

ESTONIA

Trademark Regulations

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Part I. FORMAL REQUIREMENTS FOR APPLICATION DOCUMENTS FOR REGISTRATION OF TRADEMARKS

1. Application documents for registration of trademark

1.1. List of documents

1.1.1. An application for the registration of a trademark (hereinafter registration application) shall consist of the following documents:

- 1) a request for the registration of a trademark;
- 2) a representation of the trademark;
- 3) a document certifying payment of the state fee;
- 4) an authorization document if the registration application is filed via an Estonian patent agent (hereinafter patent agent) or if several applicants have a joint representative (one of the applicants);
- 5) the regulations of the collective mark, if the registration application concerns a collective mark;
- 6) documents certifying the Convention priority claim if Convention priority is claimed pursuant to the Paris Convention for the Protection of Industrial Property and subsections 10(2) and (4) of the Trademark Act;
- 7) documents certifying the exhibition priority claim if exhibition priority is claimed pursuant to subsections 10(3) and (4) of the Trademark Act.

1.1.2. Other documents may be included in the registration application by the applicant if the applicant deems it necessary.

1.2. Number of copies of documents

1.2.1. A request for the registration of a trademark shall be submitted in two original copies.

1.2.2. In the case of trademarks represented by a design, combined and three-dimensional trademarks, ten cut representations with the size of 80 x 80 mm, suitable for archiving, shall be submitted in addition to the representation provided in the registration application.

1.2.3. In the case of a black-and-white word mark with no design (see clause 2.5.3. of this Procedure), if the applicant has indicated in data field 6 that this is a word mark in standard characters, a representation shall be provided in the registration application and submission of

additional representations is not required.

1.2.4. Other documents shall be submitted in a single copy.

1.3. Language and translation requirements for documents

1.3.1. Registration application documents shall be filed in Estonian.

1.3.2. If a document included in a registration application is submitted in a foreign language, translation into Estonian shall be included.

1.3.3. Documents certifying a priority claim may be submitted in a foreign language. The Patent Office may require the translation of such documents into Estonian in the course of processing.

1.3.4. Upon the filing and processing of registration applications, the Patent Office shall deem translations to be authentic registration application documents.

1.3.5. The translator or the patent agent shall be responsible for the authenticity of translations. The authenticity of a translation shall be confirmed by a statement included at the end of the text stating "I confirm the authenticity of the translation" and the signature of the translator or the patent agent. The signature shall be legible or deciphered.

2. Request for registration of trademark

2.1. General requirements

2.1.1. A request for the registration of a trademark shall be submitted in the form provided in the Annex to this Procedure.

2.1.2. A request for the registration of a trademark shall contain:

- 1) information concerning the applicant;
- 2) information concerning the patent agent if the registration application is filed via a patent agent;
- 3) name of the joint representative if the applicants have a joint representative;
- 4) a representation of the trademark;
- 5) the list of goods and services and class numbers;
- 6) the priority claim if Convention priority or exhibition priority is

applied for;

- 7) information concerning payment of state fee;
- 8) the list of registration application documents;
- 9) signature of the applicant or the patent agent.

2.1.3. If registration of a collective mark is applied for, it shall be indicated in the request for the registration of the trademark that the trademark is a collective mark.

2.1.4. A request for the registration of a trademark may include a description of the trademark and correspondence data.

2.1.5. Information which cannot be supplied in the corresponding data fields of the request for the registration of a trademark may be provided in data field 9 (Other) of the request or on an additional sheet of paper signed by the same person who signs the request for the registration of the trademark.

2.2. Information concerning applicant

2.2.1. Information concerning the applicant shall be provided in data fields 1 and 2 of the request for the registration of a trademark.

2.2.2. It shall be indicated in the request for the registration of a trademark whether the applicant is from Estonia or from a foreign country and whether the applicant is a natural or legal person.

2.2.3. Information concerning a natural person shall consist of the given name, surname and residential address of the person. It is recommended that the personal identification code, a phone number and fax number be included. If it is not evident from the name of a natural person which part of the name is the given name and which part is the surname, the surname shall be underlined or indicated in some other manner.

2.2.4. Information concerning a legal person shall consist of the full or abbreviated name and the full address of the seat of the legal person. It is recommended that the registry code, a phone number and a fax number be included. The seat of a legal person is the place where its management board or a substituting body thereof is located.

2.2.5. If there are several applicants, information concerning all applicants shall be submitted.

2.2.6. If the residence or seat of an applicant is located outside of Estonia, the name of the country or the two-letter code thereof pursuant to Standard ST. 3 of the World Intellectual Property Organization (hereinafter WIPO) for the identification of countries shall be indicated in the address.

