

808.

Pursuant to Article 95 item 3 of the Constitution of Montenegro I hereby pass

**THE DECREE
ON THE PROMULGATION OF
THE LAW ON TRADEMARKS**

I hereby promulgate the Law on Trademarks, passed by the Parliament of Montenegro in its 24

Intellectual Property Rights (TRIPS) with the World Trade Organization (WTO);

3) a trademark of the European Community registered with the Office for Harmonization in the Internal Market which shall be effective following Montenegro's accession to the European Union.

Equality of Foreign and National Persons

Article 4

Foreign legal and natural persons shall enjoy the same rights with respect to the trademark registration and legal protection in Montenegro as national legal and natural persons if such rights result from international agreements or the reciprocity principle.

The person claiming reciprocity referred to in paragraph 1 of the present Article shall be obliged to prove the existence of reciprocity.

In any proceedings before a competent authority, a foreign legal or natural person shall be represented by a legal or natural person (hereinafter referred to as: the Representative) entered into the Register of Representatives maintained by the competent authority in charge of intellectual property matters (hereinafter referred to as: the Competent Authority) or a lawyer entered into the Montenegro Bar Association Register.

Trademark Register, Application Records and Official Gazette

Article 5

Trademark Register (hereinafter referred to as: the Register) and application records shall be maintained by the competent authority.

disclosure, the appearance of the trademark, the list of goods and services, alterations, information on third parties who have given their opinion, information on the person who has filed a complaint, the date the trademark has been entered into the Register, registration number, international registration data, trademark protection renewal information and the trademark lapse date.

The application records referred to in paragraph 1 of the present Article shall contain the following: information about the applicant (name and address and/or name and seat), the appearance of the trademark for which protection is sought, list of goods and services, information on the payment of prescribed administrative fees and duties, application number and application filing date.

The Register and the application records referred to in paragraph 1 of the present Article shall be open to the public.

At the request of an interested person and following the payment of prescribed administrative fees and duties, the competent authority shall issue Register confirmation slip and trademark validity certificate.

The data from the application referred to in paragraph 1 of the present Article and data on trademarks entered into the Register referred to in paragraph 1 of the present Article, shall be published by the competent authority in the Official Gazette.

The Official Gazette referred to in paragraph 6 of the present Article shall be a publication of the competent authority.

The competent state administration authority in charge of

A trademark shall not be used to protect a mark:

1) Which cannot be graphically represented and a mark which cannot constitute a trademark in accordance with Article 2 of the present Law;

2) Without any distinctive features;

3) consisting only of signs or data which in trade denote a type, quality, quantity, purpose, value, or time necessary for the production of goods or provision of services or other characteristics of goods and/or services;

4) Consisting exclusively of marks which in trade denote geographical origin of goods and/or services;

5) Consisting exclusively of marks that have become customary in everyday language or have in good faith been adopted in business practice;

6) Consisting exclusively of a shape determined by the nature of goods or a shape of goods which is necessary in order to achieve a particular technical result or of a shape which gives the goods their essential value;

7) Which is contrary to public interest or accepted principles of morality;

8) Which is likely to mislead the public in particular with regard to the nature, quality or geographical origin of the goods and/or services concerned;

9) Which cannot be registered in accordance with Article 6^{ter} of the Paris Convention;

10) Which represents a national or religious symbol;

11) Which contains official marks or hallmarks used for quality control or guarantee;

12) Which includes or consists of geographical indication used for wines and spirits, if such mark pertains to wines and spirits which are not of the indicated geographical indication;

13) Which includes or consists of geographical indications effective in Montenegro, if the trademark registration application has been submitted following the submission of the geographical indication registration application, to the extent determined by

filed referred to in paragraph 2 items 1 and 2 of the present Article, provided that the registration application for the trademark is approved.

In establishing whether the mark referred to paragraph 2 item 3 of the present Article is a well known mark, the familiarity of the relevant part of the public with the mark shall be taken into account, including their familiarity with the mark as a consequence of mark-related marketing activities.

The relevant part of the public shall be understood to mean actual and potential users of goods and/or services designated by such mark, as well as the persons involved in the process of distribution of the respective goods and/or services.

