



Law on Marks and Geographical Indications*
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CHAPTER I GENERAL PROVISIONS

Subject Matter

1. This Law governs the conditions and procedures for the registration of marks and geographical indications, the rights arising therefrom and the protection of those rights.

Field of Application

2.—(1) The provisions of this Law shall apply to Bulgarian natural persons and legal entities and to foreign natural persons and legal entities from States party to international treaties to which the Republic of Bulgaria is also party.

(2) With regard to foreign natural persons and legal entities from other countries, this Law shall apply on the basis of reciprocity at the discretion of the Patent Office.

Representation

3.—(1) Any person having the right under this Law to conduct business with the Patent Office may do so either in person or through a local industrial property agent.

(2) Those persons provided for in paragraph (1) who have no residence or headquarters in the Republic of Bulgaria shall conduct business with the Patent Office through a local industrial property agent.

Fees

4. For all acts relating to the filing of applications, priority, registration, the issue of certificates, the renewal of registrations, entries, the correction of errors, appeals against rejections, revocation and invalidation, the extension of terms, publications, international registrations, information on the mark or geographical indication filed for registration, enquiries and extracts from State registers, fees shall be collected by the Patent Office under a tariff approved by the Council of Ministers.

State Register of Marks

5. The State Register of Marks shall be kept by the Patent Office and shall contain data on all registrations of marks and all subsequent entries relating thereto.



State Register of Geographical Indications

6. The State Register of Geographical Indications shall be kept by the Patent Office and shall contain data on all registrations of geographical indications, entries pertaining to users and all subsequent changes relating thereto.

Access to the State Registers

7. The State Registers provided for in Articles 5 and 6 shall be public. Any person may request information or an extract therefrom.

File

8.—(1) The Patent Office shall keep a file on every mark or geographical indication which shall consist of all the registration documents and subsequent entries.

(2) The Patent Office shall provide other parties with information on a mark or geographical indication filed for registration on instructions from the President of the Office.

(3) The information provided under paragraph (2) shall include only such data as is published on registration of the mark or geographical indication.

CHAPTER II
MARKS

Section I
Registration

Definition

9.—(1) Marks are signs that are capable of distinguishing the goods or services of one person from those of other persons and can be represented graphically. Such signs may be words, including the names of persons, or letters, numerals, drawings, figures, the shape of the article or its packaging, a combination of colors, sound signals or any combination of such elements.

(2) A mark may be a trademark, a service mark, a collective mark or a certification mark.

Acquisition of the Rights in a Mark

10.—(1) The rights in a mark shall be acquired by registration as of the filing date of the application.

(2) The first to file shall have the right to register.

(3) The right to a mark shall be an exclusive right.



Grounds for Refusal of Registration

11.—(1) The following may not be registered:

1. signs that are not marks within the meaning of Article 9(1);
2. marks that are devoid of all distinctive character;
3. marks consisting exclusively of signs or indications that have become customary in everyday language or established commercial practice in the Republic of Bulgaria;
4. marks that consist exclusively of signs designating the kind, quality, quantity, composition, intended purpose, value, geographical origin, time or process of manufacture of the goods, or the manner of rendering of the services, or other characteristics of the goods or services;
5. signs that consist exclusively of:
 - (a) the shape of the goods dictated by their nature;
 - (b) the shape of the goods necessary for a technical result to be obtained;
 - (c) a shape of the goods that considerably increases their value;
6. marks that are contrary to public policy and the principles of morality;
7. marks that may deceive users as to the nature, quality or geographical origin of the goods or services;
8. marks that consist of or include coats of arms, flags or other emblems or the full or abbreviated official names of States or intergovernmental organizations, or imitations thereof;
9. marks that consist of or include official control and warranty signs and stamps where such signs and stamps are used to mark identical goods;
10. marks that consist of or include the coats of arms, the flag, symbols, medals or the name of the Republic of Bulgaria or of Bulgarian State authorities;
11. marks that consist of or include the name or a representation of historical and cultural monuments of the Republic of Bulgaria, as specified by the Ministry of Culture;
12. marks that consist of or include religious symbols that are well known in the Republic of Bulgaria, or equivalents thereof.

(2) The provisions of items 2, 3 and 4 of paragraph (1) shall not apply where the mark, through use, has become distinctive in relation to the goods or services for which registration is sought.

(3) The provisions of items 8, 9, 10 and 11 of paragraph (1) shall not apply where the consent of the relevant competent authority has been obtained.



Additional Grounds for Refusal

12.—(1) A mark shall likewise not be registered if:

1. it is identical to an earlier mark, and the goods or services of the mark filed for registration and those of the earlier mark are identical;
2. because it is identical or similar to an earlier mark, and because the goods or services to which the two marks relate are identical or similar, users are liable to be confused, notably by the likelihood of association with the earlier mark;
3. it consists of a geographical designation or a derivative thereof.

(2) An “earlier mark” in terms of paragraph (1) is:

1. a registered mark with an earlier filing date or an earlier priority date, as appropriate;
2. a mark filed for registration with an earlier filing date or earlier priority date, as appropriate, if it is registered;
3. a mark that is well known on the territory of the Republic of Bulgaria on the filing date or priority date, as appropriate, of the mark.

(3) A mark shall not be registered if it is identical or similar to an earlier mark and is intended for goods or services that are not identical or similar to those of the earlier mark where that earlier mark is well known on the territory of the Republic of Bulgaria and where use without due cause of the mark applied for would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier mark.

