

**THE LAW  
OF THE  
REPUBLIC OF ARMENIA**

**ON TRADEMARKS AND SERVICE MARKS,**

3. The trademark certificate shall attest the fact of registration of a trademark, its priority, as well as the exclusive right of using the trademark in respect to the goods specified in the trademark certificate.

#### **Article 4. The exclusive right to a trademark**

1. The exclusive right to the trademark shall accrue from the time of its registration.

2. The owner of the trademark has the exclusive right to possess, to use, and to dispose of it, as well as to prohibit the use of it by other persons. Without the permission of the owner of a trademark, no one has the right to use a trademark protected in the Republic of Armenia.

3. The owner of a registered trademark has the exclusive right to prevent third persons from ~~the~~ manufacture, application, import, sale or offering for sale, as well as putting into economic turnover in other way of the trademark or goods designated by it, or stocking of the goods designated by that mark or of the trademark for the same purpose, and the carrying out of actions defined by paragraphs 1 and 2 of the Article 22 of this law, in the course of commercial activity, without his permission, if that trademark is identical or confusingly similar to his trademark and is applied in respect of such goods:

- a) for which his trademark is registered;
- b) which are similar to the goods for which the trademark is registered;

4. It shall be prohibited to use in the course of commercial activity any mark, which is the reproduction, imitation or translation of a mark that is confusingly similar to a trademark considered to be well-known in the Republic of Armenia in respect of certain goods in, and is used without the permission of it's the latter's owner:

- a) in respect to the same or similar goods;
- b) in respect to dissimilar goods, ~~that~~ which confusingly compels to imply a

## CHAPTER 2 REGISTRATION OF A TRADEMARK

### Article 6. Application for registration of a trademark

1. The application for registration of a trademark (hereinafter, application) shall be filed with the Patent Office of the Republic of Armenia (hereinafter, Office) by legal entity or an individual entrepreneur (hereinafter, to the end of this part, applicant) in whose name the registration of trademark is sought.

2. The application may also be filed through a patent attorney registered in the Office.

3. Foreign legal entities and individual entrepreneurs shall deal with the registration of trademarks through patent attorney registered with the Office. The authority of a patent attorney shall be validated by a power of attorney given by the person in ~~whose~~ the name of whom the registration of trademark is sought.

4. The procedure of qualification and registration of patent attorneys shall be determined by the Office.

5. The activity of the patent attorneys shall be regulated by the charter (statute) approved by the Government of the Republic of Armenia.

6. The application shall be filed with the Patent Office of the Republic of Armenia.

7. The application shall be filed with the Patent Office of the Republic of Armenia.

provided that the application has filed with the Office within six months following that date.

3. The priority of a mark affixed to the exhibits displayed in official or officially recognized international exhibitions in the territory of a Paris Convention member



| c) have ~~came~~ come into general use as marks specifying goods of a specific

2. ~~Signs likewise shall~~ Shall not also be registered as trademarks signs, which reproduce the following:

a) trade names (or parts of them) belonging to ~~the~~ known in the Republic of Armenia and other persons, if the right to them was obtained by them before the filing date of the trademark application for similar goods;

b) industrial designs with an earlier priority, the rights ~~of~~ disposal of which in the Republic of Armenia belong to other persons;

c) titles of works of science, literature and art, well-known in the Republic of Armenia, or quotations s from ~~those them~~ without the consent of their authors or their heirs;

d) names, surnames, pseudonyms and derivatives thereof, portraits and facsimiles of famous persons, without the permission of those persons, their heirs or the permission given by the procedure defined by the Government of the Republic of Armenia.

3. For the recognition of a trademark as well-known in the Republic of Armenia according to the requirement of subparagraph "c" of paragraph 1 of this Article, the fact of the knowledge of the trademark in the relevant sector of the public owing to the use of the given trademark in good faith in a member state of the Paris Convention or to the promotion of it in the Republic of Armenia, shall be taken into account.

