

**This is an unofficial translation of the Trademarks Act, SFS 2010:1877. Should there be any differences between this translation and the authentic Swedish text, the authentic Swedish text will prevail.**

## **TRADEMARKS ACT**

(Swedish Statute Book, SFS, 2010:1877, as last amended by SFS 2020:545)

### **CHAPTER 1. General Provisions**

#### **Scope of application of the Act**

*Trademarks and other trade symbols*

**Article 1.** This Act contains provisions on trademarks and other trade symbols for goods and services which are supplied in an economic activity and to which anyone may acquire exclusive rights. (Act 2018:1652)

*Collective marks, guarantee marks and certification marks*

**Article 2.** An association, a company or any other organisation may acquire exclusive rights for its members to use common trademarks (*collective marks*) and other trade symbols in an economic activity.

A public authority issuing regulations on, or exercises control of, goods or services may acquire exclusive rights in trademarks (*guarantee or certification marks*) and other trade symbols for use for the goods or services which are subject to the regulations or the control on condition that the public authority does not make available goods or services of this kind. The same applies to others that establish conditions for, or exercise control of, goods or services. (Act 2018:1652).

*European Union trademarks*

**Article 3.** This Act also contains certain provisions on European Union trademarks.

European Union trademarks are trademarks pursuant to Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trademark (Act 2017:993).

#### **Subject matter liable to constitute a trademark**

**Article 4.** A trademark may consist of any signs which are distinctive and which can, in a clear way, be represented in the Trademark Register of the Patent and Registration Office.

A “sign” refers especially to words, including personal names, and designs, letters, numerals, colours, sounds and the form or shape of a product or its packaging. (Act 2018:1652).

## Distinctiveness

**Article 5.** A trade symbol shall be deemed to be distinctive if it is capable of distinguishing goods or services supplied in one economic activity from those supplied in another one.

Lack of distinctive character may be due to the fact that a trade symbol consists exclusively of signs or indications which

1. serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin or other characteristics, or the time of production of the goods or rendering of the services, or
2. have become customary in the current language or in the bona fide and established practices of the trade as a usual denomination for the product or the service.

In the assessment of whether a trade symbol is distinctive, consideration shall also be given to the fact that it may acquire distinctiveness through use. (Act 2018:1652)

## Acquisition of exclusive rights

### *Exclusive rights through registration*

**Article 6.** Exclusive rights in trademarks may be acquired through registration in the Trademark Register pursuant to Chapter 2. The Register is kept by the Patent and Registration Office.

Exclusive rights in trademarks may be acquired also by international registration pursuant to Chapter 5.

### *Exclusive rights through establishment on the market*

**Article 7.** Exclusive rights in a trade symbol may, without registration, be acquired through establishment on the market.

A trade symbol is deemed to be established on the market, if it is, in this country, known by a significant part of the turnover sphere to which it is directed as an indication for the goods or services which are supplied under the trade symbol. If the trade symbol is established on the market only within a part of the country, the exclusive rights apply only within that territory.

### *Exclusive rights in trade names and personal names as trade symbols*

**Article 8.** The holder of a trade name or another commercial sign has exclusive rights in the trade name or commercial sign as a trade symbol. If the commercial sign is protected only within a part of the country, the exclusive rights apply only within that territory.

A party using its personal name as a trade symbol has exclusive rights in the symbol as a trade symbol, provided that the name is distinctive for the goods or services for which it is

used. If the name is used only within a part of the country, the exclusive rights apply only within that territory. (Act 2018:1652).

### **Symbols not liable to be covered by an exclusive right**

**Article 9.** No exclusive rights may be acquired in symbols that consist exclusively of a shape or other characteristic which

1. results from the nature of the goods,
2. is necessary for the goods to obtain a technical result, or
3. gives a substantial value to the goods. (Act 2018:1652).

### **Meaning of an exclusive right**

**Article 10.** The exclusive right in a trade symbol pursuant to Articles 6–8 implies that no one other than the holder is entitled to use, in economic activities, without the holder’s consent, a symbol for goods or services which is

1. identical with the trade symbol, and is used for identical goods or services,
2. identical with, or similar to, the trade symbol and is used for identical or similar goods or services, if a risk for confusion exists, including the risk that the use of the symbol leads to the conception that a link exists between the user of the symbol and the holder of the trade symbol or
3. identical with, or similar to, a trade symbol which is in this country known within a substantial part of the turnover sphere, if the use without due cause takes unfair advantage of, or is detrimental, to the distinctive character or the reputation of the trade symbol, regardless of whether the use relates to goods or services of the same, similar or other kind.

As use is considered, especially, to

1. affix the symbol on goods or the packaging thereof,
2. offer goods for sale, put them on the market, stock them for these purposes or offer or supply services under the symbol,
3. import or export goods under the symbol,
4. use the symbol as a trade name or another commercial symbol or as a part of a trade name or another commercial symbol, and
5. use the symbol on business documents and in advertising.

The exclusive right in a trade symbol also includes that no one other than the holder may, without his or her permission, in economic activities, transit or undertake any similar custom activity with respect to goods of the same kind under a sign which is identical with, or which in its essential features cannot be distinguished from, the trade symbol. This does not, however, apply if the holder of the trade symbol does not, under the law in the country of destination, have the right to prevent the goods from entering the market there. (Act 2018:1652).

### **Limitation of the exclusive right**

**Article 11.** The exclusive right in a trade symbol does not provide any independent protection for a part of the symbol which lacks distinctiveness.

The exclusive right in a trade symbol does not prevent a third party from using, in accordance with honest practices in industrial or commercial matters, in economic activities,

1. his or her personal name or his or her address,
2. indications concerning the kind, quality, quantity, intended purpose, value, geographical origin or other characteristics of the goods or the service, or the time of production of the goods or rendering of the service,
3. the trade symbol for identifying, or referring to, the goods or the services of the holder.

The exclusive right in a trade symbol does not prevent someone else from using, in economic activities, the symbol in his or her advertising in order to directly or indirectly indicate the holder or his or her goods or services (comparing advertising) in a way which is in conformity with the Marketing Practices Act (2008:486).

The exclusive right in a collective, guarantee or a control mark does not prevent a third party from using, in economic activities, signs or indications specifying geographical origin, provided that the use is in accordance with honest practices in industrial or commercial matters. The exclusive right in such a mark does not prevent a third party entitled to use a geographical name to do so. (Act 2018:1652).

### **Exhaustion of the exclusive right**

**Article 12.** The exclusive right in a trade symbol does not prevent someone other than the holder from using the symbol with reference to goods which have been put on the market in the European Economic Area under that trade symbol by the holder or with the holder's consent.

The first Paragraph does not apply when the condition of the goods has been changed or impaired after they have been put on the market or when other legitimate reasons exist for the holder to oppose the use.

### **Conflicting rights**

#### *Priority rights*

**Article 13.** If several parties claim exclusive rights in trade symbols which are identical or similar in the way provided for in Article 10, priority shall be given to the one who has the earliest legal basis of his or her claim, unless otherwise follows from Article 14 or 15.

*Consequence of passivity (registered trademarks)*

**Article 14.** The right in a registered trademark shall coexist with an earlier right in a trade symbol which is identical or similar in the way provided for in Article 10, if

1. the application for registration was made in good faith, and
2. the holder of the earlier right has been aware of, and acquiesced in, the use in this country of the later trademark for a period of five successive years after the date of the registration.

If the trademark has been used only for part of the goods or services for which it is registered, the rights shall apply only to those goods or services.

*Consequence of passivity (trade symbols established on the market)*

**Article 15.** The right in a trade symbol which has been established on the market shall coexist with an earlier right in a trade symbol which is identical or similar in the way provided for in Article 10, if the holder of the earlier right has not within a reasonable time taken measures to prevent the use of the later symbol.

**Intervening rights**

**Article 16.** The right in a registered trademark shall coexist with an earlier right in a trade symbol if

1. the earlier trade symbol did not have a distinctive character on the filing date or, where appropriate, on the priority date for the later trademark,
2. the earlier trade symbol, if it is identical or similar as prescribed in Article 10, first Paragraph, item 2, did not have sufficient distinctiveness so that a risk of confusion existed on the filing date or, where appropriate, on the priority date for the later trademark, or
3. the earlier trade symbol, when it is identical or similar as prescribed in Article 10, first Paragraph, item 3, was not known in a substantial part of the turnover sphere on the filing date or, where appropriate, on the priority date for the later trademark. (Act 2018:1652).

**Coexistence**

**Article 17.** In the cases referred to in Articles 14 to 16 the right in the later trade symbol does not prevent the use of the earlier one.

Upon a claim by one of the parties, a Court may, in the cases referred to in Article 15, where it is reasonable, decide that one of the symbols, or both, may be used only in a specific manner, such as in a special form or with the addition of a name of a place or the name of the holder. Such a decision must not, however, concern a registered trademark. (Act 2018:1652).

## **Obligation to provide information**

**Article 18.** At the publication or other making available of dictionaries, manuals and other similar publications in printed or electronic form the author, publisher or editor is obliged to see to it that a registered trademark is not reproduced in the document without an indication that the trademark is protected by registration, if the holder of the trademark requests the indication to be included and the reproduction gives the impression that the trademark is a common denomination for the goods or services for which the trademark is registered.

In respect of a document in printed form an indication under the first Paragraph shall be included at the latest in the next edition. In respect of a document in electronic form, the indication shall be included without delay. (Act 2018:1652).

## **CHAPTER 2. National registration of trademarks**

### **Application for registration**

#### *Content of the application*

**Article 1.** A party wishing to register a trademark shall file an application in this respect to the Patent and Registration Office. The application shall contain

1. information about the name or trade name and address of the applicant,
2. information about the name and address of any representative,
3. a clear representation of the trademark,
4. a clear list of the goods or services for which the trademark is intended and the classes to which they belong (list of goods or services).

An application for the registration of a collective, guarantee or certification mark shall, in addition, contain indications about which parties are entitled to use the trademark and the other conditions under which the trademark may be used. In respect of a collective mark, information shall also be provided about the conditions for membership of the association.

The applicant shall pay the prescribed application fee.

