

**Article 3:**

In this law the following terms shall have the meanings given below:

1. Trade Name: is a name or a title which introduces and specifies the status of natural and legal persons.

2. **Trademark:** is a mark/sign or mixture of marks which can distinguish the goods or services of one undertaking from the goods or services of other undertakings.

## **Use of Trademarks**

### **Article 5:**

Use of each one of the trademarks specified in Article (4) of this Law shall be optional, unless the Ministry of Commerce and Industry or the Central Business Registry (Trademarks Registration Section) has made their use mandatory.

## **Request for Registration of Trademarks**

### **Article 6:**

(1) A person desiring to have the exclusive use of a trademark to identify and distinguish goods of his own production, manufacture, selection, or in respect to which he has been issued a certificate, or goods in which he intends to trade, may apply for registration of such trademark in accordance with the provisions of this law.

(2) Where the mark for which registration is sought is a collective mark, the association responsible

9. The name, surname, photograph or emblem of a third party, unless he/she or his/her heirs' 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.
11. Marks containing an imaginary, imitated or forged commercial name.
12. Marks related to natural or legal persons and the use of which is prohibited.
13. Trademarks of companies publicized and disseminated in Afghanistan, unless authorized by their owners.
14. Identical or confusingly similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered, unless such use or registration is by or with the authorization of a the owner of the registered mark.
- ~~14. Marks or commercial signs related to identical goods or services or similar registered trademarks or symbols.~~
15. The registration of a mark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a mark determined to be well-known in Afghanistan for identical or similar goods. Unless the applicant is owner or legal representative of owner for an international well-known mark.
- ~~15. Marks which are used for specific purposes.~~
16. When an essential part of the mark constitutes a reproduction of any such well-known mark, or an imitation liable to create confusion therewith.

## Chapter 2

### Ownership and Registration of Trademarks

#### Proprietorship of a Well-known Mark

##### Article 9:

- (1) The proprietor of a well-known trademark or service mark may enjoy the rights conferred by the

in accordance with the provisions of this law and the rules of the Central Business Registry (Trademarks Section). In such a case, priority shall be determined based on the date of the application filed in the foreign country.

### **Acceptance or Rejection of the Application**

#### **Article 11:**

1. The Central Business Registry (the Trademarks Registration Section) shall be obligated to review the applications from the point of view of their form, nature and their compatibility with the provisions of the present law and shall either accept or reject the application within 30 days from the day of the receipt of the application. In case of rejection, the Central Business Registry (the Trademarks Registration Section) shall be obligated to clearly mention the reasons for rejection. In such a case, the applicant may,

in the Central Business Registry (in the Trademarks Registration Section) taking into account the provisions of this law, otherwise they shall not be valid.

2. The owner of the registered mark may request in writing the insertion of any additions or modification to his/her mark provided they do not substantially affect the registered mark or its identity. Similarly, he/she may take action concerning omission of goods, products or services which constitute the subject matter of the trademark.
3. Any other changes to the registered mark or the goods, products or services to which the trademark relates shall take place on the basis of new application for registration of trademarks.

### **Correction of Print Error in Registered Trademark**

#### **Article 14:**

Where a trademark is reproduced in a dictionary, encyclopedia or a similar reference work without indications that it is registered, and where it is likely to give the impression that it constitutes the generic name of the goods, products or services for which the trademark is registered, the publisher shall, at the request of the owner of the trademark, correct such fault in the next edition.

### **Non-registration in the Name of Representative**

#### **Article 15:**

Agent or representative of the owner of the trademark cannot register the trademark in his/her own name without agreement of the owner.

### **Using the Name and Address of the Owner of the Trademark**

#### **Article 16:**

The owner of a trademark may prevent other individuals or entities from using in the course of trade his/her own name or address, indications concerning the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of the goods or of rendering of the services, or other characteristics of the goods, products or services, unless such use conforms to lawful practices in industrial or commercial matters and permission of the owner has been obtained in this regard.

### **Transference of Trademarks**

#### **Article 17:**

Trademarks are transferable and the transfer shall be valid if recorded separately with the Central Business Registry (Trademarks Registration Section) in accordance with the provisions of this law and the relevant regulations.

### **Publication of the Registered Trademark**

#### **Article 18:**

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2. The registered trademark which is sent for publication in the official gazette shall contain the following information:
  - 1) Trademark Registration Date
  - 2) Trademark Display
  - 3) Application Date
  - 4) List of goods, products or services relating to the trademark
  - 5) Classification of goods, products and services
  - 6) Name and citizenship of the owner of the trademark and names of agents (if any)
  - 7) Occupation
  - 8) Country and address of the office of notary public of the owner of trademark
  - 9) Changes related to the trademark and the rights requested by the applicant
  - 10) Other instances foreseen in this law
3. The Central Business Registry (Trademarks Registration Section), may, upon request, furnish the requested parties with a copy of the list of trademarks against payment of a fixed amount of fee.

### **Trademarks Protection**

#### **Article 19:**

3. Failure to apply for renewal of the trademark registration right within six months of expiration of the registration in accordance with the provisions of paragraph (2) of Article (20) of this Law.
4. ~~When registration is formally cancelled by the commercial court based on a petition by an interested party and on a showing of at least three uninterrupted years of non-use of the mark by the owner. No cancellation on these grounds may take place if the mark owner shows valid reasons for non-use, including circumstances arising independently of the will of the owner, such as import restrictions or services associated with the mark. Use of mark by another person but subject to the owner's control shall be recognized as use of the mark for the purpose of maintaining the registration. Where it is proved that the trademark has not been used for three consecutive years, the relevant commercial court may, on the request of interested person, issue order concerning termination thereof, unless the owner of the trademark (the first person) provides justification for the non-use thereof within the specified period of time. In such circumstances, the trademark shall be registered taking into account the provisions of this Law.~~
5. Issuance of ownership termination order by an authorized court.

### **Production and Supply in Famous Geographical Area**

#### **Article 23:**

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## Chapter 3 Objections

### **The Right to Object**

#### **Article 25:**

The following persons may object in relation to a trademark that has been applied for or registered already:

1. A person who claims the ownership of the trademark.
2. A person who has a similar trademark that can cause mistakes among the customers.
- ~~2-3.~~ Any interested party may file an objection based on Articles 8 or 9 of this Law to a trademark which has been requested or registered.



**Court Decision**

**Article 28:**

1. The relevant commercial court shall, while hearing the application of the parties to the dispute, take decision concerning admission or rejection of the registration in view of the

~~Section) in accordance with the provisions of this law or use them in such a way as to mislead the public.~~

2)3) Deliberate use of forged

## **Chapter Five Miscellaneous Provisions**

### **Registration Fee**

#### **Article 34:**

1. ~~The~~An owner is responsible to pay specified amounts in return for application papers and registration and renewal of a trademark, the amounts and deadlines for which will be determined the Ministers' Council.~~owner is obliged to pay a specific amount determined by the Council of Ministers as registration fee for the application and registration of trademark.~~
2. The amount set forth in paragraph (1) of this Article shall be submitted to the bank to government income account.

### **Enactment of Regulations**

#### **Article 35:**

For better implementation of the provisions of this law, the Ministry of Commerce and Industries may develop regulations and enact by-laws and procedures.

### **Enforcement Date**

#### **Article 36:**

This law shall be enforced upon signature by the president and shall be published in the official gazette. With the enforcement of this law, the Trademarks Code published in official gazette # (100) of 1339 shall be repealed.