(4) The provisions of paragraph (1), item 2, and paragraph (3) shall not apply where the consent of the holder of the prior mark has been obtained.

Section II
Legal Effects of Registration

Rights Conferred by Registration

13.—(1) The holder of a mark shall be entitled to use it and dispose of it, and to prohibit other parties from unauthorized use in the course of business of any sign which:

1. is identical to the mark for goods or services that are identical to those for which the mark is registered;
2. because it is identical or similar to the mark, and because the goods or services to which the mark and the sign relate are identical or similar, is liable to confuse users, notably by the likelihood of association of the sign with the mark;
3. is identical or similar to the mark for goods or services that are not identical or similar to those for which the mark is registered, where the mark is well known on the



territory of the Republic of Bulgaria and where use of the sign without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the mark.

(2) “Use in the course of business” in terms of paragraph (1) means:

1. affixing the sign to goods or to the packaging thereof;
2. offering the goods bearing the sign for sale, placing them on the market or stocking them for those purposes, and offering or rendering services under the sign;
3. importing or exporting goods bearing the sign;
4. using the sign in business papers and advertisements.

(3) The exclusive right shall be binding on third parties as from the date of publication of the registration in the Official Bulletin of the Patent Office.

Limitation of Rights in Marks

14. The holder of a mark shall not be entitled to prohibit a third party from using the following in the course of business, provided that the use is not contrary to proper trade practice:

1. his own name or address;
2. information on the kind, quality, quantity, intended purpose, value, geographical origin or time of manufacture of the goods or rendering of the services, or other characteristics of the goods or services;
3. the mark itself where it is necessary to specify the intended purpose of the goods or services, in particular when they are used as accessories or spare parts.

Exhaustion of Rights in the Mark

15.—(1) The holder of a mark shall not be entitled to prohibit other parties from using it in relation to goods or services that are placed on the market within the country under the mark either by him or with his consent.

(2) Paragraph (1) shall not apply where the rightholder has good reason to oppose further sales of the goods, especially where their condition has changed or deteriorated since they were placed on the market.

Jointly Held Marks

16.—(1) A mark may be held by two or more persons.

(2) Each holder may use the mark without the consent of the other holders and without accounting to them for that use, unless otherwise agreed in writing.



Notice of Registration

17. When using the mark, the holder may show that it is registered by putting a circled letter R alongside it.

Reproduction of Marks in Works of Reference

18. If the reproduction of a mark in dictionaries, encyclopaedia or other works of reference creates the impression that the mark is the generic name of the goods or services for which it is registered, its holder may oblige the publisher of the reference work in question to state, no later than in its next edition, that the mark is a registered mark.

Obligation to Use the Mark

19.—(1) If, within a period of five years following registration, the holder of the mark has not put it to genuine use on the territory of the Republic of Bulgaria in connection with the goods or services for which it is registered, or if such use has been suspended for an uninterrupted period of five years, the registration may be revoked, unless there are convincing reasons for the non-use.

(2) In addition to use within the meaning of Article 13(2), the following shall also constitute genuine use within the meaning of paragraph (1) above:

1. use of the mark in a form not materially different from that in which the mark was registered;

2. affixation of the mark to goods or to the packaging thereof in the Republic of Bulgaria, regardless of whether they are intended for export only.

(3) Use of the mark with the consent of its holder shall be deemed to constitute use by the holder himself.

Duration of Registration

20.—(1) Marks shall be registered for a period of 10 years following the filing date of the application.

(2) Registration may be renewed, in accordance with Article 39, for an unlimited number of further 10-year periods.

Section III
Disposal of Rights in the Mark

Transfer of Rights in the Mark

21.—(1) A mark may be transferred, independently of any corporate transfer, in respect of all or some of the goods or services for which it is registered.



(2) Jointly held marks shall be transferred only with the consent of all of the holders, unless otherwise agreed.

(3) The transfer shall be recorded in the State Register at the request of one of the parties, the request being accompanied by a transfer document. The new holder shall be given a certificate.

(4) Where it emerges from the transfer document that, owing to the transfer of the mark, users are liable to be confused as to the nature, quality or geographical origin of the goods or services, the Patent Office shall not record the transfer, unless it is restricted to those goods or services that are not likely to cause confusion.

(5) The transfer shall be binding on third parties as from the date on which it is entered in the State Register.

(6) All documents of which the holder is to be informed shall be addressed to the person most recently recorded as the holder in the State Register.

(7) The provisions of paragraphs (1), (2) and (4) shall apply also to the transfer of applications for registration.

License Agreement

22.—(1) The holder of a mark may permit the use of his mark in respect of all or some of the goods or services for which it is registered in all or part of the territory of the Republic of Bulgaria by means of a written license agreement.

(2) The use of a jointly held mark shall be permitted with the written consent of all the holders, unless otherwise agreed.

(3) A license may be exclusive or non-exclusive. Where the agreement does not specify one form or the other, it shall be considered non-exclusive.

(4) The holder of an exclusive license shall not be entitled to grant licenses concerning the same subject matter to other persons. He shall be entitled to use the mark only to the extent explicitly agreed upon.

(5) A license agreement shall be recorded in the State Register at the request of the licensee, the request being accompanied by an extract from the license agreement with data identifying the licensee and the licensor, the mark and its registration number and the term of the license agreement, with the signatures and seals of both parties affixed thereto. The licensee shall be given a certificate.

(6) The license agreement shall be binding on third parties as from the date on which it is entered in the State Register.

