

Text consolidated by Valsts valodas centrs (State Language Centre) with amending laws of:
9 February 2023 [shall come into force on 7 March 2023].

If a whole or part of a section has been amended, the date of the amending law appears in square brackets at the end of the section. If a whole section, paragraph or clause has been deleted, the date of the deletion appears in square brackets beside the deleted section, paragraph or clause.

The *Saeima*¹ has adopted and
the President has proclaimed the following law:

Trade Mark Law

Chapter I General Provisions

Section 1. Terms Used in this Law

The following terms are used in this Law:

1) **European Union Intellectual Property Office, European Union Office** - a European Union agency that registers European Union trade marks and Community designs, and also performs other functions related to the protection of intellectual property in the European Union in accordance with Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (hereinafter - Regulation (EU) 2017/1001), and other legal acts of the European Union;

2) **European Union trade mark** - a trade mark registered in respect of the European Union in accordance with Regulation (EU) 2017/1001 or in accordance with the former European Union framework for the Community trade marks;

3) **indication of geographical origin** - a geographic name or other indication or sign used to indicate, directly or indirectly, the geographical origin of goods or services, including indications of the characteristics or features thereof, which are attributable to this origin;²

4) **collective mark** - a trade mark which is used by bodies, associations of manufacturing, trade, or service merchants and performers of economic activity, or similar organisations for the designation or distinguishing of goods or services;

5) **Paris Convention** - the Paris Convention for the Protection of Industrial Property of 20 March 1883;

6) **Paris Union** - Union of the Countries Members of the Paris Convention;

7) **International Classification of Goods and Services** (hereinafter - the Nice Classification) - a classification established by the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957;

8) **trade mark** - a sign which is used in order to distinguish the goods or services of a person from the goods or services of another person;

9) **proprietor of the trade mark** - a person who has the right to a trade mark and who has been included in the data of the Register of Trade Marks as the holder of this right;

10) **applicant for a trade mark** - a person who submits an application for the registration of a trade mark, qualifying to become the proprietor of the trade mark;

11) **international registration of a trade mark** - registration of a trade mark which is performed in accordance with

the Madrid Agreement concerning the International Registration of Marks of 14 April 1891 or in accordance with the Protocol relating to the Madrid Agreement concerning the International Registration of Marks, adopted on 27 June 1989;

12) **International Bureau** - the International Bureau of the World Intellectual Property Organisation that performs the international registration of trade marks and maintains the International Register of Marks;

13) **TRIPS Agreement** - the Agreement on Trade-related Aspects of Intellectual Property Rights of 15 April 1994 (Annex 1C of the Marrakesh Agreement Establishing the World Trade Organization).

Section 2. Purpose and Scope of the Application of This Law

(1) The purpose of the Law is to ensure legal protection for the rights to a trade mark, a certification mark, and an indication of geographical origin.

(2) The Law shall govern the legal relationship in the fields of registration and protection of trade marks, collective marks, and certification marks, and also of protection of indications of geographical origin.

(3) In addition to the provisions of this Law, other laws and regulations shall also govern the use of trade marks, collective marks, certification marks, and indications of geographical origin. General framework which applies to the registration and post-registration procedures at the Patent Office shall be determined by the Law on Industrial Property Institutions and Procedures.

Section 3. Principles of Territoriality and Priority

(1) The rights related to a trade mark shall be protected in conformity with the principles of territoriality and priority.

(2) Upon registering a trade mark, the proprietor of the trade mark shall acquire the exclusive rights to the trade mark applied for registration in the jurisdiction in which or in respect of which the registration of the trade mark is performed (the principle of territoriality).

(3) Upon comparing the rights to a trade mark mutually or with other rights that may be placed in opposition to the registration of the trade mark, it shall be taken into account which of these rights are earlier (the principle of priority). Proof of the priority shall be the obligation of the former holder of rights.

Chapter II

Trade Marks and Restrictions on the Registration Thereof

Section 4. Sign which May Form a Trade Mark

(1) A trade mark may be formed by a sign which conforms to the following requirements:

1) it has a distinctive character - such set of characteristics which ensures that consumers of the relevant goods or services are able to distinguish the goods or services marked with this trade mark from those of another origin. The distinctive character of the sign shall depend on the nature of the sign, the nature of the relevant goods or services, the specialities of the field of economic activity, and also the perception by a consumer of such goods or services;

2) it may be represented in the Register of Trade Marks in a manner which enables clear and unambiguous determination of the subject-matter of the protection granted to the proprietor of the trade mark.

(2) A trade mark may in particular be the following type of sign:

1) a verbal mark if it consists exclusively of words or letters, numerals, or other standard typographic characters or their combination;

2) a figurative mark if non-standard characters, a special stylisation or layout, or a graphic feature or colour is used therein. This category shall include marks consisting exclusively of graphic features and marks consisting of both verbal and graphic features;

3) a shape mark if it consists of spatial dimension, shape of a product or its packaging, or contains such an object;

4) a position mark if it consists of the specific way in which it is placed on goods or affixed thereon;

5) a pattern mark if it consists exclusively of elements which are repeated regularly;

6) a colour mark if it consists exclusively of a single specific colour without contours (colour in itself) or of a combination of colours without contours;

- 7) a sound mark if it consists of a specific sound or a combination of sounds;
- 8) a motion mark if it consists of a movement or change in the position of its elements or contains such elements;
- 9) a multimedial mark if it consists of the combination of an image and sound or contains such elements;
- 10) a hologram mark if it consists of elements with holographic characteristics.

Section 5. Refusal or Invalidation of Registration of a Trade Mark

(1) Registration of a trade mark may be refused or invalidated on the basis of absolute or relative grounds.

(2) Absolute grounds for refusal or invalidation of a trade mark shall protect public, national, and international interests and shall be applicable irrespective of legal interest and initiative of other persons.

(3) Relative grounds for refusal or invalidation of a trade mark shall protect the rights and legal interests of other persons and shall be applicable upon request of the interested persons, except for the cases specifically indicated in this Law.

Section 6. Absolute Grounds for Refusal or Invalidation of Registration of a Trade Mark

(1) A trade mark shall not be registered, but if it has been registered, this registration shall be invalidated if the sign applied for the registration:

1) does not conform to the requirements of Section 4, Paragraph one, Clause 2 of this Law;

2) is devoid of any distinctive character in respect to the goods or services applied for;

3) consists exclusively of signs or indications which may be used in economic circulation in order to designate the kind, quality, quantity, intended purpose (functional task), value, geographical origin of the relevant goods or services, the time of production of the goods or of provision of the services, or other characteristics of the goods or services;

4) consists exclusively of signs or indications (general designations) which have become customary in the everyday language, everyday use, or in the bona fide and established practices of the economic activity in respect of the goods or services applied for;

5) consists exclusively of the shape or other characteristics of goods which:

a) result directly from the nature of the relevant goods;

b) are necessary to obtain a technical effect;

c) give substantial value to the goods;

6) is in contradiction to public order or generally accepted principles of morality;

7) deceives or might deceive consumers regarding, for instance, the nature, quality, or geographical origin of the goods or services;

8) contains a sign the registration of which is to be refused or invalidated in accordance with Article 6^{ter} of the Paris Convention, including contains, without a proper authorisation, an escutcheon, a flag, an official hallmark, a control or guarantee mark of a member state of the Paris Union, or also an emblem, flag, name or its abbreviation of an international organisation;

9) contains, without a proper authorisation, a symbol, an emblem, or a heraldic element important for the public, an image of a State award or official Service insignia, or also an official sign for control, quality, guarantee, or safety of using goods which is used in Latvia or the European Union in respect of the same or similar goods or services;

10) contains another sign of high symbolic value, including a religious symbol, if it is important for the Latvian society;

11) may not be registered as a trade mark in accordance with a legal act of the European Union or Latvia or an international agreement to which the European Union or Latvia is a party, providing for the protection of designations of origin and geographical indications;

12) may not be registered as a trade mark in accordance with a legal act of the European Union or an international agreement to which the European Union or Latvia is a party, providing for the protection of traditional terms for wine;

13) may not be registered as a trade mark in accordance with a legal act of the European Union or an international agreement to which the European Union or Latvia is a party, providing for the protection of traditional specialities guaranteed;

14) consists of, or reproduces in its essential elements, an earlier plant variety denomination registered in accordance with a legal act of the European Union or Latvia regarding the protection of plant varieties, or protected by an international agreement to which the European Union or Latvia is a party, if the protection of the trade mark applied for refers to a plant variety of the same or closely related species.

(2) A trade mark shall not be registered, but if it has been registered, this registration may be invalidated also if an applicant for a trade mark (proprietor of the trade mark) does not conform to the requirements of Section 13 of this Law.

(3) A trade mark shall not be registered, but if it has been registered, this registration may be invalidated also if an application for registration has been submitted in bad faith.

(4) Registration of a trade mark may not be refused on the basis of Paragraph one, Clause 2, 3, or 4 of this Section if the sign applied for, as a result of the use thereof, has obtained a distinctive character in the perception of the relevant consumers in respect of the goods or services applied for registration prior to the date of registration of the trade mark.

(5) Registration of a trade mark may not be invalidated on the basis of Paragraph one, Clause 2, 3, or 4 of this Section if the trade mark has obtained a distinctive character prior to the date of submitting a relevant submission to the Industrial Property Board of Appeal or of submitting a statement of claim to a court.

Section 7. Earlier Trade Mark as Relative Grounds for Invalidation of Registration

(1) Registration of a trade mark may be invalidated if:

1) this trade mark is identical to an earlier trade mark of another person, and the goods or services in respect of which it has been registered are identical to the goods or services for which the earlier trade mark has been registered;

2) in connection with the identity or similarity of this trade mark to an earlier trade mark of another person and the identity or similarity of the relevant goods or services, there exists a likelihood of confusion of the respective trade marks or a likelihood of association between the trade marks on behalf of the relevant consumers.

(2) Within the meaning of Paragraph one of this Section, an earlier trade mark shall mean the following:

1) a trade mark which has been registered in Latvia or registered in an international registration procedure in respect of Latvia, or a European Union trade mark if the date of the application for the registration thereof is earlier than the date of the application for the registration of the contested trade mark, taking into account also the priority claimed reasonably in respect of those trade marks;

2) a European Union trade mark the date of the application for registration of which is later but the date of seniority - earlier than the date of the application for registration of the contested trade mark if the seniority thereof from a trade mark registered in Latvia or from a trade mark registered in an international registration procedure in respect of Latvia has been claimed reasonably, even if the registration of the trade mark from which the seniority is claimed has been removed on the initiative of the proprietor or due to the expiry of the validity period thereof;

3) a trade mark applied for registration and referred to in Paragraph two, Clause 1 or 2 of this Section (the submitted application for registration of a trade mark) if it is registered.

Section 8. Well-known Trade Mark as Absolute and Relative Grounds for Refusal or Invalidation of Registration

(1) Registration of a trade mark may be refused, but if a trade mark has been registered, this registration may be invalidated if this trade mark constitutes a representation, an imitation, a translation, or a transliteration, liable to create confusion, of a trade mark which has been a well-known trade mark in Latvia in respect of identical or similar goods or services, prior to the date of the application for registration of the trade mark applied for (contested) or the date of priority if priority has been claimed for it reasonably. A well-known trade mark need not be registered.

(2) Registration of a trade mark may also be refused or invalidated if the goods or services in respect of which registration of this trade mark has been applied for are not similar to the goods or services covered by a well-known trade mark in Latvia, provided that the use of the trade mark applied for (contested) in relation to the respective goods or services may be perceived by consumers as an indication of a connection between such goods and services and the proprietor of the well-known trade mark, and that such use may be detrimental to the interests of the proprietor of the well-known trade mark.

(3) Upon determining whether a trade mark is well-known, the knowledge of this trade mark in the relevant group of consumers, including such knowledge in Latvia which has been obtained as a result of advertising of measures or any other circumstances contributing to its fame, shall be taken into account.

(4) When determining in which cases the provisions of Paragraphs one and two of this Section are applicable to a sign applied for registration or to a registered trade mark, the provisions of Article 6*bis* of the Paris Convention

regarding a well-known trade mark shall be taken into account, including the provision which provides for the prohibition of the representation or the imitation of a well-known trade mark in an essential part of another trade mark, and these provisions shall, with the necessary changes, also be applicable to service marks.

(5) The provisions of Paragraphs one and two of this Section regarding refusal of registration during the expert-examination procedure shall not apply if the application for trade mark registration has been filed with the consent of the proprietor of the well-known trade mark.

Section 9. Trade Mark with a Reputation as Relative Grounds for Invalidation of Registration

Registration of a trade mark may be invalidated if the trade mark is identical or similar to an earlier and registered trade mark within the meaning of Section 7, Paragraph two of this Law, irrespective of whether the goods or services in respect of which the contested trade mark has been registered are identical, similar, or not similar to the goods or services for which the earlier trade mark has been registered if the earlier trade mark has had a reputation in Latvia or, in case of a European Union trade mark, a reputation in the European Union prior to the date of the application for registration of the contested trade mark or the date of priority if priority has been claimed for it reasonably, and if a user of a later trade mark might, without valid grounds, take unfair advantage of the distinctive character or reputation of the respective earlier trade mark or be detrimental to the distinctive character or reputation of the earlier trade mark.

Section 10. Other Earlier Rights as Relative Grounds for Invalidation of Registration

(1) Registration of a trade mark may also be invalidated on the grounds that another person has acquired any other rights allowing the prohibition of use of this trade mark prior to the date of the application for registration of the trade mark applied for (contested) or the date of priority if priority has been claimed for it reasonably. Registration may be contested insofar as it is in contradiction to the following rights:

1) rights related to the given name, surname, pseudonym of a person well-known to the general public, to a portrait or signature of any person, except for the case where such person has been deceased for 50 or more years;

2) copyright;

3) rights related to a company name, a commercial sign of goods or services used in an identical or similar field of economic activity, a name of mass medium or another similar sign, if the use of the company name, the commercial sign of goods or services, the name of mass medium, or another similar sign in the economic circulation in Latvia has been commenced legally and in good faith prior to the date of the application for registration of the trade mark or, where applicable, the date of priority;

4) rights related to a Latvian or foreign company name, a commercial sign, a name of mass medium, or another similar sign which has been well known in Latvia already prior to the date of the application for registration of the trade mark or, where applicable, the date of priority, even if they are used in a different field of economic activity;

5) rights related to a non-registered trade mark or another sign used for distinguishing goods or services, including with a domain name, if the non-registered trade mark, another abovementioned sign, or domain name has been used in good faith in economic circulation in Latvia in connection with identical or similar goods or services prior to the date of the application for registration of the registered trade mark or, where applicable, the date of priority, for the duration and to the extent that the use of the registered trade mark may confuse consumers about the origin of the respective goods or services;

6) rights related to an earlier and registered Latvian or Community design or non-registered Community design;

7) rights related to a designation of origin and geographical indication if the application for registration of such rights has been submitted to the competent authority of the European Union prior to the date of the application for registration of the trade mark or, where applicable, the date of priority, provided that the designation of origin and geographical indication has been registered or that the designation of origin or geographical indication has been protected in the European Union or Latvia in accordance with an international agreement already prior to the abovementioned date;

8) rights related to a traditional speciality guaranteed or traditional term for wine protected in the European Union or Latvia if the traditional speciality guaranteed or traditional term for wine has been applied for protection in the European Union prior to the date of the application for registration of the trade mark or, where applicable, the date of priority, or if the traditional speciality guaranteed or traditional term for wine has been protected in the European Union or Latvia in accordance with an international agreement already prior to the abovementioned date;

9) rights related to a plant variety denomination protected in the European Union or Latvia if the plant variety denomination has been applied for protection in the European Union or Latvia prior to the date of the application for registration of the trade mark or, where applicable, the date of priority, or if the plant variety denomination has been protected in the European Union or Latvia in accordance with an international agreement already prior to the abovementioned date;

10) other earlier and existing intellectual property rights.

