

LIECHTENSTEIN

Trade Marks Regulations

amended by the law of April 1, 1997

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I. General Stipulations

Article 1 Jurisdiction

- 1) The Department of National Economy is directly responsible for implementing administrative legal matters attached to the Trade Mark Protection Law.
- 2) Jurisdictions for dealing with measures relating to import and export are reserved.
- 3) If a proprietor of an older trade mark invokes a relative prohibiting reason in accordance with Article 3, Para. 3 of the Trade Mark Protection Law, the jurisdiction of the Department of National Economy shall also extend to the assessment of the identity with or similarity to community trade marks.
- 4) If a trade mark is identical with or similar to an older community trade mark within the meaning of Article 3, Para. 2 of the Trade Mark Protection Law, it is barred from registration or shall be declared invalid if registered.
- 5) The same applies if a mark is to be registered or has been registered for goods or services which are not similar to those for which the older community mark is known and the use of the more recent mark would unfairly use or prejudice the distinction or the assessment of the value of the older community mark without a justifiable reason.

Article 2 Calculation of a time limit

If a time limit laid down in the Trade Mark Protection Law or in this Decree is calculated in months or years and a notice is received or the triggering event occurs on the last day of a month, the time set ends on the last day of the month in which it lapses.

Article 3 Language

- 1) Information submitted to the Department of National Economy must be written in the German language. Right is reserved relating to the provisions of Article 40, Paras. 3 and 4 (international registrations).
- 2) The Department of National Economy may request attested translations of any documentary evidence which is not written in the German language; right is reserved relating to the provisions of Article 14, Para. 3 (language of the priority document). The document shall not be considered if no translation or its attestation is not provided in spite of a notice requesting it having been sent.

Article 4 Several parties registering a trade mark or several proprietors

1) If several parties register a trade mark or are proprietors of a trade mark, the Department of National Economy can request them to designate one of them or a third party as a joint representative.

2) If no representative is designated in response to such a request from the National Economy Office, the first person named in the application for registration or the trade mark register shall be regarded as the representative.

Article 5 Representation

1) Whoever appoints a representative in proceedings before the Department of National Economy relating to the Trade Mark Protection Law or this Decree or must appoint him in accordance with Article 39 of the Trade Mark Protection Law or Article 4, Para. 1 of this Decree, must submit an appropriate power of attorney.

2) The party filing a trade mark or the proprietor of a trade mark for whom a representative has been appointed in accordance with Article 39 of the Trade Mark Protection Law can address a request for withdrawing an application for registration and an application for complete cancellation of trade mark registration direct to the Department of National Economy.

Article 6 Signature

If a signature is missing on a request, the original entry date shall be accepted if the original is forwarded within 14 days after a requesting notice from the Department of National Economy.

Article 7 Fees

The Decree which provides rules on the levying of fees in accordance with the Trade Mark Protection Law applies in respect of the fees which are payable in accordance with the Trade Mark Protection Law or this Decree.

II. Registration of Trade Marks

A. Registration procedure

Article 8 Registration

- 1) Official forms must be used for registering trade marks.
- 2) The Department of National Economy shall send on request to the registering party a certificate to acknowledge receipt and registration.

Article 9 Application for registration

- 1) An application for registration must include:
 - a) the application for registering the trade mark;
 - b) surname and first name or name of the company and the address of the party filing the trade mark;
 - c) a list of files submitted and the fees paid, stating the mode of payment;
 - d) the signature of the party registering the trade mark, or of the representative.
- 2) The following must be added to the application for registration:
 - a) representative's name and address;
 - b) priority declaration (Articles 12 to 14);
 - c) a statement that this is a guarantee mark or a collective mark;
 - d) any other evidence which the Department of National Economy may regard as necessary, depending on the type of mark applied for.
- 3) The date of all the items of evidence referred to in this Article must not go back more than twelve months.

