

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 basic terms used in this Law are as follows:

- *Paris Convention* -

LEGAL PROTECTION OF TRADEMARK

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 including pointing to the kind, quality, quantity, property, intended purpose, value, as well as the time and place of their manufacture or sale.
- that represent the shape of goods which is determined exclusively or predominantly by the property or designated purpose of such goods.

The elements indicated in Paragraphs 1-4 of Part 1 of this Article may be incorporated in the trademark as non-protected elements, provided they do not hold a dominant position therein.

The provisions of Parts 1 and 2 of this Article shall not apply to designations which have acquired a distinctive character as a result of their use.

By virtue of the international legal acts recognized by the Republic of Tajikistan, registration as trademarks shall not be allowed for designations, that consist only of the elements representing official names of states, State o8.185 0 T3.0001 Tc-.0064 Tw{ac6 to derj12.00embnts re4()Tjabbrevihe)1

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.

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, the rights in which arose to other persons in the Republic of Tajikistan, prior to the priority date of the trademark being registered;
- a title of a work of science, literature or art, known in the Republic of Tajikistan at the date of filing of the application, characters or quotations therefrom, a work of art or its fragment without the consent of a copyright owner or his successor in title, provided the rights in those works had arisen prior to the priority date of the trademark being registered;

Where identical trademarks with the same priority date, in respect of 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 period, the applications shall be deemed withdrawn.

Priority of a trademark may be established by the date of its international registration in accordance with the international legal acts recognized by Tajikistan.

CHAPTER 5. REGISTRATION OF A TRADEMARK

Article 11. Application for trademark registration

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 (hereinafter "applicant").

Dealings with the Patent Office may be conducted by an applicant, a right holder or any other person concerned either independently or through a patent attorney registered with the Patent Office.

Priority of the application for trademark registration shall be established by the date of its international registration in accordance with the international legal acts recognized by Tajikistan.

The documents attached to an application shall be filed in the official or another language.
Where such documents are filed in

A formal examination of an application shall be carried out within one month from the date of its filing with the Patent Office.

In the course of the formal examination, the presence of the necessary documents and their conformity with the established requirements shall be checked. Based on the results of the examination, a decision shall be made either to accept it for further examination or to deny its acceptance, of which the applicant shall be informed.

Simultaneously with notification of the positive outcome of the formal examination, the applicant shall be informed of the filing date established pursuant to Part 10 of Article 11 of this Law.

Article 14. Examination of the claimed designation

The examination of the claimed designation sh

On the basis of the decision to register the trad

Gazette immediately after the registration of the trademark in the Register or after the changes in the registration of the trademark have been entered in the Register.

Article 21. Registration of a trademark in foreign countries

Natural persons and legal entities 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 22. Conditions for re-registration

A trademark, a sign identical to it or a sign confusingly similar to it, the duration of the

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.

Use 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 the goods and (or) packaging thereof.

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

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 inva

Article 32. Registration of contracts

A contract of the transfer of an exclusive right in a trademark (contract on assignment of a trademark) or a contract on grant of the right to use a trademark 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 33. Contestation and recognition of the grant of legal protection to a trademark as invalid

Grant of legal protection to a trademark in the following cases and time periods may be contested and invalidated:

- in full or in part at any time during its term of validity, if effected in breach of the requirements set out in Article 8 and Part 4 of Article 9 of this Law or within five years after the publication of information in the Official Gazette, if effected in breach of the requirements set out in Paragraph 1 and 3 of Article 9 of this Law;
- in full or in part at any time during its term of validity, if effected in breach of the requirements set out in Paragraph 3 of Article 4 of this Law;
- in full at any time during its term of validity, if effected in the name of an agent or representative of the person which is the right holder of an exclusive right in this trademark in one of the countries - members of the Paris Convention, in breach of the requirements set out in that Convention;
- in full or in part at any time during its term of validity, if actions undertaken by the right holder in registering the trademark have been recognized, in the order set by the law, to be an act of unfair competition.

