinctive in character or property or where the mark consists of names commonly given by tradition to goods, products or services, or familiar drawings and ordinary pictures of goods and products. Such marks may be used generally, but may not be used or registered, and shall not be given any protection, as a trademark.
- 8- Geographical names where the use thereof may cause confusion as to the origin or source of the goods, products or services.
- 9- The name, surname, photograph or emblem of a third party, unless he/she or his/her heir's prior consent to use has been obtained.
- 10- Marks which may mislead the public or which contain false or deceptive information as to the origin, source, or any other characteristics of the goods, products or services, as well as marks containing an imaginary, imitated or forged trade name.
- 11- Marks containing imaginary, imitative or forged names.
- 12- Marks related to natural or legal persons and the use of which is prohibited.
- 13- Use of company marks published and disseminated in Afghanistan unless authorized by their owners.
- 14- Marks related to identical goods or services or similar registered trademarks or symbols
- 15- Marks that their use is identified for specific purposes.

## **Chapter Two**

### **Ownership/Proprietorship and Registration of Trademarks**

#### **Proprietorship of a Well-known Mark**

##### **Article 9:**

The proprietor of a well-known mark may enjoy the rights conferred by the provisions of this



The following must be strictly observed when registering each of the trademarks:

- 1- The registration date, including (day, month and year) in words.
- 2- Name, occupation, address of the residence and citizenship of the applicant for trademarks registration; and where the application for registration is made by his/her legal representative, the same information shall also be given concerning his/her legal representative.
- 3- Name description and nature of goods, products and/or services for which the trademark is used.
- 4- Explanation of symbols and expressions used in the trademark and definition of their components in case they are available.
- 5-

## **Using the Name and Address of the owner of the Trademark's**

### **Article 16:**

The owner of a trademark can, during the commercial course, prohibit legal and actual persons from using his/her name, address or signs and specifications of the quality, quantity, objectives, cost, geographic source, date of production or delivery of services and other specifications of goods, productions and services unless the use of it will be legitimate according to industrial and commercial methods and a permit is taken from the owner.

## **Transfer of a Trademark**

### **Article 17:**

A trademark is transferable and will be considered valid when, according to the provisions of this law and other related rules, it is registered separately in the central registration office (division of trademark registrations).

## **Dissemination of a Registered Trademark**

### **Article 18:**

- (1) The owner of a trademark is obliged to present, on his own cost, for publication in the official gazette a registered trademark and changes in it within 15 days of registration and can publish it in other mass media outlets.
- (2) A registered trademark sent for publication in the official gazette must contain the following:
  - 1) Date of registration
  - 2) Display of the trademark
  - 3) Date of request
  - 4) List of goods, productions and se



- (2) Legal and actual persons cannot, for the sake of deceiving people use or introduce different material, productions and services in a way which do not correspond to its actual geographic sign
- (3) Legal and actual persons, that produce goods or productions or deliver services in a geographic location which has special fame, cannot use the trademark in a manner which implies the production of goods, production or services has taken in the same famous geographic location

### **Use of Famous Names**

#### **Article 24:**

Legal and actual persons can use famous geographic names which are used in commercial terms for branding of materials, products or services unless the naming will be deceptive as per article 31 of this law.

## **Chapter Three**

### **Objections**

#### **Right of Objection**

##### **Article 25:**

The following persons can file an objection about a trademark which has been requested or registered:

- (1) A person who alleges a trademark is his own trademark
- (2) A person to whose trademark a trademark is so similar that can be mistaken by users

#### **Procedures of Objection**

##### **Article 26:**

- (1) Benefiting persons or their representatives can submit a written objection at the central registration office (division of trademarks registration) within 30 days after publication of the trademark in the official gazette
- (2) The central registration office (division of trademarks registration) is responsible to send a copy of the written objection to the owner of an objected trademark within 15 days after an objection is received
- (3) If the requesting person, within 30 days after a warning of objection is sent to him/her from the central registration office (division of trademarks registration), does not retake his request the objecting person can, within 60 days, complain to commercial court. During this period the course (process) will be registered as delayed.

(4) If an objecting person fails to appear at the court within the period mentioned in part (3) of this article, or does not pursue his compla



(1) In case of violation of the following conditions, according to the situation and damages caused, compensation shall be paid:

- A) Forging or counterfeiting a trademark which has already been registered at the central registration office (division of trademarks registration), or use of a trademark to deceive people.
- B) Deliberate use of a forged or imitated trademark.
- C)

- (1) An owner is responsible to pay specified amounts in return for application papers and registration of a trademark as registration fees, the amounts will be determined the Ministers' Council.
- (2) Amounts mentioned in part (1) of this article shall be paid to the government's account in the bank.

### **Enactment of Regulations**

#### **Article 35:**

For better implementation of this law, the ministry of commerce and industries can draft and enact, after appropriate procedures, regulatory measures, law and procedures.

### **Date of Enforcement**

#### **Article 36:**

This law is promulgated after signature [of the President] and shall be published in the official