

ANNEX IX

REPUBLIC OF TAJIKISTAN

LAW

ON TRADE AND SERVICE MARKS

CHAPTER 1
TRADEMARK AND SERVICE MARK, THEIR
LEGAL PROTECTION

ARTICLE 1
TRADEMARK AND SERVICE MARK

A trademark and a service mark (hereinafter referred to as "trademark") shall be design

ARTICLE 4
EXCLUSIVE RIGHT IN A TRADEMARK

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CHAPTER 2

REGISTRATION OF A TRADEMARK

ARTICLE 9

APPLICATION FOR REGISTRATION OF A TRADEMARK

1. An application for registration of a trademark (hereinafter referred to as "application") shall be filed with the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks by a legal entity or a natural person engaged in manufacturing or commercial activity.

An application may be filed through a patent attorney registered with the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks.

2. Foreign legal entities who are domiciled in foreign countries, citizens or stateless persons domiciled outside the Republic of Tajikistan (or their patent attorneys) shall conduct business in the Republic of Tajikistan connected with registration of trademarks and their renewal through their patent attorneys in the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks.

3. The application must be related to one trademark only.

4. The application must contain:

- a request for registration of a designation as a trademark with the indication of the applicant, as well as of his domicile or place of residence;
- the designation claimed and the description thereof;
- a list of goods and services in respect of which the registration is requested, grouped in accordance with the International Classification of Goods and Services for the Purpose of the Registration of Marks;

Industrial Property (convention priority), provided that the application was filed with the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trade and Service Marks within 6 months from the said date.

If due to circumstances beyond applicant's control, the application claiming Convention priority could not have been filed within the mentioned period of time, the latter may be prolonged at the applicant's request, but for no longer than two months.

3. The priority of a trademark placed on exhibits at officially recognized international exhibitions organized in the territory of one of the countries-members of the Paris Convention for the Protection of Industrial Property (exhibit priority) may be determined on the date of the beginning of the open display of the exhibits at the exhibition, provided the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks received the application for a trademark within six months from the said date.

4. An applicant wishing to exploit the right to convention or exhibition priority must state so while filing the application for a trademark or within two months following receipt of the application by the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks, 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 State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks.

5. The priority of a trademark may be determined on the date of the international registration of the trademark in accordance with the international agreements of the Republic of Tajikistan.

ARTICLE 11

EXAMINATION OF AN APPLICATION FOR A TRADEMARK

1. The Examination of an application shall be conducted by the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service

Marks; and it shall include a preliminary examination and an examination of the claimed designation, being conducted in accordance with this Law and the regulations established by the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks on its basis.

The applicant shall have the right, on his own initiative or at the invitation of the State examiner, personally or through a patent attorney, to participate in the consideration of the issues arising in the course of a preliminary examination and an examination of the claimed designation.

2. Within two months from the filing date the applicant shall be entitled to supplement, specify or amend the materials of the application.

If the additional materials substantially change the claimed designation, or include in the list of goods, specified in the application, the goods not similar to them, these materials shall not be accepted for consideration and may be a

ARTICLE 12

PRELIMINARY EXAMINATION

1. A preliminary examination of an application shall be conducted within one month from the date of filing with the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks.

2. During the course of a preliminary examination, the content of the application and availability of accompanying documents, as well as their compliance with the established requirements shall be examined. According to the results of the preliminary examination the applicant shall be notified of the acceptance of the application for consideration or of the refusal of its acceptance for consideration.

3. In the case of acceptance of the application for examination the applicant shall be notified about the determination of priority of the trademark, except for the cases where he asks for convention or exhibition priority but, at the moment of acceptance of the application for consideration, failed to submit the necessary documents confirming the legality of this request.

4. In the case of disagreement with the decision of the preliminary examination the applicant within two months of the date of receipt of such a decision shall have the right to file an opposition with the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks. The decision on the opposition shall be made within one month of the date of its receipt.

ARTICLE 13

EXAMINATION OF THE CLAIMED DESIGNATION

1. Examination of the claimed designation shall be conducted after completion of the preliminary examination.

In the course of the examination, the priority of the trademark shall be determined if it has not been determined during the preliminary examination; and the claimed designation shall

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2. The decision of the Appeal Board may be appealed to Court by the applicant within six months from the date of its making.

3. The terms laid down in Articles 11 (2), 12 (4), 13 (4), 14 (1) of this Law missed by the applicant may be restored by the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademark and Service Marks at the applicant's request filed not later than six months of their expiration, on confirmation of a valid reason and payment of the fee.