The Government or a Public Authority appointed by the Government may, pursuant to Chapter 8, Article 7, of the Instrument of Government, issue more detailed regulations concerning the application procedure. (Act 2018:1652)

#### *Filing date*

**Article 1 a.** The filing date for an application for registration is the date on which the following has been filed at the Patent and Registration Office:

1. an indication that what has been filed is an application for registration,
2. information about the name or trade name of the applicant,
3. a clear representation of the trademark, and

4. a list of the goods or services for which the trademark is intended. (Act 2018:1652)

#### *Alterations of the application*

**Article 2.** The applicant may make such insignificant alterations of the trademark applied for which do not affect the overall impression of the mark. The applicant may also restrict the list of goods or services mentioned in the application.

#### *Division of the application*

**Article 3.** An application which includes several goods or services may be divided into two or more applications to which the goods or services are allocated. The applications shall be deemed to have the same filing date and priority as the original application.

#### **General conditions for registration**

**Article 4.** A trademark must not be registered, if the trademark consists exclusively of a shape or other characteristic which

1. results of the nature of the goods,
2. is necessary for the goods to obtain a technical result, or
3. gives a substantial value to the goods. (Act 2018:1652).

**Article 5.** A trademark must, to be registered, be able to distinguish the goods or services for which it is intended.

**Article 6.** Signs or indications which, in economic activities, serve at designating the geographical origin of the goods or services may be registered as collective, guarantee or certification marks, even if they lack distinctiveness pursuant to Chapter 1, Article 5, second Paragraph, item 1.

#### **Public interests as grounds for refusal of registration**

**Article 7.** A trademark must not be registered, if the trademark

1. is contrary to law or other regulations or to morality or public order,
2. is likely to deceive the public concerning the nature, quality, geographical origin or any other circumstance related to the goods or services,
3. includes, without permission, such a State or international emblem or such a municipal escutcheon which, under law or other regulations, must not be used without authorization as a trademark, or something that may easily be mistaken for such an emblem or such an escutcheon,
4. includes, without permission, such a sign which under the Act (2014:812) on the Protection of Signs in the International Human Rights must not be used without authorization as a trademark or something that may easily be mistaken for such a sign,

5. contains a designation of origin, a geographical indication, an indication for a traditional term for wine or an indication for a traditional specialty guaranteed, to the extent that indication is protected under Union law,
6. contains or consists of something that is liable to be conceived as a geographical indication for wines or spirits and the mark relates to wines or spirits of a different origin, or
7. contains, or in essential parts reproduces, an earlier plant variety denomination which relates to a plant variety of the same or similar plant species to the extent that the plant variety is protected under Act (1997:306) on Plant Breeders' Rights or Union law.

A collective, guarantee or control mark must not be registered if the conditions for the use of the mark violates morality or public order. Furthermore, a collective mark referred to in Article 6 must not be registered if the conditions do not permit membership in the association for everyone who makes available such goods or services to which the mark refers and the goods or services originate in the geographical area to which the mark relates. (Act 2018:1652).

### **Other rights as grounds for refusal of registration**

**Article 8.** A trademark must not be registered, if the trademark

1. is identical with an earlier trade symbol for identical goods or services,
2. is identical with, or similar to, an earlier trade symbol for identical or similar goods or services, if a risk of confusion exists, including the risk that the use of the trademark leads to the conception that a link exists between the user of the trademark and the holder of the trade symbol,
3. is identical with, or similar to, an earlier trade symbol which is known within a significant part of the turnover sphere, and the use of the trademark would, without due cause, take unfair advantage of, or be detrimental to, the distinctive character or repute of the trade symbol, regardless of whether the use relates to goods or services of the same, similar or other kind, or
4. may be mistaken for a symbol which, at the time of the application, was used by a third party in this country or abroad and is still in use, if the applicant was acting in bad faith at the time of the application.

'Trade symbol' pursuant to the first Paragraph, items 1–3, means

1. a trademark registered pursuant to this Chapter,
2. a trademark registered by an international trademark registration with effect in Sweden pursuant to Chapter 5,
3. a trade symbol established on the market, if the protection based on the establishment on the market is valid within a substantial part of the country, and
4. an European Union trademark. (Act 2018:1652).

**Article 9.** The obstacles to registration of trademarks pursuant to Article 8, first Paragraph, items 1–3 apply in the same way to

1. a registered trade name which is being used in economic activities,
2. such a personal name or such a trade symbol other than a registered trade name which is protected pursuant to Chapter 1, Article 8, if the protection applies within a substantial part of the country. (Act 2018:1652).

**Article 10.** A trademark must not be registered, if it contains, or consists of,

1. an element which is likely to be perceived as another party's trade name,
2. an element which is likely to be perceived as another person's surname enjoying special protection, or another person's generally known artistic name or similar name, if the use of the trademark would be to the disadvantage of the bearer of the name, and the name obviously does not refer to a person who is long deceased,
3. a picture of another person that obviously does not refer to a person who is long deceased, or
4. an element which infringes another party's copyright in a literary or artistic work or another party's rights in a photographic picture or in a design. (Act 2018:1652)

**Article 11.** The provisions of Articles 8–10 do not constitute obstacles to registration, if the holder of the earlier right consents to the registration.

### **Exception from protection for an element in a trademark**

**Article 12.** If a trademark contains an element which may not be registered solely by itself, and an obvious risk exists that the registration of the mark may cause uncertainty about the scope of the exclusive right, this element may be explicitly excepted from protection at the registration.

If the element later fulfils the conditions for registration, this element or the trademark in its entirety may be registered following a new application without an exemption referred to in the first Paragraph.

### **Classes of goods and services**

**Article 13.** Trademarks are registered in one or more classes of goods or services. The Government, or the Public Authority appointed by the Government, issues more detailed regulations concerning the classification of goods and services.

### **Priority**

**Article 14.** An application for registration of a trademark in Sweden shall, in relation to other applications or to the use of other trade symbols, be deemed to have been filed at the same time as an application for registration of the trademark which was first filed in another country by the applicant or by a party that transferred the right to the applicant, provided that the conditions in the second to fourth Paragraphs are fulfilled.

The earlier application shall have been filed in

1. another State party to the Paris Convention for the Protection of Industrial Property of March 20, 1883,
2. a State or a Territory party to the Agreement Establishing the World Trade Organisation, or
3. another State or another Territory, where a corresponding priority from a Swedish application is accorded, and where the legislation in force essentially corresponds to the Paris Convention.

The application for registration of the trademark in Sweden shall be filed within six months from the filing of the application in the other State or Territory.

An applicant wishing to claim priority shall file a request to that effect before the trademark has been registered. The applicant shall indicate

1. who filed the earlier application,
2. where and when the earlier application was filed, and
3. as soon as possible, the number of the earlier application.

**Article 15.** The Patent and Registration Office may invite the applicant to prove, within a specified time, the right to priority by filing

1. a certificate indicating the name of the applicant and the filing date, issued by the Authority which received the earlier application,
2. a copy of the application certified by the same Authority and, where applicable, a representation of the trademark.

The time indicated in the invitation must not expire earlier than three months from the filing of the application for registration of the trademark in Sweden.

If the applicant fails to comply with the invitation, the right to priority does not apply. The applicant shall be informed about this in the invitation.

**Article 16.** An application for registration of a trademark shall, in relation to other applications or to the use of other trade symbols, be deemed to have been filed the first time when the trademark was used for goods or services displayed at an international exhibition pursuant to the Convention on International Exhibitions signed at Paris on 22 November 1928, if the conditions pursuant to the second and third Paragraphs are fulfilled.

The application for registration of the trademark shall be filed within six months from the date of the first use of the trademark at the exhibition.

An applicant wishing to claim priority shall file a request to that effect before the trademark has been registered and show when the trademark was used at the exhibition. The applicant shall at the same time file the documents which the applicant wants to invoke to prove that the exhibition was of the kind indicated in the first Paragraph.

## Processing of an application for registration

### *Examination of the application*

**Article 17.** If the application fails to fulfil the requirements pursuant to Article 1, first and second Paragraphs, and to Article 2, or if there are any obstacles to the registration pursuant to Articles 4 to 10, the Patent and Registration Office shall invite the applicant to cure the deficiencies or to file observations within a specified time. The invitation shall contain information that the application might be removed from the files, if the applicant fails to respond in due time. If the applicant fails to pay the application fee, the Office shall invite the applicant to pay the fee. The invitation shall contain information that the application might be removed from the files, if the applicant fails to pay in due time.

If the applicant fails to respond in due time to an invitation pursuant to the first Paragraph, or if the applicant fails to pay the application fee following an invitation to do so, the Patent and Registration Office may remove the application from the files.

**Article 18.** If there is still a deficiency or an obstacle pursuant to Article 17, first Paragraph, first sentence, after the applicant has filed observations, the application shall be rejected, wholly or in part, unless there is a reason to issue a new invitation to the applicant.

### *Removal following withdrawal*

**Article 19.** If the applicant withdraws the application, the matter shall be removed from the files.

### *Reinstatement of an application removed from the files*

**Article 20.** The Patent and Registration Office shall reinstate an application which has been removed from the files pursuant to Article 17, second Paragraph, if the applicant within two months from the expiry of the prescribed time complements or amends the application.

The applicant shall pay the prescribed reinstatement fee.

## Transfer of an application owing to a better title

**Article 21.** If a party claims, before the Patent and Registration Office, to have a better title to the trademark than the applicant and the matter is uncertain, the Office may invite the party to bring an action before a Court within a specified time. If no action is brought in due time, the claim may be disregarded during the further examination of the application. The invitation shall contain information about this.

If a case concerning better title in the trademark is pending before a Court, the Patent and Registration Office may declare the registration procedure suspended until the case has been finally decided.

**Article 22.** If a party proves, before the Patent and Registration Office, that he or she has a better title to the trademark than the applicant, the Office shall, upon request, transfer the

application to him or her. The party to whom the application is transferred to shall pay a new application fee.

The application may not be amended, removed from the files, rejected or approved before the claim has been finally adjudicated.

## **Registration**

**Article 23.** If the application for registration of a trademark fulfils the requirements referred to in Article 1, first to third paragraphs, and in Article 2, and there is no obstacle to registration pursuant to Articles 4 to 10, the Patent and Registration Office shall enter the trademark into the Trademark Register. The decision shall be announced.

If an application has been partly rejected, the trademark shall, when the decision has acquired legal force, be recorded in the Trademark Register and announced with respect to the remaining goods or services.

