

**REPUBLIC OF LITHUANIA**  
**LAW AMENDING THE LAW ON TRADEMARKS AND SERVICE MARKS**

**No..... of ..... 1999**

Vilnius

**Article 1. Revised version of the Republic of Lithuania Law on Trademarks and service marks**

To amend the Republic of Lithuania Law on Trademarks and Service Marks to read as follows:

**REPUBLIC OF LITHUANIA**  
**LAW ON TRADE MARKS AND SERVICE MARKS**

**SECTION 1**  
**GENERAL PROVISIONS**

**Article 1. Objective of the law**

This law regulates the legal protection, registration and use of trade marks and service marks in the Republic of Lithuania, as well as the management of the Register of Trade Marks and Service Marks of the Republic of Lithuania.

**Article 2. Main definitions used in this law**

1. **Trade mark and service mark (hereinafter referred to as the mark)** means any sign capable of distinguishing the goods or services of one undertaking from those of other undertakings and which is capable of being represented graphically.
2. **Geographical indication** means an indication which serves to identify that the good has originated from a certain territory or a region or locality of that region, where the quality, reputation or other characteristics of that good are essentially attributed to their geographic origin.
3. **Geographical origin** means an indication which may serve to identify a good originating in a certain country, territory, or region or locality of that territory.
4. **Application** means the whole set of documents that must be presented for the registration of a mark.
5. **Applicant** means a natural or legal person, an undertaking without the legal personality or their group who have filed an application for the registration of a mark.
6. **Patent agent** means a natural person who is registered in the Register of Patent Agents of the Republic of Lithuania in accordance with the procedure laid down in the Regulations of the Patent Agents.
7. **Representative** means a natural or legal person, as well as patent agent, having the authorisations to represent the applicant when registering the mark and when performing any other acts related to the mark, in the State Patent Bureau.

8. **Proprietor of the mark** means the holder of the mark protected in the Republic of Lithuania in accordance with the procedure established by this law.
9. **International exhibition** means an exhibition which is recognised or may be recognised as international pursuant to the Convention on International Exhibitions done in Paris on 22 November 1928, last revised on 30 November 1972.
10. **International registration of a mark** means registration of a mark in the International Register of International Bureau of the World Intellectual Property Organisation pursuant to the Protocol of the Madrid Agreement Concerning the International Registration of Marks (hereinafter referred to as the Madrid Protocol), done in Madrid on 27 June 1989; ratified by the Republic of Lithuania Law No VIII-204, on the Ratification of the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Official Gazette No 50-1193, 1997).
11. **International application** means an application for international registration, filed with the International Bureau through the State Patent Bureau or any other office of a contracting party pursuant to the Madrid Protocol.
12. **Paris Convention** means Paris Convention on the Protection of Industrial Property of 20 March 1883, revised in Stockholm on 14 July 1967 and supplemented on 28 September 1979; ratified on 28 May 1996 by the Republic of Lithuania Law No I-1349, on the Ratification of Paris Conve

3. If international agreements ratified by the Seimas of the Republic of Lithuania establish other requirements than those set forth in this law, the requirements of the international agreements shall apply.

4. Foreign natural and legal persons shall enjoy all rights provided in this law and other legal acts regulating the protection of marks.

5. This law shall not apply to holographic and audio and **uodžiamasis** marks having no visual symbols .

#### **Article 4. Protection sign of the rights of the proprietor of the mark**

The proprietor of the mark may notify the public about his rights by using the sign of the protection of the rights of the proprietor of the mark consisting of letter R in a circular brackets indicated in the right corner of the mark.

## **SECTION 2**

### **PROTECTION OF THE MARK**

#### **Article 5. Signs capable of constituting a mark**

Only the signs eligible for the legal protection provided under this law may be considered to be marks:

- 1) words, personal names, artistic pseudonyms, names, firm names, slogans;
- 2) letters and numerals;
- 3) pictures and emblems,
- 4) three-dimensional forms (the shape of products, or of their packaging and containers;
- 5) colour or combination of colours, their arrangement;
- 6) any combination of the signs specified in subparagraphs 1-5 hereof.

