

**LAW  
OF THE REPUBLIC OF TAJIKISTAN  
ON TRADEMARKS AND SERVICE MARKS**

This Law shall govern relations arising in connection with the legal protection and use of trademarks and service marks.

**CHAPTER 1  
GENERAL PROVISIONS**

**Article 1. Basic terms**

The terms used in this Law shall have the following meaning:

*Paris Convention* - The Paris Convention for the Protection of Industrial Property of March 20, 1883 with subsequent amendments;

International Classification of Goods and Services (hereinafter “Nice Classification”) shall mean the classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks, signed at Nice on June 15, 1957, as revised and amended.

An application for trademark registration shall mean a set of documents filed by the applicant or a person empowered to act for the applicant and containing a request for the grant of a title of protection.

Priority of a trademark shall mean the fact that the right in a trademark arose in the first place.

A right holder shall mean any natural person or legal entity enjoying the exclusive right in the trademark.

A patent attorney shall mean a national of the Republic of Tajikistan who, in accordance with the legislation, is granted the right to represent natural persons and legal entities before the Patent Office.

**Article 2. Trademark and service mark**

A trademark and a service mark (hereinafter "trademark") shall be designations capable of individualizing goods, performed jobs or services (hereinafter "goods") of legal entities or natural persons engaged in entrepreneurial activity.

## **Article 3. Legislation of the Republic of Tajikistan on Trademarks and Service Marks**

## **Article 7. A certificate for a trademark**

1. A certificate shall be granted for a registered trademark.
2. The certificate shall attest the priority of the trademark, the exclusive right in the trademark in respect of the goods listed in the certificate.

## **Article 8. Exclusive right in a trademark**

1. The right holder shall have the right to use the trademark and to forbid use of the trademark by other persons.

No person may use a trademark protected in the Republic of Tajikistan without the authorization of the right holder.

2. An infringement of the rights of the right holder (illegal use of a trademark) shall be recognized as any unauthorized commercial use of a trademark or a confusingly similar designation in the territory of the Republic of Tajikistan in respect of the goods for which the trademark has been registered, or of similar goods, including the placement of the trademark or a confusingly similar designation:

on the goods, labels, packages of these goods, which are manufactured, offered for sale, sold, displayed at exhibitions and fairs or used commercially on the territory of the Republic of Tajikistan, or stored and (or) transported with this purpose, or imported into the territory of the Republic of Tajikistan;

while performing jobs, providing services;

on documents related to commercial introduction of the goods;

in offer for sale of the goods;

on the Internet, particularly in domain names and in other forms of addressing.

The goods, labels, packages of these goods on which the trademark or a confusingly similar sign are used shall be regarded as counterfeits.

## **CHAPTER 3.**

### **PROTECTABILITY OF A TRADEMARK**

## **Article 9. Types of trademarks**

1. Verbal, figurative, three-dimensional and other designations or their combinations may be registered as trademarks.
2. A trademark may be registered in any colour or combination of colours.

## **Article 10. Absolute grounds for refusal of registration**

1. No registration shall be allowed for trademarks consisting only of designations that are devoid of distinctive ability or consist only of the elements:

that have come into common use as designations of goods of a certain type;

that are generally accepted symbols and terms;

that characterize goods and point to the kind, quality, quantity, property, intended purpose, value, as well as the place and time of their manufacture or sale.

that represent the shape of the goods which is determined exclusively or predominantly by the property or designated purpose of such goods.

The components indicated in Subparagraphs 2, 3, 4 and 5 of this Paragraph may be incorporated in the trademark as non-protected components, provided they do not hold a dominant position therein.

The provisions of this Paragraph shall not apply to designations which have acquired a distinctive character as a result of their use.

2. By virtue of the international treaties to which the Republic of Tajikistan is a party, registration as trademarks shall not be allowed for designations, that consist only of the elements representing official names of states, State armorial bearings, flags and other State emblems, abbreviated or full names of international intergovernmental organizations, their armorial bearings, flags and other emblems, official signs and hall-marks of control and warranty, seals, awards and other marks of distinction or designations confusingly similar to the above. Such elements may be incorporated in a trademark as non-protected elements, subject to the consent of a relevant competent authority.

3. No registration as trademarks shall be allowed for the designations or their elements:

that are deceitful or capable of misleading the consumer as to the good or its manufacturer;

that are contrary to public interests, principles of humanity or morals.

4. By virtue of an international treaty to which the Republic of Tajikistan is a party, no registration as trademarks on the territory of the Republic of Tajikistan shall be allowed for the designations that represent or incorporate the elements that are protected in one of the States-parties to that treaty in the capacity of the designations, identifying wines or alcoholic beverages as originating from its territory (produced within the geographic boundaries of that State), and possessing individual quality, reputation or other properties that are mainly determined by their origin, if the trademark shall be used for identifying wines or alcoholic beverages not originating from the territory of the given geographic object.

