

BELARUS

Trademarks Law

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SECTION I TRADEMARK AND SERVICE MARK, THEIR LEGAL PROTECTION

Article 1. Trademark and Service Mark

1. A trademark and service mark (hereinafter – trademark) is recognized to be a sign facilitating the distinguishing of goods, works and/or services (hereinafter, unless provided otherwise – goods) of one person from goods of the same kind of other persons.

2. As trademarks may be registered signs consisting of words, including proper names, combinations of colours, signs consisting of letters, numbers, graphics, three-dimensional signs, including the form of the good or its packing, and also combinations of such signs. Other signs maybe registered as trademarks in cases provided by the legislative acts.

3. A trademark may be registered in any color or color combination.

Article 2. Legal Protection of Trademark

1. Legal protection of a trademark in the Republic of Belarus is carried out on the basis of its registration in the state institution "National Center of Intellectual Property" (hereinafter – the patent body) in the order established by the legislation on trademarks or by virtue of treaties of the Republic of Belarus.

2. A trademark may be registered in the name of an organization or a citizen.

3. The right to a trademark is protected by the state. A certificate shall be issued for the registered trademark. The certificate for a trade mark certifies the priority of the trade mark, the exclusive right of the owner to the trade mark in relation to goods specified in the certificate and contains a reproduction of the trade mark.

Article 3. Exclusive Right to a Trademark

1. The owner of a trademark has the exclusive right to use the trademark, may dispose of that exclusive right, and also is entitled to prohibit the use of the trademark by other persons. The exclusive right to a trademark arises from the date of registration of the trademark.

2. Nobody may use the trademark protected in the territory of the

Republic of Belarus without the permission of its owner.

3. Infringement of the exclusive right to a trademark is recognized the use of the trademark of a sign similar to it to the extent of confusion, which is seen as performance of actions provided by clause 1 of Article 20 of this Law in in relation to goods of the same kind, and also to goods of other kinds, marked by a trademark recognized as well-known in the Republic of Belarus.

4. It is not recognized as infringement of the exclusive right to a trademark the use of that trademark in relation to goods legitimately introduced in the civil turnover in the territory of member states of the Eurasian Economic Union directly by the owner of the trademark or another person with consent of the owner of such a mark.

Article 4. Absolute Grounds for Refusal of Registration

1. It is not allowed to register as trademarks the signs:

1.1. not having distinctive character;

1.2. accepted in general use as a sign of goods of a certain kind;

1.3. being customary symbols and terms;

1.4. a dominant position in which is occupied by marks or indications used for a designation of a kind, quality, quantity, property, purpose, value of the goods, and also of a place, time, and process of their manufacturing or selling;

1.5. representing the form of the good or its packing, determined exclusively or mainly by the essence or nature of the good, necessity of achievement of a technical result, essential value of the good.

2. Signs specified in sub-clauses 1.1 -1.3 and 1.5 of clause 1 of this Article may be included in a trademark as unprotected elements if they do not have a dominant position in it.

2.1. Conditions upon which signs, marks and/or indications have a dominant position are established by the Council of Ministers of the Republic of Belarus.

3. Provisions provided by clause 1 of this Article need not be applied in relation to signs which on the date of filing of the application for registration of a trademark have actually got a distinctive capacity as a result of use.

4. The registration of trademarks consisting only of signs representing state armorial bearings, flags, and emblems; official country names; flags, emblems, and abbreviations or full names of international intergovernmental organizations; official signs or hallmarks of control and warranty; awards and other honorary distinctions; or signs confusingly similar to them, is not permitted. Such signs may be included in a trademark as unprotected elements only with the consent of an appropriate competent body or the owner, unless otherwise provided in the third part of this Paragraph.

The competent body in the Republic of Belarus that is in charge of providing consent to the use of signs representing the state symbols of the Republic of Belarus (the armorial bearing of the Republic of Belarus, the national flag of the Republic of Belarus), official abbreviation or full name of the Republic of Belarus, state awards of the Republic of Belarus, or signs confusingly similar to them in a trademark shall be the republican administrative body that implements state policy and exercises regulation and management in the sphere of intellectual property rights protection. The requirements for an application to obtain the said consent, procedures for considering and passing a decision on such an application, and grounds for refusal to grant the said consent shall be determined by the Council of Ministers of the Republic of Belarus, unless otherwise provided by law.

Consent to the use of signs representing the state symbols of the Republic of Belarus (the armorial bearing of the Republic of Belarus, the national flag of the Republic of Belarus), or official abbreviation or full name of the Republic of Belarus in a trademark as specified in the first part of this Paragraph shall not be required if the trademark is registered in the name of:

- a state body (organization) of the Republic of Belarus;
- a legal entity that has obtained the right to the use of the official abbreviation or full name of the Republic of Belarus in its name according to the prescribed procedure.