Section IV Lapse of Registration, Revocation and Invalidation of Registration

Lapse of Registration

23.—(1) The validity of a registration shall lapse on:

1. expiry of the term provided for in Article 20;
2. surrender by the holder;
3. final liquidation of the legal entity holding the registration where there is no transfer.

(2) Lapse under paragraph (1), item 3, shall take place at the request of an interested party.

(3) Expiry of the term of validity of a registration shall cause the rights in the mark to lapse.

Surrender of Rights

24.—(1) The holder of a mark may surrender the mark in respect of all or some of the goods or services for which it is registered by means of a written declaration filed with the Patent Office.

(2) The surrender of rights shall have effect as from the date on which it is entered in the State Register.

(3) If there is a license agreement on record, surrender shall only be entered if the holder of the mark furnishes proof that he has notified the licensee of his intention to surrender it. Entry of the surrender shall be effected on expiry of two months from the date of furnishing the proof.

(4) Surrender of rights by one or more of the joint holders of a mark shall not terminate the validity of the registration for the remainder of the joint holders.

Revocation of Registration

25.—(1) Any interested party may request revocation of a registration if:

1. the mark has not been used as provided in Article 19;
2. as a result of the action or inaction of the holder the mark has become a common name for the product or service in respect of which it is registered;
3. as a result of the use made of the mark by its holder or by another person authorized by him in respect of the goods or services for which it is registered, users are misled as to the nature, quality or geographical origin of the goods or services.



(2) Paragraph (1), item 1, shall not apply if the holder of the mark has initiated genuine use of his mark within the period between the expiry of the five-year term and the filing date of the revocation request. The start or resumption of the use within three months before the filing date of the revocation request shall not be taken into account if the preparations for such use or the resumption thereof were made after the holder learned of the likelihood of such a petition being filed.

(3) Where the revocation request concerns only some of the goods or services, the registration shall be revoked in respect of those goods or services only.

Invalidation of Registration

26.—(1) Any person may request invalidation of the registration of a mark where it has been registered in violation of the provisions of Article 11.

(2) Where the mark has been registered in violation of Article 11(1), items 2, 3 or 4, the registration may nevertheless not be declared invalid if the holder offers proof that, as a result of the use made of it, the mark has acquired distinctive character in relation to the goods or services for which it is registered.

(3) The registration of a mark shall be declared invalid at the request of any interested party if:

1. the mark is registered in violation of Article 12;
2. the mark is registered in the name of a person not meeting the requirements of Article 2;
3. the mark is registered in the name of an industrial property agent or representative of the holder without the latter's consent;
4. the applicant has acted in bad faith when filing the application, that fact having been established by a valid court ruling;
5. the use of a mark is liable to be prohibited by virtue of an earlier right of another person, that earlier right enjoying protection under another law, namely:
 - (a) the right to one's name and likeness;
 - (b) copyright;
 - (c) a plant variety or animal breeder's right;
 - (d) an industrial property right.

(4) A mark may also be declared invalid *ex officio* by the Patent Office where it has been registered in violation of Articles 11 and 12.

(5) Invalidation of a registration under paragraph (3), item 1, shall not take place if the earlier mark has not been used within the meaning of Article 19.



(6) Invalidation of a registration under paragraph (3), items 2 and 3, shall not take place, and the mark shall be transferred to the person concerned, at the request of that person.

(7) Invalidation of a registration under paragraph (3), item 5, shall not take place provided that the earlier rightholder gives his consent during the invalidation procedure.

(8) Where the grounds for invalidation concern only some of the goods or services, the registration shall be declared invalid in respect of those goods or services only.

Restriction Due to Acquiescence

27.—(1) Where the holder of an earlier mark within the meaning of Article 12(2) has acquiesced for a period of five successive years in the use of a later mark despite being aware of that use, he shall not be entitled to invoke his earlier mark to request invalidation of the later mark or oppose its use in respect of the goods or services for which it has been used unless registration of the later mark was applied for in bad faith.

(2) Paragraph (1) shall apply also to holders of earlier marks within the meaning of Article 12(3) or earlier holders of rights within the meaning of Article 26(3), item 5.

(3) In the cases referred to in paragraphs (1) and (2), the holder of the later mark shall not be entitled to oppose the use of the earlier mark, while the holder of the earlier mark may not invoke his right to request invalidation of the later mark.

Legal Effects of Revocation and Invalidation

28.—(1) Revocation of a registration under Article 25(1), item 1, shall be effective as of the beginning of the five-year period of non-use.

(2) Revocation of a registration under Article 25(1), items 2 and 3, shall be effective as of the filing date of the revocation request.

(3) Invalidation of a registration shall be effective as of the filing date of the application.

(4) Revocation and invalidation of a registration shall not affect:

1. enforced court decisions concerning infringement in so far as they have been executed prior to the revocation or invalidation;

2. license agreements executed prior to the revocation or invalidation, unless otherwise agreed.

Section V Collective and Certification Marks

Collective Marks

29.—(1) Collective marks are marks held by an association of producers, traders or service providers, the association being a legal entity. They serve to distinguish the goods or services of association members from the goods of other persons.

(2) The association must adopt rules for the use of collective marks that specify: the persons entitled to use the mark; the criteria for membership of the association; the conditions governing use of the mark and the grounds on which a member association may be prohibited from using the mark.

(3) The rights in collective marks shall be non-transferable. Persons who are not members of the association may not obtain permission to use the collective mark.