(2) A person who is the proprietor of the trade mark in any of the member states of the Paris Union or State parties to the TRIPS Agreement is also entitled to request invalidation of the trade mark if an agent or representative of the proprietor has registered this mark in his or her own name in Latvia without an authorisation of the proprietor, except for the case where such agent or representative has due cause for his or her action.

Section 11. Restrictions on the Invalidation of Registration

(1) The relevant submission to the Industrial Property Board of Appeal or a statement of claim to a court regarding invalidation of registration of a trade mark on the basis of an earlier trade mark is not satisfied if it would not be satisfied on the date of the application for registration of a later trade mark or, where applicable, the date of priority, as:

1) the proprietor of the earlier trade mark has not demonstrated that his or her trade mark which could have been invalidated initially in accordance with Section 6, Paragraph one, Clause 2, 3, or 4 of this Law had obtained a distinctive character on the relevant date as a result of the use thereof in respect of the goods or services applied for registration;

2) the proprietor of the earlier trade mark relies on Section 7, Paragraph one, Clause 2 of this Law but has failed to demonstrate that his or her trade mark had obtained a sufficient distinctive character on the relevant date as a result of the use thereof in order to justify the recognition of a likelihood of confusion or association between the trade marks;

3) the proprietor of the earlier trade mark relies on the provisions of Section 8 of this Law but has failed to demonstrate that his or her trade mark had become well known in Latvia on the relevant date;

4) the proprietor of the earlier trade mark relies on the provisions of Section 9 of this Law but has failed to demonstrate that his or her trade mark had acquired a sufficient reputation on the relevant date.

(2) A court shall apply Paragraph one, Clauses 1 and 2 of this Section after a written reasoned objection of the proprietor of the later trade mark.

Section 12. Restrictions of Rights (Forfeiture of Rights) as a Result of Acquiescence

(1) If the holder of the right referred to in Section 7, 8, 9, or 10 of this Law has not contested, within five consecutive years in accordance with the procedures laid down in laws and regulations, the use of a later trade mark registered in Latvia or in respect of Latvia, although the holder of right has been or should have been aware of the use thereof, he or she is no longer entitled, on the basis of his or her earlier rights, to request invalidation of the later trade mark in respect of the goods or services for which it has been used, except for the case where the later trade mark has been applied for registration in bad faith.

(2) In the case referred to in Paragraph one of this Section the proprietor of the later trade mark is not entitled to object to the exercise of earlier rights, even if such earlier rights may no longer be directed towards the later trade mark.

Chapter III Rights Related to a Trade Mark

Section 13. Subject of the Rights to a Trade Mark

The proprietor of the trade mark may be the following:

1) a natural person;

2) a legal person;

3) an association of persons if it is able to acquire rights and assume obligations, including to enter into transactions and institute and respond to legal proceedings.

Section 14. Exclusive Rights of the Proprietor of the Trade Mark

(1) Without prejudice to earlier rights of other persons specified in Sections 7, 8, 9, and 10 of this Law and acquired in good faith and lawfully prior to the date of the application for registration of a trade mark or, where applicable, the date of priority, the proprietor of a registered trade mark has exclusive rights to prohibit other persons from using any of the following signs in economic circulation:

1) a sign identical to the trade mark in relation to the goods or services which are identical to the goods or services for which the trade mark has been registered;

2) any sign where, because of its identity or similarity to the trade mark and the identity or similarity of the goods or services for which the trade mark has been registered and in relation to which the abovementioned sign is used, there exists a likelihood of confusion or association between this sign and the trade mark on behalf of the relevant consumers.

(2) In accordance with the provisions of Paragraph one of this Section, the following activities in particular may be prohibited in respect of the signs specified therein:

- 1) use (affixing, attachment) of the signs on the goods or their packaging;
- 2) offering the goods, placing them on the market, or stocking them for these purposes in relation to them;
- 3) offering or supplying services in relation to them;
- 4) importing or exporting the goods in relation to them;
- 5) use of the signs in a company name, a commercial sign, or another sign used for distinguishing goods or services on the market;
- 6) use of the signs in a domain name if the relevant website is used in relation to the distribution of goods or provision of services;
- 7) use of the signs in business documents and advertising related to the distribution of goods or provision of services;
- 8) use of the signs in advertising in a manner which is in contradiction to the existing framework for comparative advertising.

(3) The proprietor of a registered trade mark is entitled to prohibit other persons from using also a sign which is identical to the registered trade mark or which in its essential elements may not be distinguished from such trade mark, and which is not used directly for distinguishing goods or services on the market (labelling of goods, identification of the origin of goods or services) if it is demonstrated that the use of such sign without due cause takes unfair advantage for use of the distinctive character or reputation of the registered trade mark or is detrimental to the distinctive character or reputation of the registered trade mark.

Section 15. Exclusive Rights to Prohibit Preparatory Actions in Respect of the Use of Packaging or Other Means

If there is a risk that packaging, labels, tags, safety or authenticity elements or devices, or other means marked with a trade mark will be used in economic circulation in relation to goods or services and such use will be in contradiction to the rights of the proprietor of the trade mark referred to in Section 14, Paragraphs one and two of this Law, the proprietor of a registered trade mark is entitled to prohibit also the following actions:

- 1) mark with a sign which is identical or similar to a trade mark, the packaging, labels, tags, safety or authenticity elements or devices, or any other means that can be marked with a trade mark;
- 2) offer, place on the market, store for such purposes, import or export the packaging, labels, tags, safety or authenticity elements or devices, or any other means that can be marked with such a sign.

Section 16. Exclusive Rights in Respect of the Goods not Released for Free Circulation

(1) Without prejudice to earlier rights of other persons specified in Sections 7, 8, 9, and 10 of this Law and acquired prior to the date of the application for registration of a trade mark or the date of priority if the priority has been claimed reasonably, the proprietor of a registered trade mark has the right to prohibit other persons from importing also goods in economic circulation in Latvia not released for free circulation if such goods, including their packaging, have been imported from third countries and have been marked, without an authorisation of the proprietor of the trade mark, with a sign which is identical to a trade mark that has been registered for the goods of the same kind, or which in its essential elements may not be distinguished from such trade mark.

(2) The rights of the proprietor of a trade mark in accordance with Paragraph one of this Section shall not be applicable if in a procedure in which it is established whether the goods are counterfeit and which has been initiated in accordance with Regulation (EU) No 608/2013 of the European Parliament and of the Council of 12 June 2013 concerning customs enforcement of intellectual property rights and repealing Council Regulation (EC) No 1383/2003 the declarant or the holder of the goods provides evidence that the proprietor of the trade mark does not have the right to prohibit the placing of these goods on the market in the country of destination thereof.

Section 17. Entry into Effect of the Exclusive Rights

Exclusive rights of the proprietor of the trade mark in respect of other persons shall enter into effect on the day when an official notice regarding registration of the trade mark is published in the official gazette of the Patent Office.

Section 18. Exclusive Rights of the Proprietor of the Trade Mark with a Reputation

(1) In addition to the rights specified in Section 14 of this Law, the proprietor of the trade mark with a reputation in Latvia also has the right to prohibit other persons from using in economic circulation any sign identical to or confusingly similar to the trade mark, irrespective of whether it is used in relation to the goods or services which are identical, similar, or not similar to the goods and services for which an earlier trade mark has been registered if the use of such sign without due cause takes unfair advantages for use of the distinctive character or reputation of the trademark or is detrimental to the distinctive character or reputation of the trade mark.

(2) The right provided for in Paragraph one of this Section which provides for a possibility to take action against the use of signs in relation to the goods or services which are not similar to the goods or services for which a trade mark with a reputation has been registered may not be turned by the proprietor of this trade mark against rights of other persons acquired in good faith and lawfully prior to his or her trade mark had acquired a relevant reputation.

Section 19. Exclusive Rights of the Proprietor of a Well-known Trade Mark

(1) The proprietor of the trade mark well known in Latvia has the right to prohibit other persons from using in economic circulation any sign which constitutes a representation, an imitation, a translation or a transliteration, liable to create confusion, of a well-known trade mark in relation to the goods or services which are identical or similar to the goods or services covered by the well-known trade mark.

(2) The proprietor of the trade mark well known in Latvia has the right to prohibit other persons from using in economic circulation a sign which constitutes a representation, an imitation, a translation or a transliteration of a well-known trade mark also in relation to the goods or services which are not similar to the goods or services covered by the well-known trade mark if consumers may perceive the use of the respective indication as an indication of a connection between such goods and services and the proprietor of the well-known trade mark and such use may be detrimental to the interests of the proprietor of the well-known trade mark.

(3) The proprietor of a well-known trade mark may not turn the rights provided for in Paragraph two of this Section against rights of other persons acquired in good faith and lawfully prior to his or her trade mark had become well known in Latvia.

Section 20. Representation of a Trade Mark in Reference Works

(1) If representation of a registered and valid trade mark in a dictionary, an encyclopaedia, or another printed or electronic reference work gives the impression that it constitutes a generic name (general term) in respect of the goods or services for which the trade mark has been registered, the publisher of the reference work shall, upon request of the proprietor of the trade mark, ensure that the representation of the trade mark in an electronic reference work is immediately but in a printed material - not later than in the next edition of the reference work - accompanied by an annotation that it is a registered trade mark.

(2) If the publisher fails to add the abovementioned annotation within the time period specified in Paragraph one of this Section, he or she may be recognised as a person whose services are used in order to infringe rights to a trade mark.

Section 21. Alerting to Rights to a Trade Mark

(1) The proprietor of the trade mark has the right to place, next to a valid and registered trade mark, a sign consisting of an encircled letter "R" or text which alerts to the registration of the trade mark.

(2) It shall not be acceptable to add the sign referred to in Paragraph one of this Section to a trade mark which has not been registered in Latvia or outside it.

(3) If the proprietor of the trade mark has grounds to believe that a person infringes or is about to infringe his or rights, the proprietor of the trade mark is entitled to alert this person to the infringement or potential infringement.

Section 22. Trade Mark Registered in the Name of an Agent or Representative of the Proprietor

(1) If a trade mark has been registered by an agent or representative of the proprietor in his or her own name without an authorisation of the proprietor, the proprietor of the trade mark is entitled to:

- 1) prohibit his or her agent or representative from using the trade mark;
- 2) request that the trade mark is transferred exclusively to him or her.

(2) Paragraph one of this Section shall not be applicable if an agent or representative has due cause for his or her action.

Section 23. Non-registered Trade Mark

(1) Non-registered trade marks may be used in economic circulation.

(2) A person who uses a non-registered trade mark has the following rights for the purposes of the protection thereof:

1) to contest the registration of the trade mark of another person in accordance with Section 10, Paragraph one, Clause 5 of this Law;

2) to refer to the rights of the proprietor of a well-known trade mark if there is evidence that the trade mark is well known in Latvia.

Section 24. Restrictions of the Rights to a Trade Mark

(1) The proprietor of the trade mark is not entitled to prohibit another person from using the following information or signs in economic circulation:

1) the given name, surname, and address of such person;

2) the signs or indications which do not have a distinctive character;

3) the information and indications on the type, quality, quantity, intended purpose (functional task), value, geographical origin of the goods or services of this person, time of production of goods or provision of services, or other characteristics of goods or services;

4) the trade mark in order to identify the goods or services which belong to the proprietor of the abovementioned trade mark or to indicate to them, in particular where the use of the trade mark is necessary to specify the intended purpose of a product or service, in particular in the form of accessories or spare parts.

(2) Restrictions of the rights to a trade mark shall be applicable if the use of the relevant information or signs corresponds to fair practice of economic activity.

Section 25. Exhaustion of the Rights

(1) The proprietor of the trade mark is not entitled to prohibit the use of his or her trade mark in relation to the goods which have been placed on the market in the European Economic Area under that trade mark by the proprietor of the trade mark himself or herself or by another person with the consent of the proprietor.

(2) The provisions of Paragraph one of this Section shall not be applicable if the proprietor of the trade mark has reasonable grounds not to accept further circulation of the abovementioned goods for profit-making purposes, in particular if the quality of such goods has changed after placing them on the market or the goods are damaged, or the reseller gives the impression that he or she and the proprietor of the trade mark are economically linked or if the use of the trade mark is seriously detrimental to the reputation thereof.

Section 26. Restrictions of Rights in Relation to the Non-use of a Trade Mark

(1) If, within five years from the day the registration procedure for a trade mark is completed, the proprietor of this trade mark has not commenced the actual use thereof in relation to the goods or services for which it has been registered, or if during validity of registration such use has been suspended for at least a period of five consecutive years, the sanctions and restrictions provided for in Section 43, Paragraph five, Section 61, Paragraph five, and Section 63 of this Law shall be applicable to the trade mark, unless this non-use has had due cause.

(2) A five-year period after the day the registration procedure is completed shall be calculated from the day when a notice of opposition may no longer be submitted against the relevant trade mark or, where a notice of opposition has been received, from the day when a decision to terminate an opposition procedure has entered into effect or when a notice of opposition has been withdrawn.

(3) The proprietor of the trade mark has the right to prohibit other persons from using specific signs in economic circulation only if, on the day when a claim is submitted for the elimination of an infringement of the rights to the trade mark, there are no grounds to revoke registration of the trade mark due to actual non-use of the trade mark. If such another person raises a reasoned written objection against the rights of the proprietor of the trade mark, then he or she shall bear the burden of proving that the trade mark has actually been used during the five-year period prior to the day the claim has been submitted in relation to the goods or services for which it has been registered and to which a reference is made in the claim, or that there is due cause for non-use of the trade mark but taking into account a condition that on the day of bringing the claim the registration procedure for the trade mark has been completed at least five years ago.

(4) The use of a trade mark on goods, their packaging, documentation accompanying goods or services, in the offer, advertising, and other economic circulation of goods or services the purpose of which is to gain or maintain a specific market position for the relevant goods or services shall be considered actual use of a trade mark.

(5) The following activities shall also be considered actual use of a trade mark:

1) the use of a trade mark which differs in individual non-essential elements from a registered trade mark if the changes accepted in the form of the mark does not affect the different nature and the distinctive character of the trade mark, irrespective of whether the relevant trade mark has also been registered in the name of this proprietor in such form as it is used;

2) the use of a trade mark in Latvia only on goods intended for export or their packaging.

(6) Upon assessing restrictions of rights resulting from the non-use of a trade mark, it shall be considered that a trade mark is used by its proprietor also if the trade mark is used by another person with the consent of the proprietor of the trade mark.

Chapter IV

Rights to a Trade Mark as an Object of Property

Section 27. Nature of the Rights to a Trade Mark

(1) Rights to a trade mark on the basis of registration or an application for registration shall constitute exclusive economic rights which, in terms of the legal regime, shall be comparable to movable property within the meaning of the Civil Law. They may be alienated, pledged, or otherwise included in the circulation in the private sector, and recovery may be directed towards them, taking into account the restrictions specified in this Law and other laws and regulations.