When a collective, guarantee or certification mark is registered, information about the conditions under which the trademark may be used shall also be recorded in the Register and announced.

## **Opposition**

### *Time limit for opposition and content of the opposition*

**Article 24.** When the Patent and Registration Office has announced a registration of a trademark, an opposition may be filed against it. The opposition shall be filed at the Office within three months from the date of the announcement. If the opposition has not been filed in due time, it shall be dismissed.

The opposition shall contain information about

1. the name or trade name and address of the opponent,
2. the name and address of any representative,
3. the registration to which the opposition relates, and
4. the facts invoked as the ground for the opposition.

The Government or the Public Authority appointed by the Government may, pursuant to Chapter 8, Article 7, of the Instrument of Government, issue more detailed regulations concerning the opposition procedure. (Act 2018:1652).

### *Deficiencies in the opposition*

**Article 25.** If the opposition is so defective that it cannot be used as basis for an examination of the matter, the Patent and Registration Office shall invite the opponent to cure the deficiencies within a specified time. If the invitation is not complied with, the opposition shall be dismissed. The opponent shall be informed about this in the invitation.

### **Communication of the opposition**

**Article 26.** The Patent and Registration Office shall inform the holder of the registered trademark about the opposition and give him an opportunity to file observations within a specified time.

If the opposition is obviously unfounded, it shall be rejected immediately.

### **Solution in agreement**

**Article 27.** At the request of the holder of the registered trademark and the opponent the Patent and Registration Office shall establish a period of not less than two months within which the parties shall try to find an agreement. The period may be extended, if the parties so request. (Act 2018:1652).

### **Examination of an opposition that has been withdrawn**

**Article 28.** If the opposition is withdrawn the opposition procedure may, nevertheless, be completed, if there are special reasons. The opposition procedure may not, however, be completed, if the only basis invoked for the opposition are grounds pursuant to Articles 8 to 10. (Act 2018:1652).

### **Decision on the opposition**

**Article 29.** If an opposition has been filed the Patent and Registration Office shall, if an obstacle to the registration exists under Articles 4 to 10, revoke the registration wholly or in part. This does, however, not apply if otherwise follows from Article 30.

An opposition which is based, wholly or in part, on a ground for refusal pursuant to Articles 8 to 10 shall to the same extent be rejected, if it has been filed by a party that does not oppose in its own interest and the holder of the registered trademark so requests.

If the registration has, wholly or in part, been revoked because of an opposition, the registration shall to the same extent be removed from the Trademark Register when the decision has acquired legal force. The decision shall be announced. (Act 2018:1652).

**Article 30.** If an opposition against the registration of a trademark is based on an obstacle consisting of an earlier registered trademark pursuant to Article 8 and if, on the filing date or, where appropriate, on the priority date, for the later trademark more than five years had lapsed after the issue of registration of the earlier trademark was finally decided, the following applies. The registration of the later trademark may be revoked only if the earlier trademark had been put to genuine use for the goods or services constituting the basis for the opposition as referred to in Chapter 3, Article 2, or, if the earlier trademark is a European Union trademark, in the way indicated in Article 18 of the Regulation (EU) 2017/1001 of the European Parliament and the Council of 14 June 2017 on European trademarks, within the latest five years before the filing date or the priority date for the later trademark.

If the earlier trademark has not been used to the extent provided for in the first Paragraph, the registration of the later trademark may nevertheless be revoked if there are proper reasons why the earlier trademark has not been used to that extent. (Act 2018:1652).

### **Alternation of a registration of a trademark**

#### *Insignificant alteration of a registered trademark*

**Article 31.** At the request of the holder of a registered trademark, insignificant alterations of the trademark which do not affect the overall impression may be recorded in the Trademark Register.

A party applying for a trademark alteration shall pay the prescribed fee.

When a registered trademark is altered, it shall be recorded in the Trademark Register and announced. (Act 2018:1652).

#### *Division of a registration*

**Article 32.** A registration of a trademark relating to several goods or services may be divided into two or more registrations into which the goods or services are allocated. The registrations are deemed to have the same filing date and priority as the original registration. (Act 2018:1652).

#### *Alterations of the conditions under which collective, guarantee or certification marks may be used*

**Article 33.** If, after the registration, the conditions under which a collective, guarantee or certification mark may be used are altered, the holder shall notify the Patent and Registration Office.

The altered conditions shall be recorded in the Trademark Register and announced provided that the conditions for the use of the trademark still satisfy the conditions in Article 1, second Paragraph, and that no obstacles exist to the recording of the altered conditions pursuant to Article 7, second Paragraph. (Act 2018:1652).

### **Duration of the registration**

**Article 34.** The registration is valid for ten years from the date of the filing of the application for registration. (Act 2018:1652)

### **Renewal of a registration**

**Article 35.** The registration may be renewed, wholly or in part, each time for a period of ten years counted from the expiry of the previous registration period. An application for renewal shall be filed at the Patent and Registration Office no earlier than six months before, and no later than six months after, the expiry of the registration period.

A party applying for renewal shall pay the prescribed renewal fee within the respite mentioned in the first Paragraph. A payment of the renewal fee made within the respite shall be deemed to be an application for renewal.

A decision to renew a registration shall be recorded in the Trademark Register and announced. (Act 2018:1652).

**Article 36.** If it is not clear to which trademark registration an application for renewal refers, or if the renewal fee has not been paid, the Patent and Registration Office shall invite the applicant to cure the deficiencies. The invitation shall contain information that the application may be removed from the files, if the applicant fails to respond in due time.

If the applicant fails to respond in due time to an invitation pursuant to the first Paragraph, or if the applicant fails to pay the renewal fee following an invitation to do so, the Patent and Registration Office may remove the application from the files. If a deficiency pursuant to the first Paragraph still exists after the applicant has filed observations, the application for renewal shall be rejected, unless there is a reason to issue a new invitation to the applicant.

The Patent and Registration Office shall reinstate an application which has been removed from the files pursuant to the second Paragraph, if the applicant within two months from the expiry of the prescribed time supplements the application.

The applicant shall pay the prescribed reinstatement fee. (Act 2018:1652).

### **Removal of a registration**

**Article 35.** If the holder does not renew the registration, or if he or she requests that it be removed wholly or in part, the registration shall be removed from the Trademark Register to the same extent. The decision shall be announced. (Act 2018:1652)

## **CHAPTER 3. Revocation of a registration**

### **Grounds for revocation**

#### *General grounds*

**Article 1.** A registration of a trademark may be revoked, if

1. the mark has been registered in violation of this Act,
2. the registration still conflicts with this Act,
3. the rights in the mark may anyhow not persist pursuant to Chapter 1, Articles 14, 15 or 16, and
4. otherwise does not follow from Article 1 a. of this Chapter.

A registration may also be revoked, if

1. the trademark, as a result of activity or passivity of the holder, has in trade become a common name for goods or services in respect of which it has been registered,
2. the trademark has come in conflict with law or other regulations or morality or public order, or
3. the trademark has become likely to deceive the public concerning the nature, quality, geographical origin or any other circumstance related to the goods or services and this is a result of the use which the holder or someone with his or her consent has made of the mark for such goods or services for which it is registered.

In the consideration of whether the registration of a trademark should be revoked due to lack of distinctness, only such distinctness shall be taken into account which the trademark has obtained through use before the application for revocation. (Act 2018:1652).

**Article 1 a.** If a claim for revocation of the registration of a trademark is based on an allegation that an earlier registered trademark constitutes an obstacle pursuant to Chapter 2, Article 8, and if, at the time of the application for revocation, more than five years had lapsed after the issue of registration of the earlier trademark was finally decided the following applies. The registration of the later trademark may be revoked only if the earlier trademark has been put to genuine use for the goods and services constituting the basis for the claim in the way indicated in Article 2, or, if the earlier trademark is a European Union trademark, in the way indicated in Article 18 in Regulation (EU) 2017/1001 of the European Parliament and the Council of 14 June 2017 on European Union trademarks, within the latest five years before the application for revocation.

If, on the filing date or, in appropriate cases, the priority date for the later trademark at least five years had passed after the issue of registration of the earlier trademark was finally decided, the earlier trademark shall, furthermore, have been put to genuine use within the latest five years before the filing date or the priority date.

If the earlier trademark has not been used to the extent provided for in the first and second Paragraphs, the registration of the later trademark may nevertheless be revoked if proper reasons exist why the earlier trademark has not been used to that extent. (Act 2018:1652).

#### *Failure to use*

**Article 2.** A registration of a trademark may be revoked, if the holder has not, within five years from the final decision on the registration matter, or within a consecutive period of five years, made genuine use of the mark in Sweden in respect of the goods or services for which it has been registered. The registration must not, however, be revoked on grounds of failure to use, if there are proper reasons why the trademark has not been used.

A use pursuant to the first Paragraph includes also

1. when the trademark is used in a form other than the registered one if the difference relates only to details which do not alter the distinctive character of the mark, and
2. when the trademark is affixed to goods or the packaging thereof in this country solely for export purposes.

A use of a trademark by the holder includes the use by someone else with the holder's consent.

The registration must not be revoked, if the trademark has been used during the interval between the expiry of the five-year period and the filing of the application for revocation. Use that has commenced or been resumed after the expiry of the five-year period and within three months preceding the filing of the application for revocation shall, however, be disregarded, if the preparations for the commencement or resumption occurred only after the holder became aware of the fact that the application for revocation might be filed. (Act 2018:1652).

*Collective marks, guarantee marks and certification marks*

**Article 3.** A registration of a collective, control or guarantee mark may be revoked, on grounds mentioned in Article 1 or 2, and, in addition, if

1. the mark has been used in a manner incompatible with the conditions under which the mark may be used, and the holder has not taken reasonable steps to prevent that use,
2. the conditions for the use of the mark have been altered and the holder has failed to notify the Patent and Registration Office pursuant to Chapter 2, Article 33, first Paragraph, or
3. the conditions for the use of the mark have been altered and recorded in the Trademark Register in contravention of this Act and the conditions are still incompatible with the Act. (Act 2018:1652).

*Partial revocation*

**Article 4.** If a ground for revocation of a registration exists only in respect of some of the goods or services for which a trademark has been registered, the revocation of the registration shall apply only to those goods and services.