5. It is not allowed to register as trademarks the signs:

5.1. being false or capable to mislead the consumer concerning the good, place of its origin or its producer;

5.2. representing or containing the indication of an appellation of origin of wines or strong alcoholic beverages protected by virtue of

treaties of the Republic of Belarus, for designation of vines or strong alcoholic beverages which do not originate in that place;
5.3. contrary to public interests, principles of humanity and morality.

Article 5. Other Grounds for Refusal of Registration

1. As trademarks may not be registered signs identical or similar to the extent of confusion to:

1.1. trademarks registered or claimed for registration in the Republic of Belarus in the name of another person and having the earlier priority, in relation to goods of the same kind;

1.2. trademarks of other persons protected in the Republic of Belarus on the basis of treaties of the Republic of Belarus, in relation to goods of the same kind;

1.3. trademarks of other persons recognized as well-known in the Republic of Belarus, in relation to any goods.

2. Registration of a sign similar to the extent of confusion with a trademark specified in clause 1 of this Article, is allowed subject to presentation of a written consent of the owner of such mark.

3. As trademarks in relation to any goods may not be registered signs identical or similar to the extent of confusion to an geographical indication, protected in the Republic of Belarus, as well as to a sign claimed for registration as such and having the earlier priority, with the exception of the case when such geographical indication or a sign similar thereto to the extent of confusion is included as an unprotected element in the trademark being registered in the name of the person that has the exclusive right to such a geographical indication if the registration of the trademark is carried out in relation to those goods for individualization of which the geographical indication of the good has been registered.

4. As trademark in relation to goods of the same kind may not be registered signs identical or similar to the extent of confusion to:

4.1. an industrial design the right to which in the Republic of Belarus belongs to another person if that industrial design possesses an earlier priority in comparison with the trademark claimed for registration;

4.2. a varieties of Plants protected in the Republic of Belarus, the

right to which is arisen in the Republic of Belarus for another person prior to the priority date of the trademark being registered;

4.3. a trade name (certain elements of that name) protected in the Republic of Belarus, the right to which is arisen in the Republic of Belarus for another person prior to the priority date of the trademark being registered.

5. As a trademark may not be registered signs identical to:

5.2. the name, known in the Republic of Belarus, of a work of science, literature or art; a character or citation from such a work; a work of art or its fragment, without the consent of the right holder, if the right to the respective work arose prior to the priority date of the trademark being registered;

5.3. the name of a mass medium registered in the Republic of Belarus without the consent of its founder (founders), in relation to goods of the same kind;

5.4. the last name, own name (patronymic if such is available), pseudonym or a sign derived from them, portrait or facsimile of a person known in the Republic of Belarus, without the consent of that person or his heirs.

6. The fact that the objects specified in sub-clauses 5.2 and 5.4 of clause 5 of this Article are known is determined on the priority date of the sign claimed for registration as a trademark.

Article 6. Application for Registration of Trademark

1. Application for registration of a trademark (hereinafter - application) is filed by an organization or natural person (hereinafter - applicant) with the patent body.
Application filed with the patent body is a national application.

2. Filing an application with the patent body, conducting the affairs with the patent body may be carried out by the applicant independently or through a patent agent registered with the patent body (hereinafter - patent agent), with the exception of the case provided by part two of this clause.

Applicants having permanent place of stay or permanent place of residence in foreign states shall conduct affairs connected with the application and registration of trademarks in the Republic of Belarus through patent agents, unless otherwise provided by treaties of the Republic of Belarus.

3. The application must relate to one trademark.

4. The application must contain a request for registration of a sign as a trademark with indication of:

4.1 information of the applicant, including their place of stay or place of residence. In addition, the applicant shall give their written consent to the collection, processing, accumulation, storage, and distribution of their personal data.

4.2. requested sign;

4.3. list of goods for which the protection of the trademark is sought, and also, grouped in classes according to the International Classification of Goods and Services for the Purposes of the Registration of Marks.

5. If the application is filed for a collective mark, regulations on the collective mark shall be enclosed to the application.

6. Together with the application or within two months from the date of receipt thereof by the patent body, a document shall be submitted confirming the payment of the patent duty in the established amount, and also a document confirming powers of the patent agent if the application is being filed by the patent agent.

In case of a failure to submit a document confirming the payment of the patent duty in the established amount and/or a document confirming powers of the patent agent, the application is recognized as non filed about which the applicant shall be notified in a written form within a month from the day of expiration of the established term. The expert examination on such application is not conducted, rights of the applicant may not be based on that application.