(2) Rights to a trade mark may concurrently be owned also by two or more persons - in the amount of a specific undivided share for each. The provisions of the Civil Law for joint property shall be applicable, with any necessary changes, to the rights to a trade mark jointly owned by two or more persons insofar as it is not laid down otherwise in this Law. If any of such persons alienates his or her undivided share for the benefit of a third party, the rest of the entitled persons have the right of first refusal but, if it has not been possible to exercise them due to the fault of the seller, the right of pre-emption to which provisions of the Civil Law for pre-emption shall be applicable respectively. The time period for the exercise of the right of first refusal shall be one month from the date when a notice regarding sale of a share is sent to all entitled persons.

(3) If the legal protection proceedings or insolvency proceedings have been declared in respect of the proprietor of the trade mark, and also if the right to a registered trade mark has been seized by an act of the competent authority or official or recovery is directed towards it, the Patent Office shall, upon receipt of a court ruling or a submission of a responsible official, make a relevant note in the Register of Trade Marks of the Patent Office (hereinafter - the Register). Information on the note made shall be notified in writing to the applicant and published in the official gazette of the Patent Office.

(4) If the legal protection proceedings or insolvency proceedings have been declared in respect of the applicant for a trade mark during the period when the trade mark has not been registered yet, a court ruling or a submission of a responsible official shall be retained on the file of the application for registration and information on it shall be included in the database of trade marks and published on the website of the Patent Office. If the legal protection proceedings or insolvency proceedings continue also in the period after registration of the trade mark, information on it shall be included in the Register and published officially concurrently with the registration or as soon as possible thereafter.

(5) Rights to a trade mark registered with the Patent Office in accordance with the procedures for the national procedure shall be pledged in accordance with the provisions of the Commercial Pledge Law. The interested person shall pay the fee for making an entry of the commercial pledge note in the Register. The Patent Office shall record a commercial pledge note on the basis of a notification of the holder of the register of commercial pledges. Information on the note made shall be notified to the proprietor of the trade mark and published in the official gazette of the Patent Office.

Section 28. Transfer of the Rights to a Trade Mark

(1) Rights to a trade mark may be transferred, including assigned to another person, in respect of the whole list of goods or services for which the trade mark has been registered or part thereof together with an enterprise or a part thereof that used this trade mark, or independently of this undertaking.

(2) If an enterprise or a part thereof is transferred to another person, rights to a trade mark which is directly related to the operation of this enterprise or a part thereof shall be considered transferred together with the enterprise or a part thereof, unless otherwise specified upon agreement of the parties or unless circumstances clearly stipulate otherwise.

(3) Upon receipt of a relevant submission, a document attesting to the transfer of rights and the stipulated fee, the Patent Office shall include in the Register and publish in its official gazette the information on the change in the proprietor of a registered trade mark, and also send a notice of the entry made in the Register to the current and former proprietors.

(4) If the change in the proprietor of the trade mark does not refer to the whole list of goods and services for which

the trade mark has been registered, the Patent Office shall divide this registration by applying the provisions of Section 44 of this Law for the necessary changes and creating new registration for the goods and services the proprietor of which has changed.

(5) The acquirer of a trade mark as a proprietor may exercise the rights to a trade mark starting from the day when the information on the change in the proprietor has been included in the Register. The acquirer of the trade mark may exercise exclusive rights arising from the registration of the trade mark against other persons starting from the day when the information on the change in the proprietor has been published in the official gazette of the Patent Office.

(6) If an application for registration is transferred to another person, prior the Patent Office has taken a decision to register the relevant trade mark, then the Patent Office shall, upon receipt of a relevant submission, a document attesting to the transfer of rights and the stipulated fee, regard the change in the applicant for a trade mark as an amendment to the application for registration within the meaning of the relevant provisions of Section 38 of this Law and continue examination of the application for registration in respect of the new applicant. Information on the transfer of rights shall be included in the database of trade marks and published on the website of the Patent Office.

(7) If the transfer of an application for registration (change in the applicant for a trade mark) does not refer to all goods and services for which the trade mark has been applied for, the Patent Office shall divide this application by applying the provisions of Section 39 of this Law with the necessary changes and creating a new application for registration for the goods and services in respect of which the applicant for a trade mark has changed.

(8) The Cabinet shall determine the procedures for examining and registering the transfer of registration of a trade mark and of an application for registration with the Patent Office.

Section 29. Licensing of a Trade Mark

(1) The proprietor of the trade mark has the right to grant to another person under a licensing agreement his or her rights to use the trade mark in respect of the whole list of goods or services for which the trade mark has been registered or a part thereof. According to the nature of the licensing agreement (an exclusive or non-exclusive licence), the person granting the rights to the trade mark (the licensor) and the person receiving the rights (the licensee) shall both assume certain rights and obligations.

(2) A licence shall be recognised an exclusive licence if the licensee is the only one who obtains the right to use a trade mark according to the terms and conditions of a licensing agreement, but the licensor reserves the right to use the trade mark insofar as this right has not been transferred to the licensee.

(3) A licence shall be recognised a non-exclusive licence if the licensor, when granting the right to use a trade mark to another person, reserves the right to use this trade mark, and also the right to grant a licence for the use of the same trade mark to third persons.

(4) The licence granted may not be transferred to third persons, and the licensee is not entitled to issue a sub-licence, unless it is provided for otherwise in the licensing agreement.

(5) Upon receipt of a submission of the licensor or licensee, a document attesting to the information to be included in the Register, and payment of the stipulated fee, the Patent Office shall enter the information on the licensing agreement of a registered trade mark in the Register and publish in its official gazette of the Patent Office, and also send to the licensor and licensee a notice regarding the entry made in the Register. Information on expiry of the licensing agreement or amendments to the licensing agreement shall also be included in the Register and published in accordance with these procedures.

(6) In accordance with the procedures laid down in Paragraph five of this Section, the Patent Office shall also examine a licensing agreement that refers to a trade mark which has not been registered yet. A submission and the licensing agreement shall be retained on the file of the application for registration, and information on this shall be published in the database of trade marks. If the licensing agreement also refers to a period after registration of the trade mark, information on it shall be included in the Register and published concurrently with the registration or as soon as possible thereafter.

(7) The proprietor of the trade mark is entitled to exercise his or her exclusive rights against a licensee who violates terms and conditions of the licensing agreement in respect of the following:

- 1) the term of validity of the licence;
- 2) the form in which the trade mark may be used in accordance with the registration;
- 3) the list and nature of the goods and services for which the licence is granted;
- 4) the territory in which the trade mark is authorised to be used;
- 5) the quality of the goods manufactured or of the services provided by the licensee.

(8) If registration of a trade mark or an application for registration is transferred to another person, the acquirer of the rights to a trade mark shall only be bound by a licence granted previously which has been registered with the Patent Office and the validity of which has not expired according to the data available to the Patent Office. But if a person brings a claim before a court for the transfer of registration of the trade mark to him or her, this person may request that the licence granted previously is invalidated, insofar as it imposes unreasonable obligations upon the successor thereof.

(9) If the information on a licensing agreement has not been included in the Register or published, it may not constitute grounds for contesting validity of registration a trade mark in accordance with the provisions of Section 61 or 63 of this Law or for imposing the restrictions specified in Section 26 of this Law in relation to non-use of the trade mark, or for objecting to the right of a licensee to intervene provided for in Section 51, Paragraph three of this Law if a claim is brought before a court for breach of a trade mark by the proprietor of the trade mark, or to the right of a licensee to receive compensation for losses incurred by him or her in relation to unlawful use of the licensed trade mark.

(10) The fact that the licensee has failed to indicate on goods or packaging thereof, in respect of the services provided or in advertising which refers to these goods or services that the trade mark is used under a licence, or has indicated it inaccurately may not constitute grounds for contesting the validity of registration of the trade mark, application of Section 26, Paragraph six of this Law, and the right of the licensee referred to in Paragraph nine of this Section.

(11) The Cabinet shall determine the procedures by which the Patent Office shall examine and register licensing agreements, amendments thereto, and termination of licensing agreements.

Chapter V

Procedures for Trade Mark Registration

Section 30. Application for Registration

(1) A person who wishes to register a trade mark in Latvia shall submit to the Patent Office a written application for registration of a trade mark (hereinafter - the application for registration).

(2) The application for registration shall include the following:

- 1) a petition to register a trade mark;
- 2) information which allows to identify clearly the applicant for a trade mark and contact him or her;
- 3) a representation of the sign applied for registration in accordance with the requirements of Section 4, Paragraph one, Clause 2 of this Law;
- 4) a list of such goods and services for which the registration of the trade mark has been requested.

(3) Registration of only one trade mark may be requested in one application for registration.

(4) The application for registration shall be submitted and all registration procedures and correspondence related to the trade mark shall be handled in the Latvian language. Documents in a foreign language shall be submitted together with a translation into the Latvian language certified in accordance with the prescribed procedures.

(5) The application for registration shall indicate the type of the sign applied for in accordance with the provisions of Section 4, Paragraph two of this Law. The application for registration may also include a short description of the sign, a translation of a verbal mark which is in a foreign language, and any other explanations about the sign applied for which are considered necessary by the applicant a trade mark.

(6) The Cabinet shall determine the requirements for the applications for registration of types of trade marks.

Section 31. Date of the Application for Registration

(1) The date when the Patent Office receives the application for registration corresponding to the provisions of Section 30, Paragraph two of this Law if the fee for the application for registration has been paid within the time period laid down in the law shall be considered the date of the application for registration.

(2) The fee for the application for registration and, where the application for registration covers more than one class of goods or services, also the additional fee shall be paid within a month from the day the application for registration is submitted.

(3) If the term for payment is missed but the application for registration conforms to the provisions of Section 30, Paragraph two of this Law, the date when the fee for the application for registration and, where necessary, also the additional fee are received shall be considered the date of the application for registration.

Section 32. List of Goods and Services

(1) One application for registration may contain a request for registration of a trade mark for one or several goods or services, and also for goods and services simultaneously, irrespective of whether they belong to one or several classes of goods or services according to the Nice Classification. The applicant for a trade mark shall group the list of goods and services by classes according to the abovementioned classification.

(2) Goods and services for which protection is sought shall be identified in a sufficiently clear and precise manner in order for the competent authorities and the public to be able to conclude clearly from the list of goods and services the extent of protection of the trade mark.

(3) General terms, including the signs contained in the class headings of the Nice Classification, may be used for the identification of goods and services if they correspond to the provisions of Paragraph two of this Section in respect of clarity and precision.

(4) The Patent Office is entitled to reject the application for registration if signs of goods or services do not conform to the provisions of Paragraph two of this Section and the applicant has failed to submit, within the time period stipulated by the Patent Office, acceptable signs of the relevant goods or services.

(5) The extent of protection of a trade mark shall be determined according to the strict sense of the signs or terms contained in the list of goods and services.

(6) Goods and services shall not be considered similar to each other only on the basis of the fact that they have been included in the same class of the Nice Classification. Goods and services shall not be considered different from each other only on the basis of the fact that they have been included in different classes of the Nice Classification.

Section 33. Convention Priority

(1) A person who has submitted the application for registration, in accordance with the prescribed procedures, in any of the member states of the Paris Union or State parties to the TRIPS Agreement, or in any other country or union of countries with which Latvia has concluded an agreement on recognition of the right of priority, or a successor of this person has the right of priority for six months from the date of this application for registration when submitting an application for the same registration in Latvia in respect of the goods and services which are identical to the goods and services or included in the goods or services in respect of which an earlier application for registration has been submitted.

(2) The applicant for a trade mark who wishes to exercise the right of priority arising from an earlier application for registration (Convention priority) shall submit a claim for the Convention priority concurrently with the later application for registration, indicating the date and country of the earlier application for registration or the regional trade mark registration office to which it has been submitted, and also the number of the application for registration if it is known at the moment of submission of the later application for registration.

(3) Upon exercising the right specified in Paragraph one of this Section, the applicant shall, within three months from the day of submitting the application for registration of a trade mark, submit a document attesting to the right of priority, namely a copy (derivative) of an earlier application for registration the conformity with the original of which has been attested by the office that has accepted this application for registration, or shall indicate the data regarding this earlier application for registration which may be found in a generally available database. The applicant shall concurrently submit a translation into the Latvian language of the list of goods and services related to the earlier application for registration which has been certified in accordance with the prescribed procedures.

(4) If, upon exercising the right specified in Paragraph three of this Section, the applicant has indicated the data regarding this earlier application for registration which may be found in a generally available database but the Patent Office has serious doubts as to the reliability of the indicated data, it is entitled to request that the applicant submits a document attesting to the right of priority, namely a copy (derivative) of an earlier application for registration the conformity with the original of which has been attested by the office that has accepted this application for registration, or other evidence.

(5) If the outcome of a dispute may depend on the existence of the right of Convention priority and such circumstances have not been verified during examination of the application for registration of a trade mark at its registration office (the priority has been claimed, but the relevant data have not been verified), the proprietor of an earlier trade mark has an obligation to submit a copy (derivative) of the earlier application for registration of his or her trade mark which has been attested by the office that has accepted this application for registration.

Section 34. Exhibition Priority

(1) The applicant for a trade mark who has exhibited, at an official or officially recognised international exhibition in Latvia or in any of the member states of the Paris Union or State parties to the TRIPS Agreement, the goods or services in relation to the trade mark for which the registration of the trade mark is required, has the right of priority from the first day when such goods or services are exhibited at the abovementioned exhibition if the application for

registration has been submitted within six months from that day.

(2) The applicant for a trade mark who wishes to exercise the right specified in Paragraph one of this Section (exhibition priority) shall submit a claim for exhibition priority concurrently with the application for registration, indicating the exhibition and the day when the goods or services have been first exhibited at this exhibition. A document or a copy (derivative) thereof which attests to the right of exhibition priority, namely proving the identity of the materials exhibited at the exhibition and the date they were first exhibited (in relation to the trade mark) and which has been issued by a competent exhibition authority shall be submitted concurrently with the application for registration or appended thereto within three months from the day this application for registration is submitted.

(3) The exhibition priority shall not extend the time period specified in Section 33, Paragraph one of this Law.

Section 35. Preliminary Examination of the Application for Registration

(1) As soon as possible from the day the application for registration is received, the Patent Office shall conduct a preliminary examination of the application for registration, verifying the compliance thereof with the requirements of Sections 30, 31, and 32 of this Law and determining the date of the application for registration (examination of formal requirements). If the applicant for a trade mark claims for priority in accordance with the provisions of Section 33 or 34 of this Law, the Patent Office shall assess the information submitted and determine the date of priority.

(2) If the application for registration does not conform or only partially conforms with the requirements of Sections 30 and 32 of this Law, the Patent Office shall notify the applicant for a trade mark thereof in writing, substantiating non-conformity and determining a three-month period for replying (elimination of deficiencies). The period for examination of the application for registration shall not include a period from the day the notice of the Patent Office is sent to the day the reply is received.

(3) If the application for registration does not initially conform to the provisions of Section 30, Paragraph two of this Law which refer to the documents necessary for determining the date of the application for registration, but the applicant for a trade mark eliminates such deficiencies within the time period stipulated by the Patent Office, the day when the Patent Office receives all the abovementioned documents shall be considered the date of the application for registration. If the applicant for a trade mark has failed to eliminate the deficiencies established in the application for registration upon request of the Patent Office, the application for registration shall be considered not to have been submitted and the applicant shall be notified thereof in writing.