2.2.7. If the applicant is a person of a federal state, the federated state shall be indicated in the address in addition to the country; the name of the city or other settlement shall be underlined or indicated in some other manner.

2.2.8. An applicant is required to notify the Patent Office of any changes to the information concerning the applicant during the processing of the registration application. In the absence of such notification, the information communicated to the Patent Office shall be used in the processing.

2.3. Information concerning representative of applicant

2.3.1. Data field 3 of a request for the registration of a trademark shall be completed only if the applicant is represented by a patent agent in filing the registration application or performing procedures with the Patent Office, or if several applicants are represented by a joint representative (one of the applicants).

2.3.2. Information concerning a patent agent shall consist of his or her given name and surname. It is recommended that an address, a phone number and fax number and the registration number of the patent agent in the state register of Estonian patent agents be included.

2.3.3. In the case of a joint representative, only the name of the natural or legal person shall be entered in the data field. The name of the joint representative shall be identical with his or her name as entered in data field 1 as the applicant.

2.3.4. If both a joint representative and a patent agent are authorized and the applicants do not specify in writing which of the two is authorized to correspond with the Patent Office, the Patent Office shall send communications to the patent agent.

2.4. Correspondence data

2.4.1. Data field 4 shall be completed if the registration application

is filed and procedures related to registration are performed by the applicant or, in the case of several applicants, by a joint representative and if the applicant or the joint representative wishes that the Patent Office would send its communications at another address than the address of the residence or seat indicated in data field 2.

2.4.2. The postal address of the applicant or, in the case of several applicants, of the joint representative of the applicants shall be indicated in data field 4. It is recommended that a phone number and fax number be included.

2.4.3. If the data field is not completed or is clearly completed incorrectly, the Patent Office shall send communications to the applicant or, in the case of several applicants, to the joint representative indicated in data field 1 at the address of the residence or seat of the applicant or the joint representative. If, in the case of several applicants, a joint representative is not indicated, communications shall be sent to the applicant indicated first in data field 1 at the address of the residence or seat of the applicant. If there are persons among the applicants whose residence or seat is in the Republic of Estonia and persons whose residence or seat is in a foreign country, communications shall be sent to the person whose residence or seat is in the Republic of Estonia and who is indicated first in data field 1.

2.5. Representation of trademark

2.5.1. The representation of a trademark shall be provided in data field 5 of the request for the registration of a trademark.

2.5.2. Graphic or photographic representation of the trademark with the size of 80 x 80 mm shall be entered in the data field.

2.5.3. It is recommended that a black-and-white word mark with no design be presented in standard characters using font Univers Bold with size 24. If the word mark is too long for the field with the size of 80 x 80 mm, the font shall be reduced to the necessary size. If an applicant does not use font Univers Bold in standard characters in the representation of a trademark but indicates in the description of the trademark in data field 6 that the mark is a word mark, the Patent Office shall change the font and the trademark shall be registered in standard characters using font Univers Bold.

2.5.4. Trademarks represented by a design, combined and three-dimensional trademarks shall be presented in the form chosen by the applicant.

2.5.5. If legal protection for a trademark is applied for in a certain color combination, the representation of the trademark shall be in color.

2.6. Description of trademark

2.6.1. It is recommended that a description of the trademark be entered in data field 6 of a request for the registration of a trademark.

2.6.2. The type of the trademark shall be indicated in the description, i.e. whether the mark is a word mark, a trademark represented by a design, a combined or a three-dimensional trademark.

2.6.3. If legal protection for a trademark is applied for in a certain color combination, the list of colors shall be included. The list of colors shall correspond to the colors used in the representation.

2.6.4. The distinct characteristics of the sign to be registered shall be specified in the description of the trademark.

2.6.5. If foreign words or parts of words are used, translation thereof into Estonian shall be included.

2.6.6. If abbreviations are used, the meaning thereof shall be explained.

2.6.7. If a trademark includes a portrait of a person, name of a well-known person, name of a registered immovable, name or representation of an architectural site, a place name or other element relating to a certain object, an explanation concerning the connection between the object and the trademark shall be provided.

2.6.8. If a trademark includes elements or parts which constitute an element of the trademark which is not subject to protection pursuant to subsection 7(3) of the Trademark Act, such elements and parts shall be listed in the description.

2.6.9. If the description of a trademark is too long to be supplied in data field 6, the description may be continued in data field 9 or on an additional sheet of paper.

2.7. List of goods and services and class numbers

2.7.1. The list of goods and services and class numbers shall be entered in data field 7 of the request for the registration of a trademark.