7. Requirements for the application and documents to be enclosed thereto, order of conducting expert examination of the application and taking the decision according to results of the expert examination are established by the Council of Ministers of the Republic of Belarus.

Article 7. Priority of a Trademark

1. The priority of a trademark is established by the date of filing of the application with the patent body. The date of filing of the

application is deemed to be the date of receipt by the patent body of the application that meets requirements of clause 4 of Article 6 of this Law.

2. The priority of a trademark may be established by the date of filing of the first application for a trademark in a foreign state - participant of the Paris Convention for the Protection of Industrial Property of March 20, 1883, revised in Brussels on December 14, 1900, at Washington on June 2, 1911, at The Hague on November 6, 1925, at London on June 2, 1934, at Lisbon on October 31, 1958, and at Stockholm on July 14, 1967, and as amended on October 2, 1979 (conventional priority) if the application is received by the patent body within six months from the specified date.

3. The priority of a trademark placed on exhibits of official or officially recognized international exhibitions organized on the territory of one of the states - participants of the Paris Convention for the Protection of Industrial Property may be established by the date of beginning of an open display of the exhibit at an exhibition (exhibition priority) if the application is filed with the patent body within six months from the mentioned date.

4. The applicant wishing to take advantage of the right of conventional or exhibition priority is obliged to indicate this in the application upon the filing of the application or within two months from the date of receipt of the application in the patent body and to enclose necessary documents confirming the legitimacy of such requirement, or to present these documents not later than three months from the date of receipt of the application by the patent body.

5. The priority of the trademark on a divisional application is established by the date of priority of the trademark of the initial application being filed in accordance with clause 7 of Article 8 of this Law.

6. The priority of a trademark may be established by the date of international registration of a trademark under the Madrid Agreement Concerning the International Registration of Marks of April 14, 1891 and the Protocol thereto of June 28, 1989 (hereinafter - international registration), by the date of entering a record about

the territorial extension of the international registration to the Republic of Belarus, by the date of priority of the international registration in accordance with treaties of the Republic of Belarus.

Article 8. Expert Examination of the Application

1. Expert examination of the application is carried out by the patent body and includes the preliminary expert examination and expert examination of the requested sign, conducted in accordance with this Law and rules established by the Council of Ministers of the Republic of Belarus.

2. The applicant has the right, on his own initiative or on the invitation of the expert, to take part personally or through his representative in consideration of the questions arising in the course of the preliminary expert examination and examination of the requested sign.

3. The applicant is entitled, on his own initiative, to supplement, specify or correct materials of the application at any stage of its consideration before the date of registration of the trademark.

4. If additional materials change the sign requested for registration in essence or expand the list of goods indicated in the application, these materials are not accepted for consideration and may be made out by the applicant as an independent application.

5. In the course of the expert examination of the application until the date of registration of the trademark, the applicant is entitled to file with the patent body a request for change of the applicant on the application when there is the consent of the new applicant.

6. The application may be withdrawn at the request of the applicant at any stage of its consideration before the date of registration of the trademark.

7. In the course of the expert examination of the application, but before a decision has been taken on it, and in the instance of conducting an expert re-examination - before a decision has been taken according to results of the expert re-examination, the applicant is entitled to file for the same sign a divisional application containing a part of names of goods indicated in the

list of the initial application on the date of its filing with the patent body, with preservation in the divisional application of the date of filing and the date of priority of the trademark on the initial application.

Article 9. Preliminary Expert Examination

1. The time limit for conducting preliminary expert examination shall be two months from the date of receipt by the patent body of the last from the documents specified in part one of clause 6 of Article 6 of this Law.

2. In the course of preliminary expert examination the composition and correctness of drawing up documents received by the patent duty shall be checked. When the preliminary expert examination is being conducted, the applicant may be proposed to make additions or changes in the application and documents enclosed thereto. Additions or changes being introduced in the application and documents enclosed thereto must be submitted to the patent body within three month period from the date of receipt of the request, in that instance the conducting of the preliminary expert examination is suspended for a corresponding term. On a petition of the applicant received prior to expiration of the three-month term for submission of additions or changes in accordance with the request, that term may be extended, but not more than by three months.

3. According to the results of the preliminary expert examination a decision shall be made on acceptance of the application for consideration or on refusal of its acceptance for consideration. A decision on refusal of the acceptance of the application for consideration shall be taken in case of:
failure to submit a response on substance to a request of the patent body concerning the composition and correctness of drawing up of received documents within the terms established by clause 2 of this Article; absence in the application of the data provided by clause 4 of Article 6 of this Law; absence, upon filing the application, of the document provided for by clause 5 of Article 6 of this Law.