*Procedure*

**Article 5.** A party wishing to initiate a proceeding to revoke a registration may bring an action before a Court, or apply for revocation of the registration at the Patent and Registration Office pursuant to Articles 6 to 21 (administrative revocation). Chapter 2, Article 29, contains provisions laying down that the registration of a trademark may be revoked after a party's opposition to the registration.

Proceedings to revoke a registration pursuant to Article 1, second Paragraph, Article 2, 3 or 4, or to Chapter 2, Article 4, 5 or 7, may be initiated also by a Public Authority.

The Government may, pursuant to Chapter 8, Article 7, of the Instrument of Government, issue regulations concerning which Public Authority is competent to do that. (Act 2018:1652).

### **Administrative revocation**

#### *Content of the application*

**Article 6.** An application for administrative revocation shall contain

1. information about the parties, to the extent laid down in Chapter 33, Article 1, of the Code of Judicial Procedure,
2. a claim for revocation, and an indication about the registration to which the claim relates, and
3. an account of the facts invoked as a ground for the claim for revocation.

The applicant shall pay the prescribed application fee.

The Government or the Public Authority appointed by the Government issues more detailed regulations concerning other content the application.

#### *Deficiencies in the application*

**Article 7.** If the application is so defective it cannot form the basis for a processing of the matter, the Patent and Registration Office shall invite the applicant to cure the deficiencies within a specified time. The same applies if the applicant has failed to pay the application fee.

If the applicant fails to comply with the invitation, the application shall be dismissed. The applicant shall be informed about this in the invitation.

The application shall also be dismissed, if it aims at other measures than the revocation of a registration, or if any other obstacle to an examination of the matter exists.

#### *Removal following withdrawal*

**Article 8.** If the applicant withdraws the application, the matter shall be removed from the files.

#### *Unfounded application*

**Article 9.** If it can be assumed that the application is unfounded, it shall be treated as if the holder has opposed it. In such a case, Article 13 shall apply.

*Invitation to the holder to respond*

**Article 10.** If the Patent and Registration Office admits the application for examination, the Office shall invite the holder of the registration to respond within a specified time from the serving of the application on the holder.

In the invitation, the holder shall be called upon to

1. indicate whether the application is admitted or contested and, if it is contested, the ground for the contestation, and
2. provide information about himself or herself as indicated in Chapter 33, Article 1, first to third Paragraphs, of the Code of Judicial Procedure, to the extent that the information in the application is insufficient or incorrect.

The invitation shall contain information that the matter may be decided, even if the holder fails to respond. The Government or the Public Authority appointed by the Government issues more detailed regulations about any further content of the invitation.

*Serving of the invitation*

**Article 11.** The invitation referred to in Article 10 shall be served upon the holder. The serving shall be carried out in the way provided for in the Code of Judicial Procedure for the serving of a summons in civil cases.

A copy of the application documents shall be attached to the invitation, when the documents contain something in addition to what is indicated in the invitation.

If the applicant shall see to it that the serving is carried out, Chapter 32, Article 2, of the Code of Judicial Procedure applies.

**Article 12.** If the Patent and Registration Office has not been able to serve the invitation, the Office shall consider whether the serving efforts shall continue or the applicant be offered the opportunity to carry out the serving himself. Consideration shall be given to the work and the costs that have so far been put into the serving, to the chances that further efforts will be successful, and to other circumstances. If the applicant does not accept the offer, the application shall be dismissed.

If the applicant shall see to it that the serving is carried out, Chapter 32, Article 2, of the Code of Judicial Procedure applies.

*Transfer to a Court*

**Article 13.** If the holder in due time contests the application, wholly or in part, the Patent and Registration Office shall inform the applicant accordingly. If the applicant wishes to maintain the claim, he or she may request that the matter or, if the contestation concerns only a part of the claim, the matter in the contested part, be transferred to the Court.

A request for transfer shall be filed at the Patent and Registration Office within one month from the date when the information concerning the contestation was sent to the applicant. In the request, the applicant shall indicate the circumstances invoked as well as the evidence referred to and what shall be proven by each such evidence. The applicant shall at the same time file the written evidence and other documents referred to.

If the applicant has requested a transfer in due time, the Patent and Registration Office shall transfer the matter to the Court. If the applicant has failed to request a transfer in due time, the contested parts of the matter shall be removed from the files. (Act 2016:228).

**Article 14.** A notification of a holder's contestation pursuant to Article 13, first Paragraph, shall contain information concerning

1. that the applicant may request transfer to the Court,
2. the deadline for the filing of such a request,
3. the content of such a request, and
4. what else is laid down in Article 13. (Act 2016:228)

#### *Revocation of the registration*

**Article 15.** If the holder has failed to file a contestation in due time, the Patent and Registration Office shall revoke the registration in accordance with the application. If the holder has contested only a part of the application, the Office shall revoke the registration in the part not contested.

#### *Reopening*

**Article 16.** The holder of a registration which has been revoked pursuant to Article 15 may apply for reopening of the matter. Such an application shall be filed at the Patent and Registration Office within one month from the date of the decision.

If the holder has applied for reopening in due time, the Patent and Registration Office shall transfer the matter to the Court. Otherwise, the Office shall dismiss the application. (Act 2016:228).

#### *Notifications*

**Article 17.** A notification of a revocation shall be sent to the applicant and to the holder.

If an application for revocation is dismissed, the Patent and Registration Office shall notify the applicant about this fact. If an application for reopening is dismissed, the Office shall notify the holder of this fact. If the Office makes any other decision constituting an adjudication of the matter, both the applicant and the holder shall be notified about the decision, unless this is obviously unnecessary.

*Legal force*

**Article 18.** When the time for applying for reopening of the matter has expired, a decision of revocation pursuant to Article 15 has legal force in the same way as a civil case judgment which has acquired legal force.

*Further processing at the Court*

**Article 19.** If a matter has been transferred to the Court, the claim shall be deemed to have been filed when the application for administrative revocation was filed at the Patent and Registration Office. The documents filed by the applicant shall be deemed to constitute an application for a summons. A summons is deemed to have been issued when the Court takes a decision on the processing of the case. (Act 2016:228).

**Article 20.** *Repealed by Act (2016:228).*

**Article 21.** If a matter has been transferred to the Court, the plaintiff shall pay a prescribed supplementary fee. In such a case, the provisions in Chapter 42, Articles 3 and 4 in the Code of Judicial Procedure about application fee apply to the supplementary fee.

If a case where the Patent and Registration Office has decided a revocation is dismissed by the Court because the supplementary fee has not been paid, the Court shall at the same time set aside the decision by the Patent and Registration Office. Act (2016:228).

*Removal of a registration*

**Article 22.** When a trademark registration has been revoked, wholly or in part, by the Patent and Registration Office pursuant to Article 15 or by a Court, the registration shall, to the same extent, be removed from Trademark Register when the decision has acquired legal force.

The decision shall be announced. (Act 2014:253).

*Effect of a revocation*

**Article 23.** If a registration of a trademark has been revoked pursuant to Article 1, first Paragraph, the registration shall be deemed to never have had any legal effect.

If the registration has been revoked pursuant to Article 1, second Paragraph, or Article 2 or 3, the registration shall be deemed to have lost its effect from the date of the application for revocation. Upon a claim by a party, the Court or, in the case of an administrative revocation, the Patent and Registration Office may decide that the registration shall instead be deemed to have lost its effect on the date when the circumstance constituting the ground for the revocation came into existence. (Act 2018:1652).

## **CHAPTER 4. Registration as in the country of origin and representatives of foreign applicants and holders**

### **Registration as in the country of origin**

**Article 1.** If the country of origin of the applicant is a State party to the Paris Convention for the Protection of Industrial Property of March 20, 1883, or a State or a Territory party to the Agreement Establishing the World Trade Organization, a trademark which is registered for the applicant in the country of origin shall be registered in Sweden as it is registered there, if no obstacle exists pursuant to Article 2.

If the country of origin of the applicant is a State or a Territory other than those indicated in the first Paragraph, a trademark which is registered for the applicant in the country of origin shall be registered in Sweden as it is registered there, if

1. corresponding rights are granted in respect of a Swedish registration in that State or Territory,
2. the legislation in force in there in its main features corresponds to the Paris Convention, and
3. no obstacle pursuant to Article 2 exists.

An applicant requesting registration pursuant to this Article shall prove that the trademark is registered for the applicant in the country of origin for the goods or services covered by the request. The same applies to renewal of a trademark registration which has been registered pursuant to this Article.

**Article 2.** A trademark must not be registered pursuant to Article 1, if it is completely devoid of any distinctive character, or if an obstacle to registration exists pursuant to Chapter 2, Article 4, Article 5, second Paragraph, and Articles 6 to 11.

A trademark registered pursuant to Article 1, which under other circumstances would not have been eligible for registration in this country, does not enjoy protection for a scope or for a time exceeding that in the country of origin.

### **Representatives and serving**

#### *Representative of an applicant for a trademark registration*

**Article 3.** The Patent and Registration Office may invite an applicant, who has neither a domicile in Sweden nor an industrial or commercial activity established here, to appoint a representative authorised to accept servings in the matter and who has a domicile in this country, and to notify the Office of the appointment.

If the applicant fails to comply with the invitation, serving may be carried out by sending the documents to the applicant by ordinary mail to his last known address. Serving is deemed to have been carried out when this has been done. The applicant shall in the invitation be informed about the consequences of non-compliance with the invitation.

*Representative of the holder of a trademark registration*

**Article 4.** A holder of a trademark registration, who has neither a domicile nor a real and effective industrial or commercial activity established in Sweden, shall have a representative with a domicile in this country.

The representative shall be authorised to accept, on behalf of the holder, serving of summons, invitations and other documents in cases and matters relating to the trademark, with the exception of summons in criminal cases and invitations to appear personally before a Court. The representative shall be notified to the Patent and Registration Office and recorded in the Trademark Register.

If the holder has failed to notify a representative, serving may instead be carried out through the sending of the document which shall be served to the holder's address recorded in the Trademark Register. If no complete address is recorded in the Register, the serving may be carried out by keeping the document available at the Patent and Registration Office and announcing a notice of this fact and of the main contents of the document. Serving is deemed to have been carried out when this has been done.