#### **Article 6. Absolute requirements for a mark**

1. A sign shall not be recognised as a mark and shall not be registered or if registered its registration may be declared invalid if it:

- 1) may not constitute a mark pursuant to the requirements of Article 5;
- 2) is devoid of any distinctive character;
- 3) has become customary in the current language or in the bona fide and established practices of the trade;
- 4) serves to designate exclusively the kind, quantity, quality, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the services, manner of production, or other characteristics of the goods and/or services;
- 5) may mislead the public, for instance as to the nature, quality or geographical origin of the goods and/or services;
- 6) is contrary to morality or public order, including ethics of society and humanitarian principles;
- 7) consists exclusively of the shape which results from the nature of the goods themselves or the shape of goods which is necessary to obtain a technical result, or the shape which gives substantial value to the goods;
- 8) consists of the official name of the Republic of Lithuania or its customary (abbreviated) name, emblem, flag or other objects which from the point of view of heraldics constitute a replica, the guarantee and hallmarks, stamps, medals and

decorations, unless the authorisation to their registration has been given by an institution authorised by the government of the Republic of Lithuania;

- 9) consists of signs which have not been authorised by the competent authorities of other countries or international organisations and registration whereof is to be refused under Article 6 ter of the Paris Convention or the registration whereof must be declared invalid;
  - 10) is a sign of a highly symbolic value, in particular a religious symbol;
  - 11) consists of, or contains, a geographical indication intended for goods not originating in the indicated territory, if the use of such indication in the mark for such goods in the Republic of Lithuania may mislead the public as to the true origin of goods;
  - 12) consists of, or contains, a geographical indication, intended for the marking of wines or alcoholic beverages not originating from the territory, indicated in that geographical indication even if the origin of the goods is indicated correctly or if a geographical indication is provided translated into another language, or if for the description of a good, a geographical indication is used with such additional words as “kind”, “type”, “style”, “imitation” and similar words;
2. The provisions stipulated in subparagraph 11 of paragraph 1 hereof shall apply to marks containing a geographical indication which even though indicates correctly the territory, region or locality in which the goods have originated, however gives

the mark as unprotected element, registered by a person entitled to use specific geographical indication;

6) it is identical with, or confusingly similar, to the protected industrial design or any other object of industrial property; work of literature, science or art, protected by a copyright; a name or surname of a well known person; an artistic pseudonym or a personal portrayal of another person, with the exception of cases where the proprietor of these rights or his successor has given his consent.

2. An “earlier mark” within the meaning of subparagraphs 1 and 2 of paragraph 1 hereof means:

1) a mark with a date of application for registration in the Republic of Lithuania which is earlier than the date of application for registration of the mark specified in paragraph 1 hereof, taking into account, where appropriate, the priority claimed or already given in respect of the application for registration;

2) the mark which on the date for the filing of the application for registration of the mark referred to in paragraph 1 hereof, taking into account, where appropriate, the priority is requested or already granted, is recognised as well known in Lithuania within the meaning of Article 13.

3. The marks specified in paragraph 2 hereof shall be equalled to the Community marks as well as those Community marks for which priority was requested pursuant to the Council Regulation on the Community Trade Mark, even though the registration of a subsequent mark has been revoked or invalidated.

4. The registration of the trade mark and service mark may be deemed invalid if the

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2. The application may contain a request to recognize the priority date on which the goods under the mark applied for have been displayed at an official or officially recognised international exhibition, if the application is being filed with the State Patent Bureau within a period of six months from the date of the first display of the goods and/or services under this mark at the exhibition.
3. The applicant who wishes to claim priority pursuant to paragraph 1 and 2 must file with the State Patent Bureau a certified copy of the first application or applications or the certificate issued by the administration of the exhibition at which the goods and/or services under this mark has been displayed for the first time. Such documents may be submitted together with other application documents or within a period of three months from the date of the filing of an application.
4. The State Patent Bureau, having established that the applicant does not satisfy the requirements referred to in paragraph 3 hereof, shall deem that the applications referred to in paragraphs 1 and 2 had not been filed.

### **SECTION 3**

#### **RIGHTS CONFERRED BY A MARK**

##### **Article 10. Scope of protection of a mark**

1. The registered mark in the Republic of Lithuania shall be valid only in respect of those goods and/or services which are indicated in the registration certificate of a mark.
2. The proprietor of the mark may extend the list of goods and/or services for the marking of which the mark has been registered only by filing a new application in accordance with the procedure established by this law.