4. When the application is accepted for consideration, the date of filing of the application, and also a conventional or exhibition priority (in case of submission of necessary documents confirming the legitimacy of this requirement), shall be established.

Article 9-1. Publication of Data about Application

1. Data about the application that passed a preliminary expert examination according to the results of which a decision has been adopted on acceptance of the application for consideration shall be published on the official site of the patent body in the global computer network Internet within two months from the date of adoption of such decision. The list of the published data is determined by the patent body.

2. After the publication of data about the application, any person is entitled to familiarize himself with that application and documents enclosed thereto. The order of familiarization with the application and documents enclosed thereto, and also of issuance of copies thereof, is established by the Council of Ministers of the Republic of Belarus.

Article 10. Expert Examination of Requested Sign

1. Expert examination of a requested sign shall be effected upon the end of the preliminary expert examination within a term not exceeding two years from the date of adoption of the decision on acceptance of the application for consideration.

2. In the course of expert examination of the requested sign, the priority of the trademark shall be established if it was not established within the performance of the preliminary expert examination, and absence of grounds for refusal of the registration of the sign as trademark established by Article 4 and clauses 1 and 3 of Article 5 of this Law shall be checked.

3. If submitted documents or data contained in them do not conform to the established requirements, the patent body directs to the applicant a query containing a proposal to submit materials correctly drawn up within a three-month period from the date of receipt of the query. Upon a petition of the applicant the three-month period may be extended, but not more than for twelve months provided that the petition has arrived before the expiry of this three-month period. If the applicant fails to submit required materials within the indicated period or does not submit a petition for extending the established time limit, the decision shall be taken about the refusal to register the trademark.

4. According to the results of expert examination shall be taken a decision on registration of the trademark or on refusal of its registration.

5. The decision of the expert examination about registration of a trademark may be revised by the patent body in connection with the receipt of an application enjoying an earlier priority in accordance with Article 7 of this Law for a sign identical or similar to the extent of confusion in relation to goods of the same kind.

6. When the applicant does not agree with the decision of the expert examination, he has the right, within a three-month period from the date of receipt of the decision, to submit to the patent body a petition for conducting an expert re-examination of the requested sign. A document confirming the payment of the patent duty in the established amount shall be enclosed to the petition. On the petition of the applicant the indicated period may be extended for not more than eighteen months provided that the petition and a document confirming the payment of the patent duty in the established amount has arrived to the patent body before the expiration of this period.

The patent body is entitled, upon a petition of the applicant, to suspend the conduct of the expert re-examination of the requested sign in the instances established by the Council of Ministers of the Republic of Belarus.

8. An expert re-examination shall be conducted within a two-month period from the date of receipt of the petition of the applicant.

Article 11. Appealing the Decision on Application

1. When disagreeing with the decision of the preliminary expert examination about refusal of acceptance of the application for consideration or with decision about the refusal of the registration of the trademark, taken on the grounds provided by clause 3 of Article 10 of this law, or with the decision taken according to the results of the expert re-examination of the requested sign, the applicant is entitled, within one year from the date of receipt of the decision, to lodge a complaint with the Appeal Council at the patent body (hereinafter - the Appeal Council) or with the court.

2. The complaint must be considered within one month from the date of its receipt by the Appeal Council. The order of consideration of complaints by the Appeal Council is established by the Council of Ministers of the Republic of Belarus.

3. The decision of the Appeal Council may be appealed by the applicant to the Supreme Court of the Republic of Belarus within six months from the date of receipt of the decision.

Article 12. Registration of a Trademark and Issue of the Certificate for a Trademark

1. On the basis of the decision on registration of a trademark, the patent body shall within one month from the date of receipt of the document about payment of the established patent duty, effect the registration of a trademark in the State register of trademarks and service marks of the Republic of Belarus (hereinafter - the Register). The data concerning registration of a trademark, and also subsequent changes of these data shall be entered in the Register. The procedure for the keeping of the Register and the scope of information to be entered therein shall be determined by the republican administrative body that implements state policy and exercises regulation and management in the sphere of intellectual property rights protection.

2. Upon a petition of any person, the patent body shall give an extract from the Register.

3. Issue of the certificate for a trademark shall be made by the patent body within one month from the date of registration of the trademark in the Register.

4. Upon a failure to submit a document confirming the patent duty in the established amount within the established term, the registration of the trademark is not performed, the decision on registration shall be cancelled and concerning the corresponding application a decision shall be made on refusal of the registration of the trademark.

Article 13. Duration of Registration

1. Registration of a trademark is effective within ten years from the date of filing the application with the patent body.

