

Based on items 2, 3, 4 and 5 of the Decision on Declaration of the Independence of the Republic of Montenegro (RM Official Gazette No. 36/06), the Government of the Republic of Montenegro, at the session held on 20 September 2007 has adopted the following

REGULATION ON PROVIDING THE APPLICATION OF INTELLECTUAL PROPERTY RIGHTS

Article 1

This Regulation shall govern the recognition of intellectual property rights granted by the Intellectual Property Office of Serbia and Montenegro (hereinafter referred to as: the Union Office) or the Intellectual Property Office of Serbia (hereinafter referred to as: the Serbian Office), rights deriving from applications pending before those Offices, and rights in works subject to copyright and related rights, rights registered through international registrations as well as rights deriving from international applications.

Article 2

The intellectual property rights referred to in Article 1 of this Regulation shall be those established under the laws and international agreements governing copyright and related rights, patents, petty patents, designs, topographies of integrated circuits, trademarks and indications of geographical origin applicable in the Republic of Montenegro (hereinafter referred to as: Montenegro).

1. PATENT, PETTY PATENT, DESIGN AND TOPOGRAPHY OF INTEGRATED CIRCUITS

Article 3

Registration of any patent, petty patent, design or a topography of integrated circuit granted by the Union Office, as well as any changes or amendments thereto, before June 3, 2006, which is the effective date of the Decision on Declaration of the Independence of the Republic of Montenegro, shall be effective in Montenegro until the expiry of their respective terms of protection or the terms for which the maintenance fees have been paid for, as the case may be, subject to the provisions of the applicable laws, without any additional registration and without payment of any additional fees.

Article 4

The provisions of Article 3 of this Regulation shall also apply to any patent, petty patent, design or topography of integrated circuit granted by the Union Office or the Serbian Office, as the case may be, on or after June 3, 2006, but prior to the

commencement of operation of the Intellectual Property Office of Montenegro (hereinafter referred to as Montenegrin Office).

Article 5

Any rights deriving from an application for granting a patent, petty patent, design right or a topography of integrated circuit, pending before the Serbian Office at the time of commencement of operation of Montenegrin Office, shall be recognized in Montenegro with the effect as of the date of filing of the application with the Union Office or the Serbian Office, as the case may be, or, in the case of international application which entered the national phase with either the Union Office or the Serbian Office as designated Office under Patent Cooperation Treaty (hereinafter

After the commencement of operation of the Montenegrin Office, renewals of trademark registrations shall be applied for and recorded as provided by the applicable law. The Montenegrin Office shall establish record for the mark on the basis of the record in the appropriate register of the Serbian Office, or on the basis of the trademark certificate from the Serbian Office that shall be submitted together with the application for the trademark renewal.

Article 8

Any appellation of origin or geographical indication registered directly with the Union Office or the Serbian Office prior to the commencement of operation of the Montenegrin Office shall be valid in Montenegro with the effect as of the date of filing of the appropriate application with the Union Office or the Serbian Office, as the case may be.

Any amendment to the registration of an appellation of origin or geographical indication referred to in paragraph 1 of this Article, made after the commencement of operation of the Montenegrin Office, shall be recorded with this Office, upon the submission of the certificate issued by the Serbian Office and payment of the prescribed fee.

3. COPYRIGHT AND RELATED RIGHTS

Article 9

Any rights deriving from the deposit in the Union Office or the Serbian Office of works subject to copyright and related rights prior to the commencement of operation of the Montenegrin Office shall be valid in Montenegro.

Any copyright and related rights that came into existence prior to June 3, 2006 by virtue of the laws of the State Union Serbia and Montenegro or of treaties binding on Montenegro shall be valid in Montenegro and shall remain effective until the expiry of their term of protection, as provided under the applicable law.

4. INTERNATIONAL REGISTRATIONS UNDER THE MADRID AGREEMENT AND THE PROTOCOL CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS

Article 10

International registrations under the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as the Madrid Agreement) or the Protocol Relating to that Agreement (hereinafter referred to as the Protocol), which contain a territorial extension to the State Union of Serbia and Montenegro effective from a date prior to June 3, 2006 shall be effective in Montenegro subject to compliance with the procedure established in Rule 39 of the Common Regulations under the Madrid Agreement and the Protocol.

Article 11

A mark that has been registered under the Madrid Agreement or the Protocol with a territorial extension to the Republic of Serbia, on or after June 3, 2006, but prior to December 4, 2006, shall be registered by the Montenegrin Office if the holder of the international registration:

- 1) Files with the Montenegrin Office an application for the registration of the mark, not later than six months after the commencement of operation of the Montenegrin Office;
- 2) Attaches with the application a proof of the international registration of that mark established by the International Bureau of the World Intellectual Property Organization (hereinafter referred to as: International Bureau), showing that the registration extends to the Republic of Serbia; and
- 3) Pays the prescribed fee.

The registration referred to in paragraph 1 of this Article shall have effect as of the date of the territorial extension to the Republic of Serbia, and the term of the registration shall be computed from that date.

Any intervening rights acquired by third parties in respect of the use or exploitation of a sign identical with or similar to the mark prior to the registration shall be taken into consideration.

The scope, term, maintenance and validity of the registration under the Madrid Arrangement and the Protocol shall be governed by the applicable law that governs trademarks.

5. INTERNATIONAL REGISTRATIONS UNDER THE HAGUE AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF INDUSTRIAL DESIGNS

Article 12

International registrations under the Hague Agreement Concerning the International Registration of Industrial Designs (hereinafter referred to as the Hague Agreement), which contain a designation of the State of Serbia and Montenegro, effective from a date prior to June 3, 2006, shall be valid in the Montenegro with the effects prescribed in the Hague Agreement.

Article 13

Any design that has been registered under the Hague Agreement designating the Republic of Serbia on or after June 2006, but prior to December 4, 2006, may be registered in Montenegro if the holder of the international registration:

- 1) Files with the Montenegrin Office an application for the registration of a design, not later than six months after the commencement of operation of the Montenegrin Office;

Article 17

Any European patent extended to the State Union of Serbia and Montenegro or to the Republic of Serbia which has been granted on a European patent application filed before June 3, 2006, shall be valid in Montenegro until the expiry of the term for which maintenance fees have been paid to the Serbian Office without any additional registration and without payment of any additional fees.

Any European patent extended

Article 20

Nationals or residents of Montenegro, as the case may be, may file international applications with the International Bureau as receiving Office under the PCT under Rule 19.1(a)(iii) of PCT as from June 3, 2006, and with the Montenegrin Office as receiving Office under the PCT as from the date of the commencement of operations of that Office.

Any international application filed in accordance with this Regulation shall have effect in accordance with PCT Article 11(3) and (4).

International applications filed before June 3, 2006, shall, if patent protection is desired in Montenegro, enter the national phase before the Montenegrin Office within:

- 1) the time limit under Article 22 or 39(1) PCT; or
- 2) six months after the date of the commencement of operations of the Montenegrin Office

In the case referred to in paragraph 3 of this Article the time limit that expires later shall apply.

8. ISSUANCE OF CERTIFICATES

Article 21

Any right holder may request the Montenegrin Office to be issued a certificate on validity of any rights under this Regulation.

The application referred to in paragraph 1 of this Article shall be accompanied by the