Based on a complaint a new trademark for which the registration application has been filed shall not be registered if such trademark is identical or similar to an earlier trademark with reputation in Montenegro, and the registration of goods and/or services has been sought which are not similar to those goods and/or services for which the previous trademark has been registered, should the utilization of such trademark compromise the reputation of the earlier registered trademark.

Other Relevant Reasons for Rejecting Trademark Registration Applications

Article 8

Based on a complaint of the trademark holder in a member state of the Paris Union for the Protection of Industrial Property (hereinafter referred to as: Paris Union) or in a member state of the World Trade Organization, a trademark cannot be registered to the name of its trade agent or representative.

Based on a complaint, the trademark for which the registration application has been submitted shall not be registered if such trademark contains a personal name, portrait and if it infringes a copyright or other industrial property rights.

Based on a complaint, the trademark for which the

1) A mark identical with his/her earlier protected mark in respect of goods and/or services which are identical to goods and/or services for which the trademark has been registered;

2) A mark identical with his/her earlier protected mark for similar goods and/or services or similar with his/her earlier protected mark for identical or similar type of goods and/or services, if there is a possibility that such identicalness and/or similarity can mislead the relevant part of the public, including the likelihood of associating such trademark with the earlier protected trademark;

3) Any mark identical with his/her trademark or similar to his/her trademark in relation to goods and/or services which are not similar to those for which the trademark has been registered, where such trademark enjoys certain reputation in Montenegro and represents unjustified utilization and acquisition of unjustified benefit or causes damage to the distinctive character or reputation of the trademark.

Trademark Use Ban

Article 11

The holder of a trademark shall be entitled to ban other persons from:

1) Affixing a trademark on goods, its packaging or on means used for marking the goods;

2) Offering goods, releasing such goods onto the marketplace, storing such goods for those purposes or providing services under such trademark;

3) Importing or exporting goods under a registered trademark;

4) Utilizing the registered trademark in business documents or advertisements;

The holder of the mark which is well known in Montenegro shall be entitled to rights referred to in paragraph 1 of the present Article and Article 10 of the present Law, in accordance with Article 6^{bis} of the Paris Convention.

3) The registered trademark, in cases where its use is necessary to indicate the purpose of the goods and/or services, in particular where the spare parts or tools are concerned.

The trademark holder shall not ban another person from using in trade a previous right used only in a particular locality in Montenegro, if such right has been recognized pursuant to regulations of Montenegro and within boundaries of the locality where such right has been recognized.

Exhaustion of Trademark Rights

Article 15

A trademark does not entitle its holder to ban its use in relation to goods marked with such trademark and released onto the marketplace in Montenegro with his/her consent.

The provision of paragraph 1 of the present Article shall not apply if the holder of the trademark has a legitimate reason for opposing further use in the marketplace of goods marked with such trademark, in particular if a defect or other fundamental change of condition of the goods has occurred following their release onto the marketplace for the first time.

The exhaustion of rights arising from the trademark may be expanded outside Montenegro pursuant to ratified international agreements.

Limitation as a Result of Permission

Article 16

The holder of an earlier registered trademark who has knowingly allowed the use of the subsequently registered trademark for a continuous period of five years, shall not be entitled to file, following the expiry of that period, an application for annulling the subsequently registered trademark or oppose the utilization of subsequently registered trademark in respect of goods and/or services for which the previously registered trademark has been

Provisions of the law governing general administrative procedure shall be applicable to the trademark registration and protection procedure, unless otherwise stipulated by the present Law.

The official decision of the competent authority shall be subject to a complaint filed with the Ministry.

In the course of the procedure before a competent authority administrative fees and duties shall be charged in accordance with the law governing payment of administrative fees and duties.

The Government of Montenegro (hereinafter referred to as: the Government) shall determine the amount of special fees charged for the procedure and amount of fees for extending information services by the competent authority.

Initiation of the Trademark Registration Procedure

Article 19

The procedure for the trademark registration shall be initiated by filing an application for trademark registration with the competent authority.

Registration of multiple trademarks shall not be requested in single application.