2. The duration of the registration of a trademark may be renewed, without limitation of the number of renewals, upon a request of the owner filed within the last year of its duration, each time for ten years. Upon a petition of the owner for renewal of the duration of the registration of a trademark, he may be given a six-month time limit after the expiration of the duration of registration, subject to payment of the patent duty.

Registration of a trademark the duration of legal protection of which has expired on a new owner is allowed not earlier than in six months after the expiration of the duration of registration. If the old owner of a trademark filed with the patent body a request about refusal from the legal protection of his trademark, the registration of this trademark on a new owner may be carried out earlier than six months.

3. A record about renewal of the duration of registration of a trademark shall be entered by the patent body in the Register. At the request of the owner of a trademark, a similar record shall be entered in the certificate for the trademark.

Article 14. Introduction of Changes in Registration and Correction of Mistakes

1. The owner of the trademark shall notify the patent body about change in his name (for organization), surname, own name and patronymic (if such is available) (for natural persons), in the place of stay or place of residence, about reduction of the list of goods in relation to which the trademark is registered, about change in separate elements of the trademark which does not change its essence, other changes relating to the registration of the trademark.

2. Changes shall be entered in the Register and, at the request of the owner, in the certificate on the trademark.

3. The patent body may, on the own initiative or at the request of the owner, to introduce corrections of grammatical, typographical and other obvious mistakes in the registration of a trademark.

4. Registration of a trademark may be divided, upon a request of its owner, by distributing the goods in relation to which the trademark is registered.

Article 14-1. Renewal of Missed Procedural Time Limits

1. The time limits provided by clause 2 of Article 9, clauses 3 and 6 of Article 10, and also the time limit for filing a complaint with the Appeal Council provided by clause 1 of Article 11, missed by the applicant may be renewed, on his petition, by the patent body provided that the patent duty is paid in the established amount and there are good reasons for missing a relevant time limit.

2. The petition for renewal of the missed time limit may be filed by the applicant to the patent body not later than three months from the day of expiration of the relevant missed time limit. The petition for renewal of the missed time limit shall be filed simultaneously with the reply to the request of the patent body provided by clause 2 of Article 9 and clause 3 of Article 10 of this law or with the filing of a petition for conducting an expert re-examination of the requested sign provided by clause 6 of Article 10 of this Law, or with the filing of a complaint to the Appeal Council in accordance with clause 1 of Article 11 of this Law.

3. Upon renewal on a petition of the applicant of time limits provided by clause 2 of Article 9 and clause 3 of Article 10 of this Law, the patent body cancels the decision that was adopted earlier.

Article 15. Publication of Data about Registration

The data relating to the registration of a trademark and entered in the Register in accordance with Article 12 of this Law shall be published in the official edition of the patent body (hereinafter - the official bulletin) within two months after the date of registration of the trademark in the Register or the date of entering changes or corrections in the Register.

Article 16. Registration of Trademark in Foreign States, International Registration

1. Natural persons and organizations of the Republic of Belarus have the right to registration of a trademark in a foreign state and/or to its international registration.

2. Application for the international registration of a trademark formalized in accordance with treaties of the Republic of Belarus shall be filed with the patent body in accordance with treaties of

the Republic of Belarus.

Application for the international registration of a trademark shall be filed on the basis of registration of the trademark in the Republic of Belarus and/or an application filed with the patent body in relation to which a decision is adopted about acceptance thereof for consideration.

With the patent body shall be also filed requests for territorial extension of the international registration, for renunciation of the protection under the international registration, for cancellation of the international registration according to forms established by the International Bureau of the World Intellectual Property Organization in relation to countries not being parties to the Protocol to the Madrid Agreement Concerning the International Registration of Marks of June 28, 1989.

Divisional application of international registrations containing an indication of the Republic of Belarus are also submitted to the patent authority in accordance with the Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks of 28 June 1989.

3. Expenses connected with the registration of a trademark in a foreign state and with the international registration are borne by the applicant or, under an agreement with him, another person.

Article 16-1. Transformation of the International Registration in the National Application. Replacement of the National Registration of Trademark with International Registration

1. In the instances established by treaties of the Republic of Belarus, the international registration of a trademark in relation to which legal protection in the territory of the Republic of Belarus is claimed may be transformed, on a petition of the owner of that trademark filed with the patent body, in a national application. In that instance the priority of the trademark may be established on the date of international registration or on the date of entering a record on territorial extension of the international registration to the Republic of Belarus, or on the date of priority of the international registration in accordance with treaties of the Republic of Belarus.

A national application filed within the framework of transformation must be formalized in accordance with the requirements established by clause 4 of Article 6 of this Law. Documents provided for by

clauses 5 and 6 of Article 6 of this Law shall be enclosed to such an application.