##### **Article 11. Rights conferred by a mark**

1. The registered mark shall confer on the proprietor an exclusive right to permit or prohibit all third parties not having his consent to use in the course of trade:
  - 1) any sign which is identical with the mark in relation to goods and/or services which are identical with those for which the mark is registered;
  - 2) any sign where, because of its identity with, or similarity to, the mark and the identity or similarity of the goods or services covered by the mark and the sign, there exists a likelihood of confusion on the part of the public, which includes the likelihood of association between the sign and the mark;
  - 3) any sign which is identical with, or similar to, the mark in relation to goods and/or services, which are not similar to those for which the mark is registered, if the latter has a reputation in the Republic of Lithuania and if the unlawful use of that sign takes unfair advantage of, or is detrimental to the distinctive character or theon on th

- 5) producing such sign or keeping the samples thereof for the purposes of performing any actions referred to in subparagraphs 1-5 of paragraph 2 hereof.
3. Detriment to a distinctive character within the meaning of subparagraph 3 of paragraph 2 hereof shall be recognised if :
  - 1) a sign is used as a firm name or a style of that firm, if such use thereof is likely to confuse the public due to its similarity to the existing registered mark and goods and /or services for which the mark is registered;
  - 2) a sign is reproduced or indications thereto are made in advertisements or other media so that it becomes the generic name of certain goods and/or services.

#### **Article 12. Limitation of the effects of a mark**

1. The provisions of Article 11 of this law shall not entitle the proprietor to prohibit a third party from using in the course of trade for marking purposes:
  - 1) his own name and/or address;
  - 2) indications as to the kind, quality, quantity, intended purpose, value, geographical origin, the time of production of the goods or of rendering of the services, or other characteristics of the goods and/or services;
  - 3) a mark where it is necessary to indicate the intended purpose of a product or service, in particular as accessories or spare parts;
  - 4) a mark in comparative advertising, if such advertising is permitted.
2. The provisions hereof may be applied only provided the proprietor uses them in accordance with honest practices in industrial or commercial matters.

#### **Article 13. Protection of a well known mark**

1. A mark recognised as well known in the Republic of Lithuania shall be protected without being registered.
2. A mark shall be recognised as well known in the Republic of Lithuania by means of the judicial procedure.
3. A mark may be recognised as well known in the Republic of Lithuania, provided it is well known by certain stratum of society in the Republic of Lithuania.
4. The proprietor of the mark which is recognised as well known in the Republic of Lithuania, in addition to the rights provided for in Article 11 of this law, shall have the right to prohibit other persons from using in commercial matters any sign, which is related with the reproduction, imitation or translation, and may be confusing in respect of the goods which are identical or similar with the goods for which a well known mark is used.
5. The proprietor of a mark which is recognised in Lithuania as well known shall have, in addition to the rights provided for in Article 11 of this Law, the right to prohibit the use, without his consent, of any sign in the course of trade, which is related with the reproduction, imitation or translation of a well known mark and is liable to be confused in relation to goods which are not identical to or similar with those for which that well known mark is used, provided that such use of the mark for those goods demonstrates the relation between those goods and/or services and the proprietor of a registered well known mark and thus the rights of a proprietor of a well known mark may be infringed.

#### **Article 14. Exhaustion of the rights conferred by a trade mark**

1. The mark shall not entitle the proprietor to prohibit its use in relation to goods which have been put on the market in the Republic of Lithuania under that mark by the proprietor or with his consent.





2. The licensing contract shall be entered in the Register of Trade Marks and Service Marks of the Republic of Lithuania at the request of one of the parties of the licensing contract, upon presenting the following documents to the State Patent Bureau:

- 1) a request for the registration of the licensing contract;
- 2) one copy of the licensing contract or an extract from the licensing contract certified by both parties;
- 3) a document evidencing the payment of the prescribed fee;
- 4) an authorisation to a representative (where appropriate).

3. The licensing contract or an extract from it shall stipulate for the following conditions:

- 1) the title or name, surname and address (registered office) of the proprietor of the mark;
- 2) the title or name, surname and address (registered office) of the licensee;
- 3) registration number of the mark for which the licence is issued;
- 4) type of licence;
- 5) an indication as to the goods and/or services in respect of which the licence is granted;
- 6) the duration of the licence;
- 7) the territory in which the licence shall be valid;
- 8) conditions under which the mark may be used;
- 9) the rights and responsibilities of the parties in the case of the infringement of the mark.

4. The State Patent Bureau shall examine the submitted documents specified in paragraph 2 of this Article within one month after the receipt of these documents and if the documents meet the requirements set forth in this Article, it shall register the data concerning the conclusion of the licensing contract in the Register of Trade Marks and Service Marks of the Republic of Lithuania.