Certification Marks

30.—(1) Certification marks attest the composition, manner of manufacture, quality or other characteristics of the goods or services produced or offered with the consent and under the supervision of the holder of the mark.

(2) The holder of the mark shall adopt rules for the use of the certification mark that specify: the quality, composition or other characteristics of the goods or services; the control measures taken by the holder and the sanctions imposed by him.

(3) The holder of the certification mark shall not be entitled to use it to mark the goods that he produces or the services that he renders.

(4) The registration of a certification mark may be revoked where the holder thereof has used it to mark goods produced or services rendered by him.

Specific Provisions

31.—(1) The holder of a collective or certification mark shall provide the Patent Office with the rules for its use and with information on any changes made to those rules. Such changes shall be effective as of the date on which they are communicated to the Patent Office.

(2) In addition to the circumstances provided for in Article 25, the registration of a collective or certification mark may be revoked also where its holder has permitted or agreed to use in violation of the rules for its use.

(3) A collective or certification mark the registration of which is revoked or terminated shall be an obstacle to the registration of an identical or similar mark for identical or similar goods or services in the name of another person for three years following the publication of the revocation or termination.



Section VI Proceedings Before the Patent Office

Application

- 32.**—(1) Applications for the registration of marks shall be filed with the Patent Office.
- (2) An application shall relate to one mark intended for goods and/or services in one or more classes of the International Classification.
- (3) An application shall contain:
1. the request for registration;
 2. the name and address of the applicant;
 3. the representation of the mark;
 4. the list of the goods and/or services for which the registration is requested.
- (4) Where the application relates to a collective or certification mark, the rules for its use shall be filed together with the other documents provided for in paragraph (3).
- (5) The application shall meet any other requirements that may be laid down in an ordinance of the Council of Ministers.
- (6) The application shall be accompanied by a document certifying payment of the prescribed fees.
- (7) The application documents and data shall be filed in Bulgarian.

Filing Date

- 33.**—(1) The filing date of an application shall be the date on which the documents with the data provided for in Article 32(3) and (4) are received at the Patent Office.
- (2) Where the documents are filed in a language other than Bulgarian, the filing date shall not change in so far as a translation thereof is filed with the Patent Office within a period of three months following that date.

Right of Priority

- 34.**—(1) An application shall enjoy a right of priority over subsequent applications for identical or similar marks in respect of identical or similar goods or services as of the date of filing of the application with the Patent Office within the meaning of Article 33(1).
- (2) The applicant shall enjoy a right of priority as of the date of a preceding application, provided that:



1. the preceding application is properly filed in a State party to the Paris Convention or a Member of the World Trade Organization;

2. the preceding application is a first application within the meaning of Article 4 of the Paris Convention and relates to the same mark and the same goods or services;

3. the application is filed within six months following the filing date of the preceding application;

4. priority is claimed within two months from the filing date of the application with a mention of the date and country of the preceding application;

5. within three months from the filing date of the application, the applicant pays the prescribed priority fee and submits a priority document issued by the competent authority of the country of filing of the preceding application.

(3) A properly filed application in terms of paragraph (2), item 1, is any application bearing a filing date, regardless of its eventual fate.

(4) The right of exhibition priority shall be deemed to exist as from the date of display of the goods or services bearing the mark at an official or officially recognized exhibition, provided that:

1. the application is filed within six months following the date of the first display of the goods or services;

2. the application relates to the same mark and the same displayed goods or services;

3. priority is claimed within two months from the filing date of the application with a mention of the date of display and the country in which the exhibition was held;

4. within three months following the filing date of the application, the applicant pays the prescribed priority fee and submits a document issued by the exhibition officials certifying the date of display of the goods or services bearing the mark applied for.

Claim of Color

35. The claim of a color or a combination of colors shall be granted if filed together with the application.

Examination as to Form

36.—(1) Every application shall be subjected to examination for compliance with the provisions of Article 33 on the assignment of a filing date. In the event of non-compliance with the said provisions, the documents received shall be returned to the applicant.

(2) An application bearing a filing date shall be examined for compliance with the requirements of Article 32(2), (4), (5), (6) and (7). In case of deficiencies, the applicant shall be allowed three months within which to remedy them.



(3) Where the application does not meet the requirements of Article 32(2) and the applicant divides the application within the period provided for in paragraph (2), the resulting divisional applications shall keep the filing date or the priority date, as appropriate, of the original application.

(4) If the applicant fails to remedy the deficiencies within the period provided for in paragraph (2), the proceedings shall be discontinued.

Examination as to Substance

37.—(1) An application meeting the requirements as to proper form shall be subjected to examination as to substance.

(2) Where a mark is ineligible for registration in respect of all or some of the goods or services, the applicant shall be notified accordingly; he shall be informed of the grounds for the refusal and allowed three months within which to respond.

(3) Where the mark contains an element which, in itself, is ineligible for registration as a mark under Article 11(1), items 2, 3, 4, 5, 8, 9, 10 and 11, the applicant may be requested, as a condition for registration of the mark, to renounce the exclusive right to that element.

(4) Where, within the period provided for in paragraph (2), the applicant fails to present a reasoned objection and/or restrict the list of goods or services, or fails to comply with the requirements specified in paragraph (3), the decision shall be taken to refuse the registration.

(5) Where the mark is found to comply with the provisions of the Law, the decision shall be taken to register it. The registration shall be entered in the State Register of Marks and, within one month, the applicant shall be issued a registration certificate.

Withdrawal, Restriction and Amendment of Application

38.—(1) Until a decision is taken on the application, the applicant may withdraw it or restrict the list of goods or services in respect of which the mark is applied for.