2. In the instances established by treaties of the Republic of Belarus, on a petition of the owner of that trademark filed with the patent body, and also subject to payment of the patent duty in the established amount, the national registration of a trademark may be replaced by the international registration if mentioned registration are effected for the same person. Replacement of the national registration of the trademark by the international registration does not entail termination of the effect of the national registration and does not affect rights of the owner of the trademark acquired by reason of the international registration.

SECTION I-1 WELL-KNOWN TRADEMARK

Article 17-1. Well-known trademark

1. On the request of a person filed with the Appeal Council, his trademark or sign used as a trademark may be recognized as a trademark well-known in the Republic of Belarus (hereinafter - well-known trademark) and registered if this trademark or sign became, as a result of an intensive use by the applicant, well known in the Republic of Belarus among respective consumers in relation to goods of the applicant on the date indicated in the request. Under a sign used as a trademark is understood a sign corresponding to the requirements of Article 1 of this Law and used as a trademark, but which has no legal protection in the territory of the Republic of Belarus.

2. A well-known trademark is granted legal protection provided by this Law.

3. Legal protection of a well-known trademark is effective indefinitely.

Article 17-2. Recognition of Trademark as Well Known

1. A trademark or a sign used as a trademark are recognized to be a well-known trademark upon a decision of the Appeal Council, adopted having regard to provisions of clause 1 of Article 171 of this Law. The requirements for the application for the recognition of a trademark as a well-known trademark in the Republic of Belarus and the documents attached to it, the procedure for its consideration by the Board of Appeal and making a decision on the results of such consideration shall be established by the Council of Ministers of the Republic of Belarus.

2. On the basis of a decision about recognition of a trademark or a sign used as a trademark as a well-known trademark, the patent body shall enter the data relating to the well-known trademark in the list of trademarks well known in the Republic of Belarus (hereinafter - the list of well-known trademarks). The composition of the data being entered in the list of well-known trademarks is determined by the patent body.

Upon a request of any person, the patent body shall give an extract from the list of well-known trademarks.

3. Issue of the certificate on a well-known trademark to the person which filed the request with the Appeal Council about recognition of his trademark or sign used as a trademark as a well-known trademark shall be effected by the Appeal Council within one month from the date of entering the data in the list of well-known trademarks.

4. The data entered in the list of well-known trademarks are published in the official bulletin within three months from the date of their entering in this list.

5. Decision of the Appeal Council taken according to the results of consideration of a request about recognition of a trademark or sign used as a trademark as a well-known trademark may be appealed to the Supreme Court of the Republic of Belarus by the person who filed the said request within six months from the date of receipt of this decision or by another person within six months from the date of publication of the data relating to this well-known trademark in the official bulletin.

SECTION II COLLECTIVE MARK

Article 18. Right to Collective Mark

Association of persons, creation and activity of which does not contradict the legislation of the state in which it is created, is entitled to register in the Republic of Belarus a collective mark intended for designation of goods being produced and/or realized by those persons, works being performed and/or services being rendered, which have uniform qualitative or other common characteristics.

Article 19. Registration and Use of Collective Mark

1. The application for a collective mark shall be accompanied by regulations on the collective mark which contains the name of the person authorized to file an application for registration of the collective mark, the list of persons having the right to use this mark, the purpose of its registration, the list of and uniform qualitative or other common characteristics of goods which will be designated by the collective mark, conditions of its use, the order of control over its use, responsibility for infringement of regulations on the collective mark.

2. In addition to the data stipulated by clause 1 of Article 12 of this Law, the data about persons having the right to use the collective mark shall be entered in the Register and in the certificate on the collective mark. These data, and also an extract from regulations on the collective mark concerning uniform qualitative or other common characteristics of goods for which this mark is registered, shall be published by the patent body in the official bulletin. A person specified in the certificate for the collective mark as its owner shall notify the patent body about changes in the regulations on the collective mark.

3. A collective mark and the right to use it may not be transferred. In case of use of the collective mark on goods not having uniform qualitative or other common characteristics, its registration may be terminated prematurely (in full or in part) on the basis of the decision of the Supreme Court of the Republic of Belarus taken on a request of any person.

4. A collective mark or the application for its registration may be transformed accordingly into a trademark of one of the persons

having the right to use it in accordance with regulations on the collective mark or into the application for its registration. The order of such transformation is established by the Council of Ministers of the Republic of Belarus.