5. The licensing contract shall be invalid if the data relative thereto is not recorded in the Register of Trade Marks and Service Marks of the Republic of Lithuania.

6. The licensing contract shall enter into force from the date of its entry into the Register of Trade Marks and Service Marks of the Republic of Lithuania and the data concerning its registering shall be published in the Official Bulletin of the State Patent Bureau.

7. The proprietor of the mark may invoke the rights conferred by that trade mark against a licensee who contravenes any provision in his licensing contract with regard to its duration, the form in which the trade mark may be used, the scope of the goods and services for which the licence is granted, the territory in which the trade mark may be used, or the quality of the goods manufactured and /or of the services provided by the licensee.

8. The provisions of paragraphs 1-7 of this Article shall also apply to the sublicensing contract.

### **Article 19. Rights in rem**

1. The right to a mark may be used as security in accordance with the procedure established by the Law on the Pledge of a Movable Property of the Republic of Lithuania (No VIII-250, Official Gazette, No 117-3008, 1977; No 31-821, 1998).

2. On the request of the proprietor of a mark, its representative or other interested persons the State Patent Bureau shall enter the data concerning the rights in rem in the Register of Trade Marks and Service Marks of the Republic of Lithuania and publish the information about that in the Official Bulletin of the State Patent Bureau.

## **SECTION 5 VALIDITY OF A MARK**

### **Article 20. Duration of validity of the mark**

The initial duration of the registration of a mark shall be ten years from the date of the filing of application for registration.

### **Article 21. Renewal**

1. Upon the expiry of the duration specified in Article 20 of this law, the duration of the registered mark may be renewed in respect of all or part of the goods and/ or services for further periods not longer than 10 years.
2. The duration of a registered trade mark may be renewed, if the following documents are filed with the State Patent Bureau :
  - 1) a request for the renewal of the duration of a registered mark for all or part of the goods and/or services;
  - 2) a document evidencing the payment of a prescribed fee.
3. The proprietor or his representative shall have to submit the documents specified in paragraph 1 hereof not later than within the last year of the validity of the mark. The State Patent Bureau is not obliged to remind the proprietor or his representative of the payment of a fee for the renewal of a mark.
4. The proprietor of the mark or his representative may file a request for the renewal within a period of six months from the date of the expiry of its duration, upon payment of an additional fee of 50 per cent.
5. The data concerning the renewal shall be entered in the Register of Trade Marks and Service Marks of the Republic of Lithuania and information concerning this shall be published in the Official Bulletin of the State Patent Bureau.
6. If the proprietor of the mark or his representative fails to pay the established fee within the time limits specified in paragraphs 3 and 4 hereof, the registration of the mark shall be removed from the Register of Trade Marks and Service Marks of the Republic of Lithuania in accordance with the procedure provided for in Article 38 of

4. The application for registration of a mark shall contain:
  - 1) a request to issue the certificate of the trade mark and service mark;
  - 2) a representation of the mark applied for and its description;
  - 3) the names of the goods and/ or services for which registration is sought, grouped according to the Nice Classification, valid on the date of filing of the application;
  - 4) a document evidencing the payment of a prescribed fee;
  - 5) an authorisation of an applicant issued to his representative, if an application is filed by a representative;
  - 6) an indication that the mark for which application for registration is filed, is three-dimensional;
  - 7) where applicable, an indication that a colour, a combination or an arrangement of colours is claimed as a distinctive feature of the mark;
  - 8) an indication that a mark applied for is a collective mark, as well as regulations of the use of that mark, where applicable;
  - 9) a request to grant the priority, where applicable;
  - 10) an indication that the mark is registered and published in standard characters of the State Patent Bureau, where applicable;
  - 11) transliteration of the mark or certain parts thereof, as well as its translation into Lithuanian, where applicable;
  - 12) an authorisation issued by competent authorities in accordance with subparagraphs 8 and 9 of Article 6 of this Law, where applicable;
  - 13) the consent of the proprietor of the rights in accordance with subparagraph 6 of Article 7 of this Law.
5. It may be requested in the application to register the mark for one or more classes of goods and /or services . For more than one class of goods and/ or services indicated in the application an additional class fee shall be paid.