ARTICLE 15

STATE REGISTER OF TRADEMARKS AND SERVICE MARKS OF THE REPUBLIC OF TAJIKISTAN

The State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks shall make the registration of trademarks in the State Register of Trademarks and Service Marks of the Republic of Tajikistan (hereinafter referred to as "Register"). A reproduction of the trademark, particulars of its owner, the date of priority of the trademark, the date of its registration, the list of goods and services in respect of which the trademark has been registered shall be entered in the Register.

Other information related to the registration of a trademark, renewal of a trademark and invalidation of the registration, and all subsequent changes in this information, shall also be entered in the Register.

At the request of an interested S

CHAPTER 3
COLLECTIVE MARK

ARTICLE 22
RIGHT IN A COLLECTIVE MARK

1. A collective mark shall be a trademark of a union, association of manufacturers or traders, concern, or any other voluntary association of enterprises (hereinafter referred to as "association") intended to designate the goods, produced or distributed by them, possessing uniform qualitative or other common characteristics.
2. Provisions of Articles 26-28 of this Law shall not apply to collective marks.

ARTICLE 23
REGISTRATION AND USE OF A COLLECTIVE MARK

1. An application for a collective mark shall be accompanied by the Charter of the collective mark, which contains the name of the association authorized to register the collective mark in its own name, a list of enterprises entitled to use the mark, purpose of the registration, a list of goods to be designated by the collective mark with description of their uniform qualitative or other common characteristics, conditions of its use, and the liability for violation of the Charter of the collective mark.
2. In the Register and on the certificate for a collective mark in addition to the information provided for in Article 15 of this Law there shall be entered the information about enterprises having the right to use the collective mark. This information and an extract from the Charter of the collective mark about uniform qualitative or other common characteristics of the goods in respect of which the collective mark has been registered shall be published by the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks in the Official Gazette.

3. The owner of a collective mark shall notify the State Service of the Republic of Tajikistan for Protection of Inventions and Registration of Trademarks and Service Marks about changes in the Charter of the collective mark.

4. In the case of use of a collective mark on the goods, not possessing uniform qualitative

CHAPTER 4
USE OF A TRADEMARK

ARTICLE 24
USE OF A TRADEMARK AND CONSEQUENCES OF ITS NON-USE

1. By use of a trademark shall be considered its use on the goods in respect of which it has been registered or on packaging thereof by the owner of a trademark or a person to whom

ARTICLE 25

PREVENTIVE MARKING

The owner of a trademark can make, next to the trademark, a marking which indicates that the applied designation is a trademark registered in the Republic of Tajikistan.

CHAPTER 5

TRANSFER OF A TRADEMARK

ARTICLE 26

ASSIGNMENT OF A TRADEMARK

A trademark may be assigned by the owner of the trademark to a natural person or legal entity under an agreement in respect of all or part of the goods for which it has been registered.

Assignment of a trademark shall not be allowed if it can be a reason for deception of consumers in respect of the good or its manufacturer.

ARTICLE 27

GRANT OF A LICENSE FOR THE USE OF A TRADEMARK

The right to use a trademark may be granted by the owner of a trademark (the licensor) to another person (the licensee) under a license agreement.

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

ARTICLE 28

**REGISTRATION OF AN AGREEMENT ON THE ASSIGNMENT OF A
TRADEMARK AND LICENSING AGREEMENT**

An assignment agreement and a licensing agreement shall be registered in the State Service

CHAPTER 6
TERMINATION OF LEGAL PROTECTION
OF A TRADEMARK

- in the case of invalidation of the registration in accordance with Article 29 of this Law;

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CHAPTER 7
PROTECTION OF THE RI

CHAPTER 8
CONCLUDING PROVISIONS

ARTICLE 33
LEGISLATION OF THE REPUBLIC OF TAJIKISTAN ON
TRADEMARKS

The legislation on trademarks shall consist of this Law and other relevant legislative acts of the Republic of Tajikistan on questions related to its jurisdiction.

ARTICLE 34
RIGHTS OF FOREIGN LEGAL ENTITIES, FOREIGN CITIZENS AND
STATELESS PERSONS

Foreign legal entities, as well as foreign citizens and stateless persons shall enjoy the rights accorded by this Law and other relevant legislative acts of the Republic of Tajikistan equally with the legal entities and natural persons of the Republic of Tajikistan, unless this Law or any other act of the current legislation provide otherwise.

ARTICLE 35
INTERNATIONAL AGREEMENTS

If international agreements of the Republic of Tajikistan establish rules different from those contained in this Law, the rules of the international agreement shall apply.