## **Article 11. Other grounds for refusal of registration**

1. The following designations shall not be registered as trademarks if they are identical with or confusingly similar to:

trademarks of other persons, applied for registration (provided applications for them have not been withdrawn) or protected in the Republic of Tajikistan by virtue of the international treaties to which the Republic of Tajikistan is a party, in respect of similar goods with an earlier priority;

trademarks of other persons, recognized as well-known in the Republic of Tajikistan in respect of similar goods in accordance with the procedure prescribed by this Law.

The registration of a designation as a trademark in respect of similar goods, confusingly similar to a trademark, specified in Subparagraph 2 and 3 of this Paragraph shall be allowed only with the consent of the right holder.

2. Designations, identical with or confusingly similar to the appellations of origin of goods, protected on the territory of the Republic of Tajikistan, shall not be registered as trademarks in respect of any goods, except for cases where these designations are incorporated as non-protected elements into trademarks, registered in the name of persons eligible to use such appellations.

2. The following designations shall not be registered as trademarks if they are identical with:

a trade name (or its part) protected in the Republic of Tajikistan in respect of similar goods, an industrial design, a compliance mark, the rights in which arose to other persons in the Republic of Tajikistan, prior to the priority date of the trademark being registered;

2. The priority of a trademark may be determined by the filing date of the first application in a foreign country party to the Paris Convention (convention priority), provided the filing of the application with the Patent Office was completed within six months from the said date.
3. The priority of a trademark placed on exhibits at official or officially recognized international exhibitions organized in the territory of one of the countries-members of the Paris Convention may be established by the date of commencement of the public showing of the exhibit at the exhibition (exhibition priority), if the filing of the application with the Patent Office was completed within six months from the said date.
4. An applicant wishing to exercise the right of convention or exhibition priority shall be obliged to state so while filing the application for a trademark or within two months following receipt of the application by the Patent Office, and attach the necessary documents confirming the lawfulness of such claim or furnish these documents within three months from the date of receipt of the application in the Patent Office.
5. The priority of a trademark filed by an applicant in compliance with Paragraph 6 of Article 14 of this Law (hereinafter "divisional application") on the basis of another application of that applicant for the same designation (hereinafter "original application") shall be established by the date of filing of the initial application with the Patent Office, where the right exists to establish an earlier priority by the initial application, - by the priority date, provided that as of the date of filing the divisional application, the initial application is not withdrawn nor deemed to be withdrawn, and that the divisional application is filed prior to a decision being made with respect to the initial application.
6. Where different applicants filed applications for identical trademarks with the same priority date in respect of fully or partially coinciding lists of goods, registration of the trademark with respect to the goods for which the above-mentioned lists coincide, may be effected in the name of one of them on the basis of the agreement reached between the applicants.

In the event that identical trademarks with the same priority date and fully or partially coinciding lists of goods have been applied for registration by one and the same applicant, then the registration of the trademark in respect of such goods may be effected under one of the applications selected by the applicant.

Within six months of the date of receipt of the corresponding notification, the applicants (applicant) shall inform of the agreement reached by them (his choice) in respect of which particular application the registration of the trademark is sought.

If, within the prescribed time period, no such information is communicated to the Patent Office and no request is submitted for the extension of the prescribed time, the applications shall be deemed withdrawn.

7. The priority of a trademark may be determined by the date of its international registration in accordance with the international agreements of the Republic of Tajikistan.

## **CHAPTER 6. REGISTRATION OF A TRADEMARK**

### **Article 13. Application for registration of a trademark**

1. An application for registration of a trademark (hereinafter "application") shall be filed with the Patent Office by a legal entity or a natural person engaged in entrepreneurial activity (h

where the said documents were not filed simultaneously, by the date of receipt of the last of the documents submitted.

7. Upon the filing of an application with the Patent Office, any person shall be entitled to inspect the documents of the application originally attached thereto at the filing date. The procedure for inspecting the materials attached to an application shall be laid down by the Patent Office.

8. The requirements for the documents attached to the application shall be determined by the Patent Office

#### **Article 14. Examination of the application for a trademark**

1. The examination of an application shall be conducted by the Patent Office and



5. An application may be withdrawn at the request of the applicant at any stage of examination, but not later than the date of registration of the trademark.
6. While an application is being examined and while a decision in respect thereof is pending, the applicant shall have the right to file a divisional application for the

## **Article 17. Appeal against the decision on the application and restoration of the missed time periods**

1. In the event of disagreement with

the decision taken on the results of the formal examination, or with the refusal to accept it for consideration,

the decision passed on the results of examination of a designation applied for,

the decision to recognize an application as having been withdrawn,

the applicant may lodge an objection with the Appeal Board within three months after the date of receipt of the corresponding decision, or of copies of the material counter-posed to the app

## **Article 20. Duration of registration**

1. The registration of a trademark shall remain valid for ten years as from the date of the application's filing with the Patent Office.
2. The term of validity of a trademark registration may be extended at the request of the right holder to be filed during the last year of such validity term, each time for a period of ten years.