(2) No changes are allowed in the application, except where the name or address of the applicant has changed or there are mistakes in the name or address of the applicant or obvious errors that have to be corrected, on condition that the corrections do not affect the representation of the mark or extend the list of goods or services.

(3) Corrections under paragraph (2) shall be made at the request of the applicant.

Renewal of Registration

39.—(1) A registration shall be renewed at the request of the holder of the mark, the request being accompanied by a document certifying payment of the prescribed fee.

(2) The request shall contain the registration number of the mark and data identifying the holder.



(3) The request may be submitted during the last year of the term provided for in Article 20(1), or within six months following the expiry of that term against payment of a surcharge.

(4) Where the holder of the mark requests renewal of the registration for some only of the goods or services for which the mark is registered, he shall specify the goods or services for which renewal is requested.

(5) In the event of failure to meet the requirements of paragraphs (1), (2) and (3), renewal of the registration shall be refused by decision of the President of the Patent Office.

(6) Renewal shall take effect as of the day following the expiry date of the preceding registration.

Changes in the Name and Address of the Holder

40.—(1) The holder of the mark shall notify the Patent Office of any change in his name or address within three months after the change occurs.

(2) The change shall be recorded in the State Register at the request of the holder.

(3) All documents of which the holder is to be informed shall be sent to the most recent address recorded in the State Register.

Changes in the Mark

41.—(1) No changes shall be made in the mark during the term of validity of the registration or on the renewal thereof.

(2) Where the mark includes the name or address of the holder, any change therein may be made at the request of the holder, provided that such changes do not materially affect the mark as registered.

Opposition Proceedings

42.—(1) The Appeals Department shall consider:

1. appeals against decisions to refuse registration under Article 37(4);
2. appeals against decisions to terminate the proceedings under Article 36(4);
3. requests for revocation of registrations under Article 25;
4. requests for invalidation of registrations under Article 26.

(2) The boards for the consideration of appeals shall be composed of three State examiners, one of them being a legal expert, while the boards for the consideration of requests shall be composed of five State examiners, two of them being legal experts.



(3) The boards referred to in paragraph (2) shall be appointed by the President of the Patent Office.

Terms

43.—(1) Appeals shall be filed within three months following the date of notification of the decision.

(2) Requests may be filed throughout the term of validity of the registration.

(3) No proceedings shall be initiated with regard to appeals in the event of failure to file them within the prescribed term, and equally, no proceedings shall be initiated with regard to appeals and petitions in the event of failure to pay the prescribed fees on filing them.

Contents of Appeals and Petitions

44.—(1) An appeal shall be accompanied by a statement of grounds, and it shall contain data identifying the appellant and the application.

(2) A petition shall be accompanied by a statement of grounds, and it shall contain data identifying the petitioner and the registration of the mark concerned.

(3) In case of deficiencies, the appellant or the petitioner shall be allowed one month within which to remedy them. In the event of failure to remedy the deficiencies within that period, the proceedings shall be terminated.

Ruling on Appeals

45.—(1) Where an appeal is found to be groundless, the decision shall be confirmed by the President of the Patent Office.

(2) Where an appeal is well founded, the decision shall be cancelled and a decision shall be taken to register the mark or to refer the application back for reconsideration.

(3) Where a decision to refuse registration is cancelled, a substantive decision on reconsideration shall be taken by the President of the Patent Office.

Request Proceedings

46.—(1) A copy of the request shall be sent to the holder of the mark, who shall be allowed three months within which to respond.

(2) Where the request is unfounded, the President of the Patent Office shall take the decision to reject it.

(3) Where the request is well founded, the President of the Patent Office shall take the decision to revoke or invalidate the registration of the mark either wholly or in part.



(4) In cases of partial revocation or invalidation of the registration, the registration certificate issued shall be replaced by a new one.

Extension of Periods

47. The periods referred to in Articles 36(2), 37(2) and 46(1) may be extended, at the request of the applicant or the holder, by three months on the expiry thereof, but no more than twice. An extension request shall not be granted if not accompanied by a document certifying payment of the prescribed fee.

Renewal of Periods

48. The applicant or the holder may request renewal of periods exceeded owing to exceptional, unforeseen circumstances. The request shall be filed within three months on elimination of the circumstances that caused the period to be exceeded, but no later than one year following the expiry of the period exceeded. Decisions to renew periods shall be taken by the President of the Patent Office.

Publication in the Official Bulletin of the Patent Office

49. The Patent Office shall effect publication in its Official Bulletin of all registrations of marks and subsequent entries pertaining thereto within three months at the latest following their recording in the State Register of Marks.

Review by Court

50.—(1) Decisions under Article 45(1) and Article 46 may be appealed against before the Sofia City Court within three months following notification thereof.

(2) Cases of refusal to effect entry in the State registers or renew registration may be appealed against as provided in the Law on Administrative Procedures.

CHAPTER III
GEOGRAPHICAL INDICATIONS

Section I
Registration

Definition

51.—(1) Geographical indications means appellations of origin or indications of source.

(2) An appellation of origin is the name of a country, or of a region or locality in that country, that serves to designate goods originating therein whose quality or characteristics are



due essentially or exclusively to the geographical environment, including natural and human factors.

(3) An indication of source is the name of a country, or of a region or locality in that country, that serves to designate goods originating therein whose quality, reputation or other characteristics can be attributed to that geographical origin.