Article 10 Trade mark reproduction

- 1) It must be possible to produce the trade mark graphically.
- 2) Three reproducible black and white illustrations must be submitted in the case of pictorial, pictorial/text trade marks or text trade marks with a special graphic form.
- 3) If protection is claimed for a coloured version of a trade mark, the appropriate colour or colour combination must be stated and three additional coloured illustrations of that mark must be submitted.
- 4) If it is a three-dimensional trade mark, this must be noted in the application for registration.
- 5) If it is a sound trade mark, this must be described using musical notes.

Article 11 Index of goods and services

The goods and services for which the trade mark is claimed must be accurately described.

Article 12 Priority according to the Paris Convention for the Protection of Industrial Property

1) A declaration for priority made in accordance with the provisions of the Paris Convention for the Protection of Industrial Property dated 20 March 1883 must contain the following details:

- a) date of first registration;
 - b) the country in which or for which this registration was made.
- 2) The priority document consists of a certificate from the appropriate authority relating to first registration, stating the trade mark filing or registration numbers.
- 3) The Department of National Economy keeps a list of states which offer reciprocal facilities and rights to the Duchy of Liechtenstein in accordance with the provisions of Article 7, Para. 2 of the Trade Mark Protection Law.

Article 13 Exhibition priority

- 1) A declaration for exhibition priority must contain the following:
- a) full description of the exhibition;
 - b) indication of the goods or services exhibited under the trade mark.
- 2) The priority document consists of a certificate from the appropriate authority stating that the goods or services marked with the trade mark have been presented, also stating the opening date of the exhibition.

Article 14 Common stipulations relating to the priority declaration and priority document

- 1) The priority declaration must be submitted at least 30 days after the registration of the mark and the priority document within six months after registration, otherwise the priority claim shall lapse.
- 2) Priority documents can relate to several first registrations.
- 3) Priority documents can be written either in English or French.

Article 15 Initial examination

If the registration documents lodged do not comply with the requirements of Article 29, Para. 2 of the Trade Mark Protection Law, the Department of National Economy can set a time for completing the documents.

Article 16 Formal examination

1) If the registration documents lodged fail to provide the details required by the Trade Mark Protection Law (Article 29) or those contained in this Decree (Article 8 onwards), the Department of National Economy shall set

a time limit for rectifying the deficiencies.

2) If the deficiencies are not rectified within the set time, the application for registration shall be wholly or partly rejected. The Department of National Economy can set further deadlines.

Article 17 Substantive examination

1) If reasons for rejections in accordance with Article 31, Para. 2c or d of the Trade Mark Protection Law exist, the Department of National Economy shall set the registering party a deadline to allow it to remedy the deficiency.

2) If the deficiency is not remedied within the set time, the application for registration shall be wholly or partly rejected. The Department of National Economy can set further deadlines by way of exception.

3) A fee for further processing may be payable for handling an application which was rejected due to failure to observe a time limit. (Article 38 of the Trade Mark Protection Law).

Article 18 Registration and additional fees

1) The registration fee is payable in advance.

2) If the list of goods and services for the trade mark applied for includes goods or services from more than three classes, the registering party shall pay, in advance, an additional fee (classification fee) for each additional class. The Department of National Economy determines the number of classes for which a fee is payable according to the decisions of the Arrangement of Nice concerning international classification of goods and services to which trade marks apply.

Article 19 Registration and publication

1) If no reasons for rejection exist, the Department of National Economy shall enter the trade mark in the register and publish its registration in official publications.

2) After publication, the Department of National Economy issues to the proprietor of the trade mark a certification of registration containing the details entered in the register.

B. Extending Trade Mark Registration

Article 20 Notification of the expiration of the period of validity

Six months before the registration expires, the Department of National Economy shall send a written reminder to the proprietor of a trade mark and his representative reminding him of the expiration date. No such

communications shall be sent to foreign countries. The Department of National Economy is not obliged to issue such notifications.

Article 21 Extension

- 1) The application for extending a trade mark registration can be submitted twelve months before the expiration of the period of validity at the earliest and not later than six months after its expiration (Article 10, Para. 3 of the Trade Mark Protection Law); the application must be submitted in writing to the Department of National Economy.
- 2) Extension becomes effective with the expiration of the preceding period of validity.
- 3) The Department of National Economy acknowledges the extension of registration to the proprietor of the trade mark.
- 4) An extension fee and, if appropriate, a class fee are payable in advance for extension of the registration.
- 5) An additional fee is payable if the application for extension is submitted after the expiration of the period of validity.