(4) If the applicant for a trade mark has failed to comply with the requirements specified for acquiring the right of priority, the priority shall not be accepted.

(5) If the application for registration contains other serious deficiencies (non-conformities with the requirements of this Law) and the applicant for a trade mark fails to eliminate them upon relevant request, the application for registration shall be rejected and the applicant shall be notified thereof in writing.

(6) If the application for registration conforms to the requirements of Sections 30 and 32 of this Law or the deficiencies established initially have been eliminated, the Patent Office shall take the decision to accept the application for registration for expert-examination (acceptance of the application) and the applicant shall be notified thereof in writing.

Section 36. Examination of a Trade Mark

(1) The Patent Office shall examine the conformity of the sign applied for with the requirements of Sections 4 and 6 of this Law within six months from the date of the application for registration. During the course of the expert-examination the Patent Office is entitled to request from the applicant for a trade mark additional materials and documents necessary for the expert-examination, specifying a three-month period for the submission thereof. At the moment of sending the request, the period for expert-examination shall be suspended and it shall continue from the day when the reply of the applicant for a trade mark has been received within the time period stipulated by the Patent Office or if the time period for the submission thereof has expired.

(2) Within the scope of expert-examination the Patent Office shall not compare the sign applied for registration with earlier rights of other persons. The applicant for a trade mark shall verify earlier rights of other persons. If the Patent Office has information at its disposal that the sign or part thereof applied for registration may be perceived by consumers as a representation of a trade mark well known in Latvia, but there is no information on connection of the specific applicant for a trade mark with the well-known trade mark, the Patent Office shall verify whether there are grounds for applying the provisions of Section 8 of this Law under a relevant written request to the applicant for a trade mark.

(3) If it is established during the course of the expert-examination that a trade mark is not to be registered or is to be registered with the restrictions provided for in Paragraph six or seven of this Section, the Patent Office shall inform the applicant for a trade mark thereof in writing, determining a three-month period for the submission of explanations (arguments against a potential refusal or restrictions of the registration).

(4) As soon as possible after receipt of explanations of the applicant for a trade mark or expiry of the period

specified for the submission of explanations, the Patent Office shall take a decision to register or to refuse to register the trade mark. The applicant shall be informed of the decision in writing.

(5) If a reason for refusal of the registration of a trade mark has not been established in the course of the expert-examination or it has been eliminated, the Patent Office shall take the decision to register the trade mark, inviting the applicant for a trade mark not later than within three months from the day of notice of the decision to pay the specified fee for the registration of the trade mark and the official publication.

(6) If it is established that a trade mark is not to be registered for some specific goods or services, the Patent Office shall take the decision to register the trade mark for other goods and services included in the list (a restricted list of goods and services).

(7) [9 February 2023]

[9 February 2023]

Section 37. Accelerated Examination of the Application for Registration

If the applicant for a trade mark has submitted a request for accelerated examination of the application for registration and paid the relevant additional fee, the Patent Office shall perform the activities related to the application for registration and specified in Sections 35 and 36 of this Law on a priority basis.

Section 38. Withdrawal, Restriction, and Amending of the Application for Registration

(1) The applicant for a trade mark is entitled to withdraw the entire application for registration or remove goods and services from the list of goods and services applied for. The fee paid shall be non-refundable, except for the fee for the application for registration and, where applicable, the additional fee for an additional class or classes of goods or services if the application for registration is withdrawn within five days from the day of the submission thereof.

(2) The application for registration may only be amended, adjusted, or corrected, provided that this does not extend the list of goods and services. The Patent Office is entitled to request such amendments, adjustments, and corrections during the entire course of the examination of the application for registration. If amendments, adjustments, or corrections in the application for registration are submitted by the applicant for a trade mark, acting on his or her own initiative, the Patent Office shall take them into account if the fee specified for amendments to the application for registration has been received. Entering of information on appointment or removal of a representative of the applicant for a trade mark, amendments to information on the representative, the address, or contact address of the applicant for a trade mark, corrections of minor clerical errors in the application for registration, and also corrections of mistakes made by the Patent Office shall be made free of charge.

(3) A representation of the sign initially applied for registration may be changed, taking into account the requirement that the changes only concern non-essential elements, do not affect overall impression and distinctive character of the trade mark, and do not mislead consumers.

(4) Amendments received by the Patent Office after the information on registration of a trade mark had been prepared for publication shall be considered amendments to the registration information, and the provisions of Section 41, Paragraph two of this Law shall be applicable thereto.

(5) If during the course of the registration procedure, except for the cases referred to in Section 35, Paragraph three and Section 36, Paragraph three of this Law, the applicant for a trade mark fails to, within the specified period, reply to the request of the Patent Office or to pay the specified fee and does not request an extension of the time period, the application for registration shall be considered to have been withdrawn and the applicant shall be informed thereof in writing.

Section 39. Division of the Application for Registration

(1) The application for registration may be divided into two or more applications for registration by dividing the goods and services applied for between the original application for registration and the divisional application for registration (applications), provided that the goods and services do not overlap in those applications for registration. The divisional application for registration shall preserve the date of the original application for registration as well as the priority thereof if it also refers to the goods and services of the divisional application for registration.

(2) The applicant for a trade mark is entitled to submit a request for the division of the application for registration until the day a decision of the Patent Office to register the trade mark is notified.

(3) Upon submitting a request to the Patent Office for the division of the application for registration, the applicant for a trade mark shall indicate which goods and services remain in the original application for registration and pay the fee for making of amendments to the original application for registration. Each divisional application for registration shall be drawn up in accordance with all the requirements of Sections 30 and 32 of this Law for the content of the application for registration, paying the fee specified for a new application for registration in full amount. The fee paid for the original application for registration is non-refundable and is not applied to the divisional application for

registration.

(4) If, within a month from the day when the Patent Office has received a request for the division of the application for registration, the applicant for a trade mark has failed to submit the specified documents and materials of the divisional application for registration or to pay the specified fee, the request for the division of the application for registration shall be considered to have been withdrawn and the applicant shall be notified thereof in writing.

(5) The divisional application for registration shall be examined in accordance with the requirements of Paragraph one of this Section and of Sections 35 and 36 of this Law. After the Patent Office has notified the decision to register the trade mark, the request for the division of the application for registration may not be withdrawn.

Section 40. Registration, Official Publication of a Trade Mark, and Issue of a Registration Certificate

(1) A trade mark shall be registered by the Patent Office by making a relevant entry in the Register.

(2) As soon as possible after taking the decision to register a trade mark if the applicant a trade mark has paid the specified fee, the Patent Office shall prepare the trade mark and information on the registration thereof for publication in its official gazette (official publication).

(3) A trade mark is included in the Register concurrently with the publication thereof in the official gazette of the Patent Office, except for the cases where technical reasons delay the publication. If the publication has been delayed, the Patent Office shall indicate this difference of dates in the information on registration of the trade mark and in the official publication.

(4) After registration of a trade mark and the official publication, the Patent Office shall issue to the proprietor of the trade mark a registration certificate for the trade mark, including therein the information contained in the Register.

Section 41. Register

(1) The Patent Office shall keep the Register including therein the following:

- 1) the registered trade mark;
- 2) the information on the proprietor of the trade mark and the representative thereof, where appointed;
- 3) the date of the application for registration and, where applicable, the date of priority;
- 4) the date of registration of the trade mark;
- 5) the date of the official publication;
- 6) the list of the goods and services to which the registration of the trade mark applies;
- 7) the date from which the five-year period referred to in Section 26 of this Law begins;
- 8) other information specified in laws and regulations.

(2) The proprietor of the trade mark shall immediately inform the Patent Office of any amendments to or mistakes established in the information on registration of the trade mark, change in his or her given name and surname, name or address, change in his or her representative or address thereof or a wish to remove goods or services from the list of goods and services. Amendments or corrections may not extend the scope of rights to the trade mark or create a possibility to mislead a consumer. The Patent Office shall include the acceptable amendments in the Register if the specified fee has been received. Information on amendments to the address or contact address of the proprietor of the trade mark, on appointment or removal of a representative, or amendments to the information on the representative shall be included in the Register, and also corrections of minor clerical errors or of mistakes made by the Patent Office shall be made free of charge. A notice on the amendments made shall be published in the official gazette of the Patent Office and sent to the proprietor of the trade mark to be added to the registration certificate for the trade mark.

(3) A representation of a trade mark initially included in the Register may be changed, taking into account the requirement that the changes only concern non-essential elements of the trade mark and do not affect the overall impression and distinctive character of the trade mark.

(4) Entries in the Register, to the extent contemplated by the requirements of Paragraph one of this Section, after their publication, shall be available for inspection by any person. For a specified fee, the Patent Office shall provide excerpts from the entries in the Register.

(5) A file of the application for registration and a registration file shall be available to any person who has submitted a relevant request to the Patent Office. The Patent Office is entitled to refuse access to certain information if the applicant for a trade mark or the proprietor of the trade mark has indicated that this information is a trade secret. Internal documents, draft decisions and their preparatory materials of the Patent Office included in a case shall be considered restricted access information.

Section 42. Notice of Appeal Against a Decision of the Patent Office

If the applicant for a trade mark or another addressee of a decision of the Patent Office completely or partly disagrees with the decision taken by the Patent Office in the registration or post-registration procedure, he or she is entitled to submit a notice of appeal in accordance with the Law on Industrial Property Institutions and Procedures.

Section 43. Notice of Opposition to the Registration of a Trade Mark

(1) Interested persons may, within three months after official publication of a trade mark, submit to the Industrial Property Board of Appeal a notice of opposition to the registration of the trade mark. The submission, progress, and examination of the notice of opposition shall take place in accordance with the Law on Industrial Property Institutions and Procedures.

(2) Any person may submit a notice of opposition if a registered trade mark does not conform to the provisions of Section 4 of this Law or if the registration of the trade mark should be invalidated in accordance with the provisions of Section 6 of this Law, or if the provisions of Section 10, Paragraph one, Clause 1 of this Law are applicable.

(3) A notice of opposition based on the provisions of Section 7, 8, or 9 of this Law or the provisions of Section 10, Paragraph one, Clause 2, 3, 4, 5, 6, 7, 8, 9, or 10 or Paragraph two may be submitted by persons who are proprietors of the earlier trade marks, well-known trade marks referred to in the relevant provisions, or holders of other earlier rights, or successors thereof.

(4) In addition to the persons referred to in Paragraph three of this Section, a notice of opposition based on the provisions of Section 10, Paragraph one, Clause 2, 3, 4, 5, 6, 7, 8, 9, or 10 of this Law may also be submitted by a professional association or an association of manufacturers, traders, or service providers the member of which is the relevant proprietor of earlier rights or successor thereof and the articles of association of which provide for the protection of economic interests of the members of this association before court, and also an authority the objective of which is to protect the rights of consumers in accordance with laws and regulations.

(5) Upon examining a notice of opposition based on an earlier trade mark of an opponent, the Industrial Property Board of Appeal shall take into account the restrictions provided for in Sections 11 and 12 of this Law regarding invalidation of the trade mark, and also the restrictions of rights of the proprietor of an earlier trade mark (submitter of the notice of opposition) specified in Section 26 of this Law and related to the actual non-use of the earlier trade mark over the last five years prior to the date of the application for registration of the contested trade mark or, where applicable, the date of priority. The proprietor of the contested trade mark is entitled to request that the submitter of the notice of opposition submits evidence which rebuts application of the abovementioned provisions.

(6) If a notice of opposition is satisfied, registration of a trade mark shall be invalidated from the day of the registration thereof.

Section 44. Division of the Registration of a Trade Mark

(1) The registration of a trade mark may be divided into two or more registrations by dividing the list of goods and services to which the registration of the trade mark applies between the original registration and the divisional registration (registrations), provided that the goods and services do not overlap therein. The divisional registration shall preserve the date of the original application for registration as well as the priority thereof if it also refers to the goods and services of the divisional registration.

(2) A request for division of the registration may be submitted only after expiry of the term for oppositions (opposition period) specified in Section 18, Paragraph one of this Law.

(3) Upon submitting a request to the Patent Office for the division of the registration, the proprietor of the trade mark shall indicate which goods and services remain in the original registration and which are to be included in the divisional registration (registrations) and pay the fee for making of amendments to the original registration.

(4) If within a month from the day when the Patent Office has received a request for the division of the registration, the proprietor of the trade mark has failed to submit the specified documents and materials of the divisional registration or to pay the fee for making of amendments, the request for the division of the registration shall be considered to have been withdrawn and the proprietor of the trade mark shall be notified thereof in writing.

(5) If a request for the division of the registration conforms to the provisions of Paragraphs one and three of this Section, the Patent Office shall take the decision on each divisional registration by inviting the proprietor of the trade mark to pay the specified fee for the registration of the trade mark and the official publication in respect of each divisional registration within a month from the day of notice of the decision.

(6) If the proprietor of the trade mark has paid the specified fee for the registration of the trade mark and the official publication, the Patent Office shall, as soon as possible, include in the Register the divisional registration and amendments to the original registration, publish the relevant notices in its official gazette, and also issue a registration certificate for the divisional registration and additions to the original registration certificate. If the fee has not been paid

within the specified period, a request for the division of the registration shall be considered to have been withdrawn and the proprietor of the trade mark shall be notified thereof in writing.

(7) After the Patent Office has notified the decision on the divisional registration, the applicant is not entitled to withdraw his or her request for the division of the registration. A divisional registration may not be combined.

Section 45. Validity Period and Renewal of the Registration

(1) The registration of a trade mark shall be valid for 10 years from the date of the application for registration unless it is removed from the Register prior to the end of this time period due to the proprietor of the trade mark surrendering the registration, it being invalidated, or revoked.

(2) The registration may, every 10 years, be renewed (the trade mark re-registered) for another 10 year period.

(3) The Patent Office shall inform the proprietor of the trade mark in writing of expiry of the validity period of the registration not later than six months prior to the end of this time period. The Patent Office shall not be responsible for the fact that the proprietor of the trade mark has not received this information.

(4) The proprietor of the trade mark shall submit a submission for the renewal of the registration during the last year of validity of the trade mark, paying the fee specified for the renewal of registration.

(5) If a submission for the renewal of the registration has not been received by the end of the validity period of the registration, the Patent Office shall inform the proprietor of the trade mark in writing of the fact that the registration may be renewed within six months after the end of the validity period by paying the specified additional fee. The Patent Office shall include a warning in the notice that if the activities specified for the renewal of the registration are not performed within the abovementioned time period, the trade mark will be removed from the Register.

(6) The Patent Office shall enter the information on the renewal of the registration into the Register, publish a notice thereof in its official gazette, and send it to the proprietor of the mark to be attached to the trade mark certificate of registration.

Section 46. Extension of Term

(1) The Patent Office is entitled to extend the time period specified in this Law in respect of activities to be performed in the Patent Office for a period not exceeding three months if prior to the end of the relevant time period the Patent Office has received a request and a fee for extension of the time period.

(2) Paragraph one of this Section shall not apply to:

1) the time period for the Convention priority and the time period for the exhibition priority;

2) the time period for the submission of a notice of opposition;

3) the validity period of the registration and the time periods specified for the renewal of registration;

4) the time periods specified for the continued processing and reinstatement of rights.

(3) The Patent Office may re-grant an extension of the time period if the repeated extension of the time period has good cause.