**CHAPTER 5. International trademark registration****What is meant by international trademark registration**

**Article 1.** An international trademark registration is a registration of a trademark which the International Bureau of the World Intellectual Property Organization (the International Bureau) has made in the International Register pursuant to the Protocol of June 27, 1989, relating to the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891.

The Patent and Registration Office is the Public Authority in Sweden responsible for matters relating to international trademark registrations.

**Application for international trademark registration***Who is entitled to apply for an international registration*

**Article 2.** A holder of, or an applicant for, a Swedish trademark registration and who is a Swedish national, has a domicile in Sweden or has an industrial or commercial activity established here, may apply for an international registration of the trademark.

*Where the application is filed and its content*

**Article 3.** An application for an international trademark registration shall be directed to the International Bureau but filed at the Patent and Registration Office. The application shall be drawn up in English and contain

1. information about the name or trade name and address of the applicant,
2. information about the name and address of any representative,

3. information about the number and date of the Swedish registration, or the application for registration, on which the international application is based,
4. a clear representation of the trademark,
5. a clear list of the goods or services for which registration of the trademark is sought and the classes to which they belong (list of goods or services),
6. an indication of the countries to which the protection resulting from the international registration shall extend, and
7. any additional information about the reproduction of the trademark, the applicant's connection to Sweden, or other circumstances which the application shall contain pursuant to regulations issued by the Government or the Public Authority appointed by the Government.

The applicant shall pay the prescribed application fee.

The Government or the Public Authority appointed by the Government may, pursuant to Chapter 8, Article 7, of the Instrument of Government, issue more detailed regulations concerning the application procedure. (Act 2018:1652).

*Processing of the application*

**Article 4.** The Patent and Registration Office shall verify whether the application fulfils the requirements pursuant to Article 3, and whether the element in the application correspond to the elements in the trademark registration held, or applied for, by the applicant in Sweden.

If the application fails to fulfil the requirements referred to in the first Paragraph, the Patent and Registration Office shall invite the applicant to cure the deficiencies within a specified time. The same applies if the applicant has failed to pay the application fee. If the applicant fails to comply with the invitation, the application shall be removed from the files. The applicant shall be informed about this in the invitation.

If the application fulfils the requirements, the Patent and Registration Office shall send to the International Bureau a certificate to that effect together with the application.

**Article 5.** If the applicant withdraws the application before the Patent and Registration Office has sent the certificate and the application to the International Bureau, the matter shall be removed from the files.

*Reinstatement of an application which has been removed from the files*

**Article 6.** The Patent and Registration Office shall reinstate an application which has been removed from the files pursuant to Article 4, second Paragraph, if the applicant within two months from the expiry of the prescribed time supplements or amends the application.

The applicant shall pay the prescribed reinstatement fee.

*Application for extension of the protection resulting from an international trademark registration to additional countries*

**Article 7.** The holder of an international trademark registration based on a Swedish registration or application for registration may apply for extension of the effect of the international trademark registration to additional countries.

Applications pursuant to the first Paragraph shall be filed at the International Bureau.

If the applicant has a domicile in Sweden, an application pursuant to the first Paragraph may instead be filed at the Patent and Registration Office.

Such an application shall be drawn up in English. The Government or the Public Authority appointed by the Government issues more detailed regulations concerning the content of the application.

**Application for extension of the protection resulting from an international trade mark registration to Sweden**

*Examination of the application*

**Article 8.** If the Patent and Registration Office receives a notification from the International Bureau that a party has applied for extension of an international trademark registration to Sweden, the Office shall examine whether any obstacle exists to that.

Such an obstacle exists, if an obstacle to a national registration would have existed pursuant to Chapter 2, Articles 4 to 11.

If the Patent and Registration Office considers that an obstacle exists pursuant to the second Paragraph, the Office shall notify the International Bureau that the international trademark registration cannot, wholly or in part, be extended to Sweden. Such a notification shall be sent within 18 months from the date of the notification referred to in the first Paragraph and contain the reasons why the protection resulting from the registration cannot be extended to Sweden.

*Decision that the protection resulting from the international trademark registration shall not extend to Sweden*

**Article 9.** If the Patent and Registration Office has notified the International Bureau pursuant to Article 8, third Paragraph, the Office shall, not earlier than three months after the notification, decide that the protection resulting from the international trademark registration shall not, wholly or in part, extend to Sweden, provided that an obstacle pursuant to Chapter 2, Articles 4 to 11 then still exists.

*Entry of the trademark into the Trademark Register*

**Article 10.** If no obstacle referred to in Chapter 2, Articles 4 to 11, exists, the Patent and Registration Office shall enter the trademark in the Trademark Register and announce that the international trademark registration has effect in Sweden.

If the Patent and Registration Office has decided that the international trademark registration does not, in part, have effect in Sweden, the trademark shall be entered in the Trademark Register and announced for the remainder of the goods and services when the decision has acquired legal force.

*Opposition*

**Article 11.** When the Patent and Registration Office has announced that the international trademark registration has effect in Sweden, an opposition may be filed against its effect here. The opposition shall be filed at the Office within three months from the date of the announcement. If the opposition is not filed in due time, it shall be dismissed.

The opposition shall contain information about

1. the name, or trade name, and address of the opponent,
2. the name and address of any representative,
3. the international trademark registration to which the opposition relates, and
4. information about the circumstances invoked as the ground for the opposition.

The Government or the Public Authority appointed by the Government may, pursuant to Chapter 8, Article 7, of the Instrument of Government, issue more detailed regulations concerning the opposition procedure. (Act 2018:1652).

**Article 12.** If the opposition is so defective it cannot be used as basis for an examination of the matter, the Patent and Registration Office shall invite the opponent to cure the deficiencies within a specified time. If the invitation is not complied with, the opposition shall be dismissed. The opponent shall be informed about this in the invitation.

**Article 13.** The Patent and Registration Office shall inform the holder of the international trademark about the opposition and give him an opportunity to file observations within a specified time.

If the opposition is obviously unfounded, it shall be rejected immediately.

**Article 14.** At the request of the holder of the international trademark registration and the opponent the Patent and Registration Office shall establish a period of not less than two months within which the parties shall try to find an agreement. The period may be extended if the parties so request. (Act 2018:1652).

**Article 15.** If the opposition is withdrawn, the opposition proceeding may nevertheless be completed, if special reasons exist. The opposition proceeding may, however, not be completed, if the only basis invoked for the opposition are obstacles referred to in Articles 8 to 10. (Act 2018:1652).

**Article 16.** If an opposition has been filed, the Patent and Registration Office shall, if any obstacles exist to the extension of the international trademark registration to Sweden pursuant to Chapter 2, Articles 4 to 11, decide that the protection shall not, wholly or in part, have effect here. This does, however, not apply if otherwise follows from article 17.

An opposition which is based, wholly or in part, on an obstacle pursuant to Chapter 2, Articles 8 to 10, shall to the same extent be rejected, if it has been filed by a party that does not oppose in its own interest and the holder of the registered trademark so requests.

A decision that the registration shall not extend to Sweden may be based only on a circumstance communicated to the International Bureau within 18 months from the date of the notification referred to in Article 8, first Paragraph. If the time for opposition pursuant to Article 11 has expired after this time limit, the decision may nevertheless, be based on facts which have been communicated to the International Bureau within one month from the expiry of the time limit for opposition. This applies on condition that the Patent and Registration Office within the time limit of 18 months has informed the International Bureau that a communication concerning such a decision might be sent later.

If the Patent and Registration Office, due to an opposition, decides that the registration shall not, wholly or in part, have effect in Sweden, the registration shall to the same extent be removed from the Trademark Register when the decision has acquired legal force. The decision shall be announced. (Act 2018:1652).

**Article 17.** If an opposition against the effect of the international trademark registration in Sweden is based on an obstacle consisting of an earlier trademark pursuant to Chapter 2, Article 8, and if, at the filing date, or, where appropriate, the priority date for the international trademark registration more than five years had lapsed after the issue of the registration of the earlier trademark was finally decided, the following applies. It may be decided that the international registration shall not have effect here only if the earlier trademark has been put to genuine use for the goods or services constituting the basis for the opposition in the way indicated in Chapter 3, Article 2, or, if the earlier trademark is a European trademark, in the way indicated in Article 18 in the Regulation (EU) 2017/1001 of the European Parliament and the Council of 14 June 2017 on European Union Trademarks within the five latest years before the filing date or the priority date for the international registration.

If the earlier trademark has not been used to the extent indicated in the first Paragraph, it may nevertheless be decided that the international registration shall have no effect here if there are proper reasons why the earlier trademark has not been used to that extent.

*Effects of a decision that the effect of an international trademark registration shall have effect in Sweden*

**Article 18.** A decision that an international trademark registration shall extend to Sweden has effect from the date which the International Bureau has, in the notification referred to in Article 8, first Paragraph, indicated for the international trademark registration or for a later request for extension of the effect to Sweden.

An international trademark registration with effect in Sweden has the same effect as a national trademark registration. The provisions of Chapter 4 shall, however, not apply.

The provisions of Chapter 7 on pledging of an application for trademark registration shall apply also to an application referred to in Article 8, first Paragraph, for the extension of the effect of an international trademark registration to Sweden.

A decision that the effect of an international trademark registration shall extend to Sweden may be revoked pursuant to Chapter 3. The provisions of Chapter 3 relating to registration of a trademark shall then, instead, apply to the decision that the effects of the international trademark registration shall extend to Sweden. (Act 2018:1652).

**Article 19.** If an international trademark registration has been renewed, it shall be recorded in the Trademark Register and announced. (Act 2018:1652).

### **Replacement of a national trademark registration by an international trademark registration**

**Article 20.** When someone holds both an international trademark registration with effect in Sweden and a Swedish registration of the same trademark, the international registration replaces the Swedish registration, provided that the international trademark registration has effect in this country from a later point in time than the Swedish one and all the goods and services covered by the Swedish registration are also covered by the international trademark registration. This does not imply any limitation of the rights that may have been acquired on the basis of the Swedish registration.

At the request of the holder, the Patent and Registration Office shall record that the international trademark registration replaces the Swedish one and announce this fact. (Act 2018:1562).

### **Consequence when an international trademark registration ceases to have effect**

**Article 21.** If an international trademark registration with effect in Sweden ceases to have effect, wholly or in part, its effect in this country ceases correspondingly. An entry about this shall be made in the Trademark Registry and be announced. (Act 2018:1562).

