

TRADEMARKS AND GEOGRAPHICAL INDICATIONS ACT

Prom. SG. 98/13 Dec 2019, amend. and suppl. SG. 92/27 Oct 2020

Chapter one. GENERAL PROVISIONS

Subject

Art. 1. This Act shall regulate the conditions and procedure for registration of trademarks and geographical indications, the rights, arising therefrom, and the protection of those rights.

Applicable field

Art. 2. (1) The provisions of this Act shall apply to Bulgarian natural and legal persons, as well as to foreign natural and legal persons from states, participating in international agreements, to which the Republic of Bulgaria is a party.

(2) In respect of foreign natural and legal persons from other states, this Act shall apply to the conditions of reciprocity, which shall be assessed by the Patent Office.

Representation

Art. 3. (Amend. - SG 92/20) (1) Any person, entitled under this Act to perform actions before the Patent Office, may do so personally, through a lawyer or through an industrial property representative.

(2) A person under Para. 1, which is not established in the Republic of Bulgaria or in another Member State of the European Union, in a state party to the European Economic Area Agreement, or in the Swiss Confederation, shall perform actions before the Patent Office through a lawyer or an industrial property representative.

(3) The requirements of Chapter Eight "b" of the Act on Patents and Registration of Utility Models shall apply to the industrial property representatives, including their companies or associations performing representation activities under this Act.

Rules for submission of documents and for correspondence

Art. 3a. (New - SG 92/20) (1) All documents in proceedings before the Patent Office shall be submitted in Bulgarian or with a translation into Bulgarian.

(2) The correspondence in connection with the proceedings before the Patent Office shall be kept at an address in the Republic of Bulgaria, at an electronic address or through the portal for electronic services of the Patent Office, if this is possible. In case of change of the indicated address, the party to the proceedings shall notify the Patent Office within 7 days from the occurrence of the change.

(3) When the party to the proceedings before the Patent Office has not indicated an address in the Republic of Bulgaria, a notification shall be sent to said party which shall provide it with at least 7 days from its receipt to indicate an address. Where no address is indicated, the rules for notification under the [Administrative-Procedure Code](#) shall apply, unless otherwise provided for by this Act.

(4) When the party, which has initiated proceedings before the Patent Office, does not eliminate the irregularities within the term under Para. 3, the same shall be terminated.

(5) The inspection for the existence of the requirements under Para. 2 in the proceedings regarding applications for registration of a trademark or geographical indication shall be carried out by the order of **Art. 46**, respectively under **Art. 96**.

Charges

Art. 4. (1) The Patent Office shall collect charges for application and expertise, issuing a registration certificate, priority, opposition, user registration, renewal of registration, entries, correction of a manifest actual error, appeal, deletion, cancellation, extension of time, renewal of time limits, filing an application for international registration and territorial extension, replacement of national with international registration, information, references and extracts from state registers in amounts, determined by a tariff, approved by the Council of Ministers.

(2) The charges under Para. 1 shall be due for each individual mark or geographical indication, as well as for each individual action, subject to registration.

State Register of Trademarks

Art. 5. (1) The State Register of Trademarks shall be kept and maintained by the Patent Office.

(2) The State Register of Trademarks shall contain the following data on trade mark applications and registrations:

1. number and date of submission of the application for registration of the trademark;
2. information, that the application is the result of a European Union application / trade mark transformation - the number and date of filing of the transformed application / trade mark, and priority data - if claimed;
3. data, that the application is the result of transformation of international trade mark registration - number and date of registration of the transformed international registration, as well as priority data - if claimed;
4. type and kind of the trademark;
5. presentation of the trademark
6. description of the trademark;
7. claimed priority data - number, date and country of original request, as well as exhibit priority data - if claimed;
8. data on seniority, claimed;
9. a list of the goods and / or services, for which the trademark was applied for or registered, and the class number, under the Nice Agreement on the International Classification of Goods and Services for the Registration of Trademarks of 15 June 1957, as amended and supplemented (ratified by an Act - SG, 6/01) (SG, 64/01), hereinafter referred to as "ICGS";
10. restriction of the list with goods and/or services;
11. data for withdrawal of the application, for termination of the proceedings on the application or for refusal, pursuant to **Art. 47, para. 3**;
12. data for separation of the application;
13. number of the Patent Office Official Bulletin and date of publication of the application;
14. register N and date of registration;
15. information, that the trademark was registered as a result of proven distinctiveness, in respect of part or all of the goods or services of the **ICGS**, for which it was claimed;
16. number of the Official Bulletin of the Patent Office and date of publication of the registration;
17. term of enforcement of the registration;
18. unprotected elements;
19. protected colors;
20. name and address of the applicant, or holder of the trademark;

21. (amend. - SG 92/20) name and address of the industrial property representative or of the lawyer, where these are authorized;
22. date and number of the international registration of a national trademark;
23. renewal of the trademark registration;
24. termination of the force of the trademark registration;
25. data on submitted opposition - date of filing, name and address of the person, submitting the opposition, decision on the opposition;
26. data on initiated proceedings for revocation or deletion of the registration of the trademark - date of filing, applicant, decision;
27. cancellation of trade mark registration and the date from which it takes effect;
28. deletion of the trademark registration;
29. rules for the use of a collective or certification trademark and any changes thereto;
30. data on replacement of the registration of a trademark with an international registration;
31. other data - change of the name and / or address of the applicant, respectively of the holder of the trademark, transfer, license contract, security, enforcement implementation, special pledge, insolvency;
32. updated status of the trademark.

State Register of Geographical Indications

Art. 6. (1) The State Register of Geographical Indications shall be kept and maintained by the Patent Office.

(2) The State Register of Geographical Indications shall contain the following data on applications and registrations of geographical indications:

1. the geographical indication and instruction of its type - designation of origin or geographical indication;
2. N of application and date of filing;
3. register N and date of registration;
4. N of class and list of goods and classes on [ICGS](#);
5. the name and address of the applicant or registered user (s);
6. (amend. - SG 92/20) the name and address of the industrial property representative or of the lawyer, where these are authorized;
7. description of the boundaries of the geographical location, the attributes identified or the particularities of the goods and their relation to the geographical environment or geographical origin;
8. number of the Official Bulletin of the Patent Office and date of publication of the registration;
9. date and number of the international registration of the Bulgarian designation of origin;
10. termination of the legal protection;
11. data on the initiated proceedings for deletion of the registration of the geographical indication - filing date, applicant;
12. deletion of the registration of a geographical indication;
13. cancellation of user registration and the date, from which it takes effect;
14. other data - change of the name and / or address of the applicant, respectively of the registered user (s);
15. updated status of registration.

Access to state registers

Art. 7. (1) The state registers of **Art. 5** and **6** shall be electronic and public. They shall be published on the [website](#) of the Patent Office.

(2) The Patent Office shall collect, organize, disclose publicly and store the data, subject to entry, including all personal data, necessary for the purpose of maintaining the registers and performing its activities

under this Act, subject to the requirements for personal data protection.

(3) Any person may request a reference or extract from the contents of the registers.

File

Art. 8. (1) (Amend. - SG 92/20) The Patent Office shall maintain, for each trade mark, a paper or electronic file, containing all the registration documentation and subsequent entries. In the cases under **Art. 107 - 110** the file shall contain all the documentation, related to the actions, provided for in this Act.

(2) The applicant, the holder, their industrial property representative, legal counsel from the administration of the applicant or the holder, as well as a lawyer, authorized in writing by the applicant or the holder shall have access to the trade mark file. Any person, who is expressly authorized to do so by a notarized power of attorney from the applicant or the holder shall also have access to the file.

(3) The parties, involved therein, their industrial property representatives, legal counsel from the administration of the applicant, the holder, the opponent or the applicant, a lawyer, authorized in writing by the applicant, the holder, the opponent or the applicant, as well as any person, expressly authorized to do so by a notarized power of attorney from the applicant, the holder, the opponent or the applicant shall also have access to the file.

(4) Everyone shall have the right to information on the data, contained in the trade mark file, that is to be entered.

(5) (Amend. - SG 92/20) The Patent Office shall maintain for each geographical indication a paper or electronic file, containing all the registration documentation.

(6) The information for each applicant, respectively a registered user, shall be a separate part of the file under Para. 5.

(7) Every applicant or registered user, their industrial property representative, legal counsel from the administration of the applicant or of the registered user, a lawyer authorized in writing by the applicant or by the registered user, as well as any person, expressly authorized to do so by a notarized power of attorney from the applicant or by the registered user, shall have the right of access to the relevant part of the file, maintained for them under Para. 6.

(8) Everyone shall have the right of access to the part of the file for the declared or registered geographical indication, which contains the data under **Art. 6, Para. 2**.

(9) Third parties, in respect of whom circumstances, admissible by law, have been entered shall have the right to access only to the documentation, on the basis of which the entry was made.

(10) The right to access to a file shall include the right of persons, authorized under this Act to familiarize themselves with and to receive copies of all materials and documents, stored in the relevant file, except for the internal administrative documents.

(11) The procedure for granting access to the files and for obtaining references or extracts from the registers shall be determined by an instruction of the President of the Patent Office.

Chapter two. TRADEMARKS

Section I. Registration

Definition

Art. 9. (1) A trademark is a sign, capable of distinguishing the goods or services of one person from those of others and may be presented in the State Register of Trademarks in such a way, that it is possible to clearly and accurately determine the subject of the protection, granted by the registration. Such signs may in

clude, for example: words, including the names of persons, letters, numbers, drawings, figures, the shape of the goods or their packaging, colors, sounds or any combination of such signs.

(2) A trade mark shall be a trademark, collective mark and certification mark.

Acquisition of the right over a trade mark

Art. 10. (1) The right to a trademark shall be acquired through registration, as of the date of application.

(2) The right to registration shall belong to the first applicant.

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

(4) An exclusive right may be invoked against third parties in good faith from the date of publication of the registration in the Official Bulletin of the Patent Office.

(5) The applicant shall be entitled to receive fair compensation from any person who, without his or her permission, has performed any of the actions under **Art. 13, Para. 1 – 3**, after the publication of the application for registration of the trademark, provided that after the publication of the registration these actions would be prohibited.

(6) In the cases of Para. 5 until the publication of the registration, the court shall not rule on the merits.

Absolute grounds for refusal of registration

Art. 11. (1) The following shall not be registered:

1. a sign, which is not a trademark in the meaning of **Art. 9, Para. 1**;

2. a mark, which is not distinctive;

3. a mark, consisting exclusively of signs or indications, which have become customary in the spoken language or in established commercial practice in the Republic of Bulgaria in respect of the goods or services claimed;

4. a mark consisting exclusively of signs or indications, indicating the type, quality, quantity, purpose, value, geographical origin, time or method of production of the goods, the manner, in which the services are provided or other characteristics of the goods or services;

5. a sign, consisting exclusively of:

a) the shape of the goods or any other characteristic, that arises from the nature of the goods itself;

b) the shape of the goods or other characteristic, necessary to achieve a technical result;

c) the shape of the goods or other characteristic, that gives significant value to the goods;

6. a mark, that is contrary to public policy or to good morals;

7. a mark, which may mislead consumers as to the nature, quality, geographical origin or other characteristics of the goods or services;

8. a mark, consisting of, or incorporating, the emblems, flags or other symbols, and imitations thereof, of a Member State of the Paris Convention for the Protection of Industrial Property of 20 March 1883, as amended and supplemented pursuant to the Decision of the Council of Ministers on the accession of the People's Republic of Bulgaria to the Lisbon Edition of the Convention (ratified by Decree No. 663 of the Presidium of the National Assembly – SG, 75/65), hereinafter referred to as "the Paris Convention", as well as the emblems, flags or other symbols, abbreviations or names of international intergovernmental organizations, declared under Art. 6 of the Paris Convention;

9. a mark, which consists of or includes signs, emblems or heraldry, other than those declared under Art. 6, from the Paris Convention, and of particular public interest;

10. a mark, consisting of, or incorporating, official marks and the control mark and guarantee, where they are intended to mean identical or similar goods;

11. a mark, consisting of or incorporating a name or image of a cultural property or parts of a cultural property, defined in accordance with the **Cultural Heritage Act**;

12. a mark, whose registration is in breach of Bulgarian law, European Union law or international agreements, to which the Republic of Bulgaria or the European Union is a party, providing legal protection of geographical indications;

13. a mark, whose registration is in breach of European Union law or international agreements, to which the European Union is a party, providing legal protection for foods of traditional specific nature;

14. a mark, whose registration is in breach of European Union law or of international agreements, to which the European Union is a party, providing for the legal protection of traditional wine names;

15. a mark, which consists of, or reproduces in its essential elements the name of an earlier plant variety, registered under national legislation, European Union law or international instruments, to which the Republic of Bulgaria and the European Union are parties, providing legal protection to the plant variety rights, where the mark and the plant variety refer to identical or closely related species.

(2) The provisions of Para. 1, items 2, 3 and 4 shall not apply where, prior to the date of application, the mark as a result of use, has acquired distinctiveness in respect of the goods or services, for which it has been claimed.

(3) The provisions of Para. 1, items 8, 9, 10 and 11 shall not apply, when the applicant presents evidence of consent of the relevant competent authority

(4) The provision of Para. 1, item 12 shall not apply, when the applicant of a mark, containing a geographical indication, previously claimed or registered under this Act, is a registered user of the geographical indication.

(5) The provisions of Para. 1, items 12, 13 and 14 shall not apply, when the applicant restricts the list of goods, for which the mark has been applied for, to those, corresponding to the specification of registered in accordance with the legislation of the European Union or international agreements, to which the European Union is a party, geographical indications, foods with traditional specific nature and traditional names of wines.

Relative grounds for refusal of registration

Art. 12. (1) When an opposition is filed, pursuant to **Art. 52**, no trade mark shall be registered:

1. which is identical with the earlier mark and the goods or services of the claimed and the earlier mark are identical;

2. where, because of its identity or similarity with an earlier mark and the identity or similarity of the goods or services of the two marks, there is a likelihood of consumer confusion, which involves the possibility of association with the earlier mark.

(2) An earlier mark within the meaning of Para. 1 shall be:

1. a mark with an earlier filing date or with an earlier priority, registered under this Act;

2. a mark, applied for with an earlier filing date or with an earlier priority, if registered under the terms of this Act;

3. international registration of a mark with an earlier date of registration, with an earlier priority, or with an earlier date of the territorial extension and with recognized effect on the territory of the Republic of Bulgaria;

4. international registration of a mark, with an earlier date of registration, with an earlier priority, or with an earlier date of the territorial extension, if its validity is recognized in the territory of the Republic of Bulgaria;

5. international registration of a trade mark, with an earlier date of registration, with an earlier priority, or with an earlier date of territorial extension and with recognized effect in the territory of the European Union;

6. international registration of a trade mark with an earlier date of registration, with an earlier priority or with an earlier date of territorial extension, if its validity is recognized in the territory of the European Union;

7. European Union trade mark with an earlier filing date or with an earlier priority, or with seniority

in the territory of the Republic of Bulgaria in respect of the trademarks, referred to in items 1 and 3, which is recognized and settled in accordance with the rules of Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ L 154/1 of 16 June 2017), hereinafter referred to as "Regulation (EU) 2017 / 1001";

8. European Union trade mark, applied for with an earlier filing date or with an earlier priority or seniority for the territory of the Republic of Bulgaria, in respect of the marks referred to in items 1 and 3, which has been recognized and settled in accordance with the rules of Regulation (EU) 2017/1001, if registered under this Regulation;

9. a trademark, which is generally known in the territory of the Republic of Bulgaria on the date of application for the mark, respectively on the date of priority.

(3) No mark shall be registered, which is identical or similar to an earlier mark and is intended for goods or services, whether identical, similar or not, to those, for which the earlier mark was registered, when the earlier mark is known in the territory of the Republic of Bulgaria or, in the case of a European Union trade mark, in the territory of the European Union, and the use without justification of the mark applied for, would lead to an unfair advantage or damage to the distinctive character, or the reputation of the earlier mark.

(4) In opposition, submitted by the actual holder of a non-registered trade mark, used in the business activity in the territory of the Republic of Bulgaria, no trade mark shall be registered, where it is identical or similar to the unregistered mark and is intended for goods or services, which are identical or similar to those, for which the unregistered trade mark is used and in respect of which, an application for registration has been lodged with it, provided that the unregistered mark is actually used before the date of filing of the application for registration, or the priority date of the later trade mark, and that use continues until the opposition is filed.

(5) With opposition, submitted by the actual holder of the trademark, no trademark shall be registered, where the applicant acted in bad faith, when filing the application, which has been established by an enforceable judgment.

(6) With opposition submitted by the real holder of a trademark, no mark shall be registered, when claimed on behalf of an agent, or representative of the real holder, without his consent.

(7) With opposition, submitted by a trader, no mark shall be registered, consisting of or containing his company, which was used in the Republic of Bulgaria before the date of submission of the application for registration in connection with identical or similar goods or services.

(8) In the case of an opposition, submitted by a person, authorized under the relevant legislation, no trademark shall be registered, where its use may be prohibited on the basis of a previously registered geographical indication.