Section 47. Continued Processing Following the Non-Observance of Term

(1) The applicant for a trade mark, the proprietor of the trade mark or another interested person who has not complied with the time period specified in this Law in respect of the activities of the Patent Office may request the continued processing.

(2) A request for the continued processing shall be submitted to the Patent Office not later than two months after the Patent Office has notified of the non-compliance with the time period or loss of any of the rights provided for in this Law due to the non-compliance with the time period if the activities provided for in the time period not complied with have been performed and the fee has been paid for the continued processing. If the intended activities have not been performed or the fee for the continued processing has not been received, the request shall be considered to have been withdrawn.

(3) If the request for the continued processing is satisfied, the non-compliance with the time period shall have no legal consequences.

(4) Continued processing may not be requested if the following conditions have not been met:

1) the time period specified for the continued processing;

2) the convention priority term and exhibition priority term or term specified for the submission of documents

certifying rights to the priority;

3) the time period specified for the submission of observations during the course of the expert-examination of a trade mark;

4) the time period for the submission of a notice of opposition;

5) the validity period of registration and the time period specified for the renewal of registration;

6) the time period specified for the reinstatement of rights.

Section 48. Reinstatement of Rights

(1) If the applicant for a trade mark, the proprietor of the trade mark, or another interested person has failed to comply with the time period specified in this Law in respect of the activities to be performed in the Patent Office and the direct consequences of the non-compliance with the time period are the rejection of the application for registration, the consideration of the application for registration or another submission as not to have been submitted or withdrawn, the removal of the registration from the Register, or the loss of other rights provided for in this Law, this person may request the reinstatement of the respective rights.

(2) A request for the reinstatement of rights shall be submitted to the Patent Office within two months after elimination of the reasons for which the time period was not complied with, but not later than within a year after expiry of the time period specified initially if the activities provided for in the time period not complied with have been performed and the fee for the reinstatement of rights has been paid. The reasons for the non-compliance with the time period shall be justified in the request and the necessary evidence shall be appended thereto. If the intended activities have not been performed or the fee for the reinstatement of rights has not been received, the request shall be considered to have been withdrawn.

(3) If the Patent Office establishes that the time period has been missed in spite of having made efforts reasonable in the circumstances, but the requirements of Paragraph two of this Section have been complied with, it shall reinstate the rights of the applicant for a trade mark, the proprietor of the trade mark or another interested person to the application for registration, registration, or other rights lost.

(4) Prior to complete or partial rejection of a request for the reinstatement of rights, the Patent Office shall notify the submitter of the request in writing of the grounds for the potential rejection and invite the submitter to submit his or her observations in respect of these grounds within three months from the day of notice.

(5) The reinstatement of rights may not be requested if the following conditions have not been met:

1) the time period specified for the reinstatement of rights;

2) the time period specified for the submission of explanations upon request of the Patent Office during the course of the expert-examination of a trade mark;

3) the time period for the submission of a notice of opposition;

4) the time period specified for the continued processing.

(6) The reinstatement of rights may not be requested also in the case where the circumstances allow to apply the provisions for the continued processing in accordance with Section 47 of this Law.

(7) If the reinstatement of rights is requested after the time period for the renewal of rights and also after missing the additional six-month period, the end of the initial time period referred to in Paragraph two of this Section shall be considered the last day of the 10-year validity period of registration.

(8) If rights are reinstated and therefore it is necessary to amend the previous officially published notice, relating to the registration of a trade mark, the Patent Office shall make the appropriate entry in the Register and publish a notice on the reinstatement of rights in the official gazette of the Patent Office.

Section 49. Decision on Extending Terms, Continued Processing and the Reinstatement of Rights

(1) Upon taking a decision to extend the time period, to continue processing, or to reinstate rights, the Patent Office shall take into account interests of a third party if the decision may affect them.

(2) If a request for the extension of the time period, the continued processing, or the reinstatement of rights is satisfied, the decision thereof may be combined with a decision taken by the Patent Office in accordance with the provisions of this Law in the relevant subsequent procedure.

(3) The decision shall be notified to the submitter of the request and, if it may affect interests of another person, also to this person.

Chapter VI

Civil Liability for an Infringement of the Rights to a Trade Mark

Section 50. Infringement of the Rights to a Trade Mark

(1) The use of the signs referred to in Section 14, Paragraphs one and three, Section 16, Paragraph one, Section 18, Paragraph one, and Section 19, Paragraphs one and two of this Law in economic circulation without an authorisation of the proprietor of the trade mark, including the use of such signs in the manners referred to in Section 14, Paragraph two, Section 15, and Section 16, Paragraph one of this Law shall be considered an infringement of the exclusive rights to a trade mark (hereinafter - the infringement of the rights to a trade mark).

(2) Upon determining whether the use of a sign is considered to be the infringement of the rights to a trade mark, restrictions of exclusive rights (Section 24 of this Law) and exhaustion of the rights (Section 25 of this Law) shall also be taken into account after an objection of the alleged infringer.

(3) A person against whom a claim is brought for the elimination of the infringement of the rights to a trade mark may, in accordance with the provisions of Section 61 or 63 of this Law, bring a counterclaim for the invalidation or revocation of the registration of the trade mark. In such case the infringement of the rights to a trade mark may be established insofar as the registration thereof is not invalidated or revoked.

Section 51. Elimination of the Infringement of the Rights to a Trade Mark

(1) A claim for the elimination of the infringement of the rights to a trade mark shall constitute a claim for the termination of an ongoing infringement at the time the claim is brought, the prevention of a risk for recurrence of an infringement which has occurred in the past, the compensation (indemnification) for the damage caused by an infringement, or the prevention of an infringement reasonably possible in the future.

(2) A claim for the elimination of an infringement of the rights to a trade mark may be submitted by the proprietor of the trade mark or the licensee with a written consent of the proprietor of the trade mark. A consent of the proprietor of the trade mark shall not be required for an exclusive licensee if he or she has invited the proprietor of the trade mark in writing to bring a claim but the proprietor of the trade mark has failed to do it within a reasonable time period.

(3) Any licensee of the relevant trade mark is entitled to intervene and request, under an independent claim, a compensation for the damage caused to him or her by the infringement of the rights to a licensed trade mark.

Section 52. Limitation Period

A claim for the elimination of the infringement of the rights to a trade mark may be brought within three years from the moment when the proprietor of the trade mark or the licensee has become or should have become aware of the unlawful use of the trade mark.

Section 53. Protection of the Rights of the Proprietor of a Later Registered Trade Mark in an Infringement Case

(1) In a case regarding an infringement of the earlier rights to a trade mark, the proprietor of this trade mark is not entitled to prohibit the use of a later trade mark registered in Latvia or in respect of Latvia if there are no grounds for invalidation of this later trade mark in accordance with Section 11, Section 12, Paragraph one, and Section 26, Paragraph three of this Law.

(2) In a case regarding an infringement of the earlier rights to a trade mark, the proprietor of this trade mark is not entitled to prohibit the use of a later registered European Union trade mark if there are no grounds for invalidation of this later trade mark in accordance with Article 60(1), (3), or (4), Article 61(1) or (2), or Article 64(2) of Regulation (EU) 2017/1001.

(3) If the proprietor of an earlier trade mark does not have the right to prohibit the use of a later registered trade mark in accordance with this Section, the proprietor of the respective later registered trade mark may not prohibit use of the earlier trade mark in the procedure of infringement of rights, even if the abovementioned earlier rights can no longer be turned against the later trade mark.

Section 54. Types of Legal Remedies

(1) If an infringement is established in a case regarding elimination of the infringement of the rights to a trade mark, a court may, upon request of the proprietor of the trade mark or the licensee, apply the following:

- 1) a preliminary injunction;
- 2) recovery of the compensation for damage.

(2) Concurrently with the legal remedies referred to in Paragraph one of this Section, a court may, upon request of

the proprietor of a trade mark or the licensee, apply one or more of the following legal remedies:

1) recall or withdrawal of the goods from the market which are used to infringe the rights to the trade mark (hereinafter - the infringing goods);

2) destruction of the infringing goods;

3) deletion of a domain name or transfer of the rights to use a domain name;

4) publication of a judgement.

(3) Recovery of the compensation for damage shall not be applicable in case of an alleged infringement in the future. An event where it is established that the rights to a trade mark may or will be infringed as the alleged infringer himself or herself or through another person has taken measures that may be recognised as preparation for the infringement of the rights to a trade mark shall be considered an alleged infringement in the future.

Section 55. Preliminary Injunction

(1) A preliminary injunction shall constitute an obligation imposed by a court upon an infringer to perform specific activities or to refrain from the performance of specific activities in order to terminate the infringement of the rights of the proprietor of the trade mark or to prevent an alleged infringement.

(2) The preliminary injunction may also be applied to a person providing services that are used to commit an infringement or otherwise rendering possible the committing of an infringement.

Section 56. Compensation for Damage

(1) The proprietor of a trade mark or the licensee is, in accordance with the provisions of Section 51 of this Law, entitled to seek compensation for material damage and moral damage caused as a result of the infringement of the rights to the trade mark from a person who has or should have been aware that he or she infringes the rights to the trade mark.

(2) Upon seeking compensation for material damage, the proprietor of the trade mark or the licensee may request one of the following types of material compensation for each infringement:

1) recovery of the compensation for losses;

2) recovery of a licence fee (an amount which the proprietor of the trade mark might receive for granting to the licensee the rights to use the trade mark);

3) recovery of profit which a person who has infringed the rights to the trade mark has made unfairly as a result of the infringement.

(3) The amount of compensation for moral damage shall be determined by a court at its own discretion.

(4) Upon deciding on the compensation for damage, the fact of receipt of a warning of the proprietor of the trade mark shall be taken into account.

Section 57. Provisions for the Application of Individual Legal Remedies

(1) In addition to the preliminary injunction or the compensation for damage, the following legal remedies may also be applied:

1) to recall or withdraw from economic circulation the goods, and also devices and materials which are used or intended for the production of the infringing goods;

2) to destroy, in whole or in part, the goods, and also devices and materials which are used or intended for the production of the infringing goods;

3) to delete a domain name under which the rights to a trade name is infringed, or to transfer the right to use this domain name to the proprietor of the trade mark;

4) to publish information, in whole or in part, on a judgement, including to publish a court judgement in the mass media.

(2) The activities specified in Paragraph one of this Section shall be performed at the expense of the infringer unless the plaintiff has asked to perform them at his or her own expense.

Section 58. Substitution of Legal Remedies with Pecuniary Compensation

A court may, upon a reasoned written request of the defendant, instead of applying the legal remedies referred to in Section 55 and Section 57, Paragraph one of this Law, recover pecuniary compensation in favour of the proprietor

of the trade mark or the licensee, provided that all of the following conditions are detected:

- 1) the person had not and should not have been aware of the fact that he or she infringes the rights to the trade mark;
- 2) the application of the relevant legal remedies would cause disproportionate damage to the infringer;
- 3) the pecuniary compensation is a sufficiently satisfactory remedy.

Chapter VII

Termination of the Operation of a Trade Mark

Section 59. Surrender of the Registration of Trade Mark by Proprietor of the Trade Mark

(1) The proprietor of the trade mark may request removal of a registered trade mark from the Register prior to expiry of the validity period thereof. As soon as the Patent Office receives a submission for the surrender of registration, the Patent Office shall immediately notify in writing the licensee of the trade mark and other interested persons in respect of which the Register contains information.

(2) If, within a month after submitting a submission to the Patent Office, the fee specified for the removal from the Register has also been received, a registered trade mark shall be removed from the Register starting from the day specified by the proprietor of the trade mark but not earlier than the day when the submission is received for the removal of the registered trade mark from the Register. The Patent Office shall make a corresponding entry in the Register, but publish a notice thereof in its official gazette, and send it to the proprietor of the trade mark and any persons in respect of which the Register contains information.

(3) If a submission for the removal of a registered trade mark from the Register does not refer to all the goods and services for which the trade mark has been registered, it shall be considered an amendment to the information on registration of the trade mark and examined in accordance with the provisions of Section 41, Paragraph two of this Law.

(4) The Patent Office shall not remove a registered trade mark from the Register upon request of the proprietor of the trade mark if the Register contains information on pledging of the rights to the trade mark, and a submission of the proprietor of the trade mark is not accompanied by a written consent of the pledgee contained in the Register for the removal of the registered trade mark from the Register.

(5) If the Patent Office has information at its disposal on the fact that a person has submitted a claim to a court regarding the transfer of the registration of a trade mark thereto (Section 22 of this Law), the registered trade mark shall not be removed from the Register during court proceedings without a written consent of this person.

Section 60. Expiry of Validity Period of the Registration of a Trade Mark

(1) The Patent Office shall remove a registered trade mark from the Register if the validity period of the registration of the trade mark and the additional six-month period for the renewal of the registration have expired but the registration has not been renewed in accordance with the prescribed procedures.

(2) If the registration has not been renewed, a trade mark shall be removed from the Register as of the day following the last 10-year period of validity of the registration of the trade mark. The Patent Office shall publish a relevant notice in its official gazette.

Section 61. Invalidation of a Trade Mark Registration

(1) The registration of a trade mark may be invalidated starting from the day of the registration if the trade mark does not conform to the provisions of Section 4 of this Law or if, at the moment of submitting a submission for the invalidation of the trade mark to the Industrial Property Board of Appeal or a statement of claim to a court, the grounds provided for in Section 6, 7, 8, 9, or 10 of this Law for the invalidation of the trade mark exist.

(2) The registration of a trade mark may not be invalidated on the basis of Section 6, Paragraph one, Clause 2, 3, or 4 of this Law if the trade mark has obtained a distinctive character at the moment when the submission for the invalidation is submitted to the Industrial Property Board of Appeal or a statement of claim is submitted to a court.

(3) If a submission to the Industrial Property Board of Appeal or a statement of claim for the invalidation of the registration of a trade mark is based on a sufficient distinctive character of an earlier trade mark which allows to recognise the likelihood of confusion or association between the both trade marks, or a well-known character or reputation of an earlier trade mark which allows to extend the likelihood of confusion or association of these trade marks also to the goods and services of a later trade mark which are not similar to the goods and services of the earlier trade mark, the proprietor of the earlier trade mark has an obligation to prove the existence of the specific circumstances on the date of the application for registration of the later trade mark or, where applicable, the date of

priority (Section 11 of this Law).

(4) The registration of a Latvian trade mark or the registration of an internationally registered trade mark designating Latvia which sets the basis for a request for seniority of a European Union trade mark (Section 84, Paragraph two of this Law) may be invalidated also when the abovementioned trade mark has been removed from the Register upon the initiative of the proprietor of the trade mark or due to expiry of validity period of the registration thereof, or the international registration designating Latvia has been withdrawn upon the initiative of the proprietor of the trade mark or due to expiry of validity period of this designation (*a posteriori*), provided that the grounds for the invalidation of this registration have been existing at the moment when the trade mark was removed from the Register upon the initiative of the proprietor thereof or due to expiry of validity period of the registration thereof, or international registration designating Latvia was withdrawn or not renewed after expiry of the current validity period.

(5) If a submission to the Industrial Property Board of Appeal or a statement of claim to a court for the invalidation of a trade mark is based on an earlier trade mark (within the meaning of Section 7, Paragraph two of this Law) but the proprietor of the contested trade mark has submitted a counter-submission or counterclaim for the revocation of the earlier trade mark on the basis of non-use of the earlier trade mark (within the meaning of Section 26 of this Law) within a five-year period prior to submitting the submission or statement of claim, or on the basis of other conditions of Section 63 of this Law, the registration of the trade mark shall be invalidated insofar as the abovementioned counter-submission or counterclaim may not be satisfied.