SECTION III USE OF TRADEMARK

Article 20. Use of a Trademark and Consequences of Its Non-use

1. Use of a trademark for individualization of goods in relation to which the trademark is registered is carried out also by means of application of the trademark

1.1. on goods which are produced, offered for sale, sold or otherwise introduced in the civil turnover, stored, carried or imported in the territory of the Republic of Belarus for purposes of introduction into the civil turnover, and also on labels, packings of such goods;

1.2. on documentation related to introduction of goods into the civil turnover;

1.3. when performing goods and/or rendering services;

1.4. in advertising, printed editions, on signboards, when displaying exhibits at exhibitions being held in the Republic of Belarus;

1.5. in the global computer network Internet (including in the domain name, for other addressing modes).

2. As use of a trademark may be recognized its use with minor alterations of some elements not affecting its distinctive ability.

3. The legal protection of a trademark may be terminated prematurely in respect of all or of a part of goods for the individualization of which the trademark was registered because of non-use of the trademark without good reasons continuously within any three years after its registration.

For the purposes of this clause actions being performed in accordance with clauses 1 and 2 of this Article by the owner of the trademark or a person to whom the right to use the trademark was granted on the basis of a contract or by another person using the trademark with permission of its owner, and not directly related to the introduction of goods into the civil turnover, may not be recognized as the use of the trademark.

A request for premature termination of the legal protection of a trademark because of its nonuse may be filed by any person with the Supreme Court of the Republic of Belarus upon the expiration of the indicated three years provided that the trademark has not been used till the filing of such a request.

When considering the question about premature termination of the

legal protection of a trademark in connection with its non-use must be taken into account evidence submitted by the owner of the trademark that the trademark was not used on circumstances which are beyond his control.

4. Persons carrying out intermediary activity may, on the basis of and in accordance with a contract, use their trademark on the goods realized by them alongside the trademark of the producer of the goods and also place it instead of the trademark of the producer.

5. Persons having the right a collective mark may use, alongside with the collective sign, use their trademarks on goods being produced and/or realized by them when performing works and/or rendering services.

Article 21. Warning Marking

The owner of a trademark may put down alongside the trademark a warning marking in the form of a Latin letter R or circled R or verbal signs "trademark" or "registered trademark", indicating that the used sign is a trademark registered in the Republic of Belarus.

SECTION IV TRANSFER OF RIGHT TO TRADEMARK

Article 22. Concession of the Exclusive Right to Trademark, Pledge of Property Rights Certified by Certificate to Trademark

1. The exclusive right to a trademark may be conceded by the owner of the trademark under a contract to an organization or a citizen in respect of all or a part of goods for which the trademark is registered.
2. The cession of the exclusive right to a trademark is not allowed if it can be a reason for misleading the consumer concerning the good or its producer.
3. Property rights certified by the certificate to the trademark may be subject of the pledge.

Article 23. Granting License to Use a Trademark

1. The right to use a trademark may be given by the owner of the trademark (licensor) to another person (licensee) under the licensing contract in respect of all or a part of goods for which the trademark is registered.
2. The licensing contract must contain values of quality characteristics of the licensee's goods or a condition that the quality of the licensee's goods will be not lower than the quality of the goods of the licensor and that the licensor will exercise control over quality of the licensee's goods.

Article 24. Registration of Licensing Contract, Contract on Cession of Exclusive Right to Trademark, Contract of Pledge of Property Rights Certified by the Certificate to Trademark

1. Licensing contract, contract of cession of the exclusive right to a trademark, contract of pledge of property rights certified by the certificate to a trademark, and also changes into mentioned contracts shall be registered with the patent body under the procedure established by the legislation.
2. Contracts specified in clause 1 of this Article, and also changes therein, enter into force from the date of their registration with the patent body under the established procedure, unless contracts stipulated a later date for their entry into force.

3. Non-observance of the requirement about the registration of Licensing contract, contract of cession of the exclusive right to a trademark, contract of pledge of property rights certified by the certificate to a trademark, and also changes into mentioned contracts entails their invalidity.

SECTION V TERMINATION OF LEGAL PROTECTION OF TRADEMARK

Article 25. Recognition of Granting Legal Protection to Trademark as Invalid

1. Granting of legal protection to a trademark may be recognized invalid in full or in part:

1.1. within the duration of legal protection if it was made granted in violation requirements provided by clause 1 of Article 2, Article 4, clauses 4 and 5 of Article 5 of this Law;

1.3. within the duration of the legal protection if actions of the owners of the trademark connected with the registration have been recognized by the antimonopoly body or the court as unfair competition;

1.4. within five years from the date of publication of the data about the registration of the trademark in the official bulletin on the grounds provided for by clauses 1 and 3 of Article 5 of this Law.

2. The recognition of granting the legal protection to a trademark as invalid in connection with receipt of an application which has an earlier priority in accordance with Article 7 of this Law, is effected irrespective of the fact whether the application has been received before to or after the registration.