(9) In the cases under Para. 6, the registration shall not be refused, where:

1. the agent or representative has justified his actions, or
2. the request has been transferred to the actual holder at his request.

(10) When the opposition is filed on the basis of an earlier well-known or a popular trademark, the following circumstances shall be taken into account in determining the reputation of the earlier mark:

1. the degree of popularity or recognition of the trademark in the relevant part of the society, which covers the actual or potential users of the good or service, the persons, employed in the respective distribution network and the business circles, involved in the relevant goods or services;
2. the duration, extent and geographical area of use of the trademark;
3. the duration, extent and geographical area of public display of the trademark, including the advertising, publicity or display on fairs and / or exhibitions of the goods or services, for which the trademark is used;
4. information on the successful application of the trade mark right, if it is registered;
5. value of the trademark;
6. other circumstances.

(11) The designation of a mark as generally known or popular shall be made by the Sofia City Court.

t in the general claiming procedure or by the Patent Office in the relevant administrative proceedings.

Section II.

Legal consequences of registration

Content of exclusive trademark rights

Art. 13. (1) The right to a trademark shall include the right of its holder to use it, to dispose of it and to prohibit third parties, without his consent to use in trade any sign of goods and / or services which is:

1. is identical with the trademark and used for goods or services, identical to those, for which the trademark is registered;

2. is identical or similar to the trademark and has been used for goods or services, identical or similar to those, for which the trademark is registered, if there is a likelihood of consumer confusion, which involves the possibility of associating the sign with the trademark;

3. identical or similar to the trademark, whether used for goods or services which are identical, similar or not - to those, for which the trademark is registered, if the trademark is known in the territory of the Republic of Bulgaria and the use without justification of the trademark would result in unfair advantage of the distinctive character or reputation of the trademark, or would harm them.

(2) Use in commercial activity within the meaning of Para. 1 shall be:

1. affixing the sign on the goods or on their packaging;

2. the offering the goods with that sign for sale, or placing them on the market, their keeping or storing for those purposes, as well as offering or provision of services with that sign;

3. import or export of the goods with that sign;

4. use of the sign as a trade or company name or as part of a trade or company name;

5. use of the sign in commercial papers and in advertisements;

6. use of the sign in comparative advertising in a way, that is in violation of [Art. 34](#) of the Protection of Competition Act.

(3) The holder of a trade mark may prohibit the introduction of goods into the territory of the Republic of Bulgaria, regardless of their final destination, where those goods or their packaging originate in third states in relation to the European Union and have been affixed, without authorization with a sign, identical to the registered in respect of such goods trademark, or which cannot be distinguished in its essential elements from it.

(4) The right of the holder under Para. 3 shall be terminated if during the proceedings, initiated in accordance with infringement of the trademark, in accordance with Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 on the protection of intellectual property rights, exercised by the customs authorities and repealing Council Regulation (EC) No 1383/2003 (OJ L 181/15 of 29 June 2013), hereinafter referred to as Regulation (EU) No 608/2013, the declarant or the holder of the goods has provided evidence, that the declarer, or the holder of the goods presents evidence, that the holder of the registered trade mark shall not be entitled to prohibit placing on the market the goods in the country of final destination.

(5) The provisions of Para. 1 and 3 shall apply, provided that the rights, acquired before the date of filing the application, respectively before the priority date of the registered trade mark, are not affected.

Right to prohibit preparatory actions

Art. 14. Where it is likely, that packaging, labels, markings, elements or devices of security or authenticity, or any other means and materials, on which the trademark may be affixed are used for goods or services in the commercial activity within the meaning of [Art. 13, Para. 2](#), its holder shall have the right to prohibit:

1. affixing a mark, identical or similar to the trademark on the packaging, labels, markings, elements or devices of security or authenticity, or any other means and materials on which the mark may be affixed;
2. offering for sale, placing on the market, keeping for these purposes, import or export of packaging, labels, markings, security or authentication items or devices, or any other means and materials, on which the trademark is affixed.

Prohibition on use of a trademark, registered in the name of an agent or representative

Art. 15. The actual holder of the trademark shall be entitled to oppose its use, when it has been registered in the name of the agent or his representative, without his consent. In the event, that the agent or representative grounds his or her actions, the opposition shall be considered unfounded.

Restriction of the right over a trademark

Art. 16. The holder of the trademark right may not prohibit to a third party from using it in a commercial activity, provided that the use does not contravene good faith practice:

1. his name or address, when the third person is a natural person;
2. signs or indications, which are devoid of distinctive character or which relate to the type, quality, quantity, purpose, value, geographical origin, time of production of the goods or of the provision of services, or other characteristics of the goods or services;
3. the trademark for the purpose of identifying or indicating the goods or services as such of its holder, where the use of the trademark is necessary to indicate the purpose of the goods or service, and in particular, as accessories or spare parts.

Expiry of the right to a trademark

Art. 17. (1) The holder of a trademark right may not prohibit its use in respect of goods, which have been placed on the market in the territory of the Member States of the European Union, with that trademark by him or with his consent.

(2) The provision of Para. 1 shall not apply, where there are good reasons for the holder to oppose subsequent sales, especially when the condition of the goods has changed or deteriorated after being placed on the market.

Joint ownership of the trade mark right

Art. 18. (1) A trade mark right may be owned by two or more persons.

(2) Any co-owner may use it without the consent of the others and without reporting about it, unless otherwise agreed in writing.

Indication of registration

Art. 19. When using the trademark, the holder may indicate its registration by affixing the Latin letter R, enclosed in a circle near it.

Incorporating a trademark into reference materials

Art. 20. Where the inclusion of a trademark in dictionaries, encyclopedias or other reference materials gives the impression, that the mark is the generic name of the goods or services, for which it is registered, the publisher shall, upon request of the holder, be obliged by electronic publications immediately and, in the case of printed materials, in the next edition latest of the relevant material, indicate that it is a registered trademark.

Obligation for use of the trademark

Art. 21. (1) Where, within 5 years from the date of registration, the holder has not actually started using the trademark in the territory of the Republic of Bulgaria, in connection with the goods or services, for which it is registered, or the use has been suspended for a continuous period of 5 years, the registration may be canceled, if there is no valid reason for not using it.

(2) For the international registration of trademarks, the beginning of the term under Para. 1 shall start from the date of publication of the international registration in accordance with **Art. 83, Para. 2.**

(3) For actual use within the meaning of Para. 1, the following shall also be considered:

1. the use of the mark by its holder in a form, which does not differ substantially from that, in which it was registered, whether or not the form, in which it is used is registered as another trademark of the same holder;

2. affixing the trademark on the goods or on their packaging in the Republic of Bulgaria, even though they are intended for export only.

(4) Use of the trademark with the consent of the holder shall be considered to be used by the holder himself.

(5) In assessing of the actual use, account shall be taken of the place, duration, volume and nature of the use of the mark for the goods or services, for which it is registered.

Validity term of the registration

Art. 22. (1) The registration shall be valid for 10 years from the date of submission of the application.

(2) The registration may be renewed indefinitely for subsequent periods of 10 years in accordance with **Art. 65.**

Section III.

The trademark as an object of ownership

Transferring the right to a trademark

Art. 23. (1) The right to a trade mark may be transferred, regardless of the transfer of the trade enterprise for all, or part of the goods or services, for which it is registered.

(2) In the case of joint ownership, the right to the trade mark shall be transferred with a written consent of all the co-owners, unless otherwise agreed in writing.

(3) The transfer shall be entered in the State Register of Trademarks upon request of one of the parties, to which proof of the transfer and of the paid state fee shall be attached.

(4) The contract of transfer shall not apply, where the request for entry of the transfer is signed by both parties, expressly stating the names and competence of the persons, who sign it.

(5) The transfer shall be effective in respect of third parties from the date of its entry in the State Register of Trademarks.

License contract

Art. 24. (1) The holder of the trade mark right may authorize its use for all, or part of the goods or services, for which it is registered, for a part or for the entire territory of the Republic of Bulgaria with a written license contract.

(2) Permission to use a jointly owned trade mark shall be granted with the written consent of all co-holder, unless otherwise agreed in writing.

(3) The license may be exclusive or non-exclusive. Unless otherwise agreed, the license shall be considered non-exclusive.

(4) An exclusive license issuer may not grant licenses with the same subject to other persons. He shall have the right to use the mark, if explicitly agreed.

(5) The license contract shall be entered in the State Register of Trademarks upon request of one of the parties, to which an extract from it shall be attached, which shall contain the identification data of the licensor and the licensee, particulars of the trademark and the type of license, the goods or services, to which it relates, term of contract and it has been signed by the parties. The license contract or extract from it shall not apply, when the request is signed by both parties, explicitly stating the names and competence of the signatories and contains the information, referred to in sentence one.

(6) The license contract shall have effect with respect to third parties from the date of its registration in the State Register of Trademarks.

(7) The holder of a trademark may oppose the rights, conferred by that mark against a licensee, who infringes a provision of the license contract in respect of:

1. the term;
2. the form, in which the trademark may be used in accordance with the registration;
3. the scope of the goods or services, for which the license was granted;
4. the territory, in which the trademark may be used, or
5. the quality of the goods produced or of the services provided by the licensee.

The right to the trademark as a subject of security

Art. 25. (1) The right to a trademark may be the subject of a security against a claim or a future claim. The court, upon request of the party concerned, without notifying the respondent, shall allow any of the following precautionary measures:

1. prohibition of use of the trademark by the holder or the licensee;
2. prohibition on the disposition of the trade mark right by the holder or the licensee of an exclusive license;
3. prohibition on the right to request the registration of a trademark by the applicant.

(2) The imposition of a security measure under Para. 1 shall be carried out immediately by the enforcement agent on the basis of the court ruling.

(3) The enforcement agent shall impose a security measure under Para. 1 by sending a notice of its imposition to the holder of the trademark.

(4) The security, granted by the court shall be entered in the State Register of Trademarks upon the request of the enforcement agent. The request must include details of the applicant or holder of the trademark and of the person, in whose favor the security was granted, the particulars of the mark and the security measure. The request shall be accompanied by a document, admitting the security.

(5) In respect of the applicant, respectively the holder, the trademark or the licensee of an exclusive license, the security under Para. 1 - 4 shall be effective from the date of receipt of the notice for imposition of the security measure, and in respect of third parties - from the date of entry of the security in the State Register of Trademarks.

(6) The right to a mark may also be subject to a security under the procedure of the [Tax-insurance Procedure Code](#).

The right over a trademark as a subject of compulsory fulfillment

Art. 26. (1) The right to a trade mark may be subject to compulsory fulfillment in an enforcement proceeding. The enforcement authority, at the request of the interested party, without notifying the respondent, shall impose a lien, consisting of:

1. prohibition of the use of the trademark by the holder or by the licensee;

2. a prohibition on the disposition of the trade mark right by the holder or by the licensee of an exclusive licence;

3. prohibition of disposing of the right to the application for registration of a trade mark by the applicant.

(2) The imposed attachment shall be entered in the State Trade mark Register at the request of the enforcement authority or the creditor. The request must contain details of the applicant, respectively, of the holder, the trade mark, as well as the trade mark details. The application shall be accompanied by the document, with which the attachment is lodged.

(3) As regards the applicant, or the holder, on the trade mark or the licensee of the exclusive licence, the attachment shall have effect from the date of receipt of the notice of imposition and, in the case of third parties - from the date of entry of the attachment in The State Register of Trademarks.

The right to the trademark as the subject of a special pledge

Art. 27. (1) The right to the trademark may be the subject of a special pledge.

(2) The **Special Pledges Act** shall apply to the entry and deletion of the special pledge in the State Register of Trade marks.

(3) The pledge shall have an effect in relation to third parties from the date of entry in the State Register of Trade marks.

Inclusion of the right to the trade mark in the bankruptcy estate

Art. 28. (1) The right to the trade mark shall be included in the estate in bankruptcy proceedings of its holder.

(2) Where the trademark is included in the bankruptcy estate, this fact shall be entered in the State Register of Trade marks at the request of one of the parties in the case.

The application as a subject of ownership

Art. 29. The provisions of **Art. 23-28** shall also apply to applications for registration of trade marks

Revocation or change in the entry

Art. 30. The State Register of Trade marks shall contain a revocation or a change of a registered circumstance under **Art. 24-29** upon request of a person with a legitimate interest, to whom evidence shall be applied, that the entered circumstance has ceased to have effect or changes have occurred.

Procedure for examining applications for registration

Art. 31. (1) Any request, made under this Section shall be verified, whether a state fee has been paid, except in cases, where the enforcement authority is exempted from payment, and whether evidence has been presented of the occurrence of the circumstances, declared for registration.

(2) Where irregularities have been found in the course of the examination of the request, a notification shall be sent to the applicant, giving him a 7-day time limit for their removal. If irregularities have not been remedied within the time limit, the procedure for examining the application shall be terminated.

(3) Decisions on requests for registration shall be taken by the Chairperson of the Patent Office or by a deputy chairman, authorised by him.

(4) The person having lodged the request shall be informed of the recorded circumstances.

Section IV.

Termination of registration, revocation and deletion of registration

Termination of the registration

Art. 32. (1) The registration shall be terminated by with:

1. expiry of the term under **Art. 22**;
2. withdrawal of the holder;
3. termination of the legal person-holder without succession.

(2) Termination under Para. 1, item 3 shall be carried out ex officio, or at the request of any person, accompanied by evidence.

(3) The right to the trademark shall be cancelled with termination of the registration.

Termination of registration of trade marks, containing a registered geographical indication

Art. 33. The effect of the registration of trade marks, containing a geographical indication, registered in accordance with this Act shall cease when the entry as a user of the geographical indication of the holder of the mark is revoked.

Withdrawal of the right

Art. 34. (1) The holder may waive his right to a trade mark for all or part of the goods or services, for which it is registered, with a written declaration to the Patent Office.

(2) The waiver shall have effect from its registration in the State Register of Trade marks.

(3) Where the waiver of a trade mark is preceded by an application for revocation or deletion of its registration, it shall be considered after the entry into force of the decision on the request, unless the person, who submitted the application for revocation or deletion submits a written consent for registration of the waiver.

(4) Where a licence contract has been entered, the waiver shall be entered after the holder presents a proof, that he has informed the licensee of his intention to waive the right to the mark. The entry shall be made after expiry of a period of one month from presentation of the proof.

(5) The waiver by one or more of the co-holders of the trade mark right shall not lead to the termination of registration in respect of other co-holders.

Cancellation of registration

Art. 35. (1) The registration of a trade mark shall be revoked upon the request of any person where:

1. the trade mark has not been used pursuant to **Art. 21**;
2. as a result of the action or inaction of the holder, the trade mark has become the usual indication of the goods or services, for which it is registered;
3. the use of the trademark by the holder or by another person with his consent for the goods or services, for which it is registered, is in such a way, as to mislead consumers about the nature, quality, geographical origin or other characteristics of goods or services.

(2) The provision of Para. 1, item 1 shall not apply if the holder has commenced or resumed its actual use within the period between the expiry of the 5-year period and the lodging of the application for revocation. The commencement or resumption of use within three months, prior to the submission of the application for revocation shall not be taken into account, if the preparation for such use or resumption was made after the holder became aware, that such a request could be made .

(3) Where a request for revocation concerns a part of the goods or services, the registration shall be revoked only for those goods or services.

(4) Where there are grounds for revocation of only part of the goods or services, the registration shall be lifted only for those goods or services.

Deletion of registration

Art. 36. (1) The registration of a trade mark shall be deleted, when it is made in violation of the requirements of **Art. 2** and **11**.

(2) When the trademark has been registered in violation of:

1. **Art. 11, Para. 1, item 2, 3 or 4**, the registration shall not be deleted if the holder proves that, before the date of filing of the application for deletion, as a result of the use, the trademark has acquired distinctiveness in the goods or services, for which it is registered;

2. **Art. 11, Para. 1, item 12**, the registration shall not be deleted if the holder has been entered as a user of the contained in it previously registered in accordance with this Act geographical indication;

3. **Art. 11, Para. 1, items 12, 13 and 14**, the registration shall not be deleted if the holder restricts the list of goods, for which the trade mark is registered to those, corresponding to the specification of the registered under the European Union legislation, or international agreements, to which the European Union is a party, geographical indications, foods with traditional specific nature and traditional wine designations.

(3) Registration of a trademark shall also be deleted, where:

1. the trademark has been registered in violation of **Art.12**;

2. the use of the trade mark may be prohibited on the basis of an earlier right of a third party, entitled to protection under another Act, in particular:

a) right to a name and picture;

b) copyright;

c) the right of breeder to the name of a variety or breed;

d) right to industrial ownership.

(4)The requests under Para. 1 may be submitted by any person.

(5) The requests under Para. 3 may be submitted by the following persons:

1. under item 1- by the persons under **Art. 52, Para. 1**, who have not exercised their right to lodge an opposition or their opposition has been dismissed as inadmissible;

2. under item 2 – by the holder of the earlier right.