(6) If there are grounds for invalidation the registration of a trade mark only with respect to some of the goods or services for which the trade mark has been registered, the registration shall be invalidated only with respect to those goods and services.

[9 February 2023]

Section 62. Application for the Invalidation of the Registration of a Trade Mark, Examination and Consequences Thereof

(1) A submission to the Industrial Property Board of Appeal or a statement of claim to a court for the invalidation of the registration of a trade mark may be submitted by a person who is entitled to submit a notice of opposition to the registration of the trade mark in accordance with the provisions of Section 43, Paragraphs two, three, and four of this Law.

(¹) The submission to the Industrial Property Board of Appeal or the statement of claim to a court referred to in Paragraph one of this Section may be submitted after expiry of the time limit for a notice of opposition (Section 43, Paragraph one and Section 81, Paragraph three of this Law).

(²) If the Industrial Property Board of Appeal has received a submission for the invalidation of the registration of a trade mark and it becomes aware that a court case has been initiated in a dispute between the same parties on the same subject-matter of the claim and on the same grounds relating to the invalidation of the registration of a trade mark, the Industrial Property Board of Appeal shall stay the proceedings on the examination of the submission until the final ruling of the court in that case enters into effect.

(2) A person who has achieved full or partial invalidation of a trade mark before a court (also if the case examined by the Industrial Property Board of Appeal has been reviewed by the court) shall submit a transcript of a court judgement to the Patent Office.

(3) The Patent Office shall make an entry in the Register regarding invalidation of the registration of the trade mark or respective amendments to the information on the registration of the trade mark, publish a relevant notice in its official gazette, and also notify the submitter thereof and the proprietor (former proprietor) of the trade mark of this fact.

(4) If the registration of a trade mark conducted in Latvia or the registration of an internationally registered trade mark designating Latvia which set the basis for a request for seniority of a European Union trade mark (Section 84, Paragraph two of this Law) is invalidated fully or partly, the Patent Office shall immediately notify the European Union Intellectual Property Office of this fact.

[9 February 2023]

Section 63. Revocation of a Trade Mark Registration

(1) The registration of a trade mark may be revoked if the trade mark has not been genuinely used in relation to the goods and services for which it was registered within a period of five consecutive years after completion of the registration procedure thereof (Section 26, Paragraph two of this Law) or if such use has been suspended for at least a period of five consecutive years prior to submitting a submission to the Industrial Property Board of Appeal or a statement of claim to a court for the revocation of the registration of the trade mark, and such non-use does not have due cause.

(2) The revocation of the registration of a trade mark may not be requested on the basis referred to in Paragraph one of this Section if during the interval between the five-year period of non-use of the trade mark and the moment when a submission to the Industrial Property Board of Appeal or a statement of claim to a court for the revocation of the registration of the trade mark has been submitted, the genuine use of the trade mark has been commenced or recommenced. The commencement or recommencement of the use of the trade mark shall not be taken into account if it is used for no longer than three months prior to submitting a respective submission or a statement of claim for the revocation of the registration of the trade mark, and the preparations necessary for the commencement or recommencement of the use of the trade mark have been commenced only after the proprietor had become aware that such claim may be brought or a submission may be submitted.

(3) If a statement of claim for the revocation of the registration of a trade mark on the basis of genuine non-use of the trademark is submitted to a court as a counterclaim in a case regarding invalidation of the registration of the trade mark or regarding elimination of an infringement of the rights to a trade mark, the court shall take into account the five-year period of non-use prior to bringing the primary claim.

(3¹) If the submission to the Industrial Property Board of Appeal for the revocation of the registration of a trade mark on the basis of genuine non-use of the trade mark is submitted as a counter-submission in an opposition case against the registration of the trade mark or in a case for the invalidation of the registration of the trade mark, the Industrial Property Board of Appeal shall take into account the period of five years of non-use prior to submitting the notice of opposition or a submission for the invalidation of the registration of a trade mark.

(4) The registration of a trade mark may be revoked if after registration the trade mark has become a generic name (general term) in the economic circulation as a result of an act of the proprietor thereof or omission in respect of the product or service for which it has been registered.

(5) The registration of a trade mark may be revoked if after registration it has been used by the proprietor of the trade mark or it has been used with a consent of the proprietor in relation to the goods or services for which it has been registered, but as a result of this use the abovementioned trade mark may mislead the public, in particular in respect of the nature, quality, or geographical origin of this product or service.

(6) The registration of a trade mark conducted in Latvia or the registration of an internationally registered trade mark designating Latvia which sets the basis for a request for seniority of a European Union trade mark (Section 84, Paragraph two of this Law) may be revoked also when the abovementioned registration has been removed from the Register upon the initiative of the proprietor of the trade mark or is no longer present due to expiry of the validity period thereof, or the international registration designating Latvia has been withdrawn upon the initiative of the proprietor of the trade mark or is no longer present due to expiry of the validity period of this designation (*a posteriori*), provided that the grounds for the revocation of this registration have been existing at the moment when the trade mark was removed from the Register upon the initiative of the proprietor thereof or due to expiry of validity period of the registration thereof, or international registration designating Latvia was withdrawn or not renewed after expiry of the current validity period.

(7) The Industrial Property Board of Appeal in its decision or the court in the judgement shall indicate the date from which the registration of the trade mark shall be revoked. If it is not established when the circumstances which set the basis for the revocation of the registration of the trade mark have occurred, it shall be revoked from the day when a statement of claim is submitted to a court or a submission is submitted to the Industrial Property Board of Appeal for the revocation of the registration of the trade mark.

(8) If the grounds for the revocation of the registration of a trade mark only exist in respect of some of the goods and services for which the trade mark has been registered, the registration shall only be revoked in respect of those goods and services.

[9 February 2023]

Section 64. Application for the Revocation of the Registration of a Trade Mark, Examination and Consequences Thereof

(1) A submission to the Industrial Property Board of Appeal or statement of claim to a court for the revocation of the registration of a trade mark may be submitted by any interested person during the entire validity of the registration of the trade mark or also thereafter if circumstances of the case correspond to the provisions referred to Section 63, Paragraph six of this Law.

(2) A person whose claim brought for the revocation of the registration of a trade mark has been satisfied in a court, in whole or in part, shall submit a transcript of a court judgement to the Patent Office.

(2¹) If the Industrial Property Board of Appeal has received a submission for the revocation of the registration of the trade mark and it becomes aware that a court case has been initiated in a dispute between the same parties on the same subject-matter and on the same grounds relating to the revocation of the registration of the trade mark, the Industrial Property Board of Appeal shall stay the proceedings on the examination of the submission for the revocation of the registration of the trade mark until the final ruling of the court in that case enters into effect.

(3) The Patent Office shall make an entry in the Register on the revocation of the registration of a trade mark or amendments to the registration information as of the day specified in the decision or judgement and publish a relevant notice in its official gazette, and also notify the submitter and the proprietor (former proprietor) of the trade mark thereof.

(4) If the registration of a trade mark conducted in Latvia or the registration of an internationally registered trade mark designating Latvia which set the basis for a request for seniority of a European Union trade mark (Section 84, Paragraph two of this Law) is revoked fully or partly under a ruling which has entered into effect, the Patent Office shall immediately notify the European Union Intellectual Property Office thereof.

[9 February 2023]

Chapter VIII Collective Mark

Section 65. Collective Mark and Holders of Rights Thereto

(1) A collective mark may be formed by a sign which conforms to the provisions of this Law for the types of trade marks (Section 4 of this Law) and allows to distinguish the goods or services of members of the proprietor of the collective mark from the goods or services of other persons.

(2) A sign or indication which may be used in economic circulation in order to designate the geographical origin of the goods or services may be registered as a collective mark without applying thereto the restriction specified in Section 6, Paragraph one, Clause 3 of this Law. However, the registration of such collective mark shall not grant the proprietor thereof the right to prohibit other persons from using such signs or indications in economic circulation, taking into account the condition that such use corresponds to fair practice of economic activity. The right of another person to use any geographical sign may not be contested on the basis of such collective mark insofar as such use does not mislead consumers.

(3) The proprietor of a collective mark may be any association of producers, manufacturers, service providers, or traders which has been registered in accordance with the prescribed procedures and, in accordance with the laws and regulations governing it, is able to acquire rights and assume obligations, also enter into contracts and institute and respond to legal proceedings, including also a legal person governed by public law, even if this person does not own a manufacturing or commercial undertaking.

(4) Each member of the association referred to in Paragraph three of this Section may also have his or her own trade marks.

(5) The provisions of this Law for the principles of protection of a trade mark, the grounds for refusal or invalidation of the registration of a trade mark, the exclusive rights of the proprietor of a trade mark and restrictions thereof, the rights to a trade mark as an object of property, the transfer of the rights to a trade mark and licensing, the registration procedure for a trade mark, the civil liability for an infringement of the rights to a trade mark, the termination of the operation of a trade mark, the international registration of a trade mark, and the administrative liability in the field of protection of trade marks shall be applicable to a collective mark, insofar as the abovementioned provisions are not in contradiction to the provisions of this Chapter.

Section 66. By-laws on the Use of a Collective Mark

(1) When applying a collective mark for registration, the by-laws on the use of the collective mark which have been approved by the applicant for a collective mark or an authorised person thereof shall be submitted in addition to the materials and documents referred to in Section 30 of this Law. The by-laws shall include the following:

1) a list of the persons who have the right to use the collective mark;

2) the provisions of participation in an association that is the applicant for a collective mark. If the collective mark referred to in Section 65, Paragraph two of this Law is applied for, the provisions of participation shall provide for a possibility for persons to become members of this association provided that the origin of goods or services thereof corresponds to the relevant geographical location and they undertake to comply with the requirements of the by-laws;

3) the conditions of use of the collective mark in relation to goods or services, a control mechanism to ensure compliance with them, and possible sanctions for the violation of such conditions.

(2) Instead of the list of persons referred to in Paragraph one, Clause 1 of this Section, the applicant for a collective mark may indicate a website on which the abovementioned list is available to the public on permanent basis.

(3) The by-laws on the use of a collective mark may not be in contradiction to the public order or generally

accepted principles of morality.

(4) After a notice on registration of a collective mark has been published in the official gazette of the Patent Office, the by-laws on the use of the collective mark shall be available to the public on the website of the Patent Office.

Section 67. Refusal of the Registration of a Collective Mark

In addition to the provisions of Section 4, Paragraph one, Sections 6, 30, 32, 35, and 36 of this Law, the Patent Office may also refuse the registration of a collective mark in the following cases:

- 1) the sign applied for does not conform to the provisions of Section 65, Paragraph one of this Law;
- 2) the applicant for a collective mark does not meet the provisions of Section 65, Paragraph three of this Law;
- 3) the requirements of Section 66 of this Law have not been complied with;
- 4) the sign applied for may mislead the public as to the character and nature of the collective mark, in particular if it may be perceived as something other than a collective mark.

Section 68. Making Amendments to the By-laws on the Use of a Collective Mark

(1) The proprietor of a collective mark shall immediately notify the Patent Office in writing of all later amendments to the by-laws on the use of the collective mark, except for amendments to the list of the persons who have the right to use the collective mark if it is available to the public on the website, and shall pay the fee specified for amendments to the by-laws on the use of the collective mark within a month from the day of submitting the submission.

(2) The amendments applied for shall be made available by the Patent Office on its website, except where they are in contradiction to the provisions of Section 66 of this Law.

(3) The amendments to the by-laws on the use of a collective mark shall enter into effect in respect of other persons on the day when a notice on the amendments has been published in the official gazette of the Patent Office.

Section 69. Use of a Collective Mark

(1) The conditions of use, within the meaning of Section 26 of this Law, in respect of a collective mark shall be considered complied with if, in accordance with the by-laws on the use of the collective mark, the collective mark is genuinely used in any of the manners provided for in Section 26, Paragraph four or five of this Law by at least one of the persons who have the right to use the collective mark.

(2) Rights to a collective mark may not be transferred to other persons. The right to use the collective mark may not be transferred to other persons under a licensing agreement, unless otherwise specified by the by-laws on the use of the collective mark.

Section 70. Infringement of the Rights to a Collective Mark

(1) The use of the signs referred to in Section 14, Paragraphs one and three, Section 16, Paragraph one, Section 18, Paragraph one, and Section 19, Paragraphs one and two of this Law in economic circulation without an authorisation of the proprietor of the collective mark or in contradiction to the by-laws on the use of the collective mark, taking into account also the restrictions specified in Sections 24, 25, 26, 52, and 53 of this Law, shall be considered an infringement of the exclusive rights to a collective mark.

(2) The proprietor of a collective mark is entitled to bring a claim for the elimination of an infringement of the rights to the collective mark. A person who has the right to use the collective mark has the same rights and obligations in a case regarding the infringement of the rights to the collective mark as those specified in Section 51, Paragraphs two and three of this Law for the licensee of the trade mark, unless otherwise specified by the by-laws on the use of the collective mark.

(3) If an infringement of the exclusive rights to a collective mark has been established in a case, the proprietor of the collective mark has the right to request application of the legal remedies specified in Section 54 of this Law, and also, if he or she has an appropriate authorisation, the compensation in the name of the persons who have the right to use the collective mark and who have suffered damage due to unlawful use of the collective mark.

Section 71. Termination of the Operation of a Collective Mark

(1) In addition to the grounds for a notice of opposition provided for in Section 43 of this Law, the interested persons may submit, in accordance with the procedures laid down in Section 43 of this Law, a notice of opposition to the registration of a collective mark in the following cases:

- 1) the registered collective mark does not conform to the requirements of Section 65, Paragraph one of this Law;

- 2) the proprietor of the collective mark does not meet the requirements of Section 65, Paragraph three of this Law;
- 3) the by-laws on the use of the collective mark do not conform to the requirements of Section 66 of this Law;
- 4) the registered sign may mislead consumers of goods or services as to the character and nature of the collective mark, in particular if it may be perceived as something other than a collective mark.

(2) In addition to the provisions of Section 61 of this Law, the Industrial Property Board of Appeal or a court may also invalidate the registration of a collective mark in the cases referred to in Paragraph one of this Section.

(3) In addition to the provisions of Section 63 of this Law, the Industrial Property Board of Appeal or a court may revoke the registration of a collective mark if:

1) the proprietor of the collective mark is no longer present or no longer meets the requirements of Section 65, Paragraph three of this Law;

2) the by-laws on the use of the collective mark no longer conform to the requirements of Section 66 of this Law due to amendments made thereto;

3) the proprietor of the collective mark fails to take reasonable measures to prevent violations of the by-laws on the use of the collective mark;

4) the manner in which the collective mark is used may lead to a situation where the collective mark misleads consumers of goods or services as to the character and nature thereof, in particular if it may be perceived as something other than a collective mark.

(4) An interested person may submit to the Industrial Property Board of Appeal a submission for the invalidation or revocation of a collective mark or submit to a court a statement of claim for the revocation or invalidation of the registration of a collective mark.