Grounds for Refusal of Registration

52. A name shall not be registered as a geographical indication if:

1. it has become a generic name in the territory of the Republic of Bulgaria to denote goods of a certain kind without any association with the place of production thereof;
2. it is identical to the name of a plant variety or animal breed registered earlier, where users are likely to be misled as to the true origin of the goods;
3. it is identical to a geographical indication or mark registered earlier for identical goods;
4. it is identical or similar to a geographical indication or mark registered earlier for identical or similar goods, where users are liable to be misled.

Legal Protection

53.—(1) Geographical indications shall be granted legal protection through registration with the Patent Office.

(2) That legal protection shall consist in the prohibition of:

1. any commercial use of the geographical indication for goods that are similar to those for which it is registered in so far as the renown of the registered geographical indication is exploited;
2. improper use or counterfeiting of the geographical indication, even where the genuine origin of the goods is specified, use of a translation thereof or use in combination with terms such as “sort”, “kind”, “type”, and the like;
3. use of any other incorrect or deceptive indication of the source, origin, nature or essential properties of the goods designated on the packaging thereof in advertising material or papers concerning the goods, such indication being likely to mislead as to the genuine origin of the goods;
4. any other action that may mislead users as to the true origin of the goods.

(3) Registered geographical indications shall not become generic names as long as they enjoy protection under this Law.

Right to File an Application

54.—(1) The right to file an application shall belong to any person who carries on his production activity in the geographical locality indicated, provided that the goods he produces conform to the properties or peculiarities concerned.

(2) The borders of the geographical locality and the properties or peculiarities of the goods, and also the relationship between those properties or peculiarities and the geographical environment or geographical origin, shall be defined or established by the central authority concerned by order of the head thereof.

Right of the User

55.—(1) A registered geographical indication may be used only by the person registered as the user thereof.

(2) The registered user may use the geographical indication only in respect of the goods for which it is registered. He may affix it to the goods or their packaging or use it in advertising material, business papers concerning the goods and other material.

Termination of Legal Protection

56. The legal protection of a registered geographical indication shall be terminated where the relationship between the properties or peculiarities of the goods and the geographical environment no longer exists.

Invalidation of Registration

57.—(1) Any concerned person may request invalidation of a registered geographical indication where it is established, in a claim procedure, that the geographical indication has been registered in violation of Article 51(2) and (3) and Article 52.

(2) The registration of a foreign geographical indication shall be declared invalid following invalidation thereof in the country of origin.

Cancellation of User Entry

58. The entry concerning a user may be cancelled at the request of any registered user where it is established in appeal procedures that the user is using the geographical indication for other goods, or that the goods produced by him do not possess the properties or peculiarities concerned.

Legal Effects of Invalidation and Cancellation

59.—(1) The invalidation of a registration shall take effect on the filing date of the application.



(2) The cancellation of a user entry shall take effect on the date of the cancellation request.

(3) Invalidation and cancellation shall not affect enforceable court orders for infringement in so far as they are executed prior to the invalidation or cancellation.

Section II **Proceedings Before the Patent Office**

Filing of Applications

60.—(1) Applications for the registration of geographical indications shall be filed with the Patent Office.

(2) An application shall relate to one geographical indication only.

(3) The application shall contain:

1. the registration request form;
2. the name and address of the applicant;
3. the appellation of origin or the indication of source;
4. the designation of the goods;
5. the designation of the borders of the geographical locality; and
6. an account of the recognized properties or peculiarities of the goods and their relationship with the geographical environment or geographical origin.

(4) The application shall be accompanied by a copy of the order provided for in Article 54(2) and a document issued by the municipality concerned certifying that the applicant carries on his production activity in the geographical locality concerned.

(5) Where the applicant is a foreigner, the application shall be accompanied by a document certifying the registration of the geographical indication in the country of origin.

(6) The application shall further meet any other requirements that may be laid down in an ordinance adopted by the Council of Ministers.

(7) The application shall be accompanied by a document certifying payment of the prescribed fees.

Examination as to Form

61.—(1) Every application shall be subjected to examination for compliance with the provisions of Article 60. In case of deficiencies, the applicant shall be allowed three months within which to remedy them.

(2) If the applicant fails to remedy the deficiencies within the period provided for in paragraph (1), the proceedings shall be discontinued.

Examination as to Substance

62.—(1) An application meeting the requirements as to proper form shall be subjected to examination as to substance within 18 months.

(2) Where there are grounds for refusing registration of a geographical indication, the applicant shall be notified accordingly, shall be informed of the grounds for the refusal and allowed three months within which to respond.

(3) Where, within the period provided for in paragraph (2), the applicant fails to present a reasoned objection, the decision shall be taken to refuse the registration.

(4) Where the geographical indication is found to comply with the provisions of the Law, the decision shall be taken to register it. The registration shall be entered in the State Register of Geographical Indications. The applicant shall be recorded as a user and, within one month, he shall be issued a certificate for the use of the geographical indication.

Registered Entry of a User of a Geographical Indication

63.—(1) Any person entitled to file applications may file an application for entry as a user of a registered geographical indication.

(2) The application shall contain:

1. the request for entry;
2. the name and address of the applicant;
3. the geographical indication and the registration number thereof.

(3) The application shall be accompanied by a document issued by the municipality concerned certifying that the applicant carries on his production activity in the geographical locality concerned, and also by a document issued by the central authority concerned certifying that the goods produced by the applicant possess the necessary properties and peculiarities characteristic of the geographical indication.

(4) The application shall be accompanied by a document certifying payment of the prescribed fees.