(6) The registration of a trade mark may also be deleted officially by the Patent office, when it is registered in violation of **Art. 11**. The order of formation, conduct and termination of the procedure for the official deletion of the registration of a trade mark shall be determined by the Ordinance under Art. 69, Para. 4.

(7) When the request is under Para. 3, item 1 in conjunction with Art. 12, Para. 4, the actual use of the non-registered trade mark before the date of filing of the application for registration or the priority date of the later trade mark must have lasted until the request was lodged.

(8) In the cases under Para. 3, item 1, where applicable, the registration shall not be deleted if the earlier trade mark has not actually been used.

(9) In the cases under Para. 3, item 1 in conjunction with Art. 12, Para. 1, item 2, Para. 3, 4 and 7 and Art. 36, Para. 3, item 2 the registration shall not be deleted if a consent of the person with the earlier mark, respectively the earlier right, is presented in the cancellation proceedings.

(10) In the cases under Para. 3, item 1, in conjunction with Art. 12, Para. 6, the registration shall not be deleted where:

1.the agent or representative justifies his or her actions, or

2. the application is transferred to the actual owner at his request.

(11) Where the grounds for deletion relate to a part of the goods or services, the registration shall be deleted only for those goods or services.

Restrictions of the holder's right

Art. 37. (1) Where the holder of a right on an earlier trade mark, within the meaning of **Art. 12, Para. 2** for 5 consecutive years, has tolerated the use of a later mark by being aware of such use, he shall not be entitled to request deletion of the registration, or to oppose to the use of the later trade mark on the grounds of his earlier trade mark, in respect of the goods or services, for which the later trade mark was used, except where the application for registration of the later trade mark was submitted in bad faith.

(2) The provision of Para. 1 shall also apply in relation to a holder of an entitlement to an earlier trade mark, pursuant to **Art. 12, Para. 3 and 4** or of an earlier right, pursuant to Art. 12, Para. 7 and **Art. 36, Para. 3, item 2**.

(3) The holder of an earlier trade mark shall not be entitled to oppose the use of a later trade mark if, on the filing date or the priority date of the later trade mark, its registration will not be deleted because:

1. the registration of the earlier trade mark is subject to deletion on the grounds of **Art. 11, Para. 1, item 2, 3 and 4**, due to unproved as a result of use acquired distinctiveness of the goods or services, for which it is registered;

2. the earlier trade mark has not yet acquired distinctiveness to the extent, that it justifies the existence of a likelihood of confusion for consumers, within the meaning of Art. 12, Para. 1, item 2;

3. the earlier trade mark does not enjoy a popularity within the meaning of **Art. 12, Para. 3**;

4. no real use of the earlier trademark has been proved.

(4) The holder of an earlier trade mark shall not be entitled to oppose the use of a later European Union trade mark, if the later trade mark would not have been declared invalid, pursuant to Art. 60, Para. 1, 3 or 4, Art. 61, Para. 1 or 2 or Art. 64, Para. 2 of Regulation (EU) 2017/1001.

(5) In the cases under Para. 1- 4, the holder of the right to the later trade mark shall not be entitled to oppose the use of the earlier trade mark, although its holder may not invoke his rights to request the deletion of the later trade mark, or oppose use of the later trade mark.

Legal consequences of revocation and deletion of the registration

Art. 38. (1) Revocation of the registration of a trade mark under **Art. 35** shall be effective from the date of the application for revocation.

(2) At the request of one of the parties in the dispute in the decision about the request for revocation, an earlier date may be fixed from the date, on which one of the grounds for revocation arose.

(3) Deletion of the registration of a trade mark shall be effective from the date of filing the application for registration.

(4) Revocation and deletion of the registration shall refer to:

1. enforced decisions on infringement actions, in so far as they are fulfilled before revocation or deletion;

2. licence contracts, insofar as they are fulfilled before revocation or deletion, unless otherwise agreed.

Section V.

Collective and certificate measures

Collective measures

Art. 39. (1) A collective mark is a trade mark, referred to as such, when filing the application for registration, which is the property of an association of producers, traders, persons performing services, which are qualified under the applicable law, as well as legal persons – subjects to public law and which is capable of distinguishing the goods or services of the members of the association from the goods or services of other persons.

(2) Signs, indicating the geographical origin of the goods or services shall be registered as collective

e trademarks, but the holder may not prohibit third parties from using in their commercial activity such signs, in so far as such use is in accordance with the bona fide commercial practice and cannot oppose a third party, entitled to use a geographical indication.

(3)) The association shall adopt rules for the use of the collective trademark, which shall contain: particulars of the persons, who can use the trademark; conditions for membership in the association; conditions for use of the trademark, the penalties to be imposed in case of infringement of the rules of use and the reasons, why a member of the association may prohibit the use of the collective trademark. The rules of use shall entitle any person, whose goods or services originate in the geographical area concerned, to become a member of the association, who is holder of the trade mark, provided that the person fulfils all the other requirements, included in the rules.

(4) The right to a collective trademark cannot be transferred. Persons, who are not members of the association may not be authorised to use it.

(5) Except the grounds, set out in **Sections I** and **IV** of this Chapter, with the exception of **Art. 11, Para. 1, item 4**, a collective trademark shall not be registered or its registration shall be deleted where:

1. the provisions of Para. 1 and 3 have not been observed;
2. the rules, governing the use of this collective trademark are contrary to public policy or to accepted good morality;
3. there is a risk, that third parties may be misled as to the nature or significance of the trademark, in particular where the mark is likely to be perceived as something other, than a collective trademark.

(6) The provision of Para. 5 shall not apply if the rules under Para. 3 for the use of the collective trademark have been amended.

Certificate trademarks

Art. 40. (1) A certification mark is a trade mark, which is listed as such when filing the application for registration and which is capable of distinguishing the goods or services, in respect of which the holder certifies the material, the method of manufacture of the goods or the method of provision of services, quality, accuracy or other characteristics, with the exception of geographical origin, from the goods or services, whose characteristics have not been certified in this way.

(2) The holder of the trade mark must adopt rules for the use of the certification trademark, which shall contain: instructions on the quality, material or other characteristics of the goods or services; the control measures, which the holder of the certification trademark exercises and the penalties which are to be imposed.

(3) An application for a certification trademark may be submitted by any natural or legal person and entities, governed by public law. The holder of a certification trademark may not use it to designate the goods or services, produced by him.

(4) In addition to the grounds, laid down in **Sections I** and **IV** of this Chapter, no certification trademark shall be registered or its registration shall be deleted where:

1. the provision of Para. 1 and 2 have not been observed;
2. the rules, governing the use of this certification trademark are contrary to public policy or to accepted morality;
3. there is a risk, that the public may be misled as to the nature or significance of the trademark, in particular, where the trademark is likely to be perceived as something other, than a certification trademark.

(5) The provision of Para. 4 shall not apply if the rules under Para. 2 for the use of the certification trademark are amended.

(6) The registration of a certification trademark may be revoked, where the holder has used the trademark to designate goods or services, produced or rendered by him.

Special provisions

Art. 41. (1) The applicant, respectively the holder, of a collective or certification trademark shall submit to the Patent Office the rules of use and any changes thereto. These changes shall have effect in relation to third parties from their registration in the State Register of Trade marks.

(2) In the case of an international registration of a collective or certification trademark, the rules for use under Para. 1 shall be presented in translation.

(3) Registration of a collective or certification trademark may be waived, except under the terms of **Art. 35** and where the holder has authorised or tolerated use, which is contrary to the rules of use.

(4) For use within the meaning of **Art. 21** a collective and certification trademark shall be deemed to be the use of any person, entitled to do so.

(5) A collective or certification trademark, whose registration has been revoked or terminated shall constitute an obstacle to the registration of an identical or similar trademark for identical or similar goods or services in the name of another person within three years of the publication of the revocation or termination.

(6) The Patent Office shall provide access to the rules for the use of collective and certification trademarks, through the State Register of Trademarks.

Section VI.

Application for registration of trademarks

Application

Art. 42. (1) (Amend. - SG 92/20) The application for registration of a trade mark shall be filed with the Patent Office by post, fax or electronically. Where the application is submitted through the Patent Office's electronic services portal, identification by means of a unique identifier of the applicant and of the industrial property representative or of the lawyer representing him, as well as an electronic signature, shall be optional.

(2) The application must refer to a single trade mark, intended for goods and/or services of one or more classes of the **ICGS**.

(3) The application must contain:

1. the request for registration;
 2. the name and address of the applicant;
 3. representation of the trademark;
 4. list of goods and/or services, for which registration is required;
 5. type and kind of trademark;
 6. (amend. - SG 92/20) date of the industrial property representative or of the lawyer, where such are authorized;
 7. correspondence address;
 8. description of the trademark;
 9. data for separation of the application – number and date of submission of the previous application.
 10. data about pretended priority – if any;
 11. data, that the application is the result of the conversion of an application/trade mark to the European Union - number and date of submission of the converted application/mark, as well as the priority data, if such is claimed;
 12. data, that the application is the result of transforming the international registration of a trademark - number and date of registration of the transformed international registration, as well as the priority data, if such is claimed;
 13. a declaration of refusal of the exclusive right to an element of the mark;
 14. list of annexes.
- (4) Where the application relates to a collective or certification trademark, other than the documents

, referred to in Para. 3, the rules of use shall also apply.

(5) The manner of shaping and the procedure for filing and expertise in the Patent Office of applications for registration of trade marks shall be determined by an Ordinance, adopted by the Council of Ministers.

(6) A document for paid fees shall be attached to the application, if the payment is through the bank.

(7) The documents and particulars in the application shall be presented in the Bulgarian language.

Description and classification of goods and/or services

Art. 43. (1) The goods and/or services, for which registration of a trade mark is sought shall be classified in accordance with the [ICGS](#).

(2) The goods and/or services shall be described in such a way, as to permit sufficient clarity and precision to determine the scope of protection. The use of general terms shall be deemed to include only the goods and/or services, clearly covered by the literal meaning of the term.

(3) The classification of the individual goods and/or services in the same class of the ICGS shall not justify them to be similar, respectively the classification of the individual goods and/or services in different classes shall not justify them to be defined as dissimilar.

Date of submission

Art. 44. (1) The date of filing the application shall be the date, on which the documents, containing the data and the rules of **Art. 42, Para. 3, item 1-4 and Para. 4** have been received in the Patent Office.

(2) When the requirements of **Art. 42, Para. 3, item 1-4 and Para. 4** have not been fulfilled, the application shall be deemed not to have been made and the proceedings shall be terminated by a decision of the state expert under Art. 64, about which the applicant shall be notified.

(3) Where the documents are presented in another language, the filing date shall be retained if, within one month of that date, they are presented in the Bulgarian language.

Right to priority

Art. 45. (1) The applicant's right to priority over later applications for identical or similar trade marks, intended for identical or similar goods or services shall be recognised from the date of filing the application in the Patent Office, pursuant to **Art. 44, Para. 1**.

(2) The right to priority of the applicant or his successor in title shall be recognised from the date of previous application, provided that:

1. the previous application has been regularly filed in a Member State of the Paris Convention or of the World Trade Organization;

2. the previous application is the first application, within the meaning of Art. 4 of the Paris Convention and is for the same trade mark and for the same goods or services;

3. the application has been filed in the Patent Office within 6 months of the filing date of the previous application;

4. the claim for priority is made by filing the application, giving the date and country of the previous application and a state fee for priority has been paid; within two months of the date of filing the application, the applicant submits a priority document, issued by the competent authority of the country, in which the previous application was lodged.

(3) Regularly submitted application under Para. 2, item 1 is an application, which has an established filing date, regardless of the outcome of the proceeding.

(4) The right to an exhibition priority of the applicant or his successor in title shall be recognised from the date of the display of the goods or services, indicated by the trademark, applied for in an official or

officially recognised exhibition, provided that:

1. the application has been filed within 6 months of the date of the first exposure of the goods or services;
2. the application is for the same trade mark and for the same goods or services displayed;
3. the claim for priority is made with filing the application, stating the date of exposure and the country, where the exhibition is organised and a state priority fee has been paid; within two months of the date of filing the application, the applicant presents a document, issued by the administration of the exhibition, proving the date of exposure of the goods or services, indicated by the trademark, applied for.

Formal expertise

Art. 46. (1) For each application with an established filing date, a check, whether the fees are paid under **Art. 42, Para. 6** shall be made. Where fees have not been paid or paid in part, the applicant shall be granted a 14-day time limit for their payment. After the expiration of this period, the fees may be paid within a further 14-day period, due in double size. If the fees are not paid within this period, the application shall be deemed to be withdrawn and the proceedings shall be terminated by a decision of the state expert under **Art. 64**, about which the applicant shall be notified.

(2) Within one month from the presentation of the payment document, an expert report shall be carried out, which shall verify, whether the requirements of **Art. 42, Para. 2, Para. 3, item 5-14 and Para. 7** and **Art. 43** have been fulfilled. Where the application concerns a collective or certification trademark, the conformity of the rules of use with the requirements of **Art. 39, Para. 3**, respectively **Art. 40, Para. 2** shall be verified. Where irregularities are found, the applicant shall be granted a period of one month to rectify them.

(3) Where the application does not meet the requirements of **Art. 42, Para. 2** and within the period under Para. 2, sentence three, the applicant divides the application, the divisional applications shall retain the filing date, respectively the priority of the original application.

(4) When the term under Para. 2, sentence three, the applicant does not remove the irregularities, the proceedings shall be terminated by a decision of a state expert under **Art. 64**, about which the applicant shall be notified.

Substantive expertise

Art. 47. (1) Within two months of the completion of the formal expertise, an expert examination shall be carried out on the grounds under **Art. 11**.

(2) Where there is reason to refuse registration for all, or part of the goods or services, the applicant shall be informed, stating the reasons for the refusal and giving him a two-month period for objection.

(3) When the term under Para. 2 the applicant does not respond, does not make reasonable objections and/or does not restrict the list of goods or services, a decision on total or partial refusal shall be taken. In the case of a partial refusal, the applicant may, within one month of receipt of the decision or in the appeal proceedings against the decision, apply for the division of the application. The subject-matter of the divisional application may be the only uncontested goods and services, covered by the original application.

Suspension of procedure on demand

Art. 48. (1) The procedure for the application shall be suspended upon the examination of the grounds under Art. 11, in cases of:

1. earlier applications for registration of geographical indications, traditional food specialities, guaranteed and traditional wine designations, within the meaning of **Art. 11, Para. 1, item 12 - 14**;
2. an application, that consent will be submitted in accordance with **Art. 11, Para. 3**.

(2) The procedure for the application shall be suspended ex officio or at the request of the applicant by decision of the state expert under **Art. 64**. The state expert shall give a decision on the request for suspension.

sion after assessing its reasons.

(3) In the cases under Para. 1, item 2, the proceedings shall be suspended for a period of 6 months and shall be resumed ex officio after its expiry. At the request of the applicant, the proceedings may be resumed before the expiry of the 6-month period.

(4) The procedure for the application shall be resumed ex officio or at the request of the applicant, after the reasons for its suspension cease, by decision of the state expert under **Art. 64**.

Publication of the application

Art. 49. (1) Any application, that meets the requirements for formal regularity and the requirements of **Art. 11** shall be published in the Official Bulletin of the Patent Office. The publication shall be made within one month after the completion of the expertise under **Art. 47** or after the entry into force of the decision under **Art. 47, Para. 3**.

(2) (Amend. - SG 92/20) The publication shall include an entry number, a filing date and a priority, where such is claimed, name and address of the applicant, name and address of the industrial property representative or of the lawyer, where available, the kind of the trademark, the type of trade mark, description of the trademark, where necessary, representation of the trademark, classes and list of goods and services, for which it is applied for.

(3) International registrations, to which the Republic of Bulgaria is designated shall be published in the Official Bulletin of the Patent Office, after notification of the International Registration Office.

(4) The application shall not be published, where:

1. it has been withdrawn under **Art. 50, Para. 1**;
2. the proceedings on it has been terminated under **Art. 46, Para. 1**;
3. the proceedings on it has been terminated under **Art. 46, Para. 4**;
4. there is a final decision for a complete refusal of its registration, pursuant to **Art. 47, Para. 3**;
5. there is a final decision to refuse recognition of the effect of the international registration, in accordance with the rules under **Art. 39, Para. 3** and **Art. 40, Para. 2** and the requirements of **Art. 41, Para. 2** and **Art. 43**,

(5) The entered circumstances in the application under **Art. 23-28** are not published in the Official Bulletin of the Patent Office.

Withdrawal, restriction and changes in the application

Art. 50. (1) Pending a decision on the application, the applicant may withdraw it or limit the list of goods or services, for which the trademark is applied for.

(2) When the applicant withdraws the application, the proceeding on it shall be terminated by a decision of the state expert under **Art. 64**.

(3) The application may not be modified, except where there is a change in the name or address of the applicant or it is necessary to rectify errors in the name and address of the applicant and obvious errors, provided that such changes do not affect the sign or extend the list of goods or services.