(5) If an interested person wishes to justify a submission for the invalidation or revocation of a collective mark or bring a claim to a court for the revocation or invalidation of the registration of a collective mark on the basis of non-conformity of the by-laws on the use of the collective mark with the specified requirements, the public order or the generally accepted principles of morality (Section 66 of this Law), or an omission of the proprietor of the collective mark in the case of a violation of the by-laws on the use of the collective mark (Paragraph three, Clause 3 of this Section), this person may refer to the Industrial Property Board of Appeal or to the court if he or she has informed the proprietor of the collective mark of his or her intention at least three months prior to submitting the submission or the statement of claim by sending a warning in a registered postal item to the address indicated in the registration of the collective mark.

(6) The registration of a collective mark shall not be invalidated or revoked in the case referred to in Paragraph five of this Section if the proprietor of the collective mark has amended the by-laws on the use of the collective mark or adjusted his or her action by eliminating the identified shortcomings before examination of the case on its merits has been completed.

(7) If the Industrial Property Board of Appeal has received a notice of opposition to the registration of a collective mark or a submission for the invalidation or revocation of a collective mark and it becomes aware that a court case has been initiated in a dispute between the same parties on the same subject-matter and on the same grounds relating to the invalidation or revocation of a collective mark, the Industrial Property Board of Appeal shall stay the proceedings on the opposition case or examination of the submission until the final ruling of the court in that case enters into effect.

[9 February 2023]

Chapter IX Certification Mark

Section 72. Certification Mark and Holders of Rights Thereto

(1) A certification mark shall constitute a sign that is used to designate goods or services which the proprietor of this mark has certified in respect of the material used, mode of manufacture of goods or mode of performance of services, quality, accuracy or other characteristics of goods or services, and that allows to distinguish the relevant goods or services from the goods or services which have not been certified in such a manner.

(2) A certification mark may be formed by a sign which conforms to the provisions of this Law for the kinds of trade marks (Section 4 of this Law) and allows to distinguish goods or services certified by the proprietor of the certification mark himself or herself or another person on behalf of the proprietor in respect of the material used, mode of manufacture of goods or mode of performance of services, quality, accuracy or other characteristics of goods or

services from the goods or services which have not been certified in such a manner.

(3) A sign or indication which may be used in economic circulation in order to designate the geographical origin of the goods or services may be registered as a certification mark without applying thereto the restriction specified in Section 6, Paragraph one, Clause 3 of this Law. However, the registration of such certification mark shall not grant the proprietor thereof the right to prohibit other persons from using such signs or indications in economic circulation, taking into account the condition that such use corresponds to fair manufacturing practice and practice of economic activity. The right of another person to use any geographical sign may not be contested on the basis of such certification mark insofar as such use does not mislead consumers.

(4) The proprietor of a certification mark may be any natural or legal person, and also a legal person governed by public law, provided that this person does not perform any economic activity related to the manufacturing or distribution of such goods or provision of such services which he or she certifies. Upon applying the certification mark for the registration, the applicant for a certification mark shall submit proof of the fact that he or she does not perform any economic activity which is related to the manufacturing or distribution of such goods or provision of such services which he or she certifies.

(5) The provisions of this Law for the principles of protection of a trade mark, the signs which may form a trade mark, the grounds for refusal or invalidation of the registration of a trade mark, the exclusive rights of the proprietor of the trade mark and the restrictions thereof, the rights to a trade mark as an object of property, the transfer of the rights to a trade mark and licensing, the registration procedure for a trade mark, the civil liability for an infringement of the rights to a trade mark, the termination of the operation of a trade mark, the international registration of a trade mark, and the administrative liability in the field of protection of trade marks shall be applicable to a certification mark, insofar as the abovementioned provisions are not in contradiction to the provisions of this Chapter.

Section 73. By-laws on the Use of a Certification Mark

(1) When applying a certification mark for the registration, the applicant for a certification mark shall indicate a law or regulation governing the relevant certification procedures or submit the by-laws on the use of the certification mark in addition to the materials and documents referred to in Section 30 and Section 72, Paragraph four of this Law.

(2) The by-laws on the use of a certification mark shall:

1) indicate the criteria which the persons to whom the rights to use a certification mark may be granted should meet and include a potential list of the certified products or services and of the relevant merchants and performers of economic activity;

2) if the certification mark provided for in Section 72, Paragraph three of this Law is applied for, provide for a possibility for persons to acquire the right to use the abovementioned certification mark, provided that the origin of goods or services of such persons corresponds to the relevant geographical location and such persons comply with the requirements of the by-laws on the use of the certification mark;

3) indicate the goods or services which are certified, and the characteristics of goods or services that are certified;

4) include the procedures for verifying characteristics of goods or services and granting the right to use the certification mark;

5) include the conditions of use of the certification mark in relation to goods or services, a control mechanism to ensure compliance with them, and sanctions for violation of such conditions.

(3) Instead of the list of products or services and of the relevant merchants and performers of economic activity referred to in Paragraph two, Clause 1 of this Section, the applicant for a certification mark may indicate a website on which the abovementioned list is available to the public on a permanent basis.

(4) The by-laws on the use of a certification mark may not be in contradiction to the public order or generally accepted principles of morality.

(5) After a notice on registration of a certification mark has been published officially, the by-laws on the use of the certification mark shall be available to the public on the website of the Patent Office.

Section 74. Refusal of Registration of a Certification Mark

In addition to the provisions of Section 4, Paragraph one, Sections 6, 30, 32, 35, and 36 of this Law, the Patent Office may also refuse the registration of a certification mark in the following cases:

1) the sign applied for does not conform to the provisions of Section 72, Paragraph two of this Law;

2) the applicant for a certification mark does not conform to the provisions of Section 72, Paragraph four of this Law;

3) the requirements of Section 73 of this Law have not been complied with;

4) the sign applied for may mislead the public as to the character and nature of the certification mark, in particular if it may be perceived as something other than a certification mark.

Section 75. Making Amendments to the By-laws on the Use of a Certification Mark

(1) The proprietor of a certification mark shall immediately notify the Patent Office of all later amendments to the by-laws on the use of the certification mark, except for amendments to the list of the persons and products or services in respect of which there is a right to use the certification mark if it is available to the public on the website, and shall pay the fee specified for amendments to the by-laws on the use of the certification mark within a month from the day of submitting the submission.

(2) The amendments applied for shall be made available by the Patent Office on its website, except for the case where they are in contradiction to the provisions of Section 73 of this Law.

(3) The amendments to the by-laws on the use of the certification mark shall enter into effect in respect of other persons on the day when a notice on the amendments has been published in the official gazette of the Patent Office.

Section 76. Use of a Certification Mark

(1) The conditions of use, within the meaning of Section 26 of this Law, in respect of a certification mark shall be considered complied with if the certification mark is actually used by at least one of the persons who have the right to use it in any of the manners provided for in Section 26, Paragraph four or five of this Law and in accordance with a law or regulation governing in detail the relevant certification procedures, or under the by-laws on the use of the certification mark.

(2) The rights to a certification mark may only be transferred to a person who meets the requirements of Section 72, Paragraph four of this Law and has undertaken to comply with the law or regulation regarding the use of the relevant certification procedure or certification mark.

Section 77. Infringement of the Rights to a Certification Mark

(1) The use of the signs referred to in Section 14, Paragraphs one and three, Section 16, Paragraph one, Section 18, Paragraph one, and Section 19, Paragraphs one and two of this Law in economic circulation without an authorisation of the proprietor of the certification mark or in contradiction to the by-laws on the use of the certification mark, taking into account also the restrictions specified in Sections 24, 25, 26, 52, and 53 of this Law, shall be considered an infringement of the exclusive rights to a certification mark.

(2) The proprietor of a certification mark or a user of a certification mark with a special authorisation of the proprietor of the certification mark is entitled to bring a claim for the elimination of the infringement of the rights to the certification mark.

(3) If an infringement of the exclusive rights to a certification mark has been established in a case, the proprietor of the certification mark has the right to request application of the legal remedies specified in Section 54 of this Law, and also, if he or she has an appropriate authorisation, the compensation in the name of the persons who have the right to use the certification mark and who have suffered damage due to unlawful use of the certification mark. A user of the certification mark who has brought a claim with a special authorisation of the proprietor of the certification mark has the right to request application of the legal remedies specified in Section 56 and Section 57, Paragraph one, Clause 4 of this Law.

Section 78. Termination of the Operation of a Certification Mark

(1) In addition to the grounds for a notice of opposition provided for in Section 43 of this Law, any person may, in accordance with the procedures and within the time period laid down in Section 43 of this Law, submit a notice of opposition to the registration of a certification mark in the following cases:

- 1) the certification mark does not conform to the requirements of Section 72, Paragraph two of this Law;
- 2) the proprietor of the certification mark does not meet the requirements of Section 72, Paragraph four of this Law;
- 3) the by-laws on the use of the certification mark do not conform to the requirements of Section 73 of this Law;
- 4) the registered sign may mislead a consumer of goods or services as to the character and nature of the certification mark, in particular if it may be perceived as something other than a certification mark.

(2) In addition to the provisions of Section 61 of this Law, a certification mark may also be invalidated in the following cases:

- 1) those referred to in Paragraph one of this Section;
- 2) when the evidence shows that the proprietor of the certification mark is not competent to conduct the relevant

certification;

3) when the proprietor of the certification mark has not ensured permanent access on its website to the list of the products and manufacturers thereof which have the right to use the certification mark.

(3) In addition to the provisions of Section 63 of this Law, the registration of a certification mark may be revoked if:

1) a law or regulation prescribing the relevant certification procedures has been repealed;

2) the proprietor of the certification mark is no longer present or no longer meets the requirements of Section 72, Paragraph four of this Law, or there is information that the proprietor of the certification mark is no longer competent to conduct the relevant certification;

3) the by-laws on the use of the certification mark no longer conform to the requirements of Section 73 of this Law due to the amendments made thereto;

4) the proprietor of the certification mark fails to take reasonable measures to prevent violations of the law or regulation referred to in Section 73, Paragraph one of this Law or of the by-laws on the use of the certification mark;

5) the manner in which the certification mark is used may mislead the public as to the character and nature of the certification mark, in particular if as a result of the use thereof it may be perceived as something other than a certification mark.

(4) Any person may submit a submission to the Industrial Property Board of Appeal or a statement of claim to a court for the revocation or invalidation of the registration of a certification mark.

(5) If an interested person wishes to justify a submission to the Industrial Property Board of Appeal or to bring a claim to a court for the revocation or invalidation of the registration of a certification mark on the basis of non-conformity of the by-laws on the use of the certification mark with the specified requirements, the public order or the generally accepted principles of morality (Section 73 of this Law), or an omission of the proprietor of the certification mark in the case of a violation of the relevant law or regulation or of the by-laws on the use of the certification mark (Paragraph three, Clause 4 of this Section), this person may refer to the court if he or she has informed the proprietor of the certification mark of his or her intention at least three months prior to submitting the statement of claim by sending a warning in a registered postal item to the address of the proprietor of the certification mark indicated in the Register.

(6) The registration of a certification mark shall not be invalidated or revoked in the case referred to in Paragraph five of this Section if the proprietor of the certification mark has amended the by-laws on the use of the certification mark or adjusted his or her actions by eliminating the identified shortcomings before examination of the case on its merits has been completed.

(7) If the Industrial Property Board of Appeal has received a notice of opposition to the registration of a certification mark or a submission for the invalidation or revocation of a certification mark and it becomes aware that a court case has been initiated in a dispute between the same parties on the same subject-matter and on the same grounds relating to the invalidation or revocation of a certification mark, the Industrial Property Board of Appeal shall stay the proceedings on the opposition case or examination of the submission until the final ruling of the court in that case enters into effect.

[9 February 2023]

Chapter X

International Registration of Trade Marks

Section 79. Application of this Law in Respect of the International Registration of a Trade Mark

(1) The provisions of this Law, in particular the provisions of Chapters II, III, and IV, Sections 32, 36, 42, 43, 46, 47, 48, and 49, Chapters VI, VII, VIII, and IX, with the necessary changes shall also apply to the international registration of a trade mark and to a trade mark registered internationally designating Latvia, insofar as it is not provided for otherwise in the rules on the international registration of trade marks or the provisions of this Chapter.

(2) Payment shall be made for applying for the international registration of a trade mark, for the registration thereof, and for other activities related to the international registration in accordance with the procedures and in the amount laid down in the rules on the international registration and the laws and regulations of Latvia.

(3) A person who handles the international registration procedure for a trade mark shall submit the documents necessary for it, including a list of goods and services in respect of which the international registration is applied for, in the English or French language as he or she may choose, except for the original submission for the wish to apply for the international registration which is to be submitted in the Latvian language. Where necessary for the

communication with a foreign person for an international registration designating Latvia, the Patent Office shall handle it in the English or French language, linking the choice of language, as much as possible, with the original language of the application for international registration.

Section 80. Actions of the Patent Office in Relation to the Application for International Registration and Registration of the Latvian Origin

(1) A trade mark shall be applied for international registration through the Patent Office if the country of origin thereof, within the meaning of the rules on the international registration, is Latvia and it is based on a trade mark registered or applied for registration in Latvia (basic registration, basic application), and also, where necessary, such international registration shall later designate a wider territory.

(2) If, within the meaning of the rules on the international registration, the country of the proprietor of the trade mark is Latvia, the proprietor of the trade mark may, through the Patent Office, make amendments to the international registration, renew the international registration (re-register for a new validity period), withdraw the designations thereof to individual member states of the international registration system, or remove the trade mark from the international register of trade marks.

(3) The Patent Office shall, within five years from the date of international registration of a trade mark, notify the International Office of any administrative or court ruling which has entered into effect and affects the validity of any national registration (of a trade mark registered in Latvia, the basic registration) on which the international registration is based or the status of the application for registration (basic application).

Section 81. International Registration Designating Latvia

(1) The Patent Office shall, within the period provided for in the rules on the international registration, examine a designation of a trade mark registered internationally to Latvia by verifying the conformity thereof with the requirements of Sections 4, 6, 8, and 32 of this Law.

(2) Where the registration of a collective mark designates Latvia, the Patent Office shall also examine the conformity thereof with the requirements of Sections 66 and 67 of this Law, but in respect of a certification mark - also the conformity thereof with the requirements of Sections 73 and 74 of this Law.

(3) A notice of opposition to the entry into effect of an international registration of a trade mark in Latvia which has been provided for in Section 43 of this Law shall be submitted within three months from the day of official publication of a notice on the registration of the trade mark in respect of Latvia or later territorial designation of an international registration to Latvia in the official gazette of international registration of trade marks.

(4) If the Patent Office establishes that an international registration or a later designation thereof to Latvia does not conform to the requirements of Paragraph one of this Section, where applicable also taking into account the provisions of Paragraph two of this Section, or if an opposition is submitted to the designation of this registration to Latvia, and an opposition case has been initiated, the Patent Office shall, in accordance with the procedures laid down in the rules on the international registration, send to the International Office a temporary refusal of the protection of an international registration. The temporary refusal of the protection of an international registration may be based on one or more of the reasons referred to in this Law.

(5) Within three months from the day when the International Office has notified the proprietor of the internationally registered trade mark of the temporary refusal of protection in Latvia, the proprietor of the trade mark is entitled to:

1) eliminate the identified shortcomings and provide a reply to the reasons for the temporary refusal indicated by the Patent Office if the temporary refusal of the international registration only refers to the formal shortcomings or absolute grounds for the refusal established by the Patent Office;

2) submit a reply to the opposition.