Elements of the Application

Article 20

The application shall contain the following elements:

- 1) Trademark registration request;
- 2) Particulars of the applicant;
- 3) Appearance of the mark for which trademark protection is sought;
- 4) List of goods and/or services for which the registration is sought, classified according to the Nice Agreement Concerning the

International Classification of Goods and Services for the Purposes of the Registration of Marks;

5) Proof of payment of administrative fees and duties;

6) Power of attorney for representation, if the application has been filed by an agent.

the expansion of the list of goods and/or services contained in the application.

If the application has already been disclosed, the alterations to the application shall be published subsequently in the Official Gazette.

Application Filing Date Priority

Article 22

As of the filing date the applicant shall enjoy a priority right over all other persons who have subsequently filed an application for the same mark or for a similar mark concerning the same or similar goods and/or service.

Following the payment of the required administrative fees and duties, the competent authority shall issue a priority right certificate at the request of the applicant or the trademark holder.

The content of the application for the issuance of the priority right certificate and the content of the priority right certificate shall be determined by the Ministry.

Union Priority Right

Article 23

An applicant having filed for the first time an orderly application effective in any member state of the Paris Union or in any member state of the World Trade Organization, shall be entitled to invoke the initial filing date when filing the application in Montenegro for the same trademark, provided that the application in Montenegro has been filed within six months from the initial filing date (hereinafter referred to as: the Union Priority Right).

The application of an applicant invoking the Union Priority Right referred to in paragraph 1 of the present Article shall contain information on the country, application filing date and number.

Should the need arise to prove the Union Priority Right, the applicant shall submit the priority right certificate issued by a competent authority of the Paris Union member state or World

Applications shall be examined in the order determined by the date of their filing.

Notwithstanding the provision of

application shall be considered as having been in order and complete from the very beginning.

Should the applicant fail to remedy the detected deficiencies within the time period referred to in paragraph 2 of the present Article, the application shall be deemed as having been withdrawn, and the competent authority shall pass a decision to stay the proceedings.

Upon the request of the applicant, the competent authority may extend the time limit referred to in paragraph 2 of the present Article for a period not exceeding sixty days.

Examining Absolute Reasons for Rejecting the Application

Article 28

The competent authority shall examine the orderly application in terms of determining possible reasons for rejecting the registration application referred to in Article 6 of the present Law.

Should the competent authority detect reasons for rejecting the application for registration referred to in Article 6 of the present Law, it shall notify the applicant thereof in writing.

The applicant shall be entitled to submit proof of facts which might affect the final decision of the competent authority, within a time period of sixty days from the day of receiving the written notification containing reasons for rejecting the registration application.

At the request of the applicant, the time limit referred to in paragraph 3 of the present Article may be extended for a time period not to exceed sixty days.

Application Disclosure

Article 29

An orderly application which has not been found to contain reasons for rejecting registration referred to in Article 28 of the present Law, shall be published in the official gazette.

The content of the application data published in the official gazette referred to in paragraph 1 of the present Article shall be determined by the Ministry.

Opinion of Other Persons

Article 30

Following the disclosure of the application referred to in Article 29 of the present Law, legal and natural persons or associations of manufacturers of goods and/or providers of services, retailers and consumers, may, within a time period of ninety days from the day of application disclosure, submit to the competent authority a substantiated opinion in writing on absolute reasons for rejecting the registration referred to in Article 6 of the present Law.

Persons referred to in paragraph 1 of the present Article shall not be parties to the proceedings.

Following the receipt of the opinion referred to in paragraph 1 of the present Article, the competent authority shall act in accordance with Article 28 of the present Law and shall render a decision either rejecting the registration of the trademark or approving the registration of the trademark, which shall be published in an Official Gazette.

Appeal against Trademark Registration

Article 31

An appeal against the decision rejecting the registration of a trademark due to reasons referred to in Articles 7 and 8 of the present Law shall be filed with the competent authority within a time period of ninety days from the day the application has been published in the Official Gazette.

The holder of the earlier registered trademark who has appealed the trademark registration shall be obliged to prove, at the request of the applicant, that during a period of five years prior to the application disclosure date he/she has been using in Montenegro the trademark referred to in Arti

shall nullify the official decisions it had rendered in respect of failure to observe the filing deadlines.