(4) Changes under Para. 3 shall be made upon a request of the applicant.

(5) When the changes under Para. 1 and 3 were performed after the publication under **Art. 49**, they shall also be subject to publication.

Objections by third parties

Art. 51. (1) Within three months from the publication under **Art. 49, Para. 1**, which for international trade mark registrations begins two months after the publication under **Art. 49, Para. 3**, and where opposition is filed - until the end of opposition proceedings, any natural or legal person, public entities, as well as associations of producers, service providers, traders or consumers may object the registration of the trade mark

k or the recognition of the effect of the international registration of a trade mark on the territory of the Republic of Bulgaria under **Art. 11**, and for the collective and certification trademarks - also on the grounds of **Art. 39, Para. 5**, respectively **Art. 40, Para. 4**.

(2) The objection shall be filed with the Patent Office in writing and shall contain grounds and reasons.

(3) The person, lodging the objection shall not be a participant in the application procedure.

(4) The objection shall be forwarded to the applicant or to the holder of an international registration of the trademark for an opinion on it.

(5) The objection and the opinion, if any, shall be examined by a state expert under **Art. 64**.

Section VII. Oppositions

Submission and contents of oppositions

Art. 52. (1) Within three months from the publication under **Art. 49, Para. 1**, which for international trade mark registrations shall begin two months after the publication under Art. 49, Para. 3, on the grounds for refusal under Art. 12 before the Patent Office opposition may be submitted to registration of a trade mark, filed under this Act or against the recognition of the effect of an international registration of a trade mark on the territory of the Republic of Bulgaria:

1. under **Art. 12, Para. 1** - by the holder of an earlier mark, within the meaning of Art. 12, Para. 2 and 3, by a co-holder, without the consent of the other co-holders or by the licensee of the exclusive licence of the earlier trade mark;

2. under **Art. 12, Para. 4** - by the actual holder of a non-registered trade mark, which is used in the commercial activity in the territory of the Republic of Bulgaria, when the application for registration has been filed for it and the fees under **Art. 42, Para. 6** have been paid;

3. under **Art. 12, Para. 5 and 6** - by the actual holder of the trademark;

4. under **Art. 12, Para. 7** – by the trader, who claims that the trade mark consists of, or contains his company;

5. under **Art. 12, Para. 8** - by the person who, under the relevant legislation, may exercise the right to prohibit the use of a trade mark on the basis of an earlier registered geographical indication.

(2) The opposition shall be submitted in two identical copies, except when it is submitted electronically with a qualified electronic signature. The opposition must contain:

1. data about the opponent;

2. information about presence of legal interest;

3. the entry number, name of the trade mark and the goods or services, against which it is directed;

4. grounds and motives.

(3) To the opposition the following shall be enclosed:

1. a document for a paid state fee, if payment is through a bank;

2. Power of attorney, where necessary;

3. evidences – where necessary;

4. A judicial certificate of a formed proceedings or a final judgment, when the opposition is under **Art. 12, Para. 5**.

(4) The opposition under Para. 1 must be:

1. based on one or more earlier rights, provided that they belong to the same person;

2. based on a part or all of the goods or services, to which the earlier right relates;

3. directed against part or all of the goods or services of the contested mark.

Panel for the oppositions

Art. 53. The opposition shall be examined by a panel for oppositions, which shall consist of three experts, one of which shall be a state expert, within the meaning of **Art. 64** and shall be the Chairman of the panel. The panel shall be appointed by order of the Chairman of the Patent Office.

Уведомяване за постъпила опозиция

Art. 54. (1) About an opposition to the registration of a trade mark, applied for under this Act, the applicant of the mark - subject of the opposition shall be notified.

(2) The International Bureau of the World Intellectual Property Organisation, hereinafter referred to as 'the International Bureau', shall be notified about the opposition to recognition of the international registration of a trade mark.

Admissibility check and formal regularity of oppositions

Art. 55. (1) For every opposition, it shall be verified, whether the term under **Art. 52, Para. 1** has been observed, whether there is a legitimate interest, whether the requirements under **Art. 52, Para. 1, item 2** have been fulfilled, proposals third and fourth and Para. 4, item 1 and whether the state fee has been paid.

(2) Opposition, to which the requirements under Para. 1 have not been fulfilled, as well as opposition, filed before the beginning of the term under **Art. 52, Para. 1** shall be inadmissible and proceedings under it shall not be initiated, about which the parties shall be notified.

(3) Every admissible opposition shall be checked, whether it meets the other requirements of **Art. 52, Para. 2 and Para. 4, item 2 and 3**, and where irregularities have been found, the person, who submitted it shall be informed and shall be given a period of one month to rectify them. Where the irregularities have not been remedied within this period, the opposition proceedings shall be terminated.

(4) The refusal to initiate and terminate the proceedings shall be effected by a decision of the panel for oppositions.

Related proceedings

Art. 56. (1) Where several oppositions have been filed on the same application for registration of a trade mark, they may be combined for a general decision, subject to the agreement of the parties.

(2) The combination under Para. 1 shall be made by decision of a panel for oppositions, provided that this does not prevent the normal course of proceedings and will not jeopardise the interests of the parties.

Proceedings on oppositions

Art. 57. (1) Upon completion of the admissibility check and formal regularity of the opposition of both parties, a notification shall be given to them, within a period of three months to reach an agreement, starting on the date of sending the notification. This period may be extended once by three months, with a written request, signed by the parties, accompanied by a state fee document, paid if the payment is by bank transfer.

(2) At the same time as the notification under Para. 1, the applicant of the trade mark, subject to opposition, shall be provided with one copy of the opposition, together with the evidence, where such are presented.

(3) When the parties deposit an agreement within the period under Para. 1, the opposition proceedings shall be terminated and half of the state opposition fee, returned to the person, who submitted it, upon request.

(4) When within the term under Para., no agreement is lodged, the applicant shall be given a two-m

month period to reply to the opposition and the evidence, if such have been presented.

(5) The applicant's response shall be given to the opposition person for an opinion within one month.

(6) If within the term under Para. 5 the opponent delivered an opinion, it shall be submitted to the applicant for a reply within one month of the communication, provided that it presents new facts, circumstances and/or evidence, relevant to the opposition.

(7) After the expiration of the term under Para. 6, the panel of the oppositions shall examine the opposition, the applicant's replies, the opponent's opinion and the evidence, if any. The examination of the opposition shall be limited to the legal grounds and the reasons therefor.

(8) Replies, opinions and evidence from the parties, received after the expiry of the deadlines under Para. 4, 5 and 6 shall be taken into account when examining the opposition and shall be forwarded to the other party, provided that the time limit for granting them is not complied with for valid reasons. The panel under **Art. 53** may require from the parties additional evidence and materials where necessary. They shall be submitted to the other party for an opinion within one month.

(9) Following the clarification of all facts and circumstances of the dispute, the panel of oppositions shall take a decision, by which:

1. the opposition is left without respect;
2. a full or partial refusal of the registration of the trade mark - subject to the opposition is ordered.

(10) Decisions on oppositions shall be laid down within three months after the collection of the evidence and materials under Para. 6 have been completed.

(11) Where, pending a decision on the opposition, the application for registration of an opposition trade mark is limited to some of the goods or services, subject to the dispute, the opponent shall be given the opportunity within 14 days of the announcement to confirm, whether he maintains the opposition against the remaining goods or services. If the opponent withdraws the opposition in view of the restriction, the proceedings shall be terminated.

(12) Where a transfer of the earlier right to a trade mark has been carried out until a decision has been taken on the opposition, the new holder shall be given an opportunity within 14 days of the communication to confirm, whether the opposition is maintained. If the new proprietor does not respond or withdraws the opposition, the proceedings shall be terminated.

(13) When the opposition is brought against some of the goods or services of the application for registration of a trade mark, in the period after expiry of the term under **Art. 52, Para. 1** and before the expiration of the term under **Art. 57, Para. 6**, the applicant may request division of the application. Subject of the divisional application may be only the disputed goods and services, included in the original application.

(14) The procedure for formation, submitting and examining oppositions shall be determined by an Ordinance of the Council of Ministers.

Request of evidence for actual use

Art. 58. (1) At the request of the applicant of the trade mark – subject to opposition, the person, who submitted the opposition shall furnish evidence of genuine use of the earlier mark in relation to the goods or services for which it is registered and on which the opposition is based in the five years, preceding the filing date or the priority date of the application for registration of a trade mark - subject to opposition or evidence, that there are reasonable grounds for not using it, provided that the earlier trade mark is registered at least 5 years before the date of filing the application, or the priority date of the later trade mark.

(2) In the case of earlier international registrations of marks, the beginning of the 5-year period, provided as a condition for acceptance of the request for proof of genuine use of the earlier mark under Para. 1 shall commence on the date of publication of the international registration, pursuant to **Art. 83, Para. 2**.

(3) Genuine use of a European Union trade mark shall be established in accordance with Art. 18 of Regulation (EU) 2017/1001.

(4) The request under Para. 1 shall be made at the first opportunity, given to the applicant to respond

d to the opposition submitted.

(5) If the applicant requests proof of genuine use of the earlier trade mark, the opponent shall be given two months to present evidence.

(6) If within the term under Para. 5, the opponent provides evidence, they shall be submitted to the applicant for an opinion, within one month of the communication.

(7) When the term under Para. 5, no evidence of use of the earlier mark has been provided, the panel of oppositions shall take a decision, by which the opposition is left without respect.

(8) Where the earlier trade mark is used only for part of the goods or services, the opposition shall be considered in relation to those goods or services.

Termination of proceedings of oppositions

Art. 59. (1) The opposition proceedings shall be suspended, when an application for revocation is filed, for cancellation or termination under **Art. 32, Para. 1, item 3** or under **Art. 62**, in relation to the earlier trade mark.

(2) Opposition proceedings shall also be suspended in cases where:

1. the opposition is based on earlier trade marks, within the meaning of **Art. 12, Para. 2, item 2, 4, 6 and 8**;

2. the opposition is based on an earlier application for registration of a geographical indication, according to **Art. 12, Para. 8**;

3. the duration of the registration of the earlier trade mark has expired, but the additional period for its renewal has not expired;

4. subject to opposition is an international registration of a trade mark, which has been refused under **Art. 47, Para. 2 and 3**;

5. against the application for registration of a trade mark - subject to opposition, an objection has been filed under **Art. 51**;

6. upon the application, the expertise is resumed, according to **Art. 63**;

7. there is another administrative or judicial proceedings, provided that the decision on the opposition depends on its conclusion;

8. there is a request, made by both parties to provide an additional period of 6 months for an agreement after the expiration of the deadlines under **Art. 57, Para. 1**.

(3) In the cases under Para. 2, item 7, the proceedings shall be suspended upon presentation of a certificate of procedure, issued by the authority concerned.

(4) The opposition proceedings shall be suspended either ex officio or upon the request of one of the parties. The panel of the oppositions shall come with a decision on the request for suspension, following the assessment of its grounds.

(5) The opposition proceedings shall be resumed ex officio or at the request of the parties, after the cessation of the grounds for suspension, by decision of the panel on oppositions.

Termination of the opposition proceedings

Art. 60. (1) Except in the cases under **Art. 57, Para. 3, 11 and 12**, opposition proceedings shall cease when, pending a decision by the opposition:

1. the application for registration of a trade mark, subject to opposition and/or the opposition is withdrawn;

2. the application for registration of a trade mark, subject of the opposition is limited to goods or services, not subject to the opposition;

3. as a result of a transfer, the application for registration of a trade mark - subject of the opposition, and the opposed earlier right, belong to the same person;

4. on the international registration of a trade mark - subject to the opposition, has a valid decision for

r refusal under **Art. 47, Para. 3** for all the goods or services, subject to the opposition;

5. as a result of an objection, filed under Art. 51 on application for registration of a trade mark – subject to the opposition has a final decision for refusal of all goods or services, subject to the opposition;

6. the application for registration of a trade mark – subject to the opposition has been terminated, pursuant to **Art. 62**;

7. the action of the objection with the opposition to an earlier right is terminated or the registration of the earlier trade mark is annulled or deleted;

8. the renewed under **Art. 63** expertise in substance is completed with a final refusal decision for all the goods or services, subject to the opposition.

(2) The termination of the opposition proceedings shall be done by decision of the panel for the oppositions.

Registration

Art. 61. Within 7 days from the expiration of the term under **Art. 52, Para. 1**, where no opposition has been filed, or from the enforcement of the decision, rejecting the opposition in whole or in part, as unfounded, a decision has been made for registration of the trademark. The trade mark shall be entered in the State Register of Trade Marks and published in the Official Bulletin of the Patent Office, within one month of the date of the decision, and the applicant shall be issued a registration certificate.

Termination of the proceedings upon an application

Art. 62. (1) Apart from the cases under **Art. 46, Para. 4** and **Art. 50, Para. 2**, the proceedings of the application for registration of a trade mark shall also be terminated in presence of the conditions under **Art. 32, Para. 1, item 3**.

(2)) The proceedings of the application for registration of a trade mark within the meaning of Para. 1 shall be terminated ex officio or upon the request of any person by decision of the state expert under **Art. 64**.

Renewal of the expertise in substance

Art. 63. Apart from the cases under **Art. 75, Para. 2 and 9** until the decision on the application is taken, the inspection under **Art. 11** may be renewed ex officio by a state expert under **Art. 64**.

Adoption of decisions

Art. 64. The decisions on the application for registration of a trade mark and the decisions, concerning recognition of the effect of an international registration of a trade mark on the territory of the Republic of Bulgaria shall be ordered by a state expert

Renewal of registration

Art. 65. (1) The registration of a trade mark shall be renewed at the request of the holder, accompanied by a document for a state fee, paid if the payment is by bank transfer.

(2) The request must contain the registered number of the trade mark and identity data of the holder

(3) The request may be submitted in the last year of the term under **Art. 22, Para. 1 or up to 6 months** after expiry of that period, against payment of an additional fee.

(4) Where the holder requests the renewal of the registration only for part of the goods or services, for which it is registered, the request shall also indicate which goods or services are requested to be renewed.

(5) When the requirements of Para. 1 - 3 have not been complied with, the registration of the trade

mark shall not be renewed.

(6) The renewal shall be in force from the day, following the date, on which the previous registration expires.

(7) (Amend. - SG 92/20) The Patent Office shall inform the holder or the person representing him of the expiry of the registration at least 6 months in advance. The office shall not be liable if it is objectively prevented from providing this information.

Changes in the name and address of the applicant of the holder

Art. 66. (1) The applicant, respectively the holder of a trade mark must notify the Patent Office of any change in his name and address within one month of its completion.

(2) The change shall be entered in the State Trade mark Register upon the request of the applicant, respectively the holder of the trademark.

(3) All documents, for which the applicant, respectively the holder of a trade mark must be notified shall be sent to the address, registered last in the State Register of Trademarks.

Changes in the trademark

Art. 67. (1) No changes may be made to the trade mark during the operation of the registration or its renewal.

(2) Where the trademark includes the name and address of the holder, any change thereto, provided that it does not substantially affect the trade mark as registered, may be made upon the request of the holder.

Division of registration

Art. 68. (1) The proprietor of the trade mark may divide the registration by declaring, that part of the goods or services, included in the original registration will be subject to one or more divisional registrations. The goods or services in the divisional registration may not overlap with the goods or services, which remain in the original registration or with those, included in other divisional registrations.

(2) Dividing the registration shall be inadmissible, where proceedings are initiated on an application for revocation or deletion against the original registration and the division would lead to the introduction of a division between the goods or services, which are subject of the request for cancellation or deletion in different registrations.

(3) The request for dividing the registration shall not be considered, if the state fee for filing and expertise for each divisional registration has not been paid.

(4) The division shall have effect from the date of registration in the State Register of Trademarks.

(5) Divided registration shall retain the filing date, priority date and all entries in the original registration.

Section VIII.

Disputes

Consideration of disputes

Art. 69. (1) Panels of dispute shall consider:

1. appeals against decisions, terminating the proceedings under **Art. 46, Para. 4**;
2. appeals against decision for refusal of registration under **Art. 47, Para. 3**;
3. appeals against decisions of the panels for oppositions under **Art. 57, Para. 9** and **Art. 58, Para. 7**;
4. requests for cancellation of the registration under **Art. 35**;

5. requests for deletion of the registration under **Art. 36**.

(2) The panels of consideration of appeals shall include two state experts within the meaning of **Art . 64** and a lawyer, and the panels for consideration of the requests - three state experts and two lawyers. The panels shall be appointed by the chairperson of the Patent Office.

(3) The panels under Para. 2 shall prepare opinions for making decisions under **Art. 75 - 77**.

(4) The procedure for dealing disputes shall be determined by an Ordinance of the Council of Ministers.

Deadlines

Art. 70. (1) The appeals shall be lodged within two months of the notification of the decision.

(2) Requests may be submitted throughout the period of validity of the registration.

Contents of appeals and requests

Art. 71. (1) Appeals under **Art. 69, Para. 1, items 1 and 2** shall contain:

1. data about the appellant;
2. grounded legal interest;
3. the number, name of the trade mark and the goods or services, in respect of which the appeal has been lodged;
4. grounds and motives.