(6) If the proprietor of the internationally registered submits a reply which does not eliminate the grounds for the temporary refusal of protection, the Patent Office shall maintain the refusal of protection of an international registration. The Industrial Property Board of Appeal does not have an obligation to examine an opposition case if the proprietor of the internationally registered trade mark has not eliminated the formal shortcomings or absolute grounds for the refusal indicated by the Patent Office.

(7) If upon examining an international registration of a trade mark designating Latvia, no grounds have been established for the refusal of its protection in Latvia or if such grounds were established but have been eliminated, or if the refusal of protection only refers to a part of the list of goods and services of the international registration, the Patent Office shall notify the International Office of granting protection in Latvia to this internationally registered trade mark. If a temporary refusal of protection of the international registration has been issued previously, but examination of this dispute has resulted in a decision of the Patent Office or the Industrial Property Board of Appeal, or a court ruling which has entered into effect, the Patent Office shall immediately notify the International Office thereof.

Section 82. Validity of an International Registration in Latvia

(1) Exclusive rights of the proprietor of the trade mark registered internationally in Latvia in the relevant scope shall enter into effect from the day when a statement of grant of protection in Latvia to this trade mark registered internationally has been published in the official gazette of the international registration of trade marks. Starting from this date the five-year period provided for in Section 26 of this Law shall commence during which the proprietor of the trade mark should start the actual use of the trade mark in Latvia.

(2) A trade mark the international registration of which has entered into effect in Latvia, in accordance with the procedures laid down in Paragraph one of this Section, shall have the same legal consequences as a trade mark which has been included in the Register in accordance with the procedures laid down in this Law (registered with the Patent Office in accordance with the national procedures).

(3) Priority of a trade mark registered internationally in Latvia shall be determined from the day when the international registration thereof has designated Latvia, but if the right of Convention priority has been granted to the trade mark in the international registration procedure - from the date of the earlier application for registration thereof, but if the right of exhibition priority has been granted - from the day when it has been exhibited at an international exhibition in relation to goods or services. If the international registration of a trade mark has designated Latvia later than the day of international registration thereof, the priority shall be determined from the day when it designates Latvia. If an international registration has entered into effect in Latvia and replaces, upon request of the proprietor of the relevant trade mark and in accordance with the rules on the international registration, an earlier registration of the same trade mark conducted by the Patent Office, the date of the earlier application for registration conducted in accordance with the national procedures and the date of priority shall be attributed to the trade mark registered internationally when determining the priority thereof. If the date of priority has not been verified in the procedure for the examination of the application for registration and the international registration of the trade mark has been involved in an ongoing dispute in Latvia the outcome of which may depend on the existence of the right of priority, the proprietor of the trade mark registered internationally has an obligation to prove this right.

(4) The Patent Office shall, in accordance with the procedures laid down in the rules on the international registration, notify the International Office of a decision of the Patent Office or the Industrial Property Board of Appeal, or a court ruling which has entered into effect and under which the international registration of a trade mark in Latvia has been invalidated or revoked in whole or in part.

Chapter XI

European Union Trade Mark

Section 83. Action of the Patent Office in Relation to the Registration Procedure for a European Union Trade Mark

(1) The functions of the central industrial property office of a European Union Member State provided for in Regulation (EU) 2017/1001 shall be performed in Latvia by the Patent Office.

(2) In accordance with Article 110(2) of Regulation (EU) 2017/1001, the Patent Office shall certify authenticity of decisions of the European Union Office for the compulsory enforcement thereof in Latvia.

Section 84. Legal Effect of the Registration of a European Union Trade Mark in Latvia

(1) Exclusive rights to a trade mark in Latvia shall also be ensured by the registration of a European Union trade mark. The scope of protection of a European Union trade mark shall be determined by Regulation (EU) 2017/1001.

(2) If seniority has been granted to a European Union trade mark, in accordance with Article 42 or 43 of Regulation (EU) 2017/1001 on the basis of an appropriate earlier trade mark registered in Latvia or internationally and designating Latvia, and there is evidence of the grounds for seniority, then the date of the application for registration of a trade mark registered in Latvia or the date of the registration of a trade mark registered internationally, or, where applicable, the date of a later designation of Latvia, and also the date of the Convention priority or exhibition priority granted to such registration reasonably (Section 82, Paragraph three of this Law) shall be attributed to such European Union trade mark when determining the priority thereof. Seniority granted to the European Union trade mark shall be retained if the validity period of the registration on which it is based expires or if the trade mark registered in Latvia is removed from the Register due to the proprietor surrendering the registration, the trade mark registered internationally is removed from the international register of trade marks due to the proprietor surrendering the registration, or its designation of Latvia has been withdrawn.

(3) The registration of a trade mark which has set the basis for the seniority of a European Union trade mark may be invalidated or revoked also after the validity period of this registration has expired or when a trade mark registered in Latvia has been removed from the Register due to the proprietor surrendering the registration, the trade mark registered internationally is removed from the international register of trade marks due to the proprietor surrendering the registration, or its designation of Latvia has been withdrawn, provided that the relevant grounds for the invalidation or revocation of the registration of the trade mark were present during the validity period of this registration. In this case the European Union trade mark shall lose seniority in Latvia.

Section 85. Additional Provisions for the Protection of a European Union Trade Mark

(1) If the rights to a European Union trade mark are infringed, the provisions of Chapter VI of this Law and of other laws and regulations shall be applicable, insofar as it is not laid down otherwise in Regulation (EU) 2017/1001.

(2) If, on the basis of the rights arising from the registration of a European Union trade mark, the registration of a later trade mark is contested and this registration has been conducted in accordance with the procedures for registering a trade mark laid down in this Law, or, in accordance with the rules on the international registration and designating Latvia, the provisions of Section 12 of this Law regarding the restrictions of rights as a result of acquiescence shall be taken into account.

Section 86. Additional Provisions for the Use of a European Union Trade Mark

(1) If, on the basis of an earlier European Union trade mark, a notice of opposition to the registration of a trade mark has been submitted (Section 43, Paragraph one or Section 81, Paragraph three of this Law) and an opposition case has been initiated, but the proprietor of the contested trade mark exercises the right to call for evidence as to the actual use of the European Union trade mark (Section 43, Paragraph five of this Law), the provisions of Article 18 of Regulation (EU) 2017/1001 shall be complied with.

(2) If, in accordance with the provisions of Article 24 of Regulation (EU) 2017/1001, a European Union trade mark has been involved in the legal protection proceedings or insolvency proceedings of the proprietor thereof in Latvia, the European Union Office may be asked to, on the basis of a court ruling, make the necessary note in the register of the European Union trade marks or, if the European Union trade mark has not been registered yet, in the materials of the application for registration thereof.

Section 87. Conversion of a European Union Trade Mark into the Application for Registration of a Trade Mark in Latvia

(1) If a request for conversion of a European Union trade mark is received from the European Union Office in accordance with the provisions of Article 140(5) of Regulation (EU) 2017/1001, the Patent Office shall invite the submitter of this request for conversion to perform the activities referred to in Article 141(3) of Regulation (EU) 2017/1001 within three months, including to pay the fee specified in Section 31 of this Law for the application for registration and, where necessary, the additional fee. The application for registration submitted in accordance with the procedures for the national registration procedure may not be transformed into the request for conversion of a European Union trade mark.

(2) If the submitter of a request for conversion has complied with the requirements specified in Paragraph one of this Section, a request for conversion of a European Union trade mark shall be considered as the application for registration of a trade mark in Latvia and the provisions of Chapter V of this Law shall be applicable thereto in the future, provided that the date of the original application for registration of the European Union trade mark is considered the date of this application for registration and, where necessary, the relevant date of the Convention priority or exhibition priority, and also the date of seniority which is based on an appropriate earlier trade mark registered in Latvia or internationally and designating Latvia are registered in the registration data.

Chapter XII Indications of Geographical Origin

Section 88. Scope of Legal Protection of Indications of Geographical Origin

(1) In accordance with the provisions of this Chapter, an indication of geographical origin shall be protected without its registration.

(2) A geographical name and a designation of geographical nature which are not perceived by consumers and market operators in relation to the specific origin of goods or services shall not be considered as an indication of geographical origin within the meaning of this Law and shall not be protected.

(3) It is prohibited to use a false indication of geographical origin in economic circulation or a sign similar thereto in relation to the goods or services the origin of which is not the geographical place or territory to which this an indication of geographical origin refers, and the use of this indication or sign may mislead consumers as to the geographical origin of the goods or services.

(4) If goods or services that are usually marked by an indication of geographical origin are perceived by market operators as having special quality or special characteristics, the use of such indication of geographical origin in economic circulation shall only be acceptable in relation to the goods or services of the specified origin which have the relevant quality or characteristics.

(5) If an indication of geographical origin is well known and enjoys a special reputation among market operators,

the use of such indication or an indication similar thereto in economic circulation in relation to the goods or services of other origin shall not be acceptable, even in the cases where it does not mislead as to the geographical origin of the goods or services, but allows to take unfair advantage of, or is detrimental to the reputation or distinctive character of the indication of geographical origin.

(6) The Cabinet shall determine the procedures for registering, protecting, and supervising geographical indications of agricultural products and foodstuffs in accordance with the European Union framework.

Section 89. Criteria for Determining Origin of Goods and Services

(1) The origin of goods shall be determined by the place of manufacture or by the place of origin of the basic raw materials or of the main components of these goods.

(2) The origin of services shall be determined by the location of their provider in accordance with the entry into the Commercial Register or by the place of residence of the natural person who performs economic activity.

(3) The criteria for assessment shall be established case by case depending on the impact thereof on the reputation of the relevant goods or services. Taking into account this reputation and consumer perception, a local and regional indication of geographical origin may be considered true if it is true in respect of the origin of the goods or services when assessing in a wider region or country in the whole.

Section 90. Civil Liability for Unlawful Use of Indications of Geographical Origin

(1) Use of signs in economic circulation in contradiction to the provisions of Section 88, Paragraphs three, four, and five of this Law shall be considered an infringement of the rights to an indication of geographical origin.

(2) A claim for the elimination of an infringement of the rights to an indication of geographical origin may be brought by an interested person, including a professional association, an association of manufacturers, trade or service providers the articles of association of which provide for the protection of economic interests of the association, the State, a local government, and also institutions and organisations enforcing protection of the rights of consumers.

(3) The same legal remedies as those provided for in the case of the infringement of the rights to a trade mark shall be applicable to a case regarding the elimination of an infringement of the rights to an indication of geographical origin.

Chapter XIII

Administrative Offences in the Field of Protection of Trade Marks and Indications of Geographical Origin and Competence in the Administrative Offence Proceedings

Section 91. Administrative Offences in the Field of Protection of Trade Marks and Indications of Geographical Origin

(1) For using a sign in relation to goods or services which is identical to a valid trade mark registered for the same kind of goods or services or which in its essential elements cannot be distinguished from such trade mark if such sign is used without a relevant authorisation of the proprietor of the trade mark, or for the manufacturing of such goods, offering for sale or selling of goods or services, or otherwise distributing them on the market and storing for the abovementioned purposes, a fine from fifty-six to one hundred and forty units of fine shall be imposed on a natural person, but a fine from two hundred and eighty to two thousand eight hundred units of fine - on a legal person.

(2) For infringing the requirements laid down in the laws and regulations in relation to the use of geographical indications of agricultural products and foodstuffs protected in the European Union, a fine from twenty-eight to seventy units of fine shall be imposed on a natural person, but a fine from one hundred and forty to one thousand four hundred units of fine - on a legal person.

(3) For manufacturing, distributing, selling, or offering for sale (also separately from goods or services) a labelling or accompanying documentation, including packaging, a tag, a sticker, a brochure, instructions for use, a guarantee document, or another similar product which infringes rights to a trade mark or indication of geographical origin and in which, without the relevant consent of the proprietor of the trade mark or in contradiction to the rules on the legal protection of indications of geographical origin, a registered and valid trade mark or indication of geographical origin has been indicated, or a name or sign which in its essential elements cannot be distinguished from such trade mark or indication of geographical origin and which may be used in relation to the goods or services of the same kind which have a protected trade mark or indication of geographical origin, a fine of up to seventy units of fine shall be imposed on a natural person, but a fine of up to six hundred units of fine - on a legal person.

Section 92. Competence within the Administrative Offence Proceedings

(1) Administrative offence proceedings for the offences referred to in Section 91, Paragraphs one and three of this

Law shall be conducted by the State Police.

(2) Administrative offence proceedings for the offence referred to in Section 91, Paragraph two of this Law shall be conducted by the Food and Veterinary Service.

Transitional Provisions

1. With the coming into force of this Law, the law On Trade Marks and Indications of Geographical Origin (*Latvijas Republikas Saeimas un Ministru Kabineta Ziņotājs*, 1999, No. 14; 2001, No. 23; 2004, No. 23; 2007, No. 6; *Latvijas Vēstnesis*, 2010, No. 174; 2014, Nos. 140, 251; 2015, No. 240) is repealed.

2. Such registration procedures for trade marks and such preconditions for the registration of the trade marks which were in effect on the day when the application for registration was submitted or from which the international registration of the trade mark designates Latvia shall be applicable to the trade marks which were applied for the registration with the Patent Office or the international registration of which designated Latvia prior to the coming into force of this Law.

3. If a European Union trade mark has been registered or applied for the registration before 1 May 2004, the priority thereof in Latvia shall be determined from 1 May 2004.

4. If a trade mark which by its very nature is a certification mark has been applied for the registration or has already been registered as an individual trade mark by the day this Law comes into force, the applicant for this trade mark or the proprietor of the registered trade mark may request to include this trade mark into the Register as a certification mark, paying the fee specified for making of amendments to the application for registration or registration information. If the applicant for a trade mark or the proprietor of the registered trade mark submits such a request by 1 March 2023, the Patent Office shall request to submit the documents provided for in Section 73 of this Law, and special fees specified in respect of certification marks shall not be applied to the registration procedure. If such amendments are made to the application for registration or the Register, they shall be published on the website of the Patent Office and in the official gazette of the Patent Office.

5. If the application for registration is based on a request for conversion in accordance with Section 87, Paragraph two of this Law, but the relevant Community trade mark has been registered or applied for registration before 1 May 2004, the date of such application for registration in Latvia shall be considered to be 1 May 2004 and the priority granted to the Community trade mark shall not be taken into account.

6. The Cabinet shall, by 31 December 2020, issue the regulations referred to in Section 88, Paragraph six of this Law. Until the coming into force of these regulations but not later than until 31 December 2020, Cabinet Regulation No. 767 of 22 December 2015, Procedures for Registering, Protecting and Supervising Geographical Indications, Designations of Origin and Traditional Specialities Guaranteed of Agricultural Products and Foodstuffs, shall be in force, insofar as it is not in contradiction to this Law.

7. Chapter XIII of this Law shall come into force concurrently with the Law on Administrative Liability.

Informative Reference to European Union Directives

This Law contains legal norms arising from:

1) Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks;

2) Directive 2004/48/EC of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights.

The Law has been adopted by the *Saeima* on 6 February 2020.

President E. Levits

Rīga, 21 February 2020

¹ The Parliament of the Republic of Latvia

² The term used in Latvian "ģeogrāfiskās izcelsmes norāde" cannot be translated as a single term in English, as there are substantial differences between the scope of the object of protection understood thereby in the regulatory framework of Latvia and the EU. Therefore, in English two different terms must be used: "indication of geographical origin" which corresponds to the Latvian regulatory framework and "geographical indication" which corresponds to the meaning in the EU legal acts.

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