Trademark Registration

Article 35

If an appeal against trademark registration has not been filed or if such appeal has been rejected or dismissed, the competent authority shall call on the applicant to effect payment of the trademark registration-related administrative fees and duties, the fee for the first ten years of trademark protection and the costs of publication of the trademark registration in the Official Gazette.

The application shall be deemed withdrawn if the applicant fails to effect payment of the prescribed fees, duties and costs within the time limit referred to in paragraph 1 of the present Article.

Following the payment of fees, duties and costs referred to in paragraph 1 of the present Article, the competent authority shall render a decision on trademark registration based on which it shall enter the trademark into the Register and publish the trademark registration in the Official Gazette.

The regulations issued by the Ministry shall prescribe the particulars of the information on trademark registration published in the Official Gazette.

The trademark holder shall acquire rights resulting from

A trademark registered for multiple goods and/or services (hereinafter referred to as: the Initial Registration) may be divided, at the request of the holder of the trademark, into two or more trademarks according to the list of products and/or services.

Divided trademarks shall retain all rights contained in the initial registration.

A special decision shall be issued on a division of a trademark specifying: the number of the initial registration, number of new trademarks, the mark from the initial registration as well as the goods and/or services which remain in the initial registration and goods and/or services that belong to separate trademark(s).

A divided trademark shall be entered into the Trademark Register while the trademark holder shall be issued a decision on trademark registration.

Information on divided trademarks shall be entered into the Register and shall be published in the Official Gazette.

The request referred to in paragraph 1 of the present Article shall contain, in particular: the trademark registration number; information about the trademark holder; a representation of the mark; a designation of the class numbers under the International Classification of Goods and Services remaining in the initial registration, and the class numbers under the International Classification of Goods and Services to which the separated trademark refers.

The Ministry shall prescribe the particulars of the application referred to in paragraph 1 of the present Article, and shall specify the documentation to be filed with the application.

Entry of Alterations into the Register

Article 37

At the request of the trademark holder, the changes which occurred following the trademark registration pertaining to the change of the name and address of the holder of rights, alteration of

the list of goods and/or services and transfer of rights, shall be entered into the Register.

Alterations referred to in paragraph 1 of the present Article shall not alter the appearance of the registered trademark nor expand the list of goods and/or services.

Alterations entered into the Register shall be published in the Official Gazette.

The Ministry shall prescribe in more detail the content of the request referred to in paragraph 1 of the present Article and the documentation submitted together with the request.

Restitutio in integrum

Article 38

The applicant or trademark holder who has been unable, despite due diligence and for justified reasons, to perform a certain action in the procedure before a competent authority, may request *restitutio in integrum* if the omission resulted in the loss of rights.

The request for *restitutio in integrum* referred to in paragraph 1 of the present Article shall be submitted in writing within a time period of sixty days from the day reasons for omissions have ceased to exist.

The request for *restitutio in integrum* referred to in paragraphs 1 and 2 of the present Article may not be submitted following the expiry of a time period of one year from the day of omission having taken place.

The applicant filing the request for *restitutio in integrum* shall be obliged to provide in his/her application the reasons due to which he/she has been prevented from performing such activities referred to in paragraph 1 of the present Article within the prescribed time period and shall be obliged to sufficiently substantiate such circumstances.

administrative fees and duties within a time period referred to in paragraph 2 of the present Article

The entry of the license agreement into the Register referred to in 3 of the present Article shall be published in the Official Gazette.

The trademark holder may invoke rights resulting from the trademark against the license assignee violating any provision from the license agreement in the course of license validity, in respect of the registered trademark's appearance, manner in which the trademark is being used, scope of goods and services for which the license is granted, territories where the trademark can be used, or quality of goods manufactured or services offered by the license assignee.

A trademark shall not be subject of compulsory license.

Trademark Assignment

Article 40

The holder of the trademark right may assign to another person the trademark either for all or some goods and/or services for which such trademark has been registered.

If the trademark is assigned in respect of only some goods and/or services for which the trademark has been registered, the trademark registration shall be separated pursuant to Article 36 of the present Law.

The procedure for the registration of trademark assignment shall be initiated on the basis of a written request accompanied by:

- 1) The proof of legal title for the registration requested;
- 2) The power of attorney if the procedure for the registration of the assignment, license or pledge is initiated through an agent;
- 3) The proof of payment of the administrative fees and duties charged for the registration of an assignment, license or pledge.