## **Transformation of an international trademark registration into a national trademark registration**

**Article 22.** If an international trademark registration with effect in Sweden ceases to have effect, wholly or in part, within five years from the date the International Bureau has indicated for the registration in the notification referred to in Article 8, first Paragraph, because the original registration or the application for registration can no longer constitute the basis for an international trademark registration, and the holder thereafter applies for registration of the same trademark in Sweden, this application is deemed to have been filed on the date the International Bureau has indicated for the international trademark registration. This applies on condition that

1. the application is filed within three months from the date when the international trademark registration ceased, and
2. the goods or services listed in the application were also covered by the effect in Sweden of the international trademark registration.

Information concerning the ceasing of the effect of an international trademark registration or the filing of an application referred to in the first Paragraph shall be recorded in the Trademark Register and announced. (Act 2018:1652).

**Article 23.** If an international trademark registration whose effect extends to Sweden ceases to have effect because of a denunciation of the Protocol of June 27, 1989, relating to the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891, and the holder thereafter applies for registration of the same trademark in Sweden, this application is deemed to have been filed on the date which the International bureau has indicated for the international trademark registration. This applies on condition that

1. the application is filed within two years from the date when the denunciation became effective, and
2. the goods and services listed in the application were covered by the effect in Sweden of the international trademark registration.

Information about the ceasing of the effect of an international trademark registration or the filing of an application referred to in the first Paragraph shall be recorded in the Trademark Register and announced. (Act 2018:1652).

## **CHAPTER 6. Transfer and license**

### **Transfer**

#### *General about transfer*

**Article 1.** A trade symbol referred to in Chapter 1, Articles 6 and 7, may be transferred wholly or in part. The transfer may be made separately or together with the transfer of the business activity where the symbol is used.

If a business activity is transferred, a trade symbol referred to the first Paragraph and belonging to the business activity is included in the transfer, unless otherwise agreed.

The provisions in the first and second Paragraphs on trade symbols apply also to an application for registration of a trademark. (Act 2018:1652).

#### *Recording of a transfer*

**Article 2.** A transfer of a registered trademark shall, upon request, be recorded in the Trademark Register and announced. A recording and an announcement shall also be made upon request by a party that, through a judgment which has acquired legal force, has been obtained a declaration that he or she holds a better right to a registered trademark.

A transfer of an application for registration of a trademark shall, upon request, be recorded in the Diary of the Patent and Registration Office.

A party requesting a recording pursuant to the first or second Paragraphs shall pay the prescribed fee. (Act 2018:1652).

#### *Effect of a recording of a holder or an applicant*

**Article 3.** In cases or matters relating to a national registered trademark, the party recorded as the holder in the Trademark Register is deemed to be the holder of the trademark. In a case or a matter relating to a trademark which is the subject of a national application for registration, the party recorded in the Diary of the Patent and Trademark Office is deemed to be the applicant of the trademark.

In cases or matters concerning an internationally registered trademark, the party recorded as holder in the International Register is deemed to be the holder of the trademark. (Act 2018:1652).

## **License**

#### *General about license*

**Article 4.** The holder of a trade symbol referred to in Chapter 1, Articles 6 and 7, may grant another party a right to use the symbol (license) for a part of, or all, the goods and services for which it is registered or established on the market and for a part or the entirety of the country. The license may be exclusive or non-exclusive. A licensee may not sub-license its right without consent from the holder of the symbol.

The holder of the trade symbol may invoke the rights included in the exclusive rights against a licensee who infringes a term or a condition of the license agreement concerning

1. the term of the license,
2. the form in which the symbol may be used,
3. the nature of the goods or services for which the license is issued,
4. the geographical territory within which the symbol may be used, or
5. the quality of the goods produced or services provided by the licensee.

*Recording of a license*

**Article 5.** A license relating to a registered trademark shall, upon request, be recorded in the Trademark Register and announced. A license relating to a trademark referred to in an application for registration shall, upon request, be recorded in the Diary of the Patent and Registration Office. A party requesting the recording of a license shall pay the prescribed fee.

If it is established that the license has ceased to apply, the recording shall be removed. A decision to remove a recording from the Register shall be announced.

**CHAPTER 7. Pledging of a registered trademark  
Coming into being of a pledge**

**Article 1.** A registered trademark or an application for registration of a trademark may be pledged pursuant to this Chapter.

**Article 2.** A right of pledge in a registered trademark or in an application for registration of a trademark comes into being through the registration of a written contract of pledge of the property. The registration is made in the Trademark Register or, if the contract relates to an application for registration of a trademark, in the Diary of the Patent and Registration Office. A party applying for a recording shall pay the prescribed fee.

If a registered pledge has been transferred to another party, this shall, upon request, be recorded in the Trademark Register, if it concerns a registered trademark, or, if it concerns an application for registration of a trademark, in the Diary of the Patent and Registration Office. The party requesting a recording shall pay the prescribed fee.

**Preference in case of multiple grants of pledge**

**Article 3.** If a pledge has been granted separately to more than one party, preference shall, unless otherwise agreed, be given to the grant in respect of which the application for registration was first filed at the Patent and Registration Office.

If more than one application for recording of a grant is filed on the same day, the grants are between themselves given preference following the chronological order of their taking place, unless otherwise agreed. If the grants are simultaneous, or if the chronological order of their taking place cannot be established, they convey the same rights.

**Who is entitled to apply for registration**

**Article 4.** An application for registration pursuant to Article 2 may be filed by the holder of the trademark or of the application for registration of the trademark, or by the pledgee. The applicant shall prove the pledger's right to the trademark or the application for registration.

For the application of the first Paragraph, the party recorded in the Trademark Register as the holder of a registered trademark is deemed to be entitled to the mark, unless the matter discloses otherwise. If the application for registration concerns the pledge of an application for registration of a trademark, the party recorded in the Diary of the Patent and Registration

Office is deemed to be entitled to the application for registration of a trademark, unless the matter discloses otherwise.

### **Obstacle because of the pledger's lacking entitlement**

**Article 5.** An application for recording pursuant to Article 2 must not be approved, if the pledger is, at the time of registration, not entitled to dispose of the pledged property pursuant to attachment, bankruptcy, impounding, provisional attachment or any other cause.

### **When the grant of a pledge is liable to recording**

**Article 6.** A contract of pledge may be registered when the trademark is registered or, if the contract relates to an application for registration of a trademark, when the application is recorded in the Diary of the Patent and Registration Office.

If a pledged application for registration of a trademark leads to registration of the trademark, the registered trademark then becomes the pledged property.

### **Invalid contracts of pledge**

**Article 7.** Even if a right of pledge is recorded, the pledge applies to the pledged property only if the contract of pledge has been concluded by the rightful holder of the property and is entitled to dispose of it, and also provided the contract is not invalid for any other reason.

### **Lapse of the right of pledge**

**Article 8.** The right of pledge lapses, if the application for registration of a trademark has been transferred to a third party, or if the rights in the trademark or the application for registration of the trademark shall, pursuant to the provisions of this Act, no longer apply.

### **Removal of a recording**

**Article 9.** The registration of a right of pledge shall be removed, if the right of pledge has, through a judgment which has acquired legal force, been declared invalid, or if the right of pledge has lapsed or has otherwise ceased to apply.

### **Pledged property being subject of *rights in rem***

**Article 10.** The pledge applies from the time of the application for registration pursuant to Article 2 in relation to any party that subsequently acquires ownership or any other right to the property.

A license agreement applies in relation to the pledgee, if the agreement is concluded prior to the application for registration of the contract of pledge.

**Article 11.** Provisions in other laws on the right of pledge in movable property not requiring registration apply, in a case of attachment or bankruptcy, also to a right of pledge in a registered trademark or in an application for registration of a trademark. The filing at the

Patent and Registration Office of an application for registration pursuant to Article 2 entails the same legal effects as the pledgee's taking of possession of movable property.

If the right in a pledged trademark or a pledged application for registration of a trademark is sold following attachment or bankruptcy, license agreements pursuant to Article 10, second Paragraph still apply.

### **Sale of the pledged property**

**Article 12.** The pledgee may sell the pledged property and collect the debt from the purchase sum only if the pledgee has previously informed the debtor and other known holders of property rights about the sale and these parties had reasonable time to look after their rights.

License agreements referred to in Article 10, second Paragraph, still apply after a sale referred to in the first Paragraph.

## **Chapter 8. Criminal Liability, Injunctions with a Penalty of a Fine, Damages, etc.**

### **Criminal liability**

**Article 1.** Anyone who infringes the right in a trade symbol (trademark infringement), if the act is committed intentionally or by gross negligence, is punishable for trademark violation with a fine or imprisonment for up to two years.

If the violation was committed intentionally and is considered serious, the person is punishable for serious trademark violation with imprisonment for a minimum of six months up to a maximum of six years. When assessing whether the violation is serious, particular consideration has to be given to whether the act concerned

1. has been preceded by particular planning,
2. was part of criminal activities conducted in an organised form,
3. was conducted on a large scale, or
4. was otherwise of a particularly dangerous nature.

The first and second Paragraphs do not apply in the event of an infringement of the right in a trade symbol referred to in Chapter 1, Article 10, third Paragraph.

Anyone who has violated an injunction issued with a penalty of a fine pursuant to Article 3, must not be held liable for infringements covered by the injunction.

Responsibility is assigned under Chapter 23 of the Criminal Code for attempting to commit or preparation of trademark violation or serious trademark violation.

The prosecutor may initiate a prosecution for violations only if the prosecution is motivated for being in the public interest. (Act 2020:545).

### **Forfeiture of property and of implements used for a violation**

**Article 2.** Property in respect of which a violation under Article 1 exists shall be forfeited, if this is not obviously unreasonable. Instead of the property itself, its value may be declared forfeited. Also profits from such a violation shall be declared forfeited, if this not obviously unreasonable. The same applies to what someone has received as compensation for costs related to such a violation, or the value of what has been received, if the act of receiving constitutes a violation pursuant to Article 1.

Property used as an implement for a violation under Article 1 may be declared forfeited, if this is necessary for the prevention of violations or if there are otherwise special reasons. The same applies to property intended for use as an implement for a violation under Article 1, where the violation has been completed, or has constituted a punishable attempt or a punishable preparation. Instead of the property itself, its value may be forfeited.