C. Changes to Trade Mark Registration

Article 22 Assignment

- 1) An application for registering an assignment must be submitted by the current proprietor of the trade mark or the party acquiring it and must contain the following details:
 - a) a formal declaration by the current proprietor or another satisfactory document according to which the trade mark has been assigned to the party acquiring it;
 - b) surname and first name or name of the company and address of the party acquiring the trade mark and of his representative, if necessary;
 - c) in the case of a partial assignment, indication of the goods and services for which the trade mark has been assigned.
- 2) If a mark has been partly assigned, the validity of the registration of the assigned part shall expire with that of the registration of the part of the mark remaining with its current proprietor.

Article 23 Licence

- 1) The application for registering the licence must be made by the proprietor of the trade mark or the licensee and must contain the following details:
 - a) a formal declaration by the proprietor of the trade mark or another satisfactory document stating that the proprietor allows the licensee to use the trade mark;

- b) surname and first name or name of the company and the licensee's address;
 - c) a request for the licence to be registered as an exclusive licence, if necessary;
 - d) in the case of a partial licence, indication of the goods and services or of the area for which the licence is granted.
- 2) The stipulations of Para. 1 apply to the registration of a sub-licence. Evidence must also be provided to prove that the licensee has the right to grant sub-licences.

Article 24 Other changes to the trade mark registration

The following information shall also be registered from a relevant declaration by the trade mark proprietor or another satisfactory document:

- a) usufruct in the trade mark and pledging the trade mark;
- b) limitations to the right of disposal imposed by courts and enforcement authorities;
- c) changes affecting registered details.

Article 25 Cancellation of third party rights

Following the application from the proprietor of the trade mark, the Department of National Economy shall cancel the rights registered in favour of a third party if an explicit declaration of renunciation of these rights or another satisfactory document is presented.

Article 26 Alterations

- 1) Wrong entries shall be immediately altered at the request of the proprietor of the trade mark.
- 2) Mistakes due to an oversight on the part of the Department of National Economy shall be corrected through that office.

Article 27 Submitting the application, payment of fees

Applications for changing or altering the trade mark application must be made in writing. The prescribed fee must be paid with the application. Only a single fee is due if the registration of several alterations for one and the same trade mark is required.

Article 28 Free-of-charge alterations

The following changes shall be introduced free of charge:

- a) the registration of the first appointment of a representative and the cancellation of representation relationships;
- b) changes based on an executed court judgement or on enforcement measures as well as limitations on the right of disposal issued by courts and

enforcement authorities;

c) notice of changes in the document file;

d) alterations, if a mistake was made by the Department of National Economy.

D. Cancellation of Trade Mark Registration

Article 29

1) An application for the cancellation of a trade mark registration must be made in writing. An application for partial cancellation (reducing the goods and services index) must also be made in writing. The appropriate fee must be paid at the same time as the application is submitted; no fee is payable for full cancellation.

2) If the application follows a judicial decision, a copy of the decision must be submitted together with a certificate stating that a judgement has become final; no fee shall be charged.

III. Document File and Trade Mark Register

A. Document File

Article 30 Content

- 1) The Department of National Economy keeps a document file for each lodged and registered trade mark, containing details of the progress of the registration procedure, renewal and cancellation of registration, changes to the rights attached to the trade mark and any other changes to the registration.
- 2) Regulations attached to a guarantee or a collective mark also form part of the document file.
- 3) Documentary evidence disclosing manufacturing or business secrets shall be separated on request or by the Office itself. Separation of such information shall be noted in the document file.