4. The provisions of subparagraphs "a"-"c" of paragraph 1 of this Article shall also apply to the trademarks which were submitted for registration for dissimilar goods, if it may mislead the consumer and cause to infer a connection between those goods and the registered or being protected without registration or considered to be well-known in the Republic of Armenia trademark owner, provided that it may damage the interests of the latter.

5. The provisions of paragraph 1 of this Article shall not apply to the homonymous geographical indications identifying wines, if they are accompanied by relevant distinguishing additions, provided that the requirements of subparagraph "b" of paragraph 3 of the Article 11 of this law are observed.

### **Article 13. Appealing the decision of the examination and reinstatement of time periods omitted by the applicant**

1. In case of disagreement with the decision of the preliminary examination or re-examination the applicant has the right, within three months following the day of its receipt, to file an appeal with the Appeals Board of the Office (hereinafter, Appeals Board).

2. The Appeals Board shall consider the appeal under the procedure approved by the Office.

3. In case of disagreement with the preliminary examination, the re-examination or the decision of the Appeals Board the applicant has the right to appeal to the court under the procedure defined by the law.

4. The applicant shall have the right to familiarize himself with the materials noted in the decision of the examination. The applicant may demand the copies of these materials within a month following the day of receipt or similar of the decision.

5. The Office may reinstate the time period defined by paragraphs 3 and 6 of Article 8 of this law and paragraphs 1 and 3 of this Article and omitted by the

applicant, within three months after the expiration thereof, according to the request filed by the applicant and in case of payment of the prescribed duty.

#### **Article 14. Registration of a trademark**

On the basis of the decision on the registration of a trademark, after receiving the receipt on the payment of the prescribed duty, the Office, within a month, shall register the trademark in the State Register of the Republic of Armenia for the





## THE USE OF THE TRADEMARK

### Article 22. The use of the trademark and the consequences of not using it

1. The placement of a trademark on the goods for which the trademark has been registered and (or) on their packaging shall be considered the use of a trademark.

2. The application of a trademark in advertisements, publications, as well as in official forms (letterheads), signboards while displaying exhibits in exhibitions and fairs, ~~being~~ organized in the Republic of Armenia, shall also be considered the use of a trademark, only in cases, when the application of the mark on goods and their packaging is impossible, ~~shall also be considered the use of a trademark~~.

3. Legal entities and individual entrepreneurs carrying out a mediatory activity may, on a contractual basis, use their trademark jointly with or instead of the trademark of the producer of the goods.

4. Upon a request of any person, the validity of the registration of the trademark may, by the court decision, be prematurely ceased in respect of all the goods for which it has been registered or a part thereof, if during the five years following the date of registration of the trademark or preceding the request, it has not been uninterruptedly used by the owner of the trademark or in accordance with the Article 26 of this Law, by the person possessing that right pursuant to a licensing contract.

5. The validity of the registration of the trademark may not be ceased in respect of all the goods or a part thereof, if:

a) the owner of the trademark or the person possessing the right to use it submits the arguments that the non-use of the trademark is due to force majeure, unforeseen circumstances;

b) the owner of the trademark or the person possessing the right to use it has used the trademark in ~~such~~ a form, which differs from that of the registered one, only by separate elements not altering its distinguishing nature;

c) the trademark in the Republic of Armenia has been affixed on the goods and (or) their packaging solely for export purposes.

6. Pharmaceutical, food and certain industrial goods and varieties, as well as alcoholic and non-alcoholic drinks and beverages shall be marked (branded) by registered trademarks. The complete list of those goods shall be established by the Government of the Republic of Armenia.

### Article 23. Limitations of the rights of the trademark owner

1. The owner of the trademark shall not be entitled to prohibit third persons from using in the course of trade activity:

a) their denomination (name, pseudonym) or address;

b) signs characterizing the kind, quality, quantity, value, purpose of the creation ( rendering) and other features of the goods, as well as signs characterizing the place and time of the production and realization (rendering) of the goods;

c) the trademark, if it is necessary to indicate the purpose of the creation (rendering) of the goods, in particular as accessories or spare parts;

provided they are used without prejudice to the legitimate interests of the trademark owner, of third persons, and without misleading the consumer.