### **Injunction with a penalty of a fine.**

**Article 3.** Upon a claim by a party holding a trade symbol under to Chapter 1, Articles 6 to 8, or by a party that, pursuant to a license, has the right to exploit a trade symbol, the Court may issue an injunction with a penalty of a fine, prohibiting the party that commits, or contributes to, a trademark violation to continue that act.

If the plaintiff shows a probable cause that an act implying a trademark infringement, or a contribution to an infringement, is taking place and if it can reasonably be expected that the defendant, through the continuation of that act, or the contribution thereto, diminishes the value of the exclusive right in the trade symbol, the Court may issue an injunction with a penalty of a fine, for the time until the case has been finally adjudicated or otherwise is decided. Before the injunction is issued, the defendant shall be given an opportunity to respond, unless a delay would entail a risk for damage.

The provisions under the first and second Paragraphs apply also to acts constituting attempts, or preparations, in respect of infringements.

An injunction referred to in the second Paragraph may be issued only if the plaintiff deposits a security at the Court for the damage that may be caused to the defendant. If the plaintiff is not capable of depositing such a security, the Court may liberate him or her from making such a deposit. In respect of the type of security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court unless the defendant has approved it.

When the case is adjudicated, the Court shall decide whether an injunction issued under the second Paragraph shall continue to apply.

In respect of appeals against decisions under the first or fourth Paragraph and in respect of proceedings in higher Courts, the provisions concerning appeals of decisions in the Chapter 15 of Code of Judicial Procedure apply.

A claim for the imposition of a fine may be filed by the party that requested the injunction. (Act 2016:228).

### **Damages**

**Article 4.** Anyone who wilfully or by negligence commits a trademark infringement, shall pay a reasonable compensation for the exploitation of the trade symbol and compensation for the further damage caused by the infringement. When the amount of the compensation for the further damage is decided, special consideration shall be given to

1. lost profit,
2. profit made by the party committing the infringement,
3. damage caused to the reputation of the trade symbol,
4. moral damage, and
5. the interest of the right-holder in that infringements are not committed.

Anyone who without intent or negligence commits a trademark infringement shall pay a compensation for the exploitation of the trade symbol if and to the extent reasonable.

### **Limitation of criminal liability and liability for damages in certain cases**

**Article 5.** If a claim related to a trademark infringement is based upon a registration under this Act, Articles 1 and 2 shall not apply for the time before the registration date. Nor shall Article 4, in these cases, apply for the time before the registration date if the infringement has not been committed wilfully.

### **Statutory limitation relating to the right to compensation for damages**

**Article 6.** The right to compensation for damages shall be statute-barred, if an action has not been brought within five years from the time when the damage was caused. The right to compensation for an infringement of a trademark protected solely pursuant to a registration, shall, however, in no case become statute-barred earlier than one year from the registration date.

### **Measures relating to property and implements**

**Article 7.** Upon a claim by a party suffering a trademark infringement, the Court may, in so far as is reasonable, decide that property on which a trade symbol appears without authorization shall be recalled from the channels of commerce, be altered or destroyed or some other measure be taken in respect of it. The same applies to implements that have been, or have been intended to be, used for the infringement.

Property referred to in the first Paragraph may be seized if it can reasonably be assumed that an offence pursuant to Article 1 has been committed. In respect of such seizures, the provisions on seizure in criminal cases in general shall apply.

The provisions in the first and second Paragraphs apply also to acts constituting attempts, and to preparatory acts, relating to infringements.

A decision on a measure under the first Paragraph must not imply that the party suffering a trademark infringement shall to pay a compensation to the party against which the measure is directed.

Any measures pursuant to the first Paragraph shall be defrayed by the defendant where there are no specific reasons against it.

A decision referred to in this Article shall not be rendered, if forfeiture or a measure for the prevention of wrongful acts shall be decided pursuant to Article 2 or the Criminal Code.

### **Dissemination of information about judgments in cases relating to trademark infringements**

**Article 8.** Upon a claim by the plaintiff, the Court may, in trademark infringement cases, order the party having committed, or contributed to, the infringement to defray appropriate measures to disseminate information about the judgment in the case.

The provisions in the first Paragraph apply also to acts constituting attempts, and preparatory acts, relating to an infringement.

## **Chapter 9. Orders to Provide Information and Infringement Investigations**

### **Orders to provide information**

#### **Basic provisions**

**Article 1.** If an applicant shows a probable cause that someone has committed a trademark infringement, the Court may order, on penalty of a fine, that one or several of the parties referred to in the second Paragraph shall provide information to the applicant concerning the origin and distribution networks of the goods or services in respect of which the infringement has been committed (*order to provide information*). Such an order may be issued upon a claim by the holder of the trade symbol pursuant to Chapter 1, Articles 6 to 8, or by a party that, under a license, has the right to exploit it. It may be issued only if the information can be assumed to facilitate the inquiry into an infringement relating to the goods or services.

The obligation to provide information relates to any party that

1. has committed, or contributed to, the infringement,
2. has on a commercial scale been exploiting the goods that the infringement concerns,
3. has on a commercial scale been exploiting the service that the infringement concerns,
4. has on a commercial scale made available an electronic communication service or another service that has been used in the context of the infringement, or
5. has been identified by a party referred to in items 2 to 4 as being involved in the production or distribution of the goods, or the making available of the service, that the infringement concerns.

The information on the origin or distribution network of a goods or service may, especially, include

1. the names and addresses of producers, distributors, suppliers and others who have previously held the goods or made available the services,
2. the names and addresses of intended wholesalers and retailers, and
3. information about how much has been produced, delivered, received or ordered and the price obtained for the goods or services.

The provisions in the first to third Paragraphs apply also to acts constituting attempts, and to preparatory acts, relating to infringements.

**Article 2.** An order to provide information may be issued only if the reasons speaking in favour of the measure outweigh the inconvenience or other harm that the measure would cause to the party against which it is directed or to any other opposite interest.

The obligation to provide information under Article 1 does not include information the revelation of which would disclose that the provider of the information or any person closely related to him or her as referred to in Chapter 36, Article 3, of the Code of Judicial Procedure has committed a criminal offence.

The Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data and repealing Directive 95/46/EC (General Data Protection Regulation) contains provisions limiting the use can be made of personal data received (Act 2018:287).

### **Processing of matters relating to orders to provide information**

**Article 3.** If the application for an order to provide information is directed against the applicant's opposing party in a case relating to an infringement, the provisions on court procedures for that case apply. A decision on an order to provide information may be appealed separately.

If the petition for an order to provide information is directed against a party other than the one referred to in the first Paragraph, the provisions in the Act (1996:242) on Court Matters shall apply. The Court may decide that each party shall bear its own litigation costs.

An action for the imposition of a fine may be brought by the party that applied for the order. (Act 2016:228).

### **Right to compensation and notification obligations**

**Article 4.** Anyone who under Article 1, second Paragraph, items 2 to 5, has been ordered to provide information under the first Paragraph of the same Article, has a right to a reasonable compensation for the costs and inconvenience caused. The compensation shall be paid by the party that applied for the order to provide information.

Anyone who makes available an electronic information service and who has, pursuant to an order to provide information, delivered information referred to in Chapter 6, Article 20, of the Act (2003:389) on Electronic Communication, shall send a written notification concerning this fact to the party whom the information concerns not earlier than one month and not later than three months from the delivery of the information. Costs for the notification shall be compensated in accordance with the first Paragraph.

## **Infringement investigation**

### **Basic provisions**

**Article 5.** If it can reasonably be assumed that someone has committed, or contributed to, a trademark infringement, the Court may, for the preservation of evidence relating to the infringement, order that an investigation be undertaken in respect of that party to search for objects or documents that may be assumed to be important for the inquiry into an infringement (*infringement investigation*). Such an order may be issued upon a claim by the holder of the trade symbol under Chapter 1, Articles 6 to 8, or by the party which, under a license, has the right to exploit it. If legal proceedings have not been initiated, the claim shall be submitted in writing.

An order for an infringement investigation may be issued only if the reasons speaking in favour of the measure outweigh the inconvenience or other harm that the measure would cause to the party against which it is directed or to any other opposite interest.

The provisions in the first and second Paragraphs apply also to acts constituting attempts, and to preparatory acts, relating to an infringement.

### **Processing of matters relating to an infringement investigation**

**Article 6.** Before an order for an infringement investigation is issued, the opposite party shall be given an opportunity to respond. If a delay would entail a risk that objects or documents of importance for the inquiry into the infringement would be removed, destroyed or distorted, the Court may, however, immediately issue an order to be valid until otherwise decided.

In other respects, any issue relating to an infringement investigation which arises before legal proceedings have been initiated shall be processed in the same way as if the issue had arisen during legal proceedings. (Act 2016:228).

### **Posting of a security, and appeals against decisions**

**Article 7.** An order for an infringement investigation may be issued only if the applicant posts a security at the Court for the damage which may be caused to the opposite party. If the applicant is not able to post a security, the Court may liberate the applicant from it. In respect of the type of security, the provisions of Chapter 2, Article 25, of the Enforcement Code shall apply. The security shall be examined by the Court unless the opposite party has approved it.

In respect of appeals against the decision by the Court relating to an infringement investigation and in respect of the proceedings in higher Courts, the provisions concerning appeal against decisions prescribed in Chapter 15 of the Code of Judicial Procedure apply.

### **The decision on an infringement investigation**

**Article 8.** An order for an infringement investigation shall contain information about

1. the purpose of the investigation,
2. the objects and documents that may be searched for, and
3. which premises may be searched.

If necessary, the Court shall decide on other conditions for the execution of the order.

### **Execution of an order for an infringement investigation.**

**Article 9.** An order for an infringement investigation is immediately enforceable. If an application for its execution has not been filed within one month from the order, the order becomes invalid.

**Article 10.** An order for an infringement investigation is executed through the Enforcement Authority in accordance with the conditions prescribed by the Court and in applying Chapters 1 to 3, Chapter 17, Articles 1 to 5, and Chapter 18, of the Enforcement Code. The applicant's opposite party shall be informed about the execution only if the order for an infringement investigation has been issued after hearing the opposite party. The Authority has the right to take photographs and to make video and sound recordings of such objects for which it is authorised to search. The Authority also has the right to make copies of, and extracts from, such documents for which it is authorised to search.