The grant of legal protection to a trademark well known in the Republic of Tajikistan may be challenged and invalidated in full or in part at any time during its term of validity, if effected in breach of the requirements set out in Part 2 of Article 23 of this Law.

Any person may file an opposition with the Appeal Board, within such time and on such grounds as provided by Paragraph 1 and 2 of Part 1 of this Law.

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Article 34. Termination of legal protection of a trademark

Legal protection of a trademark is terminated in the following cases:

- in connection with the expiration of the term of validity of a trademark registration;
- on the grounds of a court judgment that has taken legal effect concerning an early termination of the legal protection of a collective mark due to the use of that mark on the goods that do not possess uniform qualitative or other common characteristics as set forth in Part 3 of Article 26 of this Law;
- on the basis of a decision on earlier termination of the legal protection of a trademark on the grounds of its non-use as set forth in Part 4 of Article 27 of this Law;
- on the basis of a decision of the Patent Office on earlier termination of the legal protection of trademark in the event of liquidation of the legal entity- the right holder or in the event of discontinuance of the entrepreneurial activity of the natural person - the right holder;
- in the event that the right holder abandons it;
- on the basis of the decision taken on the application of any person filed with the Appeal Board on earlier termination of legal protection of a trademark where a registered trademark has become a commonplace designation used to designate a certain kind of goods.

Legal protection of a well-known trademark shall be terminated on the grounds set forth by Paragraphs 4 to 7 of Part 1 of this Article, and also on the basis of the decision of the Appeal Board in the event that a well-known trademark loses the features set forth in Paragraph 1 of Part 1 of Article 23 of this Law.

CHAPTER 11.

PROTECTION OF THE RIGHTS OF THE RIGHT HOLDER OF A TRADEMARK

Article 35. Disputes examined by courts

Disputes related to the implementation of this Law shall be examined by courts within the limits of their jurisdiction in accordance with the procedure laid down by the legislation of the Republic of Tajikistan, including disputes over:

- infringement of the exclusive right in a trademark;
- early termination of the legal protection of a collective mark due to its use on goods which do not possess uniform qualitative and other common characteristics;
- conclusion and implementation of contracts on grant of the right to use a trademark and contracts of transfer of an exclusive right in a trademark (contract on assignment of a trademark);

CHAPTER 12.

Article 37. Obligatory charges and procedural payment

For filing of an application, registration and issuing a certificate for a trademark, renewal of registration and reinstatement of missed time periods as well as for all other legally significant acts connected with registration and renewal of trademark registrations obligatory charges shall be charged.

For carrying out examination, entering changes and corrections in the documents of the application, publication of particulars of a trademark registration, consideration of oppositions and application by the Appeal Board, as well as for performance of other acts connected with examination of the application the Patent Office shall charge a procedural payment.

The obligatory charges and procedural payment shall be paid by the applicant, right holder, or, in agreement with them, by any natural person or legal entity.

The amount of obligatory charges and procedural payment shall be determined by the Government of the Republic of Tajikistan.

Article 38. Rights of foreign individuals and legal entities

Foreign individuals and legal entities shall enjoy those rights granted by this Law on a par with individuals and legal entities of the Republic of Tajikistan by virtue of international legal acts recognized by the Republic of Tajikistan or on the basis of reciprocity.

Article 39. International legal acts

Where an international legal act recognized by Tajikistan establishes rules that differ from those set out in this Law, the rules of such international legal act shall apply.

Article 40. Liability for Breaches of This Law

Natural persons and legal entities shall be liable for breaches of this Law pursuant to legislation of the Republic of Tajikistan

Article 41. On recognition of voidance of the Law of the Republic of Tajikistan “On trademarks and service marks”

Recognize void the Law of the Republic of Tajikistan “On trademarks and service marks” (Bulletin of the Supreme Soviet of the Republic of Tajikistan, 1992, 4, p. 41).

Article 42. Procedure for entry into force of this Law

This Law shall enter into force after its official publication.

President of the Republic of Tajikistan

E. RAKHMONOV

05 March 2007