(5) Each application shall be examined for compliance with the provisions of paragraphs (1), (2), (3) and (4). In the case of deficiencies, the applicant shall be allowed three months within which to remedy them.

(6) If the applicant fails to remedy the deficiencies within the period provided for in paragraph (5), the proceedings shall be discontinued.

(7) Where the application for user entry meets the requirements of paragraphs (1), (2), (3) and (4), the applicant shall be entered as a user in the State Register of Geographical Indications, and shall be issued a certificate for the use of the geographical indication.

Proceedings Before the Appeals Department

64.—(1) The Appeals Department shall consider:

1. appeals against decisions to refuse registration under Article 62(3);
2. appeals against decisions to terminate the proceedings under Article 61(1) and Article 63(6).

(2) Appeals shall be considered as provided in Articles 42(2), 43 and 44.

Ruling on Appeals

65.—(1) Where an appeal is found to be groundless, the decision shall be confirmed by the President of the Patent Office.

(2) Where an appeal is well founded, the decision shall be cancelled and a decision shall be taken to register the geographical indication or to refer the application back for reconsideration.

(3) Where a decision to refuse registration is cancelled, a substantive decision on reconsideration shall be taken by the President of the Patent Office.

Extension and Renewal of Periods

66.—(1) The periods referred to in Articles 61(2), 62(2) and 63(5) may be extended by three months at the request of the applicant filed prior to the expiry thereof, but no more than twice. An extension request shall not be granted if not accompanied by a document certifying payment of the prescribed fee.

(2) The applicant or the user may request renewal of periods exceeded owing to exceptional, unforeseen circumstances. The request shall be filed within three months on elimination of the circumstances that caused the period to be exceeded, but no later than one year following the expiry of the period exceeded. Decisions to renew periods shall be taken by the President of the Patent Office.

Publication in the Official Bulletin

67. The Patent Office shall effect publication in its Official Bulletin of all geographical indication registrations and subsequent changes thereto.



Review by Court

68. Decisions under Article 65(1) may be appealed against before the Sofia City Court within three months following notification thereof.

CHAPTER IV
INTERNATIONAL REGISTRATION

International Registration of Marks

69.—(1) International registration of marks is a registration carried out by the International Bureau of the World Intellectual Property Organization, hereinafter referred to as “the International Bureau”, under the provisions of the Madrid Agreement.

(2) The international registration of a mark designating the Republic of Bulgaria shall have the same effect as if directly applied for and registered in the Republic of Bulgaria. It shall take effect on the date of the international registration or on the date of the request for territorial extension of the registration.

(3) An international registration may be refused protection in the Republic of Bulgaria within the period specified in the Madrid Agreement.

(4) The holder of an international registration having effect in the territory of the Republic of Bulgaria who has an earlier, national registration of the same mark may file a request with the Patent Office, that request being accompanied by proof of payment of the prescribed fee, for the international registration to be considered substituted for the national registration, all rights acquired thereunder being preserved.

International Registration of National Marks

70.—(1) Any Bulgarian natural person or legal entity, or any person with permanent residence or an actual commercial activity in the Republic of Bulgaria who is the holder of a mark registered under this Law, may apply for the international registration of that mark.

(2) The application shall be filed with the International Bureau through the Patent Office.

(3) International registration fees shall be paid by the applicant to the International Bureau.

International Registration of Appellations of Origin

71.—(1) International registration of appellations of origin is a registration carried out by the International Bureau under the Lisbon Agreement.

(2) The international registration of an appellation of origin designating the Republic of Bulgaria shall have the same effect as if directly applied for and granted in the Republic of

Bulgaria. Such an appellation of origin shall not become a generic name as long as it is protected in the country of origin.

(3) An international appellation of origin may be refused protection in the Republic of Bulgaria within the period specified in the Lisbon Agreement.

International Registration of Bulgarian Appellations of Origin

72.—(1) The recorded user of a registered appellation of origin may file an application for international registration.

(2) The application shall be filed with the International Bureau through the Patent Office.

(3) International registration fees shall be paid by the applicant to the International Bureau.

CHAPTER V
PROTECTION OF RIGHTS IN MARKS AND
GEOGRAPHICAL INDICATIONS

Section I
Infringements

Infringement of Registered Marks

73.—(1) Any person who, in his business activity, uses a sign as provided in Article 13 without the consent of the holder thereof shall be regarded as an infringer.

(2) The following shall likewise constitute an infringement:

1. the affixing of the mark to a material to be used for labelling or packaging, for business papers or for the advertising of goods or services if the person who performs those activities knows or has good reason to know that the mark has been affixed without the consent of its holder;

2. the manufacture of means specially intended or adapted for reproduction of the mark, or the possession or stocking of such means, if the person who carries on those activities knows or has good reason to know that the means serve or will serve for the manufacture of goods or of a material provided for in item (1) without the consent of the holder of the mark.

Infringement of Registered Geographical Indications

74.—(1) Any use of a registered geographical indication provided for in Article 53(2) shall constitute an infringement.



(2) Any use of a registered geographical indication by a person not recorded as a user thereof shall likewise constitute an infringement.

Section II Protection Under Civil Law

Right to Bring Action

75.—(1) The holder of a mark is entitled to bring an infringement action.

(2) An exclusive licensee has the right to bring an action if the holder of the mark fails to exercise that right within one month following the date on which the licensee receives notice of the infringement.

(3) A non-exclusive licensee may bring an action with the consent of the holder only, unless otherwise agreed in the contract.