Article 31 Inspection of files

- 1) The following persons can inspect document files before the registration of the trade mark:
 - a) the registering party and its representative;
 - b) the persons who prove that the person who lodged it alleges that they infringed his rights in the lodged trade mark or that he has warned them of such infringement;
 - c) any other person with formal permission from the party which lodged the trade mark or its representative.
- 2) The persons referred to in Para. 1 may also inspect the files of withdrawn or rejected applications for registration.
- 3) Any person can inspect the document file after registration.
- 4) The Department of National Economy shall decide on inspecting separated documentary evidence (Article 30, Para. 3) after hearing the registering party, the owner of the trade mark or the person authorized to represent the trade mark.
- 5) The document file can be inspected from copies provided on application and on payment of a fee.

Article 32 Information on applications for registration

- 1) The Department of National Economy provides, against payment of a fee, third parties with information on pending applications for registration.
- 2) This information is limited to details which will be published if the trade mark is registered at a later date.

Article 33 Retention of records

1) The Department of National Economy keeps the files of the originals or copies of fully cancelled trade mark registrations for an additional period of five years following their cancellations.

2) It keeps the files of the originals or copies of withdrawn and rejected applications for registration for an additional period of five years following their withdrawal or rejection but at least for ten years after registration.

B. Trade Mark Register

Article 34 Register contents

1) Entries in the register contain the following details:

a) registration number;

b) registration date;

c) surname and first name or name of the company and address of the proprietor of the trade mark;

d) names and addresses of any representatives;

e) representation of the trade mark;

f) indication of the goods for which the trade mark is claimed, in the sequence of and indicating the relevant classes to which they are allocated in accordance with the classification agreed at the Arrangement of Nice concerning the international classification of goods and services to which trade marks apply;

g) date of publication of the registration.

2) The registration also contains the following supplementary details, as necessary:

a) indication of the colour or colour combinations claimed;

b) the remark "three-dimensions";

c) the remark "asserted trade mark";

d) the remark "sound trade mark";

e) a statement that the trade mark is a guarantee or collective trade mark;

f) statements on claiming priority in accordance with Articles 7 and 8 of the Trade Mark Protection Law;

g) the date and number of the international registration of the trade mark.

3) The following details also appear in the trade mark register, together with the publication date:

a) renewal of trade mark registration, stating the date on which renewal becomes effective;

- b) full or partial cancellation of trade mark registration, stating the reasons for cancellation;
 - c) full or partial assignment of a trade mark;
 - d) granting of a licence, also stating that it is an exclusive licence, as applicable, and, in the case of a partial licence, stating the goods and services or the area for which the licence is granted;
 - e) usufruct in the trade mark and pledging of the trade mark;
 - f) limitations to the right of disposal imposed by courts and enforcement authorities;
 - g) changes affecting registered details;
 - h) details of changes to rules governing the trade mark.
- 4) The Department of National Economy can enter other information of public interest.

Article 35 Viewing; extracts from register; priority document

- 1) The trade mark register can be viewed by anyone against a viewing fee.
- 2) The Department of National Economy shall provide information on the contents of the trade mark register and make extracts from it against a fee.
- 3) The Department of National Economy shall issue a priority document for first Liechtenstein registrations on receiving an appropriate application and the fee.

IV. Department of National Economy Publications

Article 36 Subject of publications

The Department of National Economy publishes:

- a) trade mark registrations with details as in Article 34, Para. 1a to f and Para. 2a to e;
- b) registrations as in Article 34, Para. 3;
- c) the details as in Article 34, Para. 4, if their publication appears to be appropriate;

Article 37 Publication journals

The details referred to in Article 36 shall be published in official journals.

V. Search

Article 38 Search for identical and similar trade marks

On receiving a written application and the appropriate fee, the Department of National Economy shall carry out a search for identical or similar trade marks. The application must contain the following information:

- a) a reproduction of the trade mark which is the subject of the search;
- b) indication of the goods and services of the appropriate classes which are to be searched;
- c) evidence of the fee having been paid.

Article 39 Investigating trade marks belonging to specific persons

1) On receiving an appropriate application and a fee, the Department of National Economy shall investigate trade marks lodged in the name of a specific person or registered in the Liechtenstein trade mark register in the name of a specific person.

2) The application must be in writing. It must state the surname and the first name or the name of the company whose trade mark is to be investigated and proof of payment of the fee.