(2) The appeal under Para. 1 shall have attached:

1. a document for a paid state fee if the payment is through a bank transfer;
2. power of attorney, where necessary;
3. evidences, where necessary.

(3) The appeals under **Art. 69, Para. 1, item 3** shall be submitted in two identical copies, except when submitted electronically with a qualified electronic signature. The appeals must contain:

1. data about the appellant;
2. grounded legal interest;
3. number, name of the trade mark and the goods or services, in respect of which the appeal has been lodged;
4. grounds and motives.

(4) The appeal under Para. 3 shall have attached:

1. a document for a paid state fee if the payment is through a bank transfer;
2. power of attorney, where necessary;
3. evidences, where necessary.

(5) Requests shall be submitted in two identical copies, except when submitted electronically with a qualified electronic signature. Requests shall contain:

1. data about the applicant;
2. number, name of the trade mark and the goods or services, in respect of which the request is lodged;
3. data about the request under **Art. 52, Para. 1, item 2**, when the request is under **Art. 36, Para. 3, item 1** in conjunction with **Art. 12, Para. 4**;
4. grounded legal interest – if required;
5. grounds and motives.

(6) The requests shall have attached:

1. a document for a paid state fee if the payment is made through bank transfer;
2. power of attorney where necessary;
3. evidences, where necessary;
4. a judicial certificate of formed proceedings or a final judgment, where the request is under **Art. 1**

2, Para. 5.

(7) Requests may be submitted against a part, or all of the goods or services, for which the mark is registered.

(8) When the requests are under **Art. 36, Para. 3**, they may be submitted on the basis of one or more earlier rights, for part or all of the goods or services, covered by the earlier right.

(9) In the cases under Para. 8 earlier rights should belong to the same person.

Notification of the parties

Art. 72. For appeals, submitted under **Art. 69, Para. 1, item 3** and requests, a message shall be sent to the interested party.

Admissibility check and formal regularity of appeals and requests

Art. 73. (1) For each appeal, it shall be checked, whether the deadline under **Art. 70, Para. 1** has been observed, whether there is a legitimate interest and whether a state fee has been paid.

(2) For each request, check is made, whether the time limit under **Art. 70, Para. 2**, whether a state fee has been paid, whether there is a legitimate interest, when required, whether an application has been filed under **Art. 52, Para. 1, item 2** and whether a state fee has been paid for it.

(3) For complaints and requests, on which no fee has been paid and/or no legitimate interest is justified, and/or no application is filed under **Art. 52, Para. 1, item 2** and no state fee has been paid to it, the appellant, or the applicant, respectively, shall be granted a 14-day time limit for the elimination of irregularities.

(4) Appeals and requests, that do not have the conditions under Para. 1 and 2 shall be inadmissible and proceedings on them shall not be instituted.

(5) For each admissible appeal and request it is checked, whether it meets the other requirements of **Art. 71**. Where irregularities are found, the complainant, respectively, the applicant shall be informed and shall be given a period of one month to rectify them. The proceedings shall be terminated on appeals and requests, on which irregularities have not been remedied, within that period.

(6) Refusal to initiate and terminate the proceedings under Para. 4 and 5 shall be effected by decision of the chairperson of the Patent Office or of a deputy-chairperson, authorised by him.

(7) In cases of appeals under **Art. 69, Para. 1, item 3** and requests, other than the applicant/claimant, the decisions under Para. 6 shall also be communicated to the party concerned.

Related proceedings

Art. 74. (1) When decisions under **Art. 57, Para. 9** and **Art. 58, Para. 7** are appealed simultaneously by the opponent and the applicant, or when several requests for cancellation of the registration of a trade mark are filed on the same trade mark, the appeals under **Art. 69, Para. 1, item 3** and requests for deletion may be brought together in a single procedure for adoption of a common decision, subject to the agreement of the parties.

(2) Where several requests for revocation of a trade mark have been submitted in the same trade mark, they may be brought together in one proceeding, subject to the agreement of the parties and provided, that they have been submitted simultaneously.

(3) The grouping under Para. 1 and 2 shall be effected by a decision of the chairperson of the Patent Office or of a deputy-chairperson, authorised by him, provided that this does not prevent the normal course of proceedings and the interests of the parties will not be jeopardised.

Proceedings on appeals

Art. 75. (1) After completion of the admissibility check and formal regularity of the appeals under **Art. 69, Para. 1, item 1 and 2** shall be examined by the panel on disputes, which shall draw up an opinion on

n the decision making, which:

1. leaves no respect for the appeal, against a decision, refusing the registration of a trade mark or against a decision to discontinue proceedings;
2. repeals the decision, refusing registration of a trade mark or the decision to discontinue proceedings and returns the request for re-examination, publication or resumption of proceedings.

(2) When examining complaints under **Art. 69, Para. 1, item 2**, it is considered, that there are grounds for refusing registration of a trade mark, other than those in the appealed decision or whether it is considered, that there are grounds for refusing registration for goods or services, other than those refused, the decision under **Art. 47, Para. 3** shall be revoked and the request shall be returned for re-examination.

(3) When a decision, refusing the registration of a trade mark is revoked, a decision on the merits shall be taken on the re-examination of the application.

(4) Decisions under Para. 1 and 2 shall be taken by the chairperson of the Patent Office or by a deputy-president, authorised by him, within two months of the lodging of the appeal, or of the removal of any irregularities

(5) After completion of the admissibility check and formal regularity of the appeals under **Art. 69, Para. 1, item 3**, one copy of the appeal shall be made available to the party concerned for reply within one month.

(6) If within the term under Para. 5, the party concerned replied, the reply shall be given to the applicant for an opinion within one month of the communication, provided that it presents new facts, circumstances and/or evidence, relevant to the dispute or they are intended to challenge the findings of the appealed decision of their own motion.

(7) Replies, opinions and evidence, submitted after the deadline under Para. 5 and 6 shall be taken into account in consideration of the appeals and sent to the parties in the proceedings, provided that the time limit for their granting has not been complied with for valid reasons. The panel under **Art. 69, Para. 2** may require additional evidence and materials from the parties, where necessary. They shall be submitted to the other party for an opinion within one month.

(8) After the expiration of Para. 6, the appeal, the reply of the party concerned and the applicant's opinion, if any, shall be examined by the panel on disputes.

(9) When examining complaints under **Art. 69, Para. 1, item 3**, it is considered, that there is existence of grounds for refusal under **Art. 11** for part, or all of the goods or services, subject to appeal, the application shall be returned for the resumption of the substantive examination.

(10) After clarifying all the facts and circumstances of the dispute, the panel on the dispute shall draw up an opinion on the decision, which shall:

1. leave without respect the appeal against a decision on the grounds of **Art. 58, Para. 7**;
2. repeal the decision on the basis of **Art. 58, Para. 7** and return it for re-examination;
3. leave without respect the appeal against a decision, on the grounds of **Art. 57, Para. 9, item 1**;
4. repeal the decision on the basis of **Art. 57, Para. 9, item 1** and return it for re-examination;
5. leave the appeal against a decision, refusing the registration of a trade mark on the grounds of **Art. 57, Para. 9, item 2**;
6. cancel the registration of a trade mark on the grounds of **Art. 57, Para. 9, item 2** and return for re-examination or continuation of the application procedure.

(11) Where a panel decision on oppositions is revoked, a decision on its merits shall be taken on its re-examination.

(12) Decisions under Para. 10 shall be taken by the chairperson of the Patent Office or by a deputy-chairperson, authorised by him within two months of the completion of the exchange of correspondence between the parties.

(13) When the decision on the appeal under **Art. 69, Para. 1, item 3**, the application for registration of a trade mark is limited to part of the goods or services subject to the dispute, the opponent shall be given the opportunity within 14 days of the announcement to confirm, whether he maintains the opposition again

st the remaining goods or services. If the opponent does not respond or withdraws the opposition in view to the restriction, the appeal proceedings shall be terminated and the contested decision shall be nullified.

(14) When by the decision on the appeal under **Art. 69, Para. 1, item 3**, a transfer of the earlier right to a trade mark is made, the new holder shall be given the opportunity within 14 days of the communication to confirm, whether the opposition is maintained. If the new holder does not respond or withdraws the opposition, the appeal proceedings shall be terminated and the contested decision shall be nullified.

(15) When by the decision on the appeal under **Art. 69, Para. 1, item 3**, the effect of the opposition to an earlier right is terminated, the appeal proceedings shall be terminated and the appealed decision shall be nullified.

Proceedings on requests

Art. 76. (1) Following the completion of the admissibility check and the formal regularity of the requests, one copy of the request and the evidence, when presented, shall be given to the holder of the right for objection within two months and, where the request is under **Art. 35, Para. 1, item 1**, also - for presenting evidence of use of the mark in the territory of the Republic of Bulgaria.

(2) The objection and the evidence, when presented, shall be made available to the applicant for an opinion within one month.

(3) When the request is under **Art. 36, Para. 3, item 2, letter "b"** and with the objection the proprietor of a trade mark has challenged the existence of the earlier copyright, the applicant shall be informed, that it must be established by a judicial procedure and one month period shall be granted for the submission of a court certificate for a formed proceedings.

(4) If within the term under Para. 2, the applicant submits an opinion, it shall be made available to the trade mark holder for reply within one month of the communication, provided that it presents new facts, circumstances and/or evidence, relevant to the dispute.

(5) Replies, opinions and evidence, submitted after the deadline under Para. 4 shall be taken into account, when examining the requests and shall be forwarded to the parties to the proceedings, provided that the time limit for granting them has not been complied with for valid reasons. The panel under **Art. 69, Para. 2** may require additional evidence and materials from the parties, where necessary. They shall be submitted to the other party for an opinion, within one month.

(6) With the expiry of the term under Para. 4, the panel of disputes shall proceed with the examination of the request, of the opposition and of the reply of the holder of the mark, of the applicant's observations and the evidence, if such have been presented.

(7) After clarification of all facts and circumstances of the dispute, the panel on the dispute shall draw up an opinion on the decision, which shall:

1. leave the request for revocation or deletion of the registration of a trade mark without respect;
2. cancel or delete the registration of a trade mark for part of the goods or services;
3. cancel or delete the registration of a trade mark for all goods or services.

(8) Decisions under Para. 7 shall be taken by the chairperson of the Patent Office or by a deputy-chairperson, authorised by him.

(9) In the case of partial cancellation or partial deletion of the registration, the issued registration certificate shall be replaced by a new one.

(10) Decisions on requests for cancellation or for deletion shall be given within three months after the collection of the evidence and materials, referred to in Para. 4 has been completed.

(11) Where, pending a decision on the request, the effect of the registration of the trade mark, which is the subject of the dispute, ceases or the holder of the trade mark withdraws from the trade mark right a part or all of the goods or services, the applicant shall be given an opportunity within 14 days from the communication, to confirm whether the request is supported. If the applicant does not reply or withdraws the request, the proceedings shall be terminated.

(12) Where a transfer of the earlier right to a trade mark is made pending a decision on the request,

the new holder shall be given an opportunity within 14 days of the communication to confirm, whether he maintains the request. If the holder does not respond or withdraws the request, the proceeding shall be terminated.

Request for evidence of actual use

Art. 77. (1) For cancellation requests, where applicable, within the period under **Art. 76, Para. 1**, the holder of a trade mark right may request the applicant to provide evidence of actual use of the earlier mark, in respect of the goods or services, for which it is registered and on which the application is based, during the five years, preceding the date of submission of the request, or evidence, that there are reasonable grounds for or not using it, provided that the earlier trade mark is registered not less, than 5 years before the date of submission of the request.

(2) In the case of earlier international registrations of marks, the beginning of the 5-year period, provided for a condition for acceptance of the request, for proof of actual use of the earlier mark under Para. 1 shall commence on the date of publication of the international registration, pursuant to **Art. 83, Para. 2**.

(3) Where, on the date of filing of the application for registration or on the date of priority of the trade mark – subject to the request, more than 5 years have elapsed since the date of registration of the earlier trade mark, apart from the evidence of use under Para. 1, the applicant shall also provide evidence of use during the five years, preceding the date of filing of the application for registration, or the priority date of the trade mark-subject to the request, or evidence, that there are reasonable grounds for not using it.

(4) In the case of earlier international registrations of trade marks for the date of registration of the earlier trade mark, within the meaning of Para. 3, the date of publication of the international registration, pursuant to **Art. 83, Para. 2** shall be considered.

(5) Actual use of the European Union trade mark shall be established in accordance with Art. 18 of Regulation (EU) 2017/1001.

(6) If the holder of a trademark right requests proof of actual use of the earlier trade mark, the applicant shall be granted a two-month period for submission of evidence.

(7) If within the term under Para. 6, the applicant submits evidence, they shall be made available to the trade mark holder for opinion within one month of the communication.

(8) When within the term under Para. 6, no evidence of the use of the earlier mark has been submitted, the panel on the dispute shall draw up an opinion on the decision making, with which the request for cancellation shall be left without respect.

(9) Where the earlier trade mark has been used only for part of the goods or services, the request shall be considered in relation to those goods or services.

(10) The decision under Para. 8 shall be taken by the chairperson of the Patent Office or by a deputy-chairperson, authorised by him.

Termination of the proceeding on disputes

Art. 78. (1) Proceedings, concerning appeals or requests for cancellation of the registration of a trade mark shall be suspended, when an application for revocation is filed, for deletion or for termination under **Art. 32, Para. 1, item 3** or **Art. 62**.

(2) The appeal proceedings under **Art. 69, Para. 1, item 3**, or requests for cancellation of the registration of a trade mark shall also be suspended, where the registration term of the earlier mark has expired, but the additional time limit for its renewal has not expired.

(3) The proceedings on requests for cancellation of a trade mark registration shall be suspended, where the request is:

1. in relation to **Art. 12, Para. 2, item 2, 4, 6 and 8**;

2. in relation to **Art. 11, Para. 1, item 12-14** and **Art. 12, Para. 8**, in the case of applications for registration of geographical indications, food with traditional specific character or traditional wine designation

s with an earlier filing date, no decision has been enforced;

3. in relation to **Art. 12, Para. 5**;

4. on the basis of **Art. 36, Para. 3, item 2, letter "b"** and the holder of the trademark has challenged the existence of the earlier copyright, provided that no final decision has been presented, by which the seniority of opposing right has already been established.

(4) The procedure for request for cancellation of a trade mark registration shall be suspended, where there is a previous application for cancellation on the same ground and the same subject matter.

(5) The proceedings on appeals and requests shall also be terminated, where:

1. an application has been submitted for consent in accordance with **Art. 11, Para. 3** and **Art. 36, Para. 8**;

2. the parties to the appeal proceedings under **Art. 69, Para. 1, item 3** or on requests for cancellation of the registration of a trade mark lodge an application for an agreement;

3. pursuant to **Art. 75, Para. 9**, the application was returned for the resumption of the substantive expertise;

4. other administrative or judicial proceedings have been instituted, provided that the decision on the appeal or the request is conditional upon its finalization.

(6) In the cases under Para. 3, item 3 and 4 and Para. 5, item 4, the proceedings shall be suspended upon presentation of a certificate of a formed procedure, issued by the authority concerned.

(7) In the cases under Para. 5, item 1 and 2, the proceedings shall be suspended for a period of 6 months and after its expiry shall be resumed ex officio. At the request of the parties to the dispute, proceedings may also be resumed before the expiry of the 6-month period.

(8) Appeal proceedings and requests shall be suspended either ex officio or at the request of one of the parties to the dispute. The chairperson of the Patent Office or the deputy-chairperson, empowered by him shall give a decision on the request for suspension after assessing its grounds.

(9) The appeal proceedings and the requests shall be resumed ex officio or at the request of the applicant, respectively, of the parties to the dispute after the grounds for suspension cease to exist, by decision of the chairperson of the Patent Office or of his authorized deputy - chairperson.

Termination of proceedings on disputes

Art. 79. (1) The proceedings on appeals and request shall be terminated, where:

1. pending the decision on appeals, the application for registration of a trade mark is withdrawn or, in the case of appeals under **Art. 69, Para. 1, item 3** - the parties reach an agreement;

2. pending the decision on appeals, the proceedings concerning the application for registration of a trade mark is terminated pursuant to **Art. 62**;

3. pending the decision on the request, the parties to the dispute reach an agreement and/or the claimant withdraws the request;

4. pending the decision on the appeals under **Art. 69, Para. 1, item 3** the application for registration of a trade mark is limited to goods or services, which are not subject of the dispute;

5. pending the decision on the appeals under **Art. 69, Para. 1, item 3** and requests for deletion of the opposition to the dispute, an earlier right ceases or the registration of the earlier mark has been revoked or deleted;

6. pending the decision on the appeals under **Art. 69, Para. 1, item 3** and requests following a transfer, the applicant and the opponent, respectively the holder of the trade mark and the requester, become the same person;

7. The renewed under **Art. 75, Para. 9** expertise in substance ended with a final refusal decision for all goods or services, subject to the appeal.