**Article 23. Conditions with which applications and other documents filed with the State Patent Bureau must comply**

1. The application and other documents filed with the State Patent Bureau must be in the national language. If the documents, with the exception of a request for the issue of the certificate of trade mark and/or service mark, are filed in a language other than the national language, the applicant, the proprietor of the mark, or his representative must file the translation of the document into the national language within a period of three months from the date of the filing of the document.
2. The authorisation may be executed in an ordinary written form and must comply with the conditions laid down by the State Patent Bureau. In case of failure to submit an authorisation alongside with the documents referred to in subparagraphs 1-4 of Article 22 of this law, it may be submitted within a period of three months from the date of filing of the application.
3. The documents filed with the State Pate

**Article 24. Time limits**

1. The applicant or his representative, who was unable to observe time limits referred to in paragraph 1 of Article 23, paragraphs 5-6 of Article 27, paragraph 3 of Article 28, paragraph 1 of Article 29, paragraph 1 of Article 31, paragraph 4 of Article 32 may, upon a written request, have the time limits re-established for a single time, but for not longer than 2 months from the date of expiry of the first time limit, provided an additional fee is paid.
2. The request for the renewal of the time limit and the prescribed fee must be paid before the expiry date of the first time limit.
3. In case the applicant fails to observe the time limit prescribed in paragraph 1 of Article 31, the time-limit may be re-established provided the following documents are submitted:
  - 1) a justified request to re-establish the unobserved time limit;
  - 2) documents justifying the reasons of non-compliance with time limits;
  - 3) a document evidencing the payment of a prescribed fee.
4. The time limit referred to in paragraph 3 of this Article shall be re-established by the decision of the director of the State Patent Bureau.
5. The refusal to re-establish the time limit may be appealed against in court in accordance with the procedure established by laws.

**Article 25. Fees**

1. The filing of the application and other actions provided for in this law shall be subjected to the payment of the prescribed fees.
2. The amount of the fee, the specific actions subjected to the payment of fees, the procedure for payment of fees shall be established by this law and other legal acts of the Republic of Lithuania.

**Article 26. A date of filing of the application**

1. A date of filing of a trademark application shall be the date on which the State Patent Bureau receives all the documents specified in subparagraph 1-4 of paragraph 4 of Article 22.
2. In the event of failure to file at least one of the documents specified in subparagraph 1-4 of paragraph 4 of Article 22, a date of filing shall not be accorded and the application documents shall be returned to the applicant, indicating the reasons for refusal of the application.



4. The examiner, having received a request to re-examine the mark and having analysed the arguments of the applicant, shall re-examine the mark and adopt one of the following decisions:
  - 1) to leave the decision refusing the registration in effect;
  - 2) to deem the previous decision refusing the registration invalid in respect of some or all of the goods and or services and to adopt a new decision to register the mark in respect of all or some of the goods and /or services.
5. The examiner shall notify the applicant or his representative of this newly adopted decision not later than within 10 days of its adoption.

#### **Article 29. Appeals**

1. The applicant or his representative, who disagrees with the decision adopted following the re-examination of the mark, shall have the right, within a period of three months of the adoption of the decision appealed from, to file, with the Section of Appeals of the State Patent Bureau (hereinafter referred to as the Section of Appeals) an appeal requesting to review the findings of the examination, and a document, evidencing the payment of a prescribed fee.
2. The Section of Appeals, having examined the appeal shall adopt one of the following decisions:
  - 1) to reject the appeal and to leave in effect the examiner's decision refusing the registration of a mark;
  - 2) to satisfy an appeal in respect of some or all of the goods and/or services and adopt the decision to register the mark in respect of all or some of the goods and/or services.
3. The decision adopted by the Section of Appeals shall enter into force from the date of its adoption.
4. In the case the Section of Appeals rejects the appeal in respect of all or some of the goods, the applicant or his representative shall have the right , within 6 months from the date of the adoption of the decision of the Section of Appeals to appeal against the decision of the Section of Appeals to court as prescribed by laws.

#### **Article 30. Registration of a mark**

1. The examiner, having established that the mark meets the requirements referred to in Article 6 of this law, shall adopt the decision to register the mark and shall notify the applicant or his representative of this decision not later than within 10 days of the date of the adoption of said decision, together with the demand to pay a prescribed fee.
2. In the case the appeal is satisfied in whole or in part, the examiner shall perform further actions in accordance with the procedure prescribed by Article 1 of this law.
3. The mark shall be entered in the Register of Trade Marks and Service Marks of the Republic of Lithuania after the applicant or his representative submits the documents evidencing the payment of a prescribed fee. The data concerning the registration of a mark shall be published in the Official Bulletin of the State Patent Bureau.