(4) Any recorded user of a registered geographical indication shall likewise be entitled to bring actions.

Infringement Actions

76.—(1) Infringement actions under this Law may relate to:

1. establishment of the fact of infringement;
2. suspension of the act of infringement;
3. compensation for damages suffered.

(2) The following may likewise be requested in the action under paragraph (1):

1. processing or destruction of the infringing object;
2. publication of the court decision in two daily publications at the expense of the infringer.

Jurisdiction

77. All actions under this Law shall fall within the jurisdiction of the Sofia City Court.



Section III Border Controls

Grounds and Field of Application

78.—(1) Goods carried through the border of the Republic of Bulgaria that bear a registered mark without the consent of its holder or an imitation thereof shall be detained by the customs officials at the written request of the holder.

(2) The detention request shall contain a detailed description of the articles. It shall be accompanied by a copy of the certificate of registration of the mark and a document certifying that the registration is valid, both documents having been issued by the Patent Office.

(3) Where the residence or headquarters of the holder of the mark is abroad, he shall give an address for service on the territory of the Republic of Bulgaria.

(4) Small quantities of goods not intended for commercial or production purposes, and goods in transit, shall not be detained.

(5) The provisions of paragraphs (1), (2), (3) and (4) shall apply also to the detention of goods that unlawfully bear a registered geographical indication or an imitation thereof. Any registered user may file a detention request.

Actions Initiated by the Customs Authorities

79. The customs officials may detain, on their initiative, goods that they have good reason to regard as infringing registered marks or geographical indications.

Additional Regulation

80. The procedures and manner of application of this Section shall be specified in an ordinance of the Council of Ministers.

Section IV

Administrative and Penal Provisions

81.—(1) A fine or a property sanction of 500 to 5,000 leva shall be imposed on any person who offers for sale, places on the market or stocks for those purposes goods bearing a sign that is identical or similar to a registered mark without the consent of the holder thereof.

(2) The infringing goods shall be seized, regardless of the ownership thereof, and they shall then be destroyed, the owner thereof or an authorized person being allowed to witness the process of destruction.

(3) The President of the Patent Office shall appoint the official to draw up a statement of infringement.



(4) Criminal injunctions shall be issued by the President of the Patent Office.

(5) Statements of infringement shall be drawn up and criminal injunctions issued, appealed or executed under the provisions of the Administrative Offense and Penalty Law.

(6) The provisions of paragraphs (1) to (5) shall apply also in the case of unlawful use of a registered geographical indication or an imitation thereof.

ADDITIONAL PROVISION

1. Within the meaning of this Law:

1. “person” means a natural or legal person;

2. “local industrial property representative” means any person who is a representative within the meaning of Article 3 of the Patent Law;

3. “well-known mark” means a mark within the meaning of Article 6 of the Paris Convention, and regarded as such on the territory of the Republic of Bulgaria on the basis of generally accessible information;

4. “Paris Convention” means the Paris Convention for the Protection of Industrial Property, concluded on March 20, 1883, as revised and amended;

5. “official or officially recognized exhibition” means an official or officially recognized exhibition within the meaning of the Convention of November 22, 1928, relating to international exhibitions organized in States party to the Paris Convention;

6. “International Classification” means the International Classification of Goods and Services for the Purposes of the Registration of Marks, established by the Nice Agreement of June 15, 1957, as revised and amended;

7. “Madrid Agreement” means the Madrid Agreement Concerning the International Registration of Marks, concluded on April 14, 1891, as revised and amended, ratified by Decree No. 4312 on February 3, 1984;

8. “Lisbon Agreement” means the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration of October 31, 1958, as revised and amended, ratified by Decree No. 523 on March 11, 1975;

9. “imitation of a mark” means a sign that does not differ substantially from a registered mark;

10. “imitation of a geographical indication” means an indication that does not differ substantially from a registered indication;

11. “incorrect use of a geographical indication” means unlawful use thereof.



TRANSITIONAL AND FINAL PROVISIONS

2.—(1) This Law shall apply also to applications for the registration of marks and appellations of origin that are still awaiting decisions on the registration, rejection or invalidation thereof on the entry into force of this Law.

(2) Applications under Article 17 of the Law on Trademarks and Industrial Designs filed prior to the date of entry into force of this Law shall be dealt with in accordance with the provisions prevailing hitherto.

(3) Rights under Article 9 of the Law on Trademarks and Industrial Designs may be applied for within one year of the enforcement of the present Law at the request of any person concerned.

3. Appellations of origin registered under the Law on Trademarks and Industrial Designs shall be reregistered under this Law within two years of its entry into force.

4. This Law shall prevail over Sections I, III, IV and V of the Law on Trademarks and Industrial Designs (published in State Gazette No. 95/1967; amended in Nos. 55/1975, 56/1986 and 27/1993).

...¹

15. The Council of Ministers shall adopt Instructions for the filing, drafting and examination of applications for the registration of marks and geographical indications, as well as for the procedures and manner of enforcement of border controls and the tariff of fees provided for in Article 4.

16. This Law shall enter into force three months after its publication in the State Gazette.

17. The implementation of this Law is assigned to the President of the Patent Office.

* *Bulgarian title:* Закон за марките и географските означения.

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Source: Communication from the Bulgarian authorities.

Note: English translation communicated by the Bulgarian authorities and edited by the International Bureau of WIPO.

** Added by the International Bureau of WIPO.

¹ Provisions 5 to 14 are not reproduced here (*Editor's note*).