(2) The proceedings for appeals and requests shall be terminated also in the cases under **Art. 75, Para. 13, 14 and 15** and **Art. 76, Para. 11 and 12**.

(3) Termination of the appeal proceedings and the requests shall be made by decision of the chairpe

person of the Patent Office or by a deputy chairperson, authorised by him.

Continuation of terms

Art. 80. The terms under **Art. 46, Para. 2, sentence three, Art. 47, Para. 2, Art. 55, Para. 3, Art. 57, Para. 4** and **Art. 58, Para. 5** may be extended once, with the same duration, at the request of the applicant or the holder submitted before their expiry. The request shall not be considered, where a state fee payment document has not been attached to it, if it is paid by a bank transfer.

Renewal of terms

Art. 81. (1) Time limits, missed due to special unforeseen circumstances, may be renewed once at the request of the person, who missed them, to which a paid state fee document shall be attached, if the payment is by bank transfer.

(2) The request shall be submitted within one month of the removal of the reason for omission of the period, but not later than three months after expiry of the period omitted.

(3) All the circumstances shall be stated in the request, justifying them and all evidence of its grounds shall be provided.

(4) The decision to renew shall be given by the chairperson of the Patent Office or by a deputy chairperson, authorised by him.

(5) This Art. shall not apply to the time limits, laid down in Para. 2 and in **Art. 52, Para. 1**, as well as with regard to the deadline for submitting a request under **Art. 80**.

(6) Where, before or at the same time as the request under Para. 1 an appeal was filed under **Art. 69, Para. 1, item 1**, the request for a renewal shall be left without consideration.

Obligation for confidentiality

Art. 82. (1) Persons, who provide information, relating to proceedings before the Patent Office shall indicate the materials and documents, for which they make reasoned statements, that they contain a trade or other protected by law secrecy and shall be deemed to be confidential.

(2) If materials and documents under Para are presented, the parties to opposition or dispute proceedings shall be notified of the existence of such materials and documents, indicating the possibility of obtaining a copy of them in the Patent Office.

(3) Decisions under this Act, containing data and circumstances, representing trade or other protected by law secrecy, shall be signed in duplicate, complete and abridged. The originals of the decisions shall be kept in the file of the relevant proceedings.

(4) In the abridged version of the decisions, all the data and circumstances, containing a trade or other protected by law secrecy, for all parties to the proceedings and for other persons, who provide information and evidence shall be deleted and in their place another sign, chosen for this purpose.

(5) The abridged version of the decisions shall bear the appropriate indication.

(6) The parties to the proceedings shall be notified of the decision made, indicating the possibility of obtaining a copy of the full version in the Patent Office.

(7) The decisions under this Act, which contain trade or other protected by law secrecy, shall be published on the website of the Patent Office in their shortened version.

Publication of the registration

Art. 83. (1) The Patent Office shall make publication in its Official bulletin of any registered trade mark.

(2) For international registrations, to which the Republic of Bulgaria is a country designated, the Patent Office shall publish in the Official Bulletin any international registration, the act of which has been reco

gnised in the territory of the Republic of Bulgaria.

(3) (Amend. - SG 92/20) The publication shall include an entry number of the application, a filing date and a priority, where such is claimed, date of registration, name and address of the holder, name and address of the industrial property representative or of the lawyer, where such are available, type of the trademark, kind of the trade mark, description of the trademark, where necessary, the representation of the trademark, the classes and the list of goods and services, for which it is registered.

Judicial control

Art. 84. (1) The decisions under **Art. 75, Para. 4**, when the appeal is left without respect, **Art. 75, Para. 12, Art. 76, Para. 8** and **Art. 77, Para. 10** may be appealed before the Administrative Court of Sofia, within two months of the communication.

(2) The decisions under **Art. 48, Para. 2, Art. 50, Para. 2, Art. 55, Para. 4, Art. 59, Para. 4, Art. 60, Para. 2, Art. 62, Para. 2, Art. 73, Para. 6, Art. 78, Para. 8** and **Art. 79, Para. 3** may be appealed against under the **Administrative Procedure Code**, within 14 days from the communication.

(3) Refusals to register in the state registers and refusal to renew the registration may be appealed under the **Administrative Procedure Code** within 14 days from the communication.

(4) The chairperson of the Patent Office shall, when there are appealings against acts under **Chapter One** and under this Chapter, be a party in the judicial proceedings.

(5) In case of revocation of decisions by judicial procedure under Para. 1 – 3, on the basis of facts and evidence, which the applicant could have known, indicated and presented in the proceedings before the Patent Office, no legal costs shall be requested from the administrative authority.

Chapter three. GEOGRAPHICAL INDICATIONS

Section I. Registration

Definition

Art. 85. (1) A geographical indication means a designation of origin and a geographical indication.

(2) A designation of origin is the name of a country, a region or a specific locality in that country, which serves to designate goods, which originate therefrom and whose quality or properties are mainly or exclusively attributable to the geographical environment, comprising natural and human factors.

(3) A geographical indication is the name of a country, a region or a specific locality in that country, serving to designate a commodity, originating therefrom and possessing a quality, a reputation or any other characteristic, that may be attributed to that geographical origin.

(4) For geographical indications, traditional terms shall also be considered as satisfying the requirements under Para. 2 and 3

Exceptions from registration

Art. 86. The geographical indications for agricultural products and foodstuffs, falling within the scope of Regulation (EU) No 1151/2012 of the European Parliament and of the Council of 21 November 2012 on quality schemes for agricultural products and foodstuffs (OJ, L 343/1 of 14 December 2012), hereinafter referred to as 'Regulation (EU) No 1151/2012', shall not be registered in accordance with this Act, for spirit drinks, falling within the scope of Regulation (EC) No 110/2008 of the European Parliament and of the Council of 15 January 2008, concerning the definition, description, presentation, labelling and protection of geo

graphical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89 (OJ L 39/16 of 13 February 2008), hereinafter referred to as 'Regulation (EC) No 110/2008', for products under Art. 92, Para. 1 of Regulation (EU) No 1308/2013 of the European Parliament and of the Council of 17 December 2013, establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007 (OJ L 347/671 of 20 December 2013), hereinafter referred to as 'Regulation (EU) No 1308/2013', and for aromatized wine-sector products, falling within the scope of Regulation (EU) No 251/2014 of the European Parliament and of the Council of 26 February 2014, on the definition, description, presentation, labelling and protection of geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91 (OJ L 84/14 of 20 March 2014), hereinafter referred to as 'Regulation (EU) No 251/2014'.

Grounds for refusal registration

Art. 87. A geographical indication shall not be registered, which:

1. has become on the territory of the Republic of Bulgaria, a generic name of goods of a certain type, without connecting with the place of their production;
2. is identical to the name of a previously protected plant variety or animal breed, where consumers are likely to be misled as to the true origin of the goods;
3. is identical with a geographical indication or a trademark, previously registered for identical goods;
4. is identical or similar to a geographical indication or trademark, previously registered for identical or similar goods, where consumers are likely to be misled.

Legal protection

Art. 88. (1) The legal protection of the geographical indication shall be provided by registration at the Patent Office.

(2) The legal protection shall cover a prohibition for:

1. any direct or indirect use for commercial purposes of a registered geographical indication for goods, which do not fall within the scope of registration, where they are comparable to those, for which the geographical indication is registered, or insofar as such use exploits its renown;
2. any misuse, imitation or evocation, even where the actual origin of the goods or services is indicated, or where the protected geographical indication is translated or accompanied by expressions such as „style“, „type“, „method“, as produced in „imitation“ or similar;
3. any other false or misleading indication, as to the source, origin, nature or essential qualities of the goods, used on the inner or outer packaging, advertising materials or documents, relating to the goods, and packaging, which can create an erroneous picture of their origin;
4. any other practice, likely to mislead the consumer, as to the true origin of the goods.

(3) Registered geographical indications may not become generic names, as long as they are protected under this Act.

Right to application

Art. 89. (1) The right of application shall have any person, who carries out his productive activity at the designated geographical location, and the product, which he manufactures satisfies the established qualities or peculiarities.

(2) The boundaries of the geographical location and the qualities or peculiarities of the goods, as well as the relationship of those qualities or characteristics to the geographical environment or the geographical origin, shall be determined and established by the relevant Central office by order of its Head.

Right to use

Art. 90. (1) A registered geographical indication may be used only by a person, who is registered as its user.

(2) The registered user may use the geographical indication only for the goods for which it is registered. He may place it on the goods or on their packaging, in advertising materials, on commercial papers, relating to the goods or on other documents.

Termination of the legal protection

Art. 91. The legal protection of a registered geographical indication shall cease when:

1. the connection between the qualities or characteristics of the goods and the geographical environment ceases to exist;
2. the legal person - single user without succession is terminated;
3. the sole registered user of a geographical indication waives his right of use.

Deletion of the registration

Art. 92. (1) The registration of a geographical indication shall be deleted at the request of a person with a legitimate interest where is:

1. was carried out in violation of **Art. 85, Para. 2 and 3** or **Art. 87, item 1**, which is established by a final court decision;
2. was made in violation of **Art. 87, item 2 - 4**.

(2) The registration of a foreign geographical indication shall be deleted, when it is erased in the country of origin.

Cancellation of entry of a user

Art. 93. The entry of a user shall be cancelled at the request of any person where, in a claim, the user is found to use the geographical indication to denote other goods or the goods, produced by him do not possess the characteristics or features established.

Legal consequences from the deletion or cancellation

Art. 94. (1) Deletion of the registration shall have effect from the filing date of the application.

(2) Cancellation of the registration of a user shall be effective from the date of the application for cancellation.

(3) Deletion or cancellation shall be without prejudice to any enforceable decisions on infringement claims, in so far as they are fulfilled before deletion or cancellation.

Section II.

Applications for registration of geographical indications

Submission of an application

Art. 95. (1) (Suppl. - SG 92/20) The application for registration of a geographical indication shall be filed with the Patent Office by post, fax or electronically. Where the application is submitted through the Patent Office's electronic services portal, identification by means of a unique identifier of the applicant and of the industrial property representative or of the lawyer representing him, as well as an electronic signature, shall be optional.

- (2) The application must refer to only one geographical indication.
- (3) The application shall contain:
1. the request for registration;
 2. the name and address of the applicant;
 3. the designation of origin or geographical indication;
 4. N of the class and list of goods and classes under ICGS;
 5. a description of the boundaries of the geographical location, and
 6. a description of the established qualities or characteristics of the goods, identified and their relationship with the geographical environment or the geographical origin.
- (4) The application shall be accompanied by a copy of the order under **Art. 89, Para. 2** and a certificate from the municipality concerned, that the applicant carries out his production activity at the designated geographical location.
- (5) Where the applicant is a foreign person, the application shall be accompanied by a registration document for the geographical indication in the country of origin
- (6) The manner of shaping and the procedure for filing and expertise in the Patent Office of applications for registration of geographical indications shall be determined by the Ordinance under **Art. 42, Para. 5**.
- (7) The application shall be accompanied by a payment fee document, if the payment is through a bank transfer.

Formal expertise

Art. 96. (1) Each application shall be checked, whether the requirements of **Art. 95** have been fulfilled. Where irregularities are found, the applicant shall be granted a period of one month to rectify them.

(2) When within the term under Para. 1, the applicant does not remove the irregularity, the proceedings shall be terminated.

Substantive expertise

Art. 97. (1) A substantive examination shall be carried out within two months for each application, meeting the formal regularity requirements.

(2) Where there are grounds for refusing registration of the geographical indication, the applicant shall be informed, stating all the reasons for the refusal and giving a two-month period for objection.

(3) When the term under Para. 2 the applicant does not submit reasoned objections, a decision refusing the registration shall be taken.

(4) Where it is established, that the geographical indication meets the requirements of the law, a decision shall be taken for registration. The geographical indication shall be entered in the State register of geographical indications. The applicant shall be entered as a user and issued a certificate of use of the geographical indication within one month.

Registration of a user of a registered geographical indication

Art. 98. (1) (Suppl. - SG 92/20) Any person, entitled to make a claim may file an application for registration as a user of a registered geographical indication. The application shall be filed in the Patent Office by post, fax or electronically. Where the application is submitted through the Patent Office's electronic services portal, identification by means of a unique identifier of the applicant and of the industrial property representative or of the lawyer representing him, as well as an electronic signature, shall be optional.

(2) The application shall contain:

1. the request for entry as a user;
2. the name and address of the applicant;

3. the geographical indication and the register N, and
4. the number of the class and the list of goods and classes in the ICGS.

(3) The application shall be accompanied by a certificate from the municipality concerned, that the applicant carries out his production activity at the designated geographical location and a certificate, issued by the Central office concerned, that the goods, produced by the applicant meet the characteristics or features, established for the geographical indication.

(4) The application shall be accompanied by a document for a paid fee, if it is transferred through a bank.

(5) For each application, check is made, that the requirements of Para. 1 – 4 have been fulfilled. Where irregularities are found, the applicant shall be granted a period of one month to rectify them.

(6) When within the term under Para. 5, the applicant does not remedy the irregularity, a decision shall be taken to discontinue the proceedings.

(7) Where the application for entry meets the requirements of Para. 1 - 4, the applicant shall be entered in the State Register of geographical indications as user and shall be issued a certificate of use of the geographical indication within one month.

(8) The registration of the user of the geographical indication shall be published in the Official Bulletin of the Patent Office.

Dispute proceedings

Art. 99. (1) The panels under **Art. 69, Para. 2** shall examine disputes on:

1. appeals against decisions, refusing registration under **Art. 97, Para. 3**;
2. requests for deletion under **Art. 92, Para. 1, item 2**.

(2) Appeals and requests shall be submitted and examined in accordance with **Art. 69 - 79**.

Deciding on appeals and requests

Art. 100. (1) Where the appeal against a decision, refusing registration is unfounded, the chairperson of the Patent Office or the deputy chairperson, empowered by him shall give a decision leaving it without respect.

(2) Where the appeal against a decision, refusing registration is well founded, the chairperson of the Patent Office or the deputy chairperson, empowered by him shall revoke the decision and decide on the return of the application for re-examination or registration.

(3) When revoking a decision, refusing the re-examination of the application, the chairperson of the Patent Office or the deputy chairperson, empowered by him shall take a decision on the merits.

(4) Where the request for deletion of the registration is unfounded, the chairperson of the Patent Office or the deputy chairperson, empowered by him shall give a decision, leaving it without respect.

(5) Where the request for deletion of the registration is justified, the chairperson of the Patent Office or the deputy chairperson, empowered by him shall decide on the deletion of the registration.

Suspension of the proceedings

Art. 101. (1) The proceedings for the application and requests shall be suspended in the case of earlier applications for registration of geographical indications or trademarks.

(2) The proceedings on the application shall be suspended ex officio or at the request of the applicant by decision of the state expert under **Art. 64**. The state expert shall give a decision on the request for suspension after assessing its grounds.

(3) The proceedings on the requests shall be suspended either ex officio or at the request of a party to the dispute. The chairperson of the Patent Office or the deputy chairperson, empowered by him shall give a decision on the request for suspension after assessing its grounds.

(4) The proceedings on the application or requests shall be resumed ex officio or at the request of the applicant, the parties to the dispute, once the grounds for suspension cease:

1. on the application - by a decision of the state expert under **Art. 64**, the
2. on requests - by a decision of the chairperson of the Patent Office or the deputy chairperson, authorised by him.

Termination of the proceedings

Art. 102. (1) The procedure on the application or requests shall be terminated in cases:

1. of withdrawal of the application for registration of a geographical indication;
 2. of withdrawal of the request;
 3. of a terminated earlier right within the meaning of **Art. 87, Para. 3 and 4**;
 4. of a terminated non-succession legal person - an applicant or user;
 5. where the only registered user of the geographical indication withdraws from his/her right of use.
- (2) The proceedings shall also be terminated in the cases under **Art. 96, Para. 2** and **Art. 98, Para.**

6.

(3) Termination of the proceedings:

1. upon the application shall be made by a decision of a state expert under **Art. 64**;
2. upon requests shall be made by decision of the chairperson of the Patent Office or by a deputy chairperson, authorised by him.

Extension and recovery of terms

Art. 103. (1) At the request of the applicant, submitted before the expiry of the deadlines under **Art. 96, Para. 1, Art. 97, Para. 2** and **Art. 98, Para. 5** before the Patent office, these time limits may be extended once with the same duration. The request shall not be considered, where a state fee payment document is not attached to it.

(2) Terms, not observed due to special unforeseen circumstances may be recovered once at the request of the person, who has not observed them. The request shall be accompanied by a document for a paid state fee, if it is made through a bank transfer.

(3) The request shall be submitted within one month of the removal of the reason of non-compliance, but no later than three months after the deadline expires.

(4) The request shall state all the circumstances, justifying it and shall provide all evidence of its grounds.

(5) The decision to recovery shall be given by the chairperson of the Patent Office or by a deputy chairperson, authorised by him.