VI. International Trade Mark Registration

Article 40 Submitting an application

- 1) An application for international registration of a trade mark or an application for changing an international registration must be submitted to the Department of National Economy if Liechtenstein is the country of origin within the meaning of Article 1, Para. 3 of the Madrid Trade Marks Agreement dated 14 April 1891 concerning international registration of trade marks or Article 2, Para. 1 of the Protocol dated 28 June 1989 to the Madrid Agreement on international registration of trade marks.
- 2) The application must be written on the official form.
- 3) If Liechtenstein is the country of origin within the meaning of the Madrid Trade Marks Agreement, the goods and services for which the trade mark is applied must be stated in the French language.
- 4) If Liechtenstein is the country of origin within the meaning of the Madrid Protocol, the goods and services for which the trade mark is applied can be stated in the French or the English language.
- 5) Payment of the fees envisaged in the Madrid Trade Mark Agreement, in the Madrid Protocol and the Ordinance concerning the levying of fees in accordance with the Trade Mark Law must be made on submitting the application.

Article 41 Examination by the Department of National Economy

- 1) If an application submitted to the Department of National Economy fails to meet the requirements of the Trade Mark Protection Law (Article 29) or this Ordinance (Article 8 onwards) or if the requisite (Article 42, Para. 2 of the Trade Mark Protection Law) have not been paid, the Department of National Economy shall set a deadline by which the applicant must rectify the position.
- 2) If the deficiency is not eliminated within the set time, the application shall be rejected. The Department of National Economy may set other deadlines by way of an exception.

Article 42 Document file

The Department of National Economy keeps a document file for each internationally registered trade mark the country of origin of which is Liechtenstein.

VII. Manufacturer's Mark Article

43 Manufacturer's mark

1) The manufacturer's mark must be clearly visible and permanently affixed. The company name or the maker's trade mark can appear instead of the manufacturer's mark.

2) The manufacturer's mark may only be used for Liechtenstein products.

3) The reasons for exclusion in accordance with Article 3, Para. 1 of the Trade Mark Protection Law also apply to manufacturers' marks.

VIII. Export and Import Measures

Article 44 Bonded warehouse

Assistance provided by customs authorities extends to the import and export of goods illegally provided with a trade mark or an indication of origin, and to the warehousing of such goods in a bonded warehouse.

Article 45 Application for assistance

- 1) An application for assistance must be submitted by an authorized person to the Department of National Economy. In urgent cases, the application can be made direct with the customs office through which goods, illegally provided with a trade mark, are to be imported or exported.
- 2) The application is valid for two years, unless it is made out for a shorter period. It can be renewed.

Article 46 Retention of goods

- 1) Goods retained by customs authorities shall be kept by them for payment of warehousing charges or be passed over to a third party for warehousing at the applicant's expense.
- 2) The applicant has the right to inspect the retained goods. The person who has the title to dispose of them can be present at the inspection.
- 3) The goods shall be released if it is established even before the deadline as in Article 70, Para. 2 or 3 of the Trade Mark Protection Law that the applicant is unable to obtain temporary injunction.

Article 47 Fees

- 1) The fees for processing the application for assistance and for warehousing retained goods is governed by the decree dated 22 August 1984 concerning Customs Authority fees.
- 2) The Department of National Economy has the right to require compensation for receiving and dealing with the application as in Article 45.

IX Transitional and final Provisions

Article 48 Time limits

Time limits set by the Department of National Economy are not affected by this Decree coming into force.

Article 49 Priority of use

1) If a trade mark is lodged in accordance with Article 76 of the Trade Mark Protection Law, the date on which the trade mark is taken into use is entered in the trade mark register and published.

2) If the trade mark is an internationally registered trade mark, this information must be communicated to the Department of National Economy by the end of the month in which international registration is published; the date on which the trade mark is taken into use is entered in a special register and published.

Article 50 Cancellation of the existing Law

The implementation order dated 15 June 1964 concerning the protection of factory and commercial trade marks and indications of origin of goods and industrial marks, LGB1. 1964, No. 39, is cancelled.

Article 51 Coming into force

This Order comes into force simultaneously with the Trade Mark Protection Law.