Registration of the license and/or pledge may be requested on the basis of a single request referred to in paragraph 3 of the present Article, provided that the trademark holder and license and/or pledge assignee are the same.

The assignment of the trademark shall be entered into the Register and published in the Official Gazette.

The Ministry shall prescribe in more detail the content of the request referred to in paragraph 3 of the present Article and the

The trademark right shall last for ten years commencing from the application filing date.

The trademark shall be renewed for at ten-year period for unlimited number of times, provided that, prior to the expiry of the ten-year period, the trademark holder submits to the competent authority the trademark renewal application accompanied by proof of payment of the required administrative fees and duties.

The trademark renewal application may be submitted within a time limit of six months following the expiry of the time period referred to in paragraph 1 of the present Article, provided that the double amount of the required administrative fees and duties be paid.

Article 43

The trademark shall be terminated upon expiry of a ten-year period unless its validity has been extended.

The trademark shall be terminated prior to the expiry of the period referred to in paragraph 1 of the present Article:

1) if the holder of a trademark relinquishes his/her trademark rights — on the day the statement of

VII. COLLECTIVE TRADEMARK

Definition of the Collective Trademark

Article 44

A collective trademark shall mean a trademark of a legal person representing a certain type of association of manufactures and/or service providers, which may be used by persons who are members of such association, under the conditions prescribed by the present Law.

A collective trademark may be used to protect any mark pursuant to Article 2 paragraphs 2 and 3 of the present Law and any mark for which there are no grounds for rejecting the registration thereof referred to in Articles 6, 7 and 8 of the present Law.

Collective trademark may not be subject of a license.

Geographical Indication Protected by a Collective Trademark

Article 45

A collective trademark may be used to protect a mark which denotes certain geographical origin of goods and/or provision of services.

Provisions of Article 6 item 4 of the present Law shall not be applicable to the trademark referred to in paragraph 1 of the present Article.

The trademark rights referred to in paragraph 1 of the present Article shall not entitle the holder to ban another person from using marks or signs in the trade of goods and/or services denoting the geographical origin of the goods, provided that he/she uses them in accordance with good business practices.

The trademark referred to in paragraph 2 of the present Article shall produce no effect on another person with the right to use the geographical indication.

The person using the collective trademark shall be entitled to use the trademark only in the manner prescribed by the general act on collective trademarks.

Submitting an Application for a Collective Trademark

Article 46

The applicant or the collective trademark rights holder may be a legal person who is entitled to exercise rights, take on obligations, sign contracts or perform other legal action on its own behalf.

General Act on Collective Trademarks

Article 47

In addition to the collective trademark registration application pursuant to Article 20 of the present Law, the applicant shall also submit the general act on collective trademarks.

The general act on collective trademarks shall contain in particular the following:

- 1) persons authorized to use the collective trademark;
- 2) membership requirements for joining the association;
- 3) conditions for the use of the trademark including sanctions;

Any person shall have access to the general act referred to in paragraph 1 of the present Article.

The holder of the collective trademark which is used to mark geographic origin of goods and/or services shall be obliged to enable any person, whose goods and/or services originate from a particular geographical area and meet the conditions required for the use of the collective trademark in accordance with the general act on

collective trademarks, to use the collective trademark, under the conditions prescribed by the general act on collective trademarks.

Amendments to the General Act on Collective Trademarks

Article 48

The holder of the collective trademark rights shall be obliged to submit to the competent authority amendments to the general act governing the use of collective trademarks.

The competent authority shall verify whether the amendments to the general act meet the requirements laid down in Article 47 of the present Law.

The amendments to the general act shall produce effect on other persons following their publication in the Official Gazette.

Information on the amendments to the general act shall be entered into the Register.

VIII. INTERANTIONAL REGISTRATION OF TRADEMARKS

International Registration Application

Article 49

A trademark holder and/or applicant may file an application for the international trademark registration through a competent authority.

The application referred to in paragraph 1 of the present Article shall be accompanied by the following:

- 1) A representation of the mark;
- 2) A list of the goods and/or services drawn up according to the International Classification of Goods and Services, written in the English language;

3) A power of attorney if the application is filed through an agent;

4) Proof of payment of the required administrative fees and duties.