(6) The terms under Para. 1 and 3 shall not be subject to recovery

Obligation for keeping a secret

Art. 104. The provision of **Art. 82** shall also apply to proceedings under this Chapter.

Publication of the registration

Art. 105. (1) The Patent Office shall publish in its Official bulletin all registered geographical indications and subsequent changes thereto, within one month after the entry into force of the decision concerned.

(2) (Amend. - SG 92/20) The publication shall contain the entry number of the application, the date of filing, the date of registration, the name and address of the applicant, respectively of the entered user, the name and address of the industrial property representative or of the lawyer, where such are available, the type of geographical indication, the description of the geographical indication, where appropriate, the representation of the geographical indication, the classes and the list of goods, for which it is registered.

Judicial control

Art. 106. (1) The decisions under **Art. 100, Para. 1, 4 and 5** may be appealed before the Administrative Court of Sofia within two months of the communication.

(2) The decisions under **Art. 101, Para. 2 and 3** and **Art. 102, Para. 3** may be appealed under the **Administrative Procedure Code**, within 14 days from the communication.

(3) The appeal of acts under this Chapter - party to the proceedings shall be the chairman of the Patent Office.

(4) In case of revocation by judicial decision under Para. 1 and 2, on the basis of facts and evidence, which the applicant could have known, indicated and presented in the proceedings before the Patent Office, no court costs shall be required by the administrative authority.

Chapter four. INTERNATIONAL REGISTRATION

International registration of trademarks with designation of the Republic of Bulgaria

Art. 107. (1) International registration of a trade mark, designating the Republic of Bulgaria shall be a registration, effected by the International Bureau in accordance with the Madrid Agreement, concerning the International Registration of Trademarks of 14 April 1891, with its amendments and supplementation (ratified by Decree No 4312 of the State Council- N 97 of 1984) (SG, 65/01), hereinafter referred to as 'the Madrid Agreement', and to the Protocol relating to the Madrid Agreement, concerning the International Registration of Trademarks, adopted in Madrid on 27 June 1989, as amended and supplemented (ratified by an Act, SG, 35/01), hereinafter referred to as 'the Protocol'.

(2) International registration of a trade mark under Para. 1 shall have the same effect as if the trade mark was directly applied for and registered in the Republic of Bulgaria. It shall act on the date of the international registration, respectively from the date of registration of the territorial extension, provided that its operation is recognised in the territory of the Republic of Bulgaria.

(3) The recognition of the effect of the international registration on the territory of the Republic of Bulgaria may be refused under the deadlines, laid down by the Madrid Agreement and the Protocol.

(4) Every international registration of a trade mark, for which a notification by the International Bureau has been received in the Patent Office, is subject to verification under **Art. 39, Para. 3, Art. 40, Para. 2, Art. 41, Para. 2, Art. 43** and **Art. 47**.

(5) The verification under **Art. 39, Para. 3, Art. 40, Para. 2, Art. 41, Para. 2** and **Art. 43** shall be made within one month of the notification to the Patent Office about the international registration of a trade mark.

(6) For each international registration, that meets the requirements of **Art. 39, Para. 3, Art. 40, Para. 2, Art. 41, Para. 2, Art. 43** and the requirements of **Art. 11**, a communication shall be sent to the International Bureau, stating that it may, within the prescribed period, be the subject of an objection under **Art. 51**, or opposition.

(7) A communication to the International Bureau shall also be sent where:

1. a refusal to recognise the effect of the international registration under **Art. 39, Para. 3, Art. 40, Para. 2, Art. 41, Para. 2, Art. 43** and **Art. 47** has been ruled;
2. the refusal to recognise the effect of the international registration under **Art. 39, Para. 3, Art. 40, Para. 2, Art. 41, Para. 2, Art. 43** and **Art. 47** is confirmed by a final decision;
3. in sent opposition to recognition of its effects;
4. no opposition has been filed or it has been rejected as unfounded by a final decision;
5. as a result of the opposition, the effect of the international registration was refused in whole or in

part by a final decision.

(8) Where under the international registration a final decision, refusing recognition has been ruled, the decision of refusal may be appealed against under the conditions and under the terms of **Art. 69-79**.

(9) The international registrations, to which the Republic of Bulgaria is a designated country, shall be subject to publication under the conditions and in accordance with **Art. 49, Para. 3, Art. 50, Para. 5** and **Art. 83, Para. 2**.

(10) Any international registration with recognised effect on the territory of the Republic of Bulgaria may be the subject of a request for revocation or deletion, which shall be considered under the conditions and under the terms of **Art. 69 - 79**.

(11) Where the effect of an international registration of a trade mark is wholly or partly revoked or deleted by a final decision, a communication shall be sent to the International Bureau.

(12) The holder of an international registration of a trade mark, operating on the territory of the Republic of Bulgaria may request the international registration to be transformed into a national application.

(13) The holder of an international registration of a trade mark, acting in the territory of the Republic of Bulgaria, who has an earlier national registration of the same trademark, may, with a request to the Patent Office, accompanied by a state fee document, if the payment is through a bank transfer, request, that the international registration be considered as a substitute for the national one, with the preservation of all rights, acquired by the national registration.

International registration of national trademarks

Art. 108. (1) Any person with a permanent address or a real commercial activity in the Republic of Bulgaria, who is holder of a trade mark, registered or applied for under this Act, may file an application for international registration.

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

(3) In the case of an application for territorial extension, it may be submitted through the Patent Office or directly to the International Bureau.

(4) The fees for international registration and territorial extension shall be paid by the applicant at the International Bureau.

(5) Fees for international registration and territorial extension, when it is filed through the Patent Office, shall also be due to the office according to the tariff under **Art. 4, Para. 1**.

(6) Within five years from the date of the international registration, where the application or registration of a national trade mark, which is the benchmark for the international registration is wholly or partly refused, respectively revoked or deleted, by a final decision, to the International Bureau a communication shall be sent.

(7) A communication to the International Bureau shall also be sent where, within 5 years from the date of the international registration, the application or registration of a national trade mark, which is the benchmark for the international registration, is divided.

(8) The date and number of the international registration of a national trade mark shall be recorded in the national trade mark file and entered in the State Register of Trade marks.

International registration of designations of origin with reference to the Republic of Bulgaria

Art. 109. (1) International registration of a designation of origin with reference to the Republic of Bulgaria shall be a registration, carried out by the International Bureau under the Lisbon Agreement for the protection of designations of origin and their international registration from 31 October 1958, with its amendments and supplementations (ratified by Decree No 523 of the State Council – SG, 24/75), hereinafter referred to as 'the Lisbon Agreement'.

(2) The international registration of a designation of origin with reference to the Republic of Bulgaria shall have the same effect, as if that name had been directly stated and registered in the Republic of Bulgaria.

ria. This name may not become generic until it is protected in the country of origin.

(3) The protection of an international designation of origin in the Republic of Bulgaria may be refused within the time limit, laid down by the Lisbon Agreement.

(4) The international registration of a designation of origin with reference to the Republic of Bulgaria shall be considered under the terms and conditions of **Chapter Three**.

(5) A communication to the International Bureau shall be sent for each international registration of a designation of origin, whose action is recognised on the territory of the Republic of Bulgaria.

(6) A communication to the International Bureau shall also be sent where:

1. a refusal to recognise the effect of the international registration of a designation of origin has been ruled;

2. the refusal to recognise the effect of the international registration of a designation of origin is confirmed by a final decision.

International registration of Bulgarian designations of origin

Art. 110. (1) An entered user of a registered designation of origin may file an application for international registration.

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

(3) The fees for international registration shall be paid by the applicant at the International Bureau.

(4) International registration fees shall also be due to the Patent Office, according to the tariff under **Art. 4, Para. 1**.

(5) Where, by a final decision, the application, respectively registration, of a Bulgarian designation of origin, which is the benchmark for the international registration is refused or cancelled, or the legal protection of the registered designation of origin is terminated, a communication shall be sent to the International Bureau.

(6) The date and number of the international registration of Bulgarian designations of origin shall be recorded in the file of the designation of origin, registered in accordance with this Act and shall be entered in the State register of geographical indications.

Chapter five.

TRADE MARK OF THE EUROPEAN UNION

Registration and operation of the European Union trade mark

Art. 111. (1) The European Union trade mark shall be a trade mark, registered in the European Union Intellectual Property Office under the conditions and in accordance with Regulation (EU) 2017/1001.

(2) The European Union trade mark shall have effect on the territory of the Republic of Bulgaria and its holder enjoys the rights under this Act.

(3) The European Union trade mark shall be considered an earlier trade mark within the meaning of **Art. 12, Para. 2**.

(4) The Patent Office of the Republic of Bulgaria is a central industrial property office within the meaning of Regulation (EU) 2017/1001.

(5) Civil protection in the case of infringement of a European Union trade mark shall take place in accordance with the procedure, laid down in Regulation (EU) 2017/1001.

(6) In the event, that claims and measures, relating to the protection of a European Union trade mark shall be brought and sought in the Republic of Bulgaria, the Bulgarian legislation shall apply, in so far as Regulation (EU) 2017/1001 does not provide otherwise.

(7) Claims under Para. 6 shall be judged in the Sofia City Court as first instance and of the Sofia Court of Appeal as the second instance, which are European Union trade mark courts, within the meaning of R

egulation (EU) 2017/1001.

(8) The enforcement of a final decision of the European Union Intellectual Property Office, with which costs are fixed, shall be effected in accordance with the Civil Procedure Code. Competent authority under Art. 110, Para. 2 of Regulation (EU) No 2017/1001 shall be the Sofia City Court.

Conversion of a European Union trade mark into a national application

Art. 112. (1) An applicant or holder of a European Union trade mark may request conversion of the application or registration into an application for a national registration of a trade mark in the Republic of Bulgaria, under the conditions of Art. 139 - 141 of Regulation (EU) 2017/1001.

(2) When the request under Para. 1 is admitted by the European Union Intellectual Property Office and sent to the Patent Office, the Patent Office shall notify the applicant or holder of the European Union trade mark, that it will examine the request, if within two months the applicant or holder submits:

1. an application for registration of a trade mark, pursuant to **Art. 42 Para. 3** with specified data of the converted application/European Union trade mark;

2. a document for paid registration fees and priority (if declared), provided that the payment is by bank transfer;

3. (suppl. - SG 92/20) a power of attorney of an industrial property representative or of a lawyer, where such are authorised

(3) As the date of submission of requests under Para. 1 with the date of filing or priority before the accession of the Republic of Bulgaria to the European Union, 1 January, 2007 shall be considered.

(4) As the date of submission of requests under Para. 1, submitted to the European Union Intellectual Property Office after 1 January 2007 shall be considered to be the date of filing of the European Union trade mark application.

Chapter six.

TRADE MARKS AND GEOGRAPHICAL INDICATIONS PROTECTION RIGHTS

Section I.

Civil legal protection against infringements

Infringement of the right of a registered trademark

Art. 113. (1) The use in the commercial activity of a sign within the meaning of **Art. 13, Para. 1 - 4** without the consent of the holder of the trade mark, shall constitute an infringement.

(2) Infringement shall also be:

1. affixing the trademark to material, intended to be used for labelling or packaging, for commercial papers or for the promotion of goods or services, if the person who performs such acts knows or has reason to believe, that the affixing of the trademark is without the holder's consent;

2. elaboration of a means, specially designed or adapted for the reproduction of the trademark or for the holding or storage of such a means, if the person who performs such actions knows or has reason to believe, that this means serves or will serve to produce goods or of a material under item 1, without the holder's consent;

3. performing preparatory actions within the meaning of **Art. 14**, without the consent of the holder of the trade mark;

4. using a trade mark by its holder, when it is registered in the name of an agent or representative, without the consent of its actual owner, unless the agent or representative justifies his action.

Infringement of registered geographical indication

Art. 114. (1) The use of a registered geographical indication in violation of the provision of **Art. 88**, **Para. 2** shall constitute an infringement.

(2) An infringement shall also constitute the use of a registered geographical indication by a person, not listed as its user.

Right to a claim

Art. 115. (1) Right to claim for infringement shall have:

1. the holder of the right to a trademark;
2. licensee, with the consent of the holder, unless otherwise provided for in the contract;
3. a licensee of an exclusive licence, if the holder of the trade mark, after having been duly notified of the infringement, has not, himself, lodged a claim within six months of receipt of the written invitation from the licensee;
4. the co-holder of the right to a trade mark without the consent of the other co-holders;
5. the actual holder of a trade mark, which has been registered in the name of an agent or representative.

(2) With the consent of the holder of a collective mark, a claim for infringement may also be filed by any person, who may use it. The holder's consent shall not be required if, after having been duly notified of the infringement, he has not lodged a claim within six months of the notification.

(3) Any registered user of a registered geographical indication shall also be entitled to a claim.

(4) A right to claim shall also have a professional protection body, which is regularly recognised as a person, entitled to represent the users of a particular registered geographical indication, the name of a traditional food of specific character or a traditional name for wine.

(5) In order to obtain compensation for the damage he has suffered, the licensee, as well as the person, entitled to use a collective mark, may participate in an infringement proceedings, initiated by the holder of the trade mark right.

(6) The holder of a collective mark shall be entitled to claim compensation on behalf of persons, who have been granted the right to use the trademark, for the damage they have suffered as a result of unauthorised use of the trademark.

Claims for infringement

Art. 116. (1) Claims for infringement of the rights under this Act may be for:

1. establishing the fact of the infringement;
2. termination of the infringement and/or prohibiting the conduct of the activity, which would constitute an infringement;
3. compensation for damages;
4. seizure and destruction of the objects, which are the subject of the infringement, including the means and materials for carrying it out.

(2) At the same time with the claim under Para. 1, the claimant may also request in a judicial procedure:

1. to be handed over the items, subject to the infringement;
2. to be paid the costs, relating to the storage and destruction of the items, subject to the infringement;
3. disclosure at the expense of the infringer of the operative part of the judgment of the court in two daily newspapers, in the time zone of a television programme with national coverage or otherwise, determined by the court.

(3) Regardless of the claims under Para. 1, the holder of rights under this Act may bring an action for the cessation of activities or services, provided by intermediaries, when they contribute to third parties for violation of rights under this Act. The respect of a claim in relation to an intermediary shall not be subject to an action under Para. 1 against the violator himself. Where in relation to an intermediary the conditions for the exclusion of liability under **Art. 16 of the Electronic Commerce Act** are present, an action under this Para., may be brought against him, only if a call for voluntary execution has been made before it.

Objection to actual use

Art. 117. (1) Within the time limit for replying to the claim, the defendant may object, that at the time of the claim the trade mark is not actually used within the meaning of Art. 21, provided that no less than five years have elapsed from the date of registration of the trade mark until the date on which the claim was brought.

(2) Upon objection under Para. 1., the court shall oblige the claimant to provide evidence that, within the 5-year period, preceding the date of the claim, the trade mark is actually used, in connection with the goods or services, for which it is registered and on which the claim is based, or that there are reasons for non-use.

(3) Where the trade mark is not actually used in connection with the goods or services, for which it is registered and on which the claim is based, or no evidence is adduced, that there are reasonable grounds for non-use, the claim shall be rejected.

Determination of compensation

Art. 118. (1) Compensation shall be payable for all pecuniary and non-material damages and lost profits, which are the direct and immediate consequence of the infringement

(2) In determining the amount of the compensation, the court shall also take into account all the circumstances, relating to the infringement and the proceeds of the offender, as a result of the infringement.

(3) The court shall determine a fair compensation, which must act deterrent and alert to the infringer and the other members of the public.

Special cases of compensation

Art. 119. (1) Where the claim is established, but there is insufficient data on its amount, the claimant may claim as compensation:

1. from BGN 500 to 100 000, where the specific amount is determined at the discretion of the court under the conditions of **Art. 118, Para. 2 and 3**, or

2. the equivalence in retail prices of lawfully produced goods, which are identical or similar to the goods, subject to the infringement.

(2) In determining the compensation under Para. 1., the proceeds, resulting from the infringement shall also be taken into account.

Seizure of items - subject of infringement

Art. 120. Seizure of objects under **Art. 116, Para. 1, item 4**, which is the subject of an infringement, may be requested both in respect of objects, located in a particular place or in relation to goods in the trade network.

Bearing responsibility

Art. 121. Legal persons and sole proprietors shall be liable for the violation of rights under this Act, committed by the persons, who represent them, by their employees or by persons, employed by them. In this

case, the fault is presumed until proven otherwise.

Providing evidence on claim and protective proceedings

Art. 122. (1) Where the claimant has adduced evidence in support of his claims, but has also indicated other evidence, relevant to the case, which is under the defendant's control, the court may, at the claimant's request, oblige the defendant to provide such evidence.

(2) The court may, under the terms of Para. 1, at the request of the claimant to oblige the defendant to provide for the possibility of familiarization with the banking, financial and commercial documents under his control.

(3) The claimant must not disclose the information, contained in the documents under Para. 2.

(4) The submission of evidence of a single or one-off use of a trade mark or geographical indication, protected under this Act shall be considered sufficient to justify the application of the provisions of Para. 1 and 2.