An infringement investigation must not concern written documents referred to in Chapter 27, Article 2, of the Code of Judicial Procedure.

### **Legal assistance and right to attend the infringement investigation**

**Article 11.** The opposite party has the right to summon an attorney when an order for an infringement investigation shall be executed. The execution must not begin before the attorney has arrived. This does, however, not apply if

1. the investigation is thereby unnecessarily delayed, or
2. there is otherwise a risk that the purpose of the measure will not be achieved.

During the execution the Enforcement Authority is authorised to engage, if necessary, the services of an expert.

The Authority may permit the applicant or a representative of the applicant to attend the investigation in order to provide information. If such a permission is granted, the Authority shall see to it that the applicant or the representative is not informed about the findings at the investigation more than can be justified by the execution.

### **Invalidation of a measure taken at an infringement investigation**

**Article 12.** If the applicant does not, within one month from the conclusion of the execution, file an action or in some other manner initiates a proceeding relating to the issue, any measure which

has been undertaken in the context of the execution shall immediately be invalidated to the extent possible. The same applies if an order for an infringement investigation is invalidated after the execution has been concluded.

### **Processing of material from the infringement investigation**

**Article 13.** The Enforcement Authority shall list photographs and video and sound recordings of objects as well as copies of, and extracts from, documents from the Infringement investigation. The material shall be held available for the applicant and the opposite party.

## **Chapter 10. Other Provisions**

### **Certain provisions on the judicial process**

#### *Competent Court*

**Article 1.** The Patent and Market Court is the competent court in

1. cases and matters pursuant to this Act unless they shall be dealt with under the Act (1974:371) on the Judicial Process in Labour Disputes, and
2. cases referred to in Article 124 in the Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on European Union Trademarks.

The provisions in the Code of Judicial Procedure relating to limitation of the competence of a Court in disputes that shall be initiated otherwise than before a Court shall not apply in respect of claims for an order to provide information or for an infringement investigation. (Act 2018:1652)

#### *Special requirements for bringing an action before a Court*

**Article 2.** A licensee may bring an action for trademark infringement only with the consent of the holder of the trade symbol. Even without such consent the holder of an exclusive license is entitled to bring an action for trademark infringement if the holder of the trade symbol does not himself bring such an action within a reasonable period from the point in time when the licensee informed the holder that the licensee intends to bring an action. This Paragraph shall also apply to actions for a declaratory judgement in respect of a trade symbol.

If the holder of the trade symbol brings an action for trademark infringement, a licensee is always entitled to bring an action for compensation under Chapter 8, Article 4.

The first Paragraph does not apply if otherwise is agreed. (Act 2018:1652)

**Article 3.** A party having the right to exploit a trade symbol referred to in Chapter 1, Article 2, may bring an action for trademark infringement only with the consent of the holder of the trade symbol. This shall apply also to actions for a declaratory judgment in respect of a trade symbol.

The holder of the trade symbol has a right to compensation pursuant to Chapter 8, Article 4, for infringement of the right held by a user. A user may, however, bring an action for compensation

on his or her own account if the holder of the trade symbol gives his or her consent or if the holder brings an action for trademark infringement which does not include a claim for compensation under Chapter 8, Article 4, for infringement of the right of the user.

The first Paragraph does not apply if otherwise has been agreed. (Act 2018:1652).

**Article 4.** A pledgee is entitled to bring an action for trademark infringement due to an infringement of the pledged property only if the holder of the registered trademark has been notified about it. A notification shall be given also when a pledgee wants to bring an action for a declaratory judgment relating to a registered trademark.

The first Paragraph does not apply if otherwise has been agreed. (Act 2018:1652).

### **Invalidity objection**

**Article 5.** If an action is brought for infringement of a registered trademark and the party against which the action is directed asserts that the registration is not valid, the issue of invalidity may be considered only after an action for revocation has been brought. The Court may invite the party asserting the invalidity of the registration to bring such an action within a specified time. However, also without such an action being brought, the issue of invalidity may be considered in a criminal case and in a case referred to in Article 6.

The first Paragraph shall apply also if, in a case concerning an action for a declaratory judgment in respect of a registered trademark, it is claimed that the registration is invalid. (Act 2018:1652)

### **Specific requirements for approval of an action relating to an infringement**

**Article 6.** If an action is brought relating to an infringement of a registered trademark and if, at the time when the action was brought, more than five years had lapsed after the issue of registration of the trademark was finally decided, the following applies. The action may be approved only if the trademark, within the latest five years before the action was brought, was put to genuine use in the way indicated to in Chapter 3, Article 2, for the goods or services constituting the basis for the action.

If an action pursuant to the first Paragraph relates to an infringement involving the use of a trademark registered later and if, on the filing date or, as appropriate, on the priority date, for the later trademark more than five years had lapsed after the issue of the registration of the earlier trademark was finally decided, the earlier trademark shall furthermore have been put to genuine use within the latest five years before the filing date or the priority date.

If the earlier trademark has not been used to the extent stipulated in the first and second Paragraphs, the action may nevertheless be approved, if there are proper reasons for the failure to use to that extent.

The first to third Paragraphs shall apply also if an action is brought for a declaratory judgment on whether a certain activity constitutes an infringement of a registered trademark. (Act 2018:1652).

**Article 7.** An action relating to a trademark infringement involving the use of a later European Union trademark may be approved only if a basis exists for the invalidation of the European Union trademark pursuant to Articles 60.1, 60.3, 60.4, 61.1, 61.2 or 64.2 of the Regulation (EU) 2017/1001 of the European Parliament and of the Council.

The first Paragraph shall apply also if an action is brought for a declaratory judgment whether a certain activity constitutes an infringement of a trade symbol. (Act 2018: 1652).

### **Prohibition against adjudication of sanctions, etc.**

**Article 8.** If the registration of a trademark has been revoked pursuant to Chapter 3, Article 1, first Paragraph, the Court may not adjudicate a sanction under Chapter 8, Article 1, or decide on compensation or another measure under Chapters 8 or 9. If a registration has been revoked pursuant to Chapter 3, Article 1, second Paragraph, or Article 2 or 3, the Court must not adjudicate a sanction pursuant to Chapter 8, Article 1. (Act 2018:1652).

### **Processing of personal data**

**Article 9.** In addition to what follows from Chapter 3, Articles 8 and 9, of the Act (2018:218) on Additional Provisions relating to the European Union Data Protection Regulation, personal data on violations of law constituting offences under Chapter 8, Article 1, may be processed if this is necessary in order for a legal claim to be established, asserted or defended. (Act 2018:1652).

### **Special provisions on European Union trademarks**

**Article 10.** Prescribed fees shall be paid by parties that

1. request transformation of a European Union trademark or an application for registration of a European Union trademark into an application for a national registration of a trademark, or
2. request a certificate pursuant to Article 120.3 of Regulation (EU) 2017/1001 of the European Parliament and of the Council in its original version. (Act 2018:1652).

**Article 11.** In respect of an infringement of a European Union trademark the provisions in Chapter 8, Article 1, on liability for trademark infringements apply. In other respects, Article 9, Chapter 8, Articles 2 to 8, and Chapter 9, apply to the extent that not otherwise follows from the Regulation (EU)2017/1001 of the European Parliament and the Council in its original version. In those cases, what is said there about trademark infringements applies to infringements of a European Union trademark.

The provisions of Chapter 8, Articles 1 and 2, however, do not apply to infringement of a European Union trademark in a transit situation referred to in Article 9.4 of the Regulation (EU) 2017/1001 of the European Parliament and of the Council, in its original version. (Act 2018:1652).

## **Prohibition against attachment and sale of trademarks established on the market**

**Article 12.** The right to a trade symbol under Chapter 1, Article 7, must not be subject to attachment and sale. If the holder is declared bankrupt, the right does, however, form part of the bankruptcy estate. (Act 2018:1652).

## **Appeals**

**Article 13.** A final decision by the Patent and Registration Office under this Act may be appealed to the Patent and Market Court within two months from the date of the decision.

A final decision in a matter relating to the registration of a trademark may be appealed only by the applicant. The same applies to a final decision in a matter relating to whether an international trademark registration shall have effect in Sweden. A final decision relating to an objection against a registration may be appealed only by the holder of the trademark and by the opponent. A final decision relating to an objection against the effect of an international trademark registration in Sweden may be appealed only by the holder of the international trademark registration and by the opponent.

This Article does not apply to decisions in matters concerning administrative revocation of a registration. (Act 2018:1652).

**Article 14.** A decision under Chapter 3, Article 15, on an administrative revocation of the registration of a trademark must not be appealed. The same applies to the transfer to a Court or removal from the files under Chapter 3, Article 13, third Paragraph. Other decisions in matters relating to administrative revocation may be appealed to the Patent and Market Court within three weeks from the date of the decision. Decisions taken during the processing of such a matter must not be appealed separately. (Act 2018:1652)

## **Announcements**

**Article 15.** Announcements pursuant to this Act shall be made in a special publication issued by the Patent and Registration Office.

The Government or the Public Authority appointed by the Government may, pursuant to Chapter 8, Article 7, of the Instrument of Government, issue more detailed provisions on announcements under this Act. (Act 2018: 1652).

## **Authorization**

**Article 16.** The Government may issue provisions relating to fees in matters under this Act. (Act 2018:1652).

**In respect of the amendments under Act (2018: 1652) the following applies:**

1. This Act enters into force on January 1, 2019.

2. The Act applies also to trade symbols which are established on the market, trademarks which are registered, and applications for registrations which have been made before the entry into force, unless otherwise follows from items 3-6.
3. The provisions of Chapter 2, Article 1 a do not apply to trademarks which have been registered or trademark registrations applied for before the entry into force.
4. The provisions previously in force still apply in respect of
  - a) the duration of the registration for trademarks which have been registered or trademark registrations which have been applied for before the entry into force, and
  - b) measures taken or rights acquired prior to the entry into force.
5. A guarantee or control mark which has been registered before the entry into force must not be revoked because of the new requirement in Chapter 1, Article 2, second Paragraph, that the holder must not make available goods or services of the kind to which the mark relates.
6. A trademark which has been registered prior to the entry into force of this Act cannot be revoked because of a violation of the extended obstacle to registration in Chapter 2, Article 4.

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