#### **Article 31. Withdrawal of application**

1. In the case the applicant or his representative fails to pay a prescribed fee within a period of three months from the date of the adoption of the decision to register the mark, the application shall be deemed withdrawn by the decision of the examiner.



2. The sittings of the Section of Appeals during which the appeals or oppositions are examined shall be public.
3. The applicant, an interested party, the proprietor of the mark opposed or their representatives shall be entitled to partic



- 9) the title of the exhibition and its opening date, if the priority was granted pursuant to paragraph 2 of Article 9 of this law;
  - 10) the name, surname and address of a representative, where appropriate;
  - 11) an indication that a mark is collective, three-dimensional and that its distinctive feature is colour;
  - 12) other data relative to the registration, use and protection of a mark;
  - 13) grounds for alterations and their date;
2. Access to the data contained in the Register of Trade Marks and Service Marks of the Republic of Lithuania shall be given to all natural and legal persons in accordance with the procedure established by the Regulations of the Register of Trade Marks and Service Marks of the Republic of Lithuania .
  3. The State Patent Bureau shall issue an extract from the Register of Trade Marks and Service Marks of the Republic of Lithuania upon the request of any person who has paid the prescribed fee.

**Article 37. Registration of amendments of the application and the register of Trade Marks and Service Marks of the Republic of Lithuania**

1. The applicant, the proprietor of the mark or their representatives must notify the State Patent Bureau if :
  - 1) the title, or name, surname or address of the applicant or proprietor of the mark has changed;
  - 2) the representative of the applicant or

- 1) the Section of Appeals has declared the registration of the mark invalid in accordance with the procedure established in Article 32 of this law;
  - 2) the registration of the mark has been declared invalid by court decision;
  - 3) the duration of registration was not renewed in accordance with the procedure established by Article 21 of this law;
  - 4) the proprietor of the mark requests to remove the mark from the Register.
- 2.

to use a geographical name, from using in the course of trade such signs and indications, provided he uses them in accordance with honest practices in industrial or commercial matters.

4. A collective mark shall be deemed to be in genuine use, if it is being used at least by one member from the collective.

5. A person, who has authority to use a collective mark, may bring an action for infringement only with the prior consent of the proprietor of the mark, unless the regulations governing use of a collective mark provide otherwise.

6. The proprietor of a collective mark must submit to the State Patent Bureau any amendments or supplements to the regulations governing the use of a collective mark.

7. The State Patent Bureau shall refuse to register a collective mark where the regulations governing use are not in compliance with the requirements referred to in paragraph 1 hereof or they are contrary to public policy or accepted principles of morality. Regulations governing use of a collective mark may be registered in accordance with the procedure established by laws after the proprietor remedies the deficiencies.

8. The interested parties may have access to the regulations governing use of a collective mark upon filing a request and paying a prescribed fee.

## **SECTION 8**

### **INTERNATIONAL REGISTRATION OF A MARK**

#### **Article 41. Validity of international registration of marks**

1. The State Patent Bureau in the Republic of Lithuania is the service of a country of origin and the service of an indicated country in accordance with the Madrid Protocol.

2. For the filing of an international application, subsequent territorial extension or in any other cases established by the Madrid Agreement on International Registration of Marks and General Rules of the Madrid Protocol relative thereto (hereinafter referred to as General Rules), the applicants shall have to pay fees directly to the International Bureau.

3. Since the date of the international registration of a mark, in which the Republic of Lithuania is indicated, or the later date of extension, the international registration of a mark shall confer the same rights as the mark that would have been registered in accordance with the provisions of this law.

4. The date and number of international registration of a mark shall be entered in the Register of Trade Marks and Service Marks of the Republic of Lithuania.

#### **Article 42. Filing of an application for international registration on the basis of an application or registration in the Republic of Lithuania**

1. The applicant or proprietor of a mark which meets the requirements of Article 2 (1)

4. The procedure for the examination of an international application at the State Patent Bureau shall be established in accordance with the procedure for the implementation of the Madrid Protocol, approved by the order of the director of the State Patent Bureau.

**Article 43. Invalidity of the international registration of a mark**

1. If international mark does not satisfy the requirements of Article 6 of this law or if opposition to registration is filed in accordance with the procedure established by this law, the State Patent Bureau shall, within the time limits prescribed by the Madrid Protocol, notify the International Bureau of the fact that the mark shall not be protected in whole or in part, in the Republic of Lithuania.