2.7.2. The goods and/or services for the designation of which a trademark will be used shall be indicated together with the corresponding class numbers of goods and services.

2.7.3. Class numbers of goods and services shall be determined according to the current international classification of goods and services. For example: class 12 - sports cars, shock absorbers for automobiles, tires for bicycles, tires for automobiles (see Annex to Estonian Trademark Gazette 10/1997, Nice International Classification of Goods and Services, 7th Edition).

2.7.4. Submission of the list of goods and services is obligatory. The list of goods and services shall not be substituted by the expression "the entire class".

2.7.5. In class 42, the expression "services that cannot be classified in other classes" shall not be used; the specific services which are not assigned to other classes shall be listed instead.

2.7.6. If the list of goods and services is too long to be supplied in data field 7, the list may be continued in data field 9 or on an additional sheet of paper.

2.7.7. The list of goods and services submitted on the filing date of the registration application shall not be extended later. The list of goods and services may be restricted later.

2.8. Priority claim

2.8.1. If data field 8 is completed priority is deemed to be claimed. The data field shall be completed if the applicant wishes to use the opportunities provided for in subsections 10(2) - (4) of the Trademark Act to establish priority.

2.8.2. A priority claim may be submitted with regard to all or some of the classes of goods or services indicated in the registration application.

2.8.3. If Convention priority is claimed, the number of the first

application, date of priority and the name of the country or a two-letter code for the identification of countries according to Standard ST. 3 of WIPO shall be indicated in data field 8.

2.8.4. Convention priority may also be claimed on the basis of several first applications.

2.8.5. If Convention priority is claimed, the list of goods and services within a certain class provided in data field 7 must correspond to the list of goods and services presented in the first registration application. The list of goods and services may be submitted in a restricted form or restricted later.

2.8.6. If exhibition priority is claimed, the date of priority (the date when the exhibit designated by the trademark is displayed at a public exhibition) shall be indicated in data field 8.

2.8.7. If exhibition priority is claimed, the list of goods and services within a certain class provided in data field 7 must correspond to the goods and services exhibited at the exhibition and designated by the trademark. The list of goods and services may be submitted in a restricted form or restricted later.

2.9. Other information

In data field 9, an applicant may provide additional information and remarks which the applicant deems necessary and continue the text of the description of the trademark or the list of goods and services which is too long to be supplied in data field 6 or 7.

2.10. Information concerning payment of state fee

The amount of state fees paid upon filing a registration application and the number and date of the payment document according to the document certifying payment of the fee shall be indicated in data field 10.

2.11. List of registration application documents

2.11.1. Documents included in a registration application shall be indicated by crosses in the boxes in data field 11.

2.11.2. If a registration application contains a document which is not listed, the list shall be supplemented by adding the name of the corresponding document.

2.12. Signature

2.12.1. A request for the registration of a trademark shall be signed by the applicant, or a patent agent if he or she has authorization. If there are several applicants, all applicants or a patent agent, or the joint representative of the applicants, if the joint representative holds an authorization document, shall sign the request.

2.12.2. If a signature is not legible, a deciphered form of the signature shall be added thereto.

2.12.3. When signing a request, the place and date of signing shall be indicated.

2.12.4. A signature on an additional sheet of paper shall be in compliance with the requirements provided for in clauses 2.12.1 - 2.12.3.

3. Document certifying payment of state fee

3.1. When filing a registration application, the name of the trademark submitted for registration and the name of the procedure for the performance of which the state fee is paid shall be indicated in the document certifying payment of the state fee. The name of the procedure may be substituted by the number of the corresponding section of the State Fees Act.

3.2. If the state fee is paid during the processing of a registration application, the number of the registration application and the procedure for the performance of which the state fee is paid shall be indicated in the document certifying payment of the state fee. The name of the procedure may be substituted by the number of the corresponding section of the State Fees Act.

3.3. The document certifying payment of the state fee shall generally be submitted for each registration application separately. If state fees for the performance of procedures related to several registration applications are paid at the same time, the amount of the state fee paid for each registration application shall be indicated in the document certifying payment of the state fee and a copy of the document certifying payment of the state fee shall be submitted for each registration application.

3.4. If state fees for the entry of several trademarks into the state register of trade and service marks are paid at the same time, the number

of trademarks for the entry of which into the register the state fee is paid may be indicated in the document certifying payment of the state fee and the numbers of the registration applications of the trademarks may be listed separately in one list. A copy of the document certifying payment of the state fee and the list shall be submitted for each registration application.

3.5. A copy of the payment order confirmed by an employee of a bank or a bank statement of the payer is deemed to be a document certifying payment of the state fee.