If the application for the international registration of a trademark is found to be in good order and complete, the competent authority shall set the deadline to the applicant within which payment of the fee for the international registration of the trademark is to be effected to the International Bureau and the proof of payment thereof is to be submitted to the competent authority.

If the application for the international registration of a trademark is not in order and complete, the competent authority shall notify the applicant in writing inviting him/her to remedy the deficiencies within the time period of thirty days.

If the applicant fails to remedy the detected deficiencies in his/her application within the time limit referred to in paragraph 4 of the present Article, the competent authority shall reject the application.

Upon the applicant's submission of the proof of payment referred to in paragraph 3 of the present Article, the competent authority shall forward the application to the International Bureau.

If the applicant fails to submit the proof of payment referred to in paragraph 3 of the present Article within the prescribed time period, the competent authority shall reject the application.

The trademark holder shall submit the application for the entry of changes into the international register and the application for international extension of the trademark to the International Bureau directly.

The Ministry shall prescribe the content of the application for the international registration of a trademark and proof accompanying the application.

International Trademark with the Indication of Effect in Montenegro

Article 50

Provisions of Articles 2, 6, 7 and 8 of the present Law shall be applicable to the international trademark with the indication of effect in Montenegro.

Should the holder of an international trademark referred to in paragraph 1 of the present Article fail to submit his/her observations regarding the preliminary notification of the competent authority on the intention to reject the validity of such trademark in Montenegro, the competent authority shall render a decision rejecting the validity of the trademark which is submitted to the International Bureau.

The disclosure of the international registration of a trademark in the Gazette of the International Bureau of the World Intellectual Property Organization shall be considered a disclosure of the trademark registration in Montenegro.

IX. CIVIL LAW PROTECTION

Trademark Invalidity Declaration

Article 51

Any legal or natural person may file a complaint with the competent court seeking trademark invalidity declaration in whole or in part.

The complaint referred to in paragraph 1 of the present

Article 52

Any legal or private person may file a complaint with a competent court requesting that a trademark be removed from the Register and that the use of the mark be prohibited in the following cases:

1) If the holder of the trademark has registered the trademark in bad faith;

2) If the trademark has been registered contrary to the provisions of Articles 7 and 8 of the present Law;

3) If due to certain actions taken or permissions given by the holder of the trademark, such trademark has become an ordinary concept in trade of goods and/or services for which such trademark has been registered;

4) If the trademark holder or another person having trademark holder's consent, has been using the trademark for goods and/or services in such manner as to mislead the public, in particular regarding the type, quality and geographical origin of the goods and/or services.

Any legal or natural person may, in addition to reasons referred to in paragraph 1 of the present Article, file a complaint requesting that a collective trademark be removed from the Register and that the use of the mark be prohibited in the following cases:

1) If the holder of the collective trademark has ceased to exist;

2) If the general act governing the use of the collective trademark has been altered and if the alterations are contrary to Article 48 of the present Article;

3) If the appearance of the collective trademark has been altered to such an extent that there are reasons for its nullification pursuant to Article 6 of the present Law;

The complaint requesting that a trademark be removed from the Register may not be filed following the expiry the five-year period from the registration date, unless the trademark has been registered in bad faith.

The competent authority shall remove the trademark from the Register following the receipt of a final decision ordering that the trademark be removed.

Action Challenging the Trademark Rights

Article 53

Any legal or natural person who, in commercial activity, uses mark for marking of goods and/or service for which other person has filed an application or has registered it in its name for marking of the same or similar goods and/or services, may request the court

to actually use the trademark on the national marketplace for marking of goods and/or services to which the trademark relates, for an uninterrupted period of five years as of the day on which the trademark was entered in the Trademark Register or from the day of its last use.

During the proceedings referred to in paragraph 1 of the present Article, the trademark holder or a person authorized by him/her shall be obliged to either prove that the trademark has been used and/or to offer substantiated reasons for not using the trademark.

The competent authority shall not issue a decision on revocation of a trademark due to its non-use, if the use of the trademark had begun or has continued following the expiry of an uninterrupted five-year period of non-use of the registered trademark and prior to the submission of a request for revocation of trademark due to its non-use, except if the commencement or continuation of use of the registered trademark occurred after the holder of the right had become aware that a request for the revocation of his/her trademark will be submitted and if the use had begun or had continued within a period of three months prior to the submission of a request for the termination of a trademark.

