

REPUBLIC OF ARMENIA

THE LAW ON

TRADE AND SERVICE MARKS
AND
APPELLATIONS OF ORIGIN OF GOODS

Article 3

Trade mark Registration Certificate

A trade mark may be registered in the name of a legal person, enterprise without the status of legal entity or individual entrepreneur.

A owner of a registered trade mark shall be granted a trade mark registration certificate (hereinafter trade mark certificate).

The trade mark certificate shall certify the registration and priority of the trade mark, as well as the exclusive right to the use of trademarks of the goods defined in the trademark certificate.

Article 4

Exclusive Right to a Trade Mark

The exclusive right to a trade mark shall be exercised from the date of registration.

The owner of the trade mark shall have the exclusive right of possession, utilisation and disposal of the trade mark, as well as the right to prohibit other persons to use it in the Republic of Armenia. In the Republic of Armenia no person shall have the right to the use of a protected trade mark without the authorisation of the owner of the trade mark.

The exclusive right of the owner of the trade mark shall be considered infringed, where:

- the trade mark or goods under the same trade mark are manufactured, utilised, imported, distributed, offered or brought otherwise into economic circulation without the owner's authorisation;
- the trade mark or goods with the same mark are warehoused for the foregoing purposes without the owner's authorisation;
- the activities defined in the first part of Article 22 of the present Law are carried out;
- the identical goods has been used under a trade mark that resembles to the extent of confusion with the trade mark of the owner.

Article 5

Types of Trade Marks

Design, word, dimensional and other signs or their combinations may be registered as a trade mark. Trade marks of any col(the f)-5

Chapter II

Registration of Trade Marks

Article 6

Application for a Trade Mark Registration.

An application for a trade mark registration (hereinafter application) shall be submitted to the authorised body of State Administration (hereinafter State authorised body) dealing with industrial property by a legal person, enterprise without the status of legal entity or individual entrepreneur (hereinafter applicant) that is desirous of registering it.

The application may be also submitted through an attorney registered with the State authorised body. The attorney shall execute formalities required for the registration of trade marks of individual entrepreneurs or legal persons of foreign states.

Cognisance of an attorney shall be confirmed by a power of attorney given by the person who is desirous of registering the trade mark.

The procedure of qualification and registration of attorneys shall be established by the State authorised body.

Activities of the attorney shall be governed by the regulations adopted by the Government of the Republic of Armenia.

The application shall concern only one trade mark and contain:

- a. application for a trade mark registration where the applicant, his residence and legal address shall be defined;
- b. design and description of the submitted trade mark;

- c. power of attorney certifying the competence of attorney, where the application is submitted through an attorney.

The application shall be submitted in Armenian. The application documents may be submitted in other languages, in the latter case the applicant shall submit the Armenian translation of the above documents to the State authorised body within a period of 2 months from the date of application.

The requirements for the application documents shall be established by the State authorised body.

Article 7

Trade Mark Priority

Priority of a trade mark shall be set up according to the year, month and day (hereinafter date) of submitting the application. The priority of a trade mark may be established according to the date of first application submitted by a foreign member state of the Paris Convention on the Protection of Intellectual Property (convention priority), where the application has been submitted to the State authorised body over a period of 6 months since aforementioned date. Should the applicant fail to submit an application for Convention priority within the specified period for reasons beyond his

Should the applicants fail to come to an agreement on the registration of the trade mark of the identical goods, the applications for the identical goods shall be considered withdrawn.

Article 8

Application Examination

An application examination including preliminary examination and a trade mark consideration shall be carried out by the State authorised body.

The applicant shall be entitled to introduce, on his initiative, additional data, amendments and specifications into the application materials within a period of 2 months from the date of application through the date of decision making.

Pending examination the applicant shall be entitled to submit the application for introducing amendments till the date of decision making on the trade mark registration.

Should the additional materials effect significantly the identity of the trade mark, or non-identical goods have been included into the list specified in the application, the aforementioned materials shall not be accepted for consideration and may be executed as an independent application.

Pending examination the State authorised body may request that the applicant provide additional materials in default of which the examination shall be deemed impossible. The additional materials shall be provided within a period of 3 months from the date of request.