2. The owner of the registered trademark shall not be entitled to prohibit the use of the given sign by other persons in respect of those goods, which have been put into economic turnover under that designation in any country by the owner of the

requirements specified by the Articles 3 and 11 of this Law or has been used in bad faith, particularly in accordance with Article 6<sup>septies</sup> of the Paris Convention, as well as within five years from the day of publication of the information on the registration of the trademark in the Official Bulletin, owing to the requirements of the Article 12 of this Law.

2. Any natural or legal person may file an appeal to the Appeals Board of the Office ~~an appeal~~ for the invalidation of the registration of the trademark. The Appeals Board shall prosecute the appeal in accordance with the procedure defined by the Office.

3. The decision of the Appeals Board may be contested under the judicial procedure, within six months from the date of making the decision.

4. In accordance with paragraph 1 of this Article, the registration of the trademark may be in whole or in part recognized invalid also on the initiative of the Office, under the procedure defined by it.

#### **Article 29. Cancellation of the registration of the trademark and the re-registration**

1. The Office shall cancel the registration of the trademark in the following cases:

- a) the term of validity of the registration of the trademark, provided by the Article 16 of this Law, has expired;
- b) in accordance with paragraph 4 of the Article 21 of this Law, the registration



originate in another geographical object of the same (homonymous) name, shall not be liable to legal protection.

8. In case of homonymous geographical indications identifying wines, legal protection shall be granted to each of them, if they contain relevant distinguishing additions, provided that the provisions of paragraph 7 of this Article and the equitable interests of the producers will be observed.

## **CHAPTER 8.**

### **THE REGISTRATION OF THE APPELLATION AND GRANTING THE RIGHT TO USE**

**Article 32. The application for the registration of an appellation and the  
right to its use**



| for a re-examination, within two months from the day of receiving it, providing substantiated arguments.

11. The mentioned time period may



**Article 36. Registration of the appellation and delivery of the certificate  
of the right to its use**

the exception of information regarding the specific qualities of goods), within 3 months following the date of registration.

**Article 40. Registration of the appellation in foreign countries**

1. The legal entities and the individual entrepreneurs of the Republic of

its commercial activities, has the right to use the registered appellation in respect of those goods, which have been put into economic turnover in any country by the owner of the mentioned trademark or by his consent, if during the marketing process the characteristics of those goods haven't undergone, by natural way or interference, an alteration in the course of marketing thereof.

8. The citizens of the Republic of Armenia or the physical or legal persons having a permanent place of residence or location in the Republic of Armenia, who have used in the Republic of Armenia the geographical indications of another country identifying wines or spirits in connection with goods and services:

- a) continuously, for at least ten years preceding 15 April 1994, or
- b) in good faith preceding 15 April 1994,

have the right to continue using or to use in similar way those geographic indications with regard to the same or related goods and services in the Republic of Armenia.

9. Persons, lawfully or in good faith using before the entry into force of the Agreement On the World Trade Organization (WTO), geographical indications foreseen for viticulture products, including wines, containing geographical indications of another country, which have been acquired legal protection in the territory of the Republic of Armenia, shall be entitled to continue using the given geographical indication, if it is identical with the customary name of the grape variety growing in the territory of the Republic of Armenia.

10. The rights to a trademark similar to or identical with the appellation of origin of goods shall continue to be reserved, if the latter has been applied for or registered in good faith:

- a) before the date of application of the provisions of the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPs) in the Republic of Armenia, or
- b) before acquiring the protection of the appellation in its country of origin.

11. The requests of legal entities, individual entrepreneurs, organizations and authorized bodies specified in paragraph 3 of the Article 31 of this Law, in respect of the use or registration of the trademark, shall be submitted within five years after the illegal use of the protected appellation has become generally known in the Republic of Armenia, provided that the name has been registered in good faith.