(5) The existence of the circumstances, relating to an alleged infringement may also be established by the disclosure of evidence of a single or occasional misuse of a trade mark or geographical indication, protected by this Act.

Request for information on origin and distribution networks in case of infringement

Art. 123. (1) The court may, at the request of the claimant, oblige the defendant or a third party to provide information, concerning circumstances, which are relevant for the resolution of the case.

(2) A third party within the meaning of Para. 1 shall be any person who:

1. keeps goods and items – subject to violation, or
2. provides services, leading to violation, or
3. uses services, which represent violation, or
4. has been indicated by a person under item 1 - 3 as a participant in the production, manufacture or distribution of those goods or services.

(3) The data under Para. 1 may include:

1. the names and addresses of the producers, distributors, suppliers and other persons, who have previously held the goods, the items - subject to the infringement or the services, as well as the alleged wholesale and retail distributors, wholesale and retail traders, for which they were intended;
2. details of the quantities produced, delivered, received or ordered, and of the revenues, generated by the goods, property or services in question.

(4) Para. 1 shall not apply, where its execution may result in the infringement of a provision of another Act.

(5) Para. 1 and 3 shall apply only to actions, which are carried out for direct or indirect economic or commercial gain.

Legal measures

Art. 124. (1) In the case of an infringement of a trade mark or geographical indication, or where there is sufficient evidence to believe, that such an infringement will be effected, or any evidence will be lost, destroyed or concealed, the court may, at the request of the person, having the right to claim, without notifying the respondent party to allow any of the following measures:

1. prohibition for carrying out acts, allegedly constituting or constituting an unlawful use of a trade mark or geographical indication;
2. seizure of the items - subject to the infringement, allegedly infringing a trade mark or geographical indication and other evidence, relevant to the demonstration of the infringement;
3. seizure from the use of the belongings under **Art. 113, Para. 2;**

4. sealing the room, in which the infringement is allegedly carried out or will be carried out.

(2) The admission, imposition and revocation of interim measures shall be carried out in accordance with **Art. 389 - 403 of the Civil Procedure Code**, with the exception of Art. 398, Para. 2, sentence one, and to the extent, that this Act provides otherwise.

(3) The provisional measure prohibition for the actions shall be imposed with communication by the court.

(4) The interim measures under Para. 1, item 2 - 4 shall be imposed by the bailiff, who shall perform the action simultaneously with the service of the notice of imposition of the measure, within three days from the receipt of the request from the plaintiff to the bailiff. The provisional measure, committed to preventing an imminent infringement, shall be imposed within a period, consistent with its purpose. The seized property shall be handed over according to an inventory to the claimant, who may use it only as a means of proof.

(5) (Amend. - SG 92/20) The claimant or the person representing him shall be entitled to attend and assist in the imposition of interim measures.

(6) The interim measure under Para. 1, item 1 may also be imposed in respect of third parties, for whom there is sufficient evidence, that they contribute to the conduct of the activity, claimed to constitute or will constitute unlawful use.

(7) The person, entitled to claim is required not to disclose the information which has become known to him in or on the occasion of the measures under Para. 1.

(8) If it is established, that the measure imposed is unfounded, the defendant may ask the person, seeking it, to pay the damage, caused by the measure.

Jurisdiction

Art. 125. The claims under this Act shall be under the jurisdiction of the Sofia City Court.

Section II.

Protection measures by customs authorities

Grounds and applicability

Art. 126. (1) The customs authorities shall apply measures to goods under customs supervision or customs control, which are presumed to infringe a trade mark or geographical indication, subject to the conditions and procedures, laid down in Regulation (EU) No 608/2013.

(2) Protection measures shall apply to all goods, presented to the customs authorities, whether or not placed under a customs procedure, including in respect of goods, moved under a transit procedure.

(3) Para. 1 shall also apply to goods, whether or not they are subject to a customs procedure, which has been found as a result of a check, carried out by the customs authorities in the exercise of their powers on the territory of the Republic of Bulgaria.

(4) In the application of the measures, the customs authorities shall collect fees to cover the costs of storing the goods in an amount, determined by the Council of Ministers, pursuant to **Art. 12 of the Customs Act**

Section III.

Administrative – penal provisions

Administrative violations and punishments

Art. 127. (1) A person, who uses in the commercial activity within the meaning of **Art. 13, Para. 1 and 2** goods or services, indicated by a sign, identical with or similar to a registered trade mark, without the

consent of its holder, shall be punishable by a fine of BGN 2000 to 10 000, and sole proprietors and legal persons - with a pecuniary penalty of BGN 3000 to 20 000.

(2) The punishments under Para. 1 shall also be imposed on a person who, without the consent of the holder of a registered trade mark:

1. places a sign, identical or similar to the trademark on packaging, labels, markings, security or authenticity components or devices, or any other means and materials;

2. offers for sale, placing on the market, storing or holding for these purposes, importing, exporting, packaging, labelling, markings, elements or devices for protection or authenticity, or any other means and materials, on which the mark is affixed, in order to use these packages, labels, markings, elements or devices for protection or authenticity, or any other means and materials for goods or services in the commercial activity, within the meaning of **Art. 13, Para. 1 and 2**.

(3) The punishments under Para. 1 shall be imposed to a person, who:

1. introduces on the territory of the Republic of Bulgaria goods under **Art. 13, Para. 3**, without the consent of the holder of the registered trade mark;

2. uses a name, which does not differ substantially from a registered geographical indication;

3. uses a geographical indication, registered under this Act, without being registered as its user.

(4) Upon repeated and any subsequent infringement under Para. 1 - 5, carried out within one year of the entry into force of the previous penal decree, the person shall be fined from BGN 3000 to 15 000, and the sole proprietors and legal persons - a pecuniary sanction between BGN 5000 and 30 000.

(5) The subject of the infringement under Para. 1-4, regardless of whose property it is, shall be withdrawn in favor of the state and is transmitted for destruction to the bodies of the Ministry of Interior, as the proprietor of the trade mark or his authorized person may attend the destruction.

(6) When the sign under Para. 1 is used to offer or provide services, the offender shall be indicated to remove it.

(7) In case of systemic violations, the place, where they are carried out shall be sealed for a period of three to six months.

(8) The foregoing paragraphs shall also apply in respect of goods, transiting through the territory of the Republic of Bulgaria.

(9) Para. 1 - 8 shall apply regardless of whether any of the circumstances of **Art. 37** are present.

Checkup for violations

Art. 128. (1) Check for detection of violations under **Art. 127** shall be carried out upon:

1. an initiative of the Patent Office;

2. request of the public prosecutor or the MI authorities;

3. a signal of the holder of the trade mark or of the registered user of a recorded geographical indication;

4. an alert to the co-holder of the trademark right, without the consent of the other co-holders;

5. the licensee's signal of an exclusive licence;

6. a signal to the licensee of a non-exclusive licence with the holder's consent, unless otherwise provided for in the contract;

7. a signal to a person, who is entitled to use a collective mark with the consent of its holder.

(2) The signal shall be checked, and must contain:

1. identification data of the person, who submitted it - name, correspondence address, fax and e-mail address, if the person has such information;

2. identification data about the trade mark or geographical indication, the rights allegedly infringed;

3. identification data about the holder of the trade mark or the user of the geographical indication;

4. identification data about the alleged infringer;

5. the exact address and type of site, where the alleged infringement is carried out.

(3) To the signal for check, the following shall be attached:

1. (suppl. - SG 92/20) a power of attorney, when the signal is submitted by an industrial property representative or by a lawyer;
2. evidence, establishing the circumstances for the persons under Para. 1, item 5-7.
- (4) Verification shall not take place, when the signal does not comply with the requirements under Para. 2 and 3 and after certain instructions, the irregularities have not been removed.
- (5) After pronouncement on the administrative file, the criminal authority shall inform the persons under Para. 1, item 2 - 7 about the results of the verification, carried out.

Establishing of offence and service of an administrative offence act

Art. 129. (1) The offence shall be established by an act, to be drawn up by an official, appointed by an order of the chairperson of the Patent Office, after carrying out the inspection. To carry out the inspection the MI authorities shall assist the employees of the Patent Office, according to their powers under the **Ministry of Interior Act**. The procedure for organizing and conducting the joint actions shall be determined by an instruction, issued by the Minister of Interior and by the chairperson of the Patent Office.

(2) The act of establishment of an administrative offence shall be served to the infringer or the person, authorised by him against signature. When it is drawn up in the absence of the offender, the act shall be served through the municipal administration or the MI authorities.

(3) Where the act cannot be served under the terms of Para. 2, a notice of its establishment shall be published on the notices board and on the [website](#) of the Patent Office for a period of not less than 7 days. If within 14 days after downloading the communication, the person under Para. 1 fails to appear in the Patent Office for the filing and signing of the act, this shall be noted in the act and it shall be deemed to be served on the day of the commemoration.

(4) The communication under Para. 3 shall include the name and address of the person, to whom the act, establishing the administrative offence was drawn up.

Powers of the official

Art. 130. (1) The official under **Art 129** shall have the right to:

1. require access to the sites, subject to the control;
 2. request the necessary documents, in relation to the checks, carried out and to take samples for expert evaluation;
 3. prepare pictures of the sites, subject to control.
- (2) The official shall:
1. accurately and fully reflect the facts of the investigation, carried out in the infringement act;
 2. keep the professional, industrial and commercial secrecy, which has become known in connection with the checks carried out;
 3. not disclose inspection data, except in the cases under **Art. 128, Para. 5**;
 4. use the information from the checks only for the purposes of the infringement proceedings.

Seizure protocol

Art. 131. (1) The object of the infringement shall be seized by the officials under **Art. 129** with a protocol.

(2) The protocol under Para. 1 shall indicate: the date and place of the action; persons who have participated; the requests, notices and objections made, if any; the evidence, collected- amount, type, and other data.

(3) The protocol shall be signed by the person, who carried out the action, by the inspected person and by at least one witness.

(4) In cases, where the inspected person refuses to sign the protocol or is absent, it shall be signed by

y at least one other witness.

Obligation for assistance

Art. 132. The persons, who carry out the inspection under **Art. 129** shall be required to:

1. ensure unhindered access to inspected outlets, warehouses and production facilities and premises
- ;
2. provide the documents and evidence, requested by the official;
3. keep the items, retained in safe custody;
4. assist the officials in relation to the inspection.

Imposing administrative punishments

Art. 133. (1) The penal decrees shall be issued by the chairperson of the Patent Office or by a deputy chairperson, authorized by him.

(2) The penal decrees under Para. 1 shall be subject to appeal before the Sofia District Court.

Execution of administrative punishments

Art. 134. (1) Fines or penalty payment shall be executed voluntarily within 7 days of the entry into force of the criminal decree, with which they are imposed, the amount being deposited in the cashier or transferred to the account of the Patent office.

(2) Fines and pecuniary sanctions shall be subject to enforcement by public contractors under the procedure of the **Tax-insurance Procedure Code** or by bailiffs under the **Civil Procedure Code**.

(3) After the entry into force of the penal decree or the judgment of the court, things seized in favour of the state shall be transmitted for destruction to the Ministry of Internal Affairs bodies

Application of the Act on Administrative Offences and Penalties

Art. 135. In so far as this Section does not provide otherwise, the establishment of offences, issuance, appeal and enforcement of penal provisions shall be made in accordance with the **Administrative Violations and Penalties Act**.

Additional provisions

§ 1. In the meaning of this Act:

1. "Intradepartmental documents" are documents created by the chairperson, deputy chairperson or by an official of the Patent Office administration in the course of proceedings under this Act, as well as documents of the Office and/or administration, related to the operating activities, such as orders, opinions, reports, memos notes and the like.

2. "Industrial property representative" means a person, entered in the register of industrial property representatives of the Patent Office or a person, entitled to pursue the same activity in another Member State of the European Union.

3. "Brand representation" is its form of objectification, which allows through the use of publicly available technology to be reproduced in a clear, accurate, autonomous, easily accessible, understandable, sustainable and tangible way.

4. "Known trademark" is a brand within the meaning of Art. 6, second of the Paris Convention.

5. "Official or officially recognised exhibition" is an exhibition within the meaning of the Convention of 22 November 1928 on international exhibitions, organised in the Member States of the Paris Convention, as amended and supplemented.

6. "Import or export of goods" means the actual transfer across the border of the Republic of Bulgaria

ia of goods, bearing a sign, identical with or similar to a registered trade mark or registered geographical indication or its imitation, whether or not such goods are in customs procedure.

7. "Agent or representative" means a person, who acts or is to act in the interests of the beneficial owner of a trade mark on the basis of a legal or factual link to it in respect of the goods or services, indicated by the trademark.

8. "State Expert" is an expert within the meaning of Art. 83, Para. 2 of the Act on Patents and Registration of Utility Models.

9. "Company " for the purposes of Art. 12, Para. 7 does not include the type of trader.

§ 2. The provisions of this Act, which apply to the Member States of the European Union shall also apply to the other states - parties to the European Economic Area Agreement.

§ 3. This Act introduces the requirements of Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 on the approximation of the laws of the Member States, relating to trade marks (OJ L 336/1 of 23 December 2015).

Transitional and concluding provisions

§ 4. The Act on Trade Marks and Geographical Indications (publ. SG 81/99, corr., 82/99; amend., 28, 43, 94 and 105/05, 30, 73 and 96/06, 59/07, 36/08, 12 and 32/09, 19 and 80/10, 54/11, 58/16, 58 and 85/17 and 61/18) shall be repealed.

§ 5. (1) This Act shall apply to applications for registration of trade marks and geographical indications, on which no decision has been enacted until its entry into force.

(2) This Act shall apply to requests for revocation and deletion of registration of trade marks and geographical indications, on which no decision has been enacted until its entry into force.

(3) Registrations of geographical indications under the revoked Act on Trade marks and Geographical Indications for spirit drinks, falling within the scope of Regulation (EC) No 110/2008 for products under Art. 92, Para. 1 of Regulation (EU) No 1308/2013 and for aromatized wine products, falling within the scope of Regulation (EU) No 251/2014 shall cease to apply from the date of entry into force of this Act.

(4) The procedures for applications for registration of a geographical indication for spirit drinks, falling within the scope of Regulation (EC) No 110/2008 for products under Art. 92, Para. 1 of Regulation (EU) No 1308/2013 and for aromatised wine products, falling within the scope of Regulation (EU) No 251/2014 or on applications for the registration of a user of such a geographical indication, on which no decision has been enforced until the entry into force of this Act shall be terminated.

(5) No administrative criminal proceedings shall be formed, and the formed ones shall be terminated, for infringements of rights to registered geographical indications for agricultural products and foodstuffs, falling within the scope of Regulation (EU) No 1151/2012, perpetrated until the entry into force of this Act.

(6) Within three days of the entry into force of this Act, the Patent Office shall notify the International Bureau of the termination of the national registrations of geographical indications, on the basis of which international registrations have been made.

(7) Within 6 months of the entry into force of this Act, all circumstances, subject to entry in the state registers of trade marks and geographical indications shall be published in the Official Bulletin of the Patent Office.

§ 14. The execution of the Act shall be entrusted to the chairperson of the Patent Office.

The Act was adopted by the 44th National Assembly on 28 November 2019 and has been stamped with the official seal of the National Assembly.

Transitional and concluding provisions

TO THE ACT AMENDING AND SUPPLEMENTING THE ACT ON PATENTS AND REGISTRAT

ION OF UTILITY MODELS

(PROM. - SG 92/20)

§ 48. (1) This Act shall be applied to applications and requests, on which no decision has entered in to force until the Act's entry into force.

(2) On the applications for patents for inventions, on which a final decision has not been issued until the entry into force of this Act and the fee for research and expertise and the fee for publication of the application have not been paid, the applicant shall be sent a notification providing him with the opportunity to pay them within three months. If the fees are not paid within this period, the application shall be considered withdrawn and shall not be published.

(3) This Act shall not apply in respect of the terms, which have started to run before its entry into force.

§ 49. (1) The representatives, entered in the register under Art. 16, Para. 1 of the Ordinance on Industrial Property Representatives (SG, issue 64 of 2017), shall retain their registration and the right to exercise the profession.

(2) The persons, who until the entry into force of this Act have successfully passed the examination by the order of the ordinance of Para. 1, shall be entered in the register of the industrial property representatives without taking a new examination.

(3) The associations of industrial property representatives, entered in the register under the ordinance of Para. 1, shall retain their registration and the right to exercise activity if within two months from the entry into force of this Act, the person representing the association submits to the Patent Office a written request, in which the circumstances under Art. 93, Para. 2, items 1 – 6 are indicated, accompanied by a copy of a current partnership agreement. When within the specified term a request is received for the partnership to continue to exercise its activity in the form of a company under Art. 89, the change shall be entered in the register, as the company shall keep the number of entry of the association, as well as all powers arising from the authorization of the association, provided that a unique identification code is presented and the circumstances under Art. 93, Para. 2, items 1 – 6 are indicated. When no written request has been submitted within the specified term, the association shall be deregistered ex officio from the register.