2. The international registration of a mark shall be invalid in the Republic of Lithuania from the date of declaration of its invalidity in the Republic of Lithuania.

3. If the international registration is revoked at the request of the Office of origin or if a member of the Madrid Protocol withdraws from the agreement, the proprietor of such a mark may file a registration application in the Republic of Lithuania in accordance with the procedure established by this law.

4. The application referred to in paragraph 3 hereof shall be entitled to the same protection as the international registration of a mark from the date of filing of an application for international registration or a later date of extension, provided the following conditions are satisfied:

- 1) application is filed within three months from the date of expiry of international registration of a mark on the grounds referred to in paragraph 3 hereof;
- 2) the application contains no other goods and/ or services except those indicated in the international registration of a mark;
- 3) the application satisfies the requirements laid down in this law and the applicant has paid all the prescribed fees.

**Article 44. Prohibition of double protection**

1. If on the initiative of the proprietor, a mark registered in the Republic of Lithuania is also the subject of international registration, the international registration of a mark may replace the registration valid in the Republic of Lithuania, provided:

- 1) the Republic of Lithuania is indicated as the initial or subsequent extension;
- 2) the goods and/or services in the national registration are identical with those indicated in their international registration;
- 3) in the international registration the Republic of Lithuania is indicated later than the application was filed with the State Patent Bureau

2. At the request of the proprietor of the mark, the State Patent Bureau shall enter the data concerning the replacement of national registration with international registration.

**Article 45. Special provisions applied to international registration**

1. If the proprietor of international registration of a mark does not agree with the decision of an expert to refuse protection on the ground of the non-compliance of the mark with the requirements of Article 6 of this law, he shall be entitled to request, within a period of 5 months after the refusal of protection, for a repeat examination. In the event of failure to file an application within the prescribed period, the decision of the examiner shall be deemed final.

2. The proprietor of international registration who disagrees with the decision of an examiner, adopted during the repeat examination, shall be entitled, within 5 months from the date of adoption of the decision appealed from, to apply to the Section of   
reau (hereinafter referred to as the Section of -ppeals)

in accordance with the procedure established by this law .

3. The interested parties or their representati  
international registration within 3 months after the publication of the data concerning  
the international registration of a mark in the Bulletin of International Trade Marks of  
comply with the requirements referred  
to in paragraphs 1 and 2 of Article 33 of this law.

4. The proprietor of the opposed internationa l mark registration or his representative  
must submit, within 5 months from the date  
to the opposition.

5. The licence granted by the proprietor of the international registration of the mark  
Article 18 of this law.

6. The renewal of validity of an interna  
covered by this law, relating to the international registration of a mark, shall be  
regulated by the Madrid Protocol and the Implementing Regulation thereof.

## SECTION 9

### DECLARATION OF INVALIDITY OF THE MARK REGISTRATION AND ITS REVOCATION

#### **Article 46. Declaration of invalidity of a mark registration**

1. Upon the request of any interested person,   
ounds that the mark  
is not in compliance with the provisions of Article 6-7 of this law, may declare the  
registration of a mark invalid.

2. The Court, having passed the decision to declare the registration of a mark  
invalid, shall send a copy of the effective decision to the State Patent Bureau which  
shall remove the mark from the register in

3. The   
eclared invalid on the grounds that there  
exists an earlier mark giving rise to a conflict, which is not in compliance with the  
requirements of paragraph 2 of Article 47 of this law.

4. The registration of a mark may not be declared invalid or revoked, if the proprietor  
of the earlier mark has acquiesced for five years in the use of a later mark, based on the  
application filed in good faith, with the exception of cases, where their parallel use  
may mislead the public or is contrary to public policy.

5. Having declared the registration of a mark invalid  
registration certificate shall also become invalid.

#### **Article 47. Revocation of registration**

1. Upon the request of any interested party the court may revoke the registration of a  
mark, if after the date of registration :

1)

If the duration of the mark has expired upon its voluntary surrender by the proprietor or being not renewed, the application for the registration of the same mark in the Republic of Lithuania may be filed in accordance with the procedure established by this law :

- 1) the former proprietor of the registered mark at any moment from the date of expiry of the duration of the registered mark, unless another person has filed a new registration application under conditions specified in paragraph 2 hereof;
- 2) another person after the lapse of two years from the expiry of the duration of the registration of the mark.