Upon the request of the right holder for extension of the period of validity of the registration of the trademark he may be granted a grace period of six months after expiration of the registration, provided that an additional obligatory payment has been paid.

3. A record to the effect that the term of validity of a trademark registration has been extended shall be entered in the Register and in the certificate of a trademark registration.

## **Article 21. Recordal of changes in the registration**

1. The right holder shall notify the Patent Office of any changes in the legal name, in his first or last name or patronymic, any reduction of the list of goods, in respect of which the trademark has been registered, any alteration of individual elements of the trademark, not affecting its substance, and of other changes concerning the registration of the trademark.

In the event that the grant of legal protection for a trademark is contested on such grounds and under such procedure as are determined by Article 35 of this Law,

### **Article 23. Registration of a trademark in foreign countries**

Legal entities and natural persons of the Republic of Tajikistan shall have the right to register a trademark in foreign countries or to obtain its international registration.

The application for international registration of a trademark shall be filed through the Patent Office.

### **Article 24. Conditions for re-registration**

A trademark, a trademark identical to it or a designation confusingly similar to it, the duration of the registration of which has expired and a request for renewal of which has not been submitted according to part 2 of Article 20 of this Law shall not be re-registered for a period of three years from the date of termination of the registration of the trademark, in the name of a person other than the previous right holder of the trademark or his legal successor.

This rule shall also apply in the case where the owner of a trademark has abandoned the trademark before the expiration of the registration.

## **CHAPTER 6. WELL-KNOWN TRADEMARK**

### **Article 25. Well-known trademark, its legal protection**

1. At the request of a legal entity or a natural person, a trademark, protected on the territory of the Republic of Tajikistan on the basis of its registration; a trademark, protected on the territory of the Republic of Tajikistan without registration by virtue of an international treaty of the Republic of Tajikistan, and also a designation, used as a trademark but having no legal protection on the territory of the Republic of Tajikistan may be recognized to be well-known trademarks in the Republic of Tajikistan if such trademarks or designation, as a result of their intensive use at the date, indicated in the application, became widely known in the Republic of Tajikistan among corresponding consumers in respect of goods of that person.

A trademark or a designation may not be recognized as a well-known trademark if they became widely known after the date of priority of an identical or confusingly similar trademark of another person, intended to be used in respect of similar goods.

2. A well-known trademark shall be accorded legal protection provided for by this Law.

In recognizing the trademark already registered as a well-known trademark, legal protection of such a trademark shall also extend to the goods non-similar to those in respect of which the trademark is recognized as well-known, provided the use of

that trademark by another person in respect of the above-mentioned goods will be associated by consumers with the right holder and may harm his legitimate interests.

### **Article 26. Granting legal protection to a well-known trademark**

1. The legal protection for a well-known trademark shall be granted pursuant to a decision of the Appeal Board, taken following a request submitted in conformity with Subparagraph 1 of Paragraph 1 of Article 25 of this Law.
2. A trademark, recognized to be well-known, shall be entered by the Patent Office in the List of well-known trademarks in the Republic of Tajikistan (hereinafter "List") within one month after receipt of the document confirming payment of a prescribed fee and a procedural payment.
3. A certificate for a well-known trademark shall be issued by the Patent Office within one month after the date of entering the trademark in the List. The form of a certificate and the content thereof shall be determined by the Patent Office.
4. Information relating to a well-known trademark shall be published by the Patent Office in the Official Gazette immediately after its recording in the List.
5. Legal protection of a well-known trademark shall be valid perpetually.

## **CHAPTER 7. COLLECTIVE MARK**

### **Article 27. Right in a collective mark**

1. In conformity with an international treaty of the Republic of Tajikistan an association of persons, the establishment and business activities of which are not contrary to the legislation of the country where it has been established, shall have the right to register a collective mark in the Republic of Tajikistan, which shall be a trademark of a business association, intended to designate the goods manufactured and (or) marketed by the persons, being part of this association, and possessing uniform qualitative or other common characteristics.
2. A collective mark and the right to use it may not be transferred to other persons.

### **Article 28. Registration of a collective mark**

1. An application for a collective mark shall be accompanied by the Charter of the collective mark, which shall contain the name of the association authorized to register the collective mark in its own name, a list of persons entitled to use the mark, the objective of its registration, a list of goods to be designated by the collective mark with a description of their uniform qualitative or other common characteristics, conditions of its use, the procedure for control over its use, and liability for breaching the Charter of the collective mark.