3.6. The state fee is deemed to be paid upon receipt of a document by the Patent Office certifying payment of the state fee.

4. Authorization document

4.1. An authorization document is issued to a patent agent or several patent agents or, if the applicants have a joint representative, to the joint representative for the filing of one or several registration applications or the performance of all or certain procedures related to the registration or continued validity of a trademark. An authorization document may be in unattested written form.

4.2. If an authorization document is issued to several patent agents, each of them may represent the applicant separately unless otherwise provided in the authorization document.

4.3. An authorization document shall set out the following:

- 1) the given name, surname and residential address of the person represented if the person is a natural person, or the name and address of the seat of the person represented if the person is a legal person;
- 2) in the case of a patent agent, the given name and surname of the patent agent;
- 3) in the case of a joint representative who is a natural person, the given name and surname of the representative or, in the case of a joint representative who is a legal person, the name of the representative;
- 4) the scope of the authorization;
- 5) the term of the authorization, if the authorization is granted for a specified term;
- 6) the signature of the person represented;
- 7) the place and date of issue of the authorization document.

4.4. An authorization document shall be signed by the applicant. If there are several applicants, all of them shall sign the authorization document. If a signature is not legible, a deciphered form of the signature shall be added thereto. When signing an authorization document, the place and date of signing shall be indicated.

4.5. Notarization or legalization of an authorization document is not required.

4.6. If the term of an authorization is not indicated in the authorization document, the authorization is deemed to be granted for an unspecified term.

4.7. A request for the registration of a trademark in which information required in clause 2.3.2 or 2.3.3 of this Procedure is entered in data field 3 and which is signed by the applicant or applicants shall be considered by the Patent Office as a document certifying authorization and substituting for an authorization document. In such case, the performance of all procedures related to the registration and the continued validity of a trademark is deemed to be the extent of authorization of the patent agent or the joint representative and the place and time of signing the request is deemed to be the place and time of issue of the authorization document.

4.8. An authorization document may be issued on the basis of the right to delegate authority if the right to delegate authority is granted in the initial authorization document. Authority shall not be delegated in the extent which exceeds the limits of authority granted in the initial authorization document. The term of a delegated authority shall not exceed the term of the initial authorization document. The place and time of signing the initial authorization document, the given name and surname of the patent agent to whom the initial authorization document was issued and the given name and surname of the patent agent to whom authority is delegated shall be indicated in the authorization document issued on the basis of the right to delegate authority.

4.9. If several authorization documents for the performance of the same procedure are issued to different persons, the Patent Office shall send communications to the person indicated in the more recent authorization document.

5. Regulations of collective mark

5.1. If a collective mark is applied for, the registration application shall include the regulations of the collective mark.

5.2. The regulations of a collective mark shall include the name and address of the seat of the association of legal persons, terms of membership, the list of persons in the association of legal persons who have the right to use the trademark and the conditions of using the trademark.

5.3. The regulations of a collective mark may contain provisions concerning the quality or other characteristics of the goods or services, monitoring the use of the trademark and liability prescribed for the violation of the conditions of using the trademark or other conditions which the members of the association of legal persons deem necessary to agree upon.

5.4. In the case of any changes to the regulations of a collective mark, new regulations of the collective mark shall be submitted to the Patent Office.

6. Documents certifying priority claim

6.1. Documents certifying a priority claim shall be filed if a registration application contains a priority claim.

6.2. Documents certifying Convention priority are:

1) a document from the administrative agency which received the first registration application certifying the filing date of the registration application;

2) a copy of the first registration application the authenticity of which is certified by the administrative agency which received the first registration application.

6.3. A document certifying exhibition priority is a document issued by the administration of an exhibition which certifies the compliance of the exhibition with the requirements provided for in subsection 10(3) of the Trademark Act and the use of the trademark at the exhibition and which contains the name of the person who exhibited goods or services designated by the trademark, the list of such goods and services and the date of public display thereof at the exhibition.

7. General requirements for completion of text documents of registration application

7.1. A text document of a registration application shall be completed and submitted on strong light paper in format A4 (210 x 297mm).

7.2. The left margin of a text document shall be sufficiently wide to enable the document to be bound (minimum 20 mm).

7.3. The text of the documents shall be in typewritten form.

7.4. Documents must be typed with non-erasable permanent ink and with such contrast which allows making copies of the documents using copying devices.

7.5. The text of the documents shall be typed with the minimum line spacing of 1.5. If a word processor is used, the text size shall be at least 12 points; if a typewriter is used, the height of capital letters shall be at least 2.1 mm.