3. Any person may file, within the time limits provided by clause 1 of this Article, objection against granting the legal protection to a trademark with the Appeal Council if the legal protection was granted in violation of requirements provided by Article 4 of this Law.

An interested person or his representative may file, within the time limits provided by clause 1 of this Article, objection against granting the legal protection to a trademark with the Appeal Council if the legal protection was granted in violation of requirements provided by clause 1 of Article 2, Article 5 of this Law, and also on the ground provided for by sub-clause 1.3 of clause 1 of this Article.

The order of consideration of objections by the Appeal Council is established by the Council of Ministers of the Republic of Belarus.

4. A decision of the Appeal Council taken according to the results of consideration of an objection against granting the legal

protection to a trademark may be appealed to the Supreme Court of the Republic of Belarus within six months from the date of its receipt.

Article 26. Termination of Legal Protection of Trademark

1. Legal protection of a trademark is terminated on the ground of:

1.1. the expiration of the duration of registration provided by Article 13 of this Article;

1.2. a decision of the Supreme Court of the Republic of Belarus taken in accordance with clause 3 of Article 20 of this Law;

1.3. uses of a collective mark on goods not having uniform qualitative or other common characteristics (clause 3 of Article 19 of this Law);

1.4. a written request about its refusal of the owner of the trademark;

1.5. termination of activity of the organization or death of the citizen - owner of the trademark if their exclusive right to the trademark did not pass to successors;

1.6. a decision of the Supreme Court of the Republic of Belarus adopted upon request of any person in connection with transformation of the trademark in a sign accepted in general use as a sign of goods of a certain kind.

1-1. Legal protection of a well-known trademark is terminated upon a decision of the Appeal Council adopted upon a request of any person if this mark loses a wide renown in the Republic of Belarus among respective consumers in relation to goods for which it was recognized as well known. The decision of the Appeal Council may be appealed to the Supreme Court of the Republic of Belarus within six months the date of its receipt by the person who filed the said request or by the owner of the well known trademark.

2. Registration of a trademark shall be cancelled by the patent body in connection with the termination of its effect or its recognition as invalid. The record about cancellation of the registration of a trademark shall be entered in the Register and published by the patent body in the official bulletin.

SECTION VI FINAL PROVISIONS

Article 27. Patent Body

The patent body shall accept for consideration applications for registration of trademarks, carry out expert examination on them, issue certificates being valid in all territory of the Republic of Belarus, carry out within the limits of the competence the control over observance of the legislation in the field of protection of trademarks, generalize practice and give explanations for its implementation, render the methodical assistance and services to the interested legal and natural persons on the specified questions.

Article 28. Consideration of Disputes Connected With Violation of Legislation on Trademarks

Disputes connected with violation of legislation on trademarks are considered by the Appeal Council and the Supreme Court of the Republic of Belarus in accordance with their competence.

Article 29. Liability for Violation of the Legislation on Trademarks

1. For violation of the exclusive right to a trademark, guilty persons bear liability in accordance with the legislative acts.

2. Goods, labels, packing of goods, on which a trademark or a sign similar to it to the extent of confusion is used are counterfeit ones.

The owner of a trademark or a person to whom the right to use the trademark under the contract of exclusive license is entitled to demand removal of the trademark or a sign similar to it to the extent of confusion, applied illegally, from counterfeit goods, labels, packing of goods, and in case of impossibility of the removal - seizure from the civil turnover and destruction of counterfeit goods, labels, packing of goods.

A person who violated the exclusive right to a trademark when introducing a good into the civil turnover, performing works and/or rendering services is obliged to remove the trademark or a sign similar to it to the extent of confusion from materials that accompany the introduction of that good into the civil turnover, performance of such works and/or rendering of such services, including from documentation, advertising, printed editions, signboards, and also from the global computer network Internet. Measure provided for by parts two and three of this clause shall be

carried out at the expense for the guilty person.

3. The owner of a trademark or a person to whom the right to use the trademark under the contract of exclusive license may, at their option, demand from the person who violated the exclusive right to a trademark the compensation in the amount of one to fifty thousand base units, determined by the court with regard to the nature of the violation, instead of reimbursement of losses.

Article 30. Rights of Foreign Citizens, Stateless Persons, and Foreign Organizations

Foreign citizens, stateless persons, and foreign organizations have the rights provided by this Law, other acts of legislation in the field of protection of trademarks and bear the liability equally with citizens and organizations of the Republic of Belarus, unless otherwise determined by the Constitution of the Republic of Belarus, other acts of legislation and treaties of the Republic of Belarus.

Article 31. Treaties of the Republic of Belarus

If a treaty of the Republic of Belarus establishes other rules than those contained in this Law, the rules of the treaty are applied.