2. In the Register and in the certificate for a collective mark in addition to information provided for in Article 18 of this Law the information about persons entitled to use the collective mark shall be entered. Such information and an excerpt from the Charter of the collective mark about uniform qualitative and other common characteristics of the goods in respect of which the collective mark has been registered shall be published by the Patent Office in the Official Gazette.

3. In the event that a collective mark is used on goods not possessing uniform qualitative or other common characteristics, its legal protection may be terminated in full or in part pursuant to a court judgement passed upon the request of any interested person.

4. A collective mark and an application for its registration may be converted, accordingly, into a trademark and an application for the registration of a trademark and vice versa. The procedure for such conversion shall be laid down by the Patent Office.

## **CHAPTER 8. USE OF A TRADEMARK**

### **Article 29. Use of a trademark and consequences of its non-use**

1. Use of a trademark shall be understood to mean its use on the goods in respect of which it has been registered and (or) on packaging thereof by the right holder or a person to whom such right has been conferred under a license agreement in accordance with Article 32 of this Law.

Application of a trademark in advertising, printed publications, on letterheads, on signboards, during demonstration of exhibits displayed at exhibitions and fairs held in the Republic of Tajikistan, may be recognized as its use, provided valid reasons exist for non-use of the trademark on goods and (or) packaging thereof.

2. Legal entities and natural persons engaged in business as intermediaries may, on the basis of an agreement, use their own trademark alongside with that of the manufacturer of goods, or instead of the trademark of the latter.

3. Legal protection of a trademark may be invalidated prematurely in respect of all or part of the goods in connection with non-use of the trademark for any continuous period of three years after its registration. A petition for premature invalidation in connection with non-use of the trademark may be submitted to the Appeal Board on the expiry of the above-mentioned three years provided that the trademark had not been used before such a petition was submitted.

Proof of use of a trademark shall be adduced by the right holder

For the purposes of this Paragraph use of a trademark with changes in some of its elements that do not alter its substance shall be recognized as the use of a trademark.

Whenever a decision is to be taken on a premature invalidation of the registration of a trademark in connection with its non-use, the proof adduced by the right holder to the effect that the trademark has not been used for reasons beyond the right holder's control shall be taken into consideration.

### **Article 30. Exhaustion of rights based on trademark registration**

The registration of a trademark shall not entitle its right holder to prohibit other persons from using such trademark in respect of the goods, which have been commercially introduced on the territory of the Republic of Tajikistan either directly by the right holder or with the consent thereof.

### **Article 31. Precautionary marking**

The right holder of a trademark may affix, ne.0008 Tc-.0019 6of

A license agreement must contain a clause that the quality of the goods of the licensee will not be inferior to those of the licensor, and that the licensor shall exert control over the observation of this clause.

#### **Article 34. Registration of contracts**

A contract of the transfer of an exclusive right in a trademark (contract on assignment of a trademark) or a license contract shall be registered with the Patent Office. Without such registration the said contracts shall be deemed invalid.

The procedure for registration of the above-mentioned contracts shall be laid down by the Patent Office.

### **CHAPTER 10.**

#### **TERMINATION OF LEGAL PROTECTION OF A TRADEMARK**

**Article 35. Contest and recognition of the grant of the registration to a**



An opposition against the extension of legal protection to a trademark, if by reason provided for by Subparagraph 3, Paragraph 1 of this Article, shall be filed with the Appeal Board by the interested right holder of an exclusive right in the trademark in one of the countries - members of the Paris Convention.

An opposition against the extension of legal protection to a trademark, well-known in the Republic of Tajikistan on the grounds provided for by Paragraph 2 of this Article, may be filed by any person with the Appeal Board.

**CHAPTER 11.  
PROTECTION OF THE RIGHTS OF THE RIGHT HOLDER OF A  
TRADEMARK**

**Article 37. Disputes examined by courts**

## **CHAPTER 12I**

### **CONCLUDING PROVISIONS**

#### **Article 39. Decisions of the Appeal Board**

A procedure for filing oppositions and requests with the Appeal Board and a procedure for their consideration shall be prescribed by the Patent Office.

Decisions of the Appeal Board taken on oppositions and requests, filed in the order set forth in Articles 17, 26, 29, 35, 36 of this Law shall be approved by the Head of the Patent Office and shall come into force from the date of th

**44. "On Recognition of the Law of the Republic of Tajikistan  
"On trademarks and service marks" to have lost validity**

The Law of the Republic of Tajikistan 456 of 23 December 1991 "On  
trademarks and service marks" shall be recognized to have lost the validity