12. The owner of the certificate shall not be entitled to transfer the right to use the appellation to other persons.

#### **Article 42. Warning note**

The owner of the certificate may place, next to the appellation, a warning note testifying that the gi

1. The registration of the appellation may be recognized ~~as~~ invalid, if it was done in violation of the requirements defined by this Law.

2. The certificate may be declared invalid, if it has been granted in violation of the requirements of this Law.

3. Any person may, on the bases of the provisions, mentioned in the Articles 30, 31 and 35 of this Law, file an appeal with the Appeals Board or the court claim with the Council of or based on stipulated, against granting a certificate of registration or right to use the appellation. The Appeals Board shall prosecute the appeal in accordance with the procedure defined by the Office.

4. The decision of the Appeals Board, within six months from the day of its receipt, may be contested under the judicial procedure.

**Article 44. Cancellation of the registration of the appellation and the validity of the certificate of the right to its use**

1. The Office shall cancel the validity of the registration of the appellation, if:  
a) the registration of the appellation has been recognized invalid according to the Article 43 of this Law;

b) the conditions attributable to the given geographical ~~–~~location have

- a) infringement of the exclusive right to a trademark;
- b) ~~conclusion and implementation of the license contract~~, as well as the contract on assignment of the trademark;
- c) illegal use of the appellation.

**Article 47. Liability for the illegal use of the trademark and the appellation**

1. Use of a trademark or a confusingly similar sign, as well as an appellation or a sign confusingly similar to it, which conflicts with the requirements of the Articles 4 and 41 of this Law, shall entail liability under the procedure defined by the legislation of the Republic of Armenia.

2. In case of ~~the~~ illegal use of the trademark the protection of civil rights, in addition to the demand for the cessation of the illegal use and for damages, shall be implemented also by the following manners:

- a) publication of the court decision by the infringer with the aim of restoring the authority of the injured party;
- b) removal of the illegally used trademark or a sign confusingly similar to it from the goods or their packaging in such a manner that will preclude the risk of its being placed (affixed) again on the goods or ~~on~~ their packaging;
- c) destruction of the images of the trademark or sign confusingly similar to it;
- d) in case of the impossibility of exercising the manners stipulated in subparagraphs "b" and "c" of this paragraph, by avoiding the possibility of causing any harm to the owner of the trademark in future, by confiscating or also by destroying the goods and (or) the package marked with an illegal trademark, without any compensation.

3. Any person illegally using the registered appellation or a sign confusingly similar to it, upon the demand of the owner of the certificate of the right to use the appellation of origin of goods and the non-governmental organization, shall be required to

- a) cease its use and indemnify damages caused to all injured parties, as well as pay to the local budget, the amount from the profit received from the illegal use of the appellation exceeding the indemnification of damages ;
- b) publicize the court decision with the aim of restoring the authority of the injured party;
- c) remove the illegally used appellation or a sign (means of expression) confusingly similar to it from the goods, their packaging, forms (letterheads) and other documents in such a manner so as to preclude the risk of its being placed (affixed) again on the goods or on their packaging;
- d) destroy the manufactured images of the appellation;
- e) in case of the impossibility of implementing the requirements stated in sub-paragraphs "c" and "d" of this paragraph, the goods and (or) package marked with an illegal appellation shall be subject to destruction and confiscation without any compensation.

4. In case of the illegal use of a trademark or an appellation of origin of goods, for the purpose to minimize the risk of further infringements, the protection of the civil rights may be implemented by confiscating the material objects (materials,

equipment, implements, advertising means, etc.) having served as a basis for the  
| infringements, if they have been predominantly used for the mentioned purposes.

5. Any person, whose rights with respect to a trademark or an appellation are

3. The Law of the Republic of Armenia “On Trademarks, Service marks and Appellations of Origin of Goods” adopted on May 12, 1997 shall be deemed as ceased to be in force.

**President of the  
Republic of Armenia**

**R. Kocharyan.**

Yerevan  
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