## **SECTION 10**

### **INVESTIGATION OF DISPUTES. DEFENCE OF RIGHTS**

#### **Article 50. Institutions investigating disputes relating to marks**

1. The Section of Appeals of State Patent Bureau shall investigate disputes specified in Article 32 of this law.
2. The Vilnius County Court shall investigate disputes concerning:
  - 1) decisions adopted by the Section of Appeals of the State Patent Bureau, passed pursuant to Article 32 of this law;
  - 2) declaration of invalidity of the registration of a mark ;
  - 3) revocation of the registration of a mark;
  - 4) defence of the rights of the proprietor of the mark;
  - 5) recognition of the mark as well known in the Republic of Lithuania.

#### **Article 51. Defence of Rights**

The proprietor of the rights in defending his infringed rights may apply to court in accordance with the procedure established by this law, which may give a judgement relating to:

- 1) recognition of the rights
- 2) prohibition to proceed with acts, which infringed or threaten to infringe the rights specified in Article 11 of this law;
- 3) reimbursement for losses or damage (including moral), caused to the proprietor of the mark by actions, infringing the rights specified in Article 11 of this law, including income not received or other incurred expenses;
- 4) payment of compensation;
- 5) re-establishment of the situation which was before to the infringement;
- 6) forfeiture and where appropriate, destruction of unlawfully used marks, devices or equipment used for their production, and

the lawful selling price of a relevant good or service, by increasing it up to 200 per cent and in case of deliberate infringement, up to 300 percent.

**Article 53. Customs procedures guaranteeing the protection of the rights of the proprietor**

The rights of the proprietor or licensee of the mark when the goods are transported across the border of the Republic of Lithuania, under the mark which is deemed by the proprietor or the licensee to be infringing his rights to the mark protected in the Republic of Lithuania, shall be defended by the laws of the Republic of Lithuania, establishing customs measures relative to the protection of intellectual and industrial property.

**Article 54. The responsibility of the proprietor of the mark to reimburse the losses caused by unjustified claim**

1. The losses caused to the defendant by the unjustified claim of the plaintiff shall be reimbursed by the plaintiff. He shall also reimburse the costs relating to the storage of goods detained at the Customs at his request without sufficient ground.
2. If the claim is satisfied, the costs of the storage of goods under Customs control shall be reimbursed by the defendant.

**Article 55. Criminal liability for the infringement of the rights of the proprietor of the mark**

The criminal liability for the infringement of the rights of the proprietor of the mark shall be established by the Criminal Code of the Republic of Lithuania.

**Article 56. Persons entitled to lodge claims**

1. The right to lodge a claim shall be vested in the proprietor of the mark. However if he does not make use of this right, the claim may be lodged by the licensee, unless the license contract provides otherwise.
2. Any party to a license contract shall be entitled to participate in the proceedings instituted by the other party relative to the infringement of the rights to the mark and be reimbursed for incurred damage.

**SECTION 11  
FINAL PROVISIONS**

**Article 57. Transitional provisions**

1. The marks for the registration of which applications have been filed prior to the date of entry into force of this law shall be registered in accordance with the procedure established by the Republic of Lithuania Law on Trade Marks and Service Marks No I-173 (*Official Gazette* No 21-507, 1993; No89-1722, 1994; No108-2733, 1997).
2. The provisions of paragraphs 3 and 4 of Article 7 of this law shall apply to those Community marks for the registration of which the application are filed with the EU Internal Market Harmonisation Service after the date of Lithuania's accession to the EU, taking into account, where appropriate, the requested or granted priority.
3. After Lithuania becomes a member of the EU, the market of the Republic of Lithuania, referred to paragraph 1 of Article 14 of this Law shall be replaced by the market of the European Community.



4. The rights of the proprietors of the marks registered prior to the entry into force of this law shall be defended in accordance with the provisions of this law.

**Article 58. Proposals to the Government**

To propose to the Government to prepare by 1 May 2000 legal acts related with the implementation of this law.

**Article 59. Entry into force**

1. The Republic of Lithuania Law on trade Marks and Service Marks shall enter into force as of 1 July 2000.

2. The provisions of paragraphs 3 and 4 of Article 7 of this law shall enter into force as of the date of Lithuania's accession to the European Union.

*I promulgate this law passed by the Seimas of the Republic of Lithuania*

PRESIDENT OF THE REPUBLIC