7.6. Single signs and symbols may be handwritten using black ink, fountain pen or Indian ink.

Part II. FILING OF APPLICATIONS FOR REGISTRATION OF TRADEMARKS

8. Filing of applications for registration of trademarks

8.1. Registration applications shall be filed with the Patent Office in person, by post or fax.

8.2. The date of receipt at the Patent Office of a registration application filed by post is deemed to be the filing date of the registration application.

8.3. If the registration application is sent by fax, at least the request for the registration of a trademark in compliance with the requirements specified in clause 2 of this Procedure and a document certifying payment of the state fee shall be sent. The original documents and the corresponding number of representations of the trademark in accordance with clause 1.2.2 of this Procedure shall be filed within one month after the date of receipt of the fax.

8.4. If the text of a request for the registration of a trademark or the document certifying payment of the state fee or the representation of the trademark sent by fax is unintelligible, the registration application shall not be accepted.

8.5. If a registration application is sent by fax and the original documents and the corresponding number of representations of the trademark in accordance with clause 1.2.2 of this Procedure are not filed within one month after the date of receipt of the fax, the registration application shall not be accepted.

8.6. Registration applications filed by other electronic means are not accepted.

9. Filing of document certifying payment of state fee

9.1. A document certifying payment of the state fee for the filing of a registration application shall be submitted on the filing date of the registration application.

9.2. If a document certifying payment of the state fee for the filing of a registration application is not submitted by the filing date of the registration application or the state fee is paid in an amount less than the prescribed rate, the registration application shall not be accepted.

9.3. A document certifying payment of the state fee for entry of a trademark into the state register of trade and service marks shall be submitted within three months after expiry of the time limit for appeal against a decision on the registration of a trademark or, in the case of an appeal, after termination of the appeal proceeding if the decision on the registration of the trademark remains in force.

9.4. If a document certifying payment of the state fee for entry of a trademark into the state register of trade and service marks is not submitted by the end of the time limit, the registration application shall be rejected.

10. Submission of authorization document

10.1. If a registration application is filed via a patent agent and the request for the registration of a trademark is signed by the patent agent, the authorization document shall be submitted on the filing date of the registration application or within two months after the filing date of the registration application.

10.2. If a person whose residence or seat is in a foreign country files a registration application, the person shall authorize a patent agent to perform further procedures related to the registration and continued validity of the trademark. An authorization document shall be filed within two months after the filing date of the registration application.

10.3. If there are several applicants and a request for the registration of a trademark is signed only by the joint representative of the applicants, the authorization document shall be submitted on the filing date of the registration application.

10.4. The original authorization document or a notarized copy thereof or a copy of the authorization document certified by the Patent Office shall be submitted to the Patent Office.

10.5. The Patent Office deems an authorization document to be submitted on time if a fax copy of the authorization document is submitted within two months after the filing date of the registration application and the original authorization document is submitted within one month after the filing date of the fax copy of the authorization document.

10.6. If an authorization document corresponding to the requirements of this Procedure is not filed by the end of the term, the registration

application shall not be accepted.

10.7. If an Estonian applicant files a registration application or several applicants have not appointed a joint representative, they may choose a patent agent or a joint representative during the processing of the registration application, should they wish so, and submit an authorization document to the Patent Office.

11. Submission of documents certifying priority claim

11.1. Documents certifying a priority claim shall be filed either on the filing date of the registration application or within three months after the filing date of the registration application.

11.2. Original documents certifying priority issued to the applicant by the administrative agency which received the first registration application shall be filed with the Patent Office.

11.3. Copies of documents certifying priority shall not be accepted.

11.4. If priority is claimed on the basis of several first registration applications, documents certifying priority concerning all these registration applications shall be filed.

11.5. Translations into Estonian of documents certifying priority shall be submitted at the request of the Patent Office in the course of processing of the registration application.

11.6. If documents certifying priority which are in compliance with the requirements of this Procedure are not filed by the end of the term, the Patent Office shall refuse to satisfy the priority claim.

12. Submission of regulations of collective mark

12.1. The regulations of a collective mark shall be submitted on the filing date of the registration application or within two months after the filing date of the registration application.

12.2. The original copy of the regulations of a collective mark or a notarized copy thereof or a copy of the regulations of the collective mark certified by the Patent Office shall be submitted to the Patent Office.

12.3. The Patent Office deems the regulations of a collective mark to

be submitted on time if a fax copy of the regulations of a collective mark is submitted within two months after the filing date of the registration application and the original regulations of the collective mark are submitted within one month after the filing date of the fax copy.

12.4. If, upon application for a collective mark, the regulations of the collective mark are not filed by the end of the term, the registration application shall not be accepted.