Action in the Event of Trademark Infringement

Article 55

Any unauthorized use of a protected mark by any economic operator within the meaning of Articles 10 and 11 of the present Law shall constitute an infringement of a trademark.

The trademark rights holder may file an action requesting that the court establish trademark rights infringement.

In the event referred to in paragraph 2 of the present Article, the action may be filed and the plaintiff may request the following:

- 1) Termination of the infringement;
- 2) Destruction or alteration of the infringing objects;

on grounds of trademark rights infringement and/or infringement of the right arising from the application, provided the charges are brought within a term of fifteen days from the date of rendering the decision imposing provisional measure and/or the decision ordering the securing of evidence.

An appeal against the court decision pronouncing the provisional measure referred to in paragraph 1 of the present Article shall not delay the enforcement of the decision.

Securing of evidence

Article 57

At the request of a person who makes it probable that its trademark or rights arising from the trademark application have been infringed, and that there is reasonable suspicion that evidence thereof will be destroyed or that later it will not be possible to obtain such evidence, the court may decide to secure evidence without prior notification or hearing of the person from whom the evidence is to be collected.

An inspection of premises, vehicles, books and documents, as

an appropriate amount of money, to be borne by the applicant, as a security in the event that request is found to be groundless.

Obligation to Provide Information

Article 59

If no reasons exist for withholding witness account pursuant to the provisions of the law governing civil law proceedings, the court may order the defendant and/or the witness to provide information about any third parties who have participated in the infringement of trademark rights and their the distribution channels.

Should the person referred to in paragraph 1 of the present Article fail to fulfill the obligation of providing information, such person shall be held liable for any damage arising thereof.

X. REPRESENTATION

Representation Requirements

Article 60

Representation before competent authorities shall be performed by trademark representatives.

A trademark representative may be:

1) A natural person with Montenegrin citizenship residing in Montenegro, having university degree and having successfully passed the trademark representative exam before a competent authority;

2) A lawyer registered in the Montenegro Bar Association Register or a law office employing a lawyer registered in the Montenegro Bar Association Register or having cooperation with such person based on a signed contract;

3) A legal person with its legal seat in Montenegro employing at least one employee meeting the criteria referred to in paragraph 1 of the present Article or having cooperation with such person based on other type of contractual relationship and providing registration

services before competent authorities as its registered business activity.

Register of Representatives

Article 61

The competent authority shall maintain the Register of Trademark Representatives.

Persons meeting the requirements referred to in Article 60 of the present Law shall be entered into the Register of Trademark Representatives.

Entry into the Register of Trademark Representatives shall be subject to the payment of prescribed administrative fees and duties.

The trademark representative exam referred to in Article 60 paragraph 2 of the present Law shall be taken before a panel of experts of the competent authority.

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Finalization of Earlier Applications and Harmonization of the Register

Article 63

Procedures initiated prior to the effectiveness of this Law shall be finalized in keeping with this Law, if this is more favorable to the party.

The Trademark Register established prior to the effectiveness of this Law shall be harmonized with the present Law within a time period of six months from the date of effectiveness of this Law.

The Trademark Application Register established prior to the effectiveness of the present Law shall become a record of applications and shall be harmonized with the present Law, within a time period of six months from the date of effectiveness of this Law.

The Right to the Continuation of Use

Article 64

The utilization of marks used in good faith until the present Law became effective shall not be prohibited pursuant to Articles 10 and 11 of the present Law.

Recognized Rights

Article 65

Trademarks registered and entered into the Trademark Register with the Serbia and Montenegro Intellectual Property Institute (herein after referred to as: Serbia and Montenegro Institute), and/or Serbia Intellectual Property Institute (herein after referred to as: the Serbia Institute) until 28 May 2008, shall be valid until the expiry of their validity, and/or until the expiry of the time period for which the Serbia Institute has been paid the trademark

30 November 2010

Parliament of Montenegro in its 24th convocation
Speaker of the Parliament
Ranko Krivokapi (sgd.)