In compliance with the request of the applicant the above period may be extended for no longer than 6 months, provided the relevant application has been submitted before the expiration of the above period. Should the requested materials not be provided within the specified period the application shall be withdrawn, and the applicant shall be notified accordingly.

In compliance with the request of the applicant the application may be withdrawn at any stage of examination.

Article 9

Preliminary Examination

The preliminary examination of an application shall be carried out within a month period from the date of application. In the event of request in compliance with the fifth part of Article 8 of the present Law the aforementioned period shall be suspended till the date of receiving the reply.

Pending preliminary examination shall be verified the application form, availability of the required documents, as well as their compliance with the established requirements. On the basis of the results of preliminary examination the applicant shall be advised of the acceptance or refusal of the application for consideration.

In the event of application acceptance the applicant shall be notified about the date of submitting the trade mark.

Article 10

Examination of Claimed Trade Mark

The examination of a submitted trade mark shall be carried out within a period of 6 months from the date of completion of the preliminary examination. Pending examination the priority of the trade mark shall be set up, and verified the compliance of the trade mark with the requirements specified in Article 11 and the first part of Article 12 of the present Law.

A decision of the registration or registration refusal shall be rendered on the basis of the results of preliminary examination.

The applicant shall be entitled to submit the written request for reconsideration, setting forth convincing arguments within a period of 2 months from the date of notice of refusal.

In compliance with the request of the applicant the above period may be extended for no longer than 6 months provided the relevant application has been submitted before the expiration of the above period.

The examination decision of the registration of a trade mark g has barkd()-ec-lft5.2.7)J20.10 -1.1

or cause confusion with the aforementioned ones. The above marks may be incorporated as not protected elements into a trade mark with the consent of the owner or relevant competent body.

- d. the appellation of origin of goods protected by the Legislation of the Republic of Armenia, save when the aforementioned one is incorporated as not protected element into the trade mark of the goods of a person enjoying the right of appellation of origin.
- e. The certification marks registered in compliance with the established procedure.

The applicant shall be entitled to familiarise himself with the materials of the experts' decision and request the copies of the above materials within a month period from the date of announcement of a decision.

Should the applicant exceed the time limit of the period, specified in the third in sixth parts of Article 8 of the present Law and the first and second parts of the present Article, the aforementioned period may be restored in compliance with the applicant's written request submitted within a period of 3 months from the date of expiration, provided the payment of the established fee.

Article 14

Trade Mark Registration

In compliance with the decision on a trade mark registration the State authorised body provided with the receipt of fee payment shall register a trade mark in the State Register of Marks (hereinafter Register) within a month period.

The trade mark, data on the owner of the trade mark, date of registration and priority, the list of the goods for which the trade mark is registered, other data on a trade mark registration according to the list approved by the State authorised body, as well as subsequent amendments shall be entered into the Register.

Article 15

Granting of Trade Mark Certificate

The State authorised body shall issue a trade mark certificate within a month period from the date of registration in the Register. The State authorised body shall set the certificate form and prepare the list of the data required.

Article 16

Validity Period of Trade Mark Registration

The registration of a trade mark shall be valid within a period of 10 years from the date of application submitted to the State authorised body.

In compliance with the application of the owner of the trade mark that shall be submitted during the last year of validity period of registration, the validity period of a trade mark registration may be extended for next 10 years.

Validity period may also be extended in compliance with the application of the owner of the trade mark submitted over a period of 6 months after the date expiration of validity period, provided the payment of additional fee.

Chapter III

Collective Trade Mark

Article 20

Collective Trade Mark

The collective trade mark or application for it may be transformed accordingly into a trade mark or trade mark application of a legal person or enterprise without the statuses of legal entity or individual entrepreneur in compliance with the procedure established by the State authorised body, and vice versa.

Chapter IV

Trade Mark Utilisation

Article 22

Trade Mark Utilisation and Non-Use Consequences

The utilisation of the trade mark shall imply the putting of a trade mark on the goods, for which the trade mark is registered, by the owner or a person authorised by a license agreement in compliance with Article 26 of the present Law, and/or on the packing of the aforementioned goods.

The application of trade marks in advertisements and publications, in official papers, indexes, as well as on the display units at exhibitions and fairs held in the Republic of Armenia shall be considered the utilisation of the trade mark, provided the marking of packing is impossible.

Legal persons, enterprises without the statuses of legal entity, and individual entrepreneurs carrying out mediatory activities may use under contractual relationship their trade mark together with or instead of the trade mark of the manufacturer.

In compliance with the court decision made on the basis of the request of any person the validity of a trade mark registration may be terminated for all or part of the relevant goods prior to the date of expiration, provided that the trade mark has not been used over 5 years prior the date of request or since the date of a trade mark registration.

In the event of non-use of the trade mark, when the termination of validity is under consideration, the documents provided by the owner of the trade mark concerning the non-use for reasons beyond his control shall be taken into account.

Pharmaceuticals, foodstuff, certain industrial goods or samples, as well as alcoholic and non-alcoholic drinks and beverages shall be marked with a registered trade mark. The complete list of the aforementioned goods shall be specified by the Government of the Republic of Armenia.

Article 23

Cessation of Rights Arising out of Registration

The owner of the registered trade mark shall not have the right to prohibit the use by other persons of the given trade mark for the goods that have been brought into economic circulation by the owner or by his permission.

Article 24

Warning Inscription

The owner of the trade mark may place beside the trade mark a warning inscription certifying the trade mark registration in the Republic of Armenia, that may be represented by an encircled or separate Latin letter R, as well as by “trade mark” or “registered trade mark” expressions.

Chapter V

Trade Mark Assignment

Article 25

Trade Mark Assignment

The right to a trade mark, under contractual relationship, may be assigned to other persons for all or any portion of goods specif

The following provision shall be stipulated by the license agreement: the quality of goods of the licensee shall not be inferior to the licensor's one, provided that the licensor assures verification of compliance with the above provision.

An assignment of the right to the use of the trade mark shall be prohibited where it may cause confusion on the part of the consumer in relation to the production place of the goods.

Article 27

Registration of Trade Mark Assignment and License Agreements

The trade mark Tmsf-7d6 be inade Mark Assi

Expiration and Renewal of Trade Mark Registration

The validity of a trade mark registration shall be considered expired by the State authorised body in the event of:

- a. expiration of the validity of a trade mark in compliance with Article 16 of the present Law;

Appellation of Origin Legal Protection

Article 30

Appellation of Origin

An appellation of origin of the goods (hereinafter appellation of origin) implies the appellation of a country, settlement or geographical place (hereinafter geographical place), and shall be used for the goods, the distinctive characters of which are contingent exclusively or mainly on climatic conditions and/or human factors of the

Registration of Appellation of Origin

Granting the Right to the Use of It

Article 32

Application for Registration of Appellation of Origin

Right to the Use of it

An application for the registration of an appellation of origin and the right to the use of it, or for the right to the use of already registered one (hereinafter application) shall be submitted to the State authorised body by the legal person, enterprise without the statues of legal entity , and individual entrepreneur (hereinafter applicant) that is desirous of obtaining the right to the use of it.

The application may be submitted in accordance with the procedure stipulated by the second part of Article 6 of the present Law in compliance with the requirements established in the third, fourth and fifth Parts.

The application shall concern only one appellation of origin and content:

- a. an application for the registration of an appellation of origin and the right to the use of it, or for the right to the use of already registered appellation of origin, where the

- c. Receipt of fee payment in the specified size for the submission and consideration of an application;
- d. Document (power of attorney) certifying the cognisance of an attorney, where the application is submitted through the attorney.

The application shall be submitted in Armenian. The application documents may be submitted in other languages. In the latter case the applicant shall submit their Armenian translation to the State authorised body within a period of 2 months from the date of application.

The requirements for application documents shall be established by the State authorised body.

Article 33

Application Examination

The examination of an application including the consideration of the former and

Pending preliminary examination shall be verified the form of application, availability of required documents, as well as their compliance with the established requirements. The applicant shall be notified of the acceptance or refusal of the application on the basis of the results of preliminary examination.

Consideration of a submitted appellation of origin shall be carried on the basis of an accepted application, pending which shall be verified the compliance of the submitted appellation of origin with the requirements established in Article 30 of the present Law.

On the basis of consideration the State authorised body shall arrive at a decision on granting or refusing the right to the registration and use of an appellation of origin, or granting or refusing the right to the use of already registered appellation of origin.

In the event of refusal the applicant shall be entitled to submit an application for reconsideration within a period of 2 months, providing well-ground reasons.

In compliance with the request of an applicant the above period may be extended for no longer than 6 months, provided the relevant application has been submitted before the expiration of the above period.

In compliance with the request of an applicant the application may be withdrawn at any stage of examination.

Article 34

Appeal against Examination Decision

Renewal of Period Exceeded by Applicant

Should the applicant not comply with the examination decision, he shall be entitled to lodge a complaint to the Council of Appeal of the State authorised body within a period of 3 months from the date of decision making. The complaint shall be considered in accordance with the procedure established by the State authorised body.

Should the applicant not comply with the decision of the Council of Appeal, he shall be entitled to appeal to the court within a period of 6 months.

The period of time specified by the third part of Article 30 and the first part of the present Article of the present Law and exceeded by the applicant may be renewed by the State authorised body within a period of 3 months from the date of expiration, in compliance with the request of applicant, provided the payment of established fee.

Article 35

Registration and Granting the Certificate for the

Right to the Use of Appellation of Origin

On the basis of a decision on the registration of an appellation of origin and having been provided the receipt of fee payment in the specified size, the State authorised body shall register the appellation of origin in the State Register of appellation of origin of goods of the Republic of Armenia (hereinafter Register) within a month period.

Application of appellation of origin on the goods and packing, in advertisements, written notifications, bills, formal papers, as well as on other documents associated with

- d. dissolution (death) of the certificate owner;
- e. the certificate owner has submitted the application for abandonment of the certificate to the State authorised body.

PART III

FINAL PROVISIONS

Article 44

State Taxes

Taxes, the type, size and payment procedure of which is established by Legislation shall be collected for the registration of a trade mark, registration of an appellation of origin, or certificate for the right to the use, as well as other relevant activities of legal importance.

Article 45

Settlement of Disputes Arising from the Enforcement of the Present Law.

The disputes arising from the enforcement of the present Law shall be settled in due course of law including those that concern:

1. Infringement of the exclusive right to the trade mark;
2. Conclusion and implementation of a license agreement as well as agreement on assignment of a trade mark;
3. Unlawful use of an appellation of origin.

Article 46

Responsibility for Unlawful Use of Trade Mark and Appellation of Origin

The use of a trade mark or a mark, resembling it to the extent of confusion, for the identical goods, as well as the use of an appellation of origin or a mark, resembling it to the extent of confusion, for any types of goods, that contravenes the third part of Article

4 and the second and third parts of Article 40 of the present Law, shall involve the responsibility in accordance with the procedure established by the Legislation of the Republic of Armenia.

In the event of unlawful use of a trade mark, the protection of civil rights, apart from the termination of unlawful use and demand for compensation for damage, shall be ensured through the following ways:

- a. promulgation of decision of a court on the part of the violator in order to restore the copyright of the aggrieved party;
- b. removal of an unlawfully used trade mark or a trade mark resembling to the extent of confusion the first one from the goods or their packing on the part of the violator, as well as extermination of markings produced for a trade mark or a trade mark resembling to the extent of confusion the first one.

A legal person, enterprise without the statues of legal entity, and individual entrepreneur that has unlawfully used the registered appellation of origin or a mark resembling it the extent of confusion, in compliance with the demand of the certificate owner, public organisation or prosecutor shall be obliged to:

- a. terminate the use of the aforementioned and pay compensation for damage caused to all aggrieved parties, as well as transfer to the local budget the sum in the amount of profit earned through unlawful use of an appellation of origin less the amount of compensation to be paid;
- b. promulgate a decision of the court in order to restore the copyrights of the aggrieved party;
- c. remove from the goods or their packing an unlawfully used trade mark or a mark resembling it to the extent of confusion (requisite of representation), or expunge markings produced for an appellation of origin or a mark resembling it to the extent of confusion (requisite of representation).

A person applying a warning inscription for an appellation of origin or a trade mark not

Examination of trade marks, the applications for which have been submitted to the State authorised body before the date of coming into force of the present Law, and that are currently under consideration shall be carried out in compliance with the requirements established by the present Law.

The sixth part of Article 22 of the present